

10 JUL -7 2009

SENATE

Senate Bill No. 739



INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The Malampaya Sound Protected Landscape and Seascape (MSPLAS) covers eighteen (18) barangays in the municipality of Taytay and four (4) barangays in the municipality of San Vicente spanning to 200,115 hectares. It is surrounded by the municipality of El Nido in the north, municipalities of Roxas, San Vicente and Dumarán in the south, South China Sea in the west, and barangays Pamantolon, Poblacion, Calauag of the municipality of Taytay in the east.

MSPLAS serve as sanctuary to several rare and endangered wildlife. It has one of the largest undisturbed mangrove forest areas in the Philippines. It is home to sea cows (Dugong Dugong) which are considered endemic and threatened species. It is also a known habitat of the Irrawady Dolphin (*Orcaella Brevirostris*). The adjacent old-growth forests are important watersheds and serve as the habitat of Palawan Hornbill, the Bear Cat, the Peacock Peasant and other endemic species.

Due to its biodiversity and ecological significance, it was declared a protected area in 2000 through Presidential Proclamation No. 342. In line with the State's policy of securing for the Filipino people of present and future generations the perpetual existence of all native plants and animals, it is incumbent upon Congress to enact a law to provide for the management, protection, sustainable development and rehabilitation of the MSPLAS. This shall be established within the framework of the National Integrated Protected Area System (NIPAS) Act, or Republic Act of 7586, while considering the welfare and recognizing the rights of all the communities living therein especially the indigenous peoples.

Passage of this Bill is thus urgent before the treasures of Malampaya Sound are lost to the Philippines and the world.



JINGGOY EJERCITO ESTRADA
Senator

10 JUL -7 PM '19

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AN ACT
TO ESTABLISH THE MALAMPAYA SOUND SITUATED IN THE
MUNICIPALITIES OF TAYTAY AND SAN VICENTE, PROVINCE OF PALAWAN,
AS A PROTECTED AREA PURSUANT TO REPUBLIC ACT NO. 7586 (NIPAS
ACT OF 1992) PROVIDING FOR ITS MANAGEMENT AND FOR OTHER
PURPOSES

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

ARTICLE I
TITLE, POLICIES AND OBJECTIVES

SECTION 1. Title. -This Act shall be known as the "***Malampaya Sound Protected Landscape and Seascape Act***".

SEC. 2. Declaration of Policy. -It is the policy of the State to ensure the protection, preservation and rehabilitation of Malampaya Sound Protected Landscape and Seascape (MSPLAS), the communities therein, their culture and way of life, insofar as they are in harmony with nature and do not alter the ecological systems and the magnitude of biological diversity of the area. As a habitat for endemic, endangered and unique flora and fauna species and an eco-tourism zone, the State shall undertake steps to preserve its integrity for future Filipino generations. It shall ensure the protection and conservation of biodiversity of Malampaya Sound through sustainable and participatory development, and advance and protect the interests of its legitimate inhabitants and honor customary laws in accordance with Republic Act No. 7586 (or the "National Integrated Protected Area System Act of 1992", Republic Act No. 8371 (or the "Indigenous Peoples Rights Act of 1997"), other pertinent laws, and applicable international conventions to which the Philippines is a signatory.

SEC. 3. Definition of Terms. -For purposes of this Act:

- (a) "**Biodiversity**" - shall refer to the variety and variability among all living organisms and the ecological complex in which they are found;
- (b) "**Bioprospecting**"- shall refer to the research, collection and utilization of biological and genetic resources for the purpose of applying the knowledge derived there from to make or modify products or processes and their derivatives for scientific, agricultural, industrial and other applications;
- (c) "**By-product**"-shall refer to any part taken from wild species such as, but not limited to, hides, antlers, feathers, fur, teeth, claws, internal organs,

eggs, guano, root, trunk, branches, leaves, stems, flowers, and any other item produced out of utilizing wildlife or any of its parts;

- (d) "**CITES**" -shall refer to the Convention on International Trade of Endangered Species of wild flora and fauna including all its appendices referring to the lists of species differentially regulated therein;
- (e) "**Derivatives**"-shall refer to anything extracted from wild species such as, but not limited to, blood, oils, saliva, musk, resin, gum, seeds, spores, pollen and the like;
- (f) "**Endangered species**" -shall refer to species or subspecies whose population is in danger of extinction and whose survival is unlikely if the causal factors continue operating;
- (g) "**Endemic species**"- shall refer to species or subspecies often within the geographical limits of the State which has limited distribution;
- (h) "**Exotic species**" -shall refer to species or subspecies which is not naturally found within the biogeographic region of the MSPLAS;
- (i) "**Exploration**" -shall refer to searching or prospecting for mineral resources, as defined by law, by geological, geochemical or geophysical surveys, remote sensing, test pitting, trenching, drilling, shaft sinking, tunneling or any other means for the purpose of determining the existence, extent, quantity and quality thereof and the feasibility of mining them for profit;
- (j) "**Exploitation**"- shall refer to any mode of use, extraction, development, utilization or disposition of resources, for whatever purpose, whether commercial or otherwise;
- (k) "**Habitat**"- shall refer to an area inhabited by wildlife in the natural state;
- (l) "**Indigenous cultural communities or indigenous peoples**"- shall refer to indigenous cultural communities or indigenous peoples as defined in Republic Act No. 8371 within the MSPLAS;
- (m) "**Indigenous species**"-shall refer to native Philippine species or subspecies with an existing or historical natural occurrence and distribution within the MSPLAS;
- (n) "**Large-scale infrastructure projects**"- shall refer to major port facilities, major highways, tall edifices, major dams and the like;
- (o) "**Multiple-use zones**"- shall refer to areas where settlement, traditional or sustainable land use, including agriculture, agro forestry, extraction activities and other income generating or livelihood activities, may be allowed to the extent prescribed in the Management Plan;
- (p) "**Protected area**"-shall refer to identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation. Unless otherwise provided, it shall refer to the MSPLAS;
- (q) "**Protected landscape/seascape**"-shall refer to an area of national significance which is characterized by the harmonious interaction of man and land while providing opportunities for public enjoyment through

recreation and tourism within the normal lifestyle and economic activity of the area;

- (r) "**Protected species**"-shall refer to any plant or animal declared protected under Philippine laws, rules and regulations. This shall also include plants and animals under CITES, the Bonn Convention on Migratory Species, species under the red-list categories of the International Union for the Conservation of Nature, and species which may not be considered threatened elsewhere but are in danger of extinction within the MSPLAS as determined by the Protected Area Management Board (PAMB);
- (s) "**Quarrying**"-shall refer to the process of extracting, removing and disposing quarry resources, as defined by law, found on or underneath the surface of private or public land;
- (t) "**Recreational zones**"-shall refer to areas of high recreational, tourism, educational or environmental awareness values where sustainable eco-tourism, recreational, conservation education or public awareness activities may be allowed as prescribed in the Management Plan;
- (u) "**Secretary**"- shall refer to the Secretary of the Department of Environment and Natural Resources;
- (v) "**Special use zones**"-shall refer to areas containing existing installations of national significance such as telecommunication facilities, irrigation canals or electric power lines;
- (w) "**Sustainable**" -shall refer to the use of components of biological diversity in a manner and at a rate that does not lead to the decline of the species used nor cause permanent or long-term diminishment or qualitative degradation of biological species, ecological functions or of other resources extracted or disturbed. It shall not pertain to the exploitation of non-renewable resources in commercial quantities which will significantly alter the ecosystem or contribute to the extinction of species;
- (x) "**Strict protection zones**"- shall refer to areas with high biodiversity value which shall be closed to all human activity except for scientific studies;
- (y) "**Tenured migrants**"- shall refer to individuals and households within the MSPLAS who have actually and continuously occupied such areas on or before July 12,1995 and are substantially dependent therein for subsistence;
- (z) "**Wildlife**" -shall refer to wild forms and varieties of flora and fauna, including captive bred or propagated individuals, parts, derivatives and by-products thereof; and
 - (aa) "Management zones" shall refer to the divisions within the MSPLAS into levels of protection and permitted use of natural resources, such as strict protection zone, sustainable use zone, restoration zone, habitat management zone, multiple-use zone, cultural zone, recreational zone and special use zone, as provided under existing rules and regulations.

SEC. 4. Declaration and Scope. -Pursuant to and in accordance with Republic Act No. 7586, the Malampaya Sound situated in the municipalities of Taytay and San Vicente, Province of Palawan, is hereby declared and established as a protected area and part of the National Integrated Protected Area System

under the category of Protected Landscape and Seascape as defined herein. It shall be referred to as the Malampaya Sound Protected Landscape and Seascape (MSPLAS) and its boundaries shall be as follows:

Beginning at point marked "1" on DENR NIPAS Map No _____ at S 7,33'4.11",

E 3058.150 meters more or less, from BLLM No. 2 at 10'49'46.616 latitude and 119'31'0.383" longitude, Taytay Cadastre, Province of Palawan,

Thence	S	0□	48'	55.11" W	2,922.33m	Meters to point2
thence	S	1□	26'	52.55" E	1,283.91m	Meters to point3
thence	S	23□	47'	14.00" E	958.93m	Meters to point4
thence	S	26□	4'	33.51" W	1,595.34m	Meters to point5
thence	S	9□	51'	17.19" W	1,709.81m	Meters to point6
thence	S	25□	25'	52.50" W	14,086.64m	Meters to point7
thence	S	69□	32'	46.33" W	4,112.73m	Meterstopoint8
thence	S	12□	54'	59.36 W 5	,346.46m	Meters to point9
thence	N	67□	1'	45.59 W	12,303.31m	Meters to point10
thence	S	75□	22'	37.21" W	3,839.52m	Meters to point11
thence	S	83□	36'	35.47" W	2,774.01m	Meterstopoint12
thence	N	35□	52'	23.26 W	2,322.42m	Meterstopoint13
thence	S	88□	52'	25.40" W	13,499.17m	Metersto point14
thence	N	45□	2'	13.84" W	16,060.90m	Meters to point15
thence	N	1□	7'	46.58" W	45,652.49m	Meterstopoint16
thence	N	88□	48'	28.94" W	8,174.64m	Meters to point17
thence	S	40□	24'	25.31"E	765.31m	Meters to point 18
thence	S	54□	2'	2.16"E	9,789.75m	Meters to point 19
thence	S	54□	8'	3.55"E	4,204.90m	Meters to point 20
thence	S	88□	13'	26.37"E	1,621.76m	Meters to point 21
thence	S	25□	50'	12.73"E	4,691.18m	Meters to point 22
thence	S	69□	32'	7.71"W	290.91m	Meters to point 23
thence	S	1□	25'	16.98"E	641.88m	Meters to point 24
thence	S	25□	49'	11.92"E	306.17m	Meters to point 25
thence	S	5□	35'	53.02"W	311.56m	Meters to point 26
thence	S	19□	3'	43.32"E	513.75m	Meters to point 27
thence	N	83□	14'	10.37"E	617.19m	Meters to point 28
thence	N	36□	50'	12.20"E	848.35m	Meters to point 29
thence	N	32□	55'	37.15"E	238.51m	Meters to point 30
thence	N	13□	6'	17.79"W	249.50m	Meters to point 31
thence	N	12□	23'	49.11"W	737.71m	Meters to point 32
thence	N	4□	18'	9.19"W	487.98m	Meters to point 33
thence	S	88□	2'	2.45"E	262.63m	Meters to point 34
thence	S	63□	36'	28.80"E	220.56m	Meters to point 35
thence	S	45□	6'	20.49"E	248.89m	Meters to point 38
thence	S	10□	56'	43.56"E	360.12m	Meters to point 37
thence	S	8□	54'	8.28"W	336.43m	Meters to point 38
thence	S	63□	36'	32.46"W	196.06m	Meters to point 39
thence	S	40□	16'	5.54"E	461.01m	Meters to point 40
thence	N	88□	10'	9.62"E	459.36m	Meters to point 41
thence	N	53□	16'	49.29"E	542.45m	Meters to point 42
thence	S	75□	20'	55.87"E	339.75m	Meters to point 43
thence	S	50□	56'	33.58"E	382.64m	Meters to point 44
thence	N	87□	7'	57.28"E2	62.65m	Meters to point 45
thence	N	54□	53'	46.89"E	544.95m	Meters to point 46
thence	N	40□	44'	13.81"E	514.67m	Meters to point 47
thence	N	89□	32'	41.50"E	524.82m	Meters to point 48
thence	S	40□	8'	57.14"E	1,438.08m	Meters to point 49
thence	S	87□	33'	39.53"E	1,094.83m	Meters to point 50
thence	S	88□	15'	33.54"E	1,728.93m	Meters to point 51
thence	N	68□	3'	15.86"E	1,269.10m	Meters to point 52
thence	S	4□	13'	57.98"E	166.35m	Meters to point 53
thence	S	38□	0'	27.16"E	125.61m	Meters to point 54
thence	N	89□	32'	9 31"E	131.21m	Meters to point 55

thence	S	35□	40'	43.60"E	189.63m	Meters to point 56
thence	S	58□	9'	2.50"E	103.51m	Meters to point 57
thence	S	22□	1'	51.31"E	59.50m	Meters to point 58
thence	S	37□	51'	43.59"E	70.53m	Meters to point 59
thence	S	0□	27'	51.60"E	55.33m	Meters to point 60
thence	S	22□	1'	51.18"E	59.50m	Meters to point 61
thence	S	49□	31'	29.86"E	101.33m	Meters to point 62
thence	S	5□	10'	18.64"E	133.24m	Meters to point 63
thence	S	30□	37'	56.25"E	217.59m	Meters to point 64
thence	S	22□	1'	53.24"E	59.50m	Meters to point 65
thence	S	45□	7'	23.35"E	155.57m	Meters to point 66
thence	S	22□	1'	54.27"E	118.99m	Meters to point 67
thence	S	45□	7'	24.61"E	62.23m	Meters to point 68
thence	S	27□	51'	35.06"E	138.28m	Meters to point 69
thence	S	4□	14'	34 38"W	133.24 m	Meters to point 70
thence	S	24□	17'	31.44"W	182.79m	Meters to point 71
thence	S	0□	27'	51.72"E	165.99m	Meters to point 72
thence	S	30□	11'	58.69"E	64.32m	Meters to point 73
thence	S	37□	51'	49.26"E	70.53m	Meters to point 74
thence	S	15□	18'	7.82"W	80.49m	Meters to point 75
thence	S	9□	6'	30.45"E	145.51m	Meters to point 76
thence	S	22□	29'	20.77"E	168.25m	Meters to point 77
thence	S	0□	27'	49.87"E	88.53m	Meters to point 78
thence	S	15□	48	48.35"E	206.56m	Meters to point 79
thence	S	45□	7'	26.05 E	155.58m	Meters to point 80
thence	S	17□	50'	26.72"E	695.72m	Meters to point 81
thence	S	15□	22'	54.42"E	3,950.97m	Meters to point 82
thence	S	24□	46'	24.44"E	4,517.09m	Meters to point 83
thence	S	37□	27'	1.79"E	581.85m	Meters to point 84
thence	S	34□	51'	6.56"E	348.64m	Meters to point 85
thence	S	52□	50'	33.88"E	290.04m	Meters to point 86
thence	S	67□	23'	43.82"E	225.91m	Meters to point 87
thence	S	50□	31'	51.87"E	413.73m	Meters to point 88
thence	S	45□	8	12.72"E	326.77m	Meters to point 89
thence	S	48□	0'	4.47"E	311.42m	Meters to point 90
thence	S	46□	24'	40.23"E	350.11m	Meters to point 91
thence	S	33□	26'	28.33"E	22.11m	Meters to point 92
thence	S	28□	29'	57.05"E	7,660.05in	Meters to point 2

containing an approximate area of two hundred thousand one hundred fifty-five (200,255) hectares, subject to actual ground survey.

All existing land-use and resource-use permits within the MSPLAS shall be reviewed and shall not be renewed upon their expiration unless consistent with the Management Plan as provided herein and upon approval by the PAMB. Extractive resource use within the MSPLAS shall not be deemed to include sustainable extraction by indigenous cultural communities or indigenous peoples and tenured migrants.

ARTICLE II MANAGEMENT, MANAGEMENT PLAN AND ZONING

SEC. 5. Management of the MSPLAS. -The management and administration of the MSPLAS shall be vested with the PAMB. The management of zones to be established within the MSPLAS shall be consultative and participatory.

SEC. 6. Management Plan. -Within one (1) year from the effectivity of this Act, a Management Plan shall be prepared in accordance with the General Management Planning Strategy as provided in Republic Act No. 7586. The Management Plan shall serve as the basic long-term framework plan in the

management of the MSI/LAS and guide in the preparation of the annual operations plan and budget. The Management Manual shall be drafted with the assistance of experts in such fields as socioeconomic planning, ecology and protected area management, reviewed and endorsed by the PAMB, and approved by the Secretary.

The Management Plan shall include the following:

- A. Executive Summary
- B. Description of the Protected Area
 - a. Historical Background
 - b. Biogeographic Setting
 - c. Regional and Local Setting
 - d. Topography, Geology and Soils
 - e. Climate
 - f. Boundaries and Rationale for their Location
 - g. Flora and Fauna, Habitats and Ecosystems
 - h. Human Population and Current Land Use
 - i. Legal Status and Regulations
 - j. Current Management Activities and Research
 - k. Initial Environmental Examination Report
- C. Issues
 - a. Conservation Value
 - b. Biodiversity Concerns
 - c. Habitat Rehabilitation Needs
 - d. Management Constraints
 - e. Local Interests, Rights and Concerns
 - f. Development Potential, including Tourism
 - g. Changes Required in Legal Status
- D. Management Plan
 - a. Goals
 - b. Objectives
 - c. Key Management Issues
 - d. Site Management Strategy
 - e. Management Activities
 - i. community organization
 - ii. ancestral domain and rights
 - iii. tenure for tenured protected area residents
 - iv. boundary demarcation
 - v. management zone boundaries and the rationale for each
 - vi. protection program by wardens and by the community
 - vii. habitat rehabilitation
 - viii. habitat management
 - ix. sustainable use
 - x. infrastructure, including maintenance
 - xi. visitor program and accommodations
 - xii. specific management plans for each management zone
- E. Bio-inventory and Research Program
- F. Special Studies
- G. Monitoring and Evaluation
- H. Management Information Data Base Development
- I. Administration
 - a. Staffing
 - b. Work Program
 - c. Budget

J. Annexes

- a. Maps (1:50,000), pictures, aerial photographs
- b. Species lists
- c. References

The Management Plan shall be consistent with the nature of the MSPLAS. It shall be reviewed and updated on a regular basis, at least once every three (3) years. However, in cases where significant physical development occur within the protected area or critical resources constraints prevent implementation of important programs or projects, the Plan or some components thereof may be revised or modified. Any modification or revision of the Plan shall be approved by a majority of PAMB members.

SEC. 7. *Integration of the Management Plan into Local Development Plans.* -Local government units shall participate in the management of the MSPLAS through their representation in the PAMB. The provisions herein shall be incorporated into the barangay, municipal and provincial development plans of Palawan and the Regional Development Plan of Region IV as part of their environmental concerns in order to ensure that the future development of the province and the region is in accordance with this Act. Local government units shall likewise ensure that local ordinances pertaining to the environment are consistent with this Act and the Management Plan, as herein provided.

SEC. 8. *Zoning.* -Zones shall be established within the MSPLAS giving primary consideration to the preservation and conservation of all life forms while according respect to the traditional areas used and recognized by the indigenous cultural communities or indigenous peoples. Zoning shall also take into account the tenurial and livelihood concerns of other communities and must ensure the efficient protection of habitats, fragile ecosystems and unique areas.

All primary (old growth) forests within the MSPLAS, including portions which have been previously declared as alienable and disposable, shall be classified as strict protection zones and shall be free from all forms of logging or exploitation, whether commercial or otherwise. However, portions of primary forests may be classified as sustainable use zones. Strict protection zones shall also be established where necessary for the preservation of biodiversity including, but not limited to, the survival of rare and endangered species.

The establishment and management of zones must involve the community concerned by undertaking such steps as dialogue, community-based management approach, land and resource-use mapping.

Multiple-use zones shall be validated on the ground, demarcated on maps and monumental in the field with the assistance of communities and agencies concerned.

ARTICLE III THE PROTECTED AREA MANAGEMENT BOARD

SEC. 9. *The Protected Area Management Board.* -There is hereby created a Protected Area Management Board (PAMB) which shall be the sole policy-making and permit-granting body of the MSPLAS. In addition to the powers enumerated in Republic act No. 7586, the PAMB shall decide by a majority vote and shall have the following powers and functions:

- (a) Promulgate rules and regulations to promote development programs and projects on biodiversity conservation and sustainable development consistent with the Management Manual of the MSPLAS;
- (b) Decide matters relating to planning, resource protection and general administration of the MSPLAS in accordance with the approved Management Plan;
- (c) Approve proposals, work plans, action plans, and guidelines for management of the MSPLAS in accordance with the approved Management Plan;
- (d) Delineate and demarcate MSPLAS boundaries and ancestral domains, and recognize the rights and privileges of indigenous cultural communities or indigenous peoples;
- (e) Ensure the implementation of projects and programs as prescribed in the Management Plan;
- (f) Control and regulate the construction, operation and maintenance of roads, trails, waterworks, sewerage, fire protection and sanitation systems and other public utilities within the MSPLAS;
- (g) Issue land and resource-use permits and all the necessary permits within the MSPLAS in accordance with the Management Plan and consistent with the nature of the MSPLAS;
- (h) Recommend criteria and set fees for the issuance of permits for the activities regulated by this Act or the Management Plan. The PAMB shall only issue permits taking into consideration ecological and sustainability factors based on the policies provided in Section 2 and 8 of this Act;
- (i) Adopt rules and procedure for the conduct of business, including the creation of committees to which the PAMB powers may be delegated;
- (j) Control and supervise the Office of the Protected Area Superintendent (PASu);
- (k) Deputize, through the Protected Area Superintendent, individuals for the enforcement of the laws, rules and regulations governing conduct within the MSPLAS, and prescribe the necessary qualifications therefore;
- (l) Accept donations, approve proposals for funding, budget allocations and exercise accountability over all funds that may accrue to the MSPLAS;
- (m) Coordinate with the appropriate agencies of the government; and
- (n) Retain legal counsel to defend cases against the PAMB and the Office of the Protected Area Superintendent whenever they are sued in connection with the performance of their duties under this Act.

The Department of Environment and Natural Resources, through the Regional Executive Director, shall ensure that the PAMB acts within the scope of its powers and functions. In case of conflict between administrative orders issued by the Department of Environment and Natural Resources pursuant to Republic Act No. 7586 and resolutions issued by the PAMB, the Secretary shall decide whether to apply the rule or withdraw its application to the MSPLAS.

SEC. 10. Composition. -The Board shall be composed of

- a. The Regional Executive Director (RED) of DENR-Region IV, as chairperson;
- b. One (1) representative from the Palawan Council for Sustainable Development (PCSD) as member;
- c. The mayors of the municipalities of Taytay and San Vicente as members. Each mayor may appoint a regular duly authorized representative whenever he/she cannot personally attend any of the PAMB meetings;
- d. The Barangay Captains of barangays whose territory, in whole or in part, is within the boundaries of the MSPLAS as members;
- e. The Provincial Planning and Development Officer of Palawan as member;
- f. The Provincial Tourism Officer of Palawan as member;
- g. Three (3) representatives from the non-governmental organizations operating within the MSPLAS, chosen from among themselves as members;
- h. Three (3) representatives from the people's organizations within the MSPLAS, chosen from among themselves, as members;
- i. Three (3) representatives from the indigenous cultural communities or indigenous peoples residing within the MSPLAS as member; and
- j. The Protected Area Superintendent as ex-officio member. In the selection of peoples' and non-government organizations' representatives, preference shall be accorded to those organizations involved in the conservation and protection of the MSPLAS and engaged in the field of developmental work. The representation of peoples and non-government organizations shall be institutional and shall endeavor to achieve geographic balance.

In addition to actual and necessary traveling and subsistence expenses incurred in the performance of their duties, PAMB members shall be entitled to honorarium and insurance coverage in attending PAMB or other PAMB committee meetings. These expenses shall be included in the budget for the MSPLAS.

SEC. 11. The Executive Committee. -There shall be an Executive Committee within the PAMB to which the PAMB may delegate some of its powers and functions. It shall be composed of:

- (a) The Regional Executive director as chairperson;
- (b) The representative from the Palawan Council for Sustainable Development (PCSD) as member;
- (c) One (1) mayor to be chosen from among the mayors of the municipalities comprising the MSPLAS as member;
- (d) One (1) Barangay Captain to be chosen from among the barangay captains of barangays whose territory, in whole or in part, is within the boundaries of the MSPLAS, as member;
- (e) Either one (1) between the Provincial Planning and Development Officer or the Provincial Tourism Officer as designated by the Provincial Governor, as member;
- (f) One of the representatives from the peoples' organizations as member;
- (g) One of the representatives from the non-governmental organizations as member;
- (h) One representative from the indigenous cultural communities or indigenous peoples; and
- (i) The Protected Area Superintendent as ex officio member.

Membership in the Executive Committee shall be co-terminus with membership in the PAMB. The PAMB may create other committees within the Board. The PAMB *en banc* shall hold meetings at least twice a year. However, the Executive Committee may meet on a regular basis to discuss day-to-day affairs and other matters delegated by the PAMB.

SEC. 12. Terms of Office. -Except for government officials who shall serve *ex officio*, PAMB members shall serve for a term of five (5) years: Provided, That they remain connected with the sector they represent. Whenever a vacancy occurs during the term of a member who does not represent the government, a new member shall be chosen who shall serve only the remaining term.

SEC. 13. Removal from Office. -A PAMB member may be removed for cause and upon majority vote on the following grounds:

- a) More than three (3) consecutive unexcused absences in regular PAMB *en banc* meetings;
- b) Commission of any of the prohibited acts as provided in this Act, Republic Act No. 7586 or other rules and regulations governing protected areas and protected species;
- c) Graft and corruption; and
- d) Conviction of any criminal offense

SEC. 14. The Protected Area Superintendent Office. -There shall be a Protected Area Superintendent (PASu) Office within the Department of Environment and Natural Resources to be headed by the Protected Area Superintendent who shall serve as Chief Operating DENR Officer of the entire MSPLAS. The Protected Area Superintendent and his/her staff shall reside within the protected area and establish office therein.

The Protected Area Superintendent shall have full responsibility for the protection of land, water, wildlife and other resources within the MSPLAS. As such, he/she shall have the following duties and responsibilities in addition to those provided under existing rules and regulations:

- a) Prepare the Management Plan as herein provided;
- b) Serve as Secretariat to the PAMB with the duty to provide the PAMB with all the information necessary to make appropriate decisions for the implementation of this Act;
- c) Hire and supervise the necessary personnel to support operations as the budget may allow;
- d) Establish a productive partnership with local communities including groups supporting the achievement of the goals and objectives of this Act;
- e) Develop and implement a MSPLAS information, education and visit or programs;
- f) Enforce the laws, rules and regulations and PAMB resolutions relevant to the MSPLAS, and assist in the prosecution of offenses;
- g) Monitor all activities within the MSPLAS in conformity with the Management Plan; and

- h) Perform such other function as the PAMB may assign.

ARTICLE IV ANCESTRAL LANDS AND DOMAINS AND TENURED MIGRANTS

SEC. 15. *Ancestral Lands and Domains.* -The rights of indigenous cultural communities or indigenous peoples in the MSPLAS to their ancestral lands and domains shall be fully recognized. Their traditional property regimes exercised in accordance with their customary laws shall govern the relationship of all individuals within their communities with respect to all land and resources found within the ancestral lands and domains traditionally used by them. They may apply for Certificates of Ancestral Domain Title (CADT) as provided for in Republic Act No. 8371.

The provisions of this Act shall be construed liberally in favor of the indigenous cultural communities or indigenous peoples in accordance with the preservation and conservation objectives of the MSPLAS and its resources.

Nothing herein shall be construed to impair or diminish prior and existing rights currently enjoyed by the indigenous cultural communities or indigenous peoples as provided for by existing laws.

SEC. 16. *Tenured Migrants.* -Whenever practicable, tenured migrants shall be provided tenurial rights over their current habitation sites. However, if these areas are subsequently identified as crucial for conservation, tenured migrants shall, after due consultation, be offered by the Department alternative sites within the appropriate zones with preference over non-tenured migrants. Provisions for their transfer shall be undertaken by the Department in coordination with PAMB and relevant government agencies using humanitarian considerations including payment of compensation, providing tenure to alternative land and facilities of equivalent standard, and other measures to reach agreement with the affected tenured migrants.

The grant of tenurial rights must take into account the need to promote clustering and to avoid unnecessary displacement. In areas where tenurial instruments are granted, appropriate use zones shall be established for the purpose of maintaining noncommercial livelihood activities.

Lands used as homelots or farmlots shall preferably be held by individual household. Lands currently used on a communal basis shall not be held individually.

Tenurial instruments shall not be issued solely on the basis of tax declaration receipts. The PAMB shall consider the following as evidence in support of tenured migrant status:

- a) Cultivated trees at their fruit-bearing stage;
- b) Physical structure in the area indicating prolonged occupancy;
- c) Certification from the Barangay Captain or any two (2) respected members of the nearest community attesting to occupancy; and
- d) Other relevant data (e.g. previous census reports) that may be accepted by the PAMB.

Existing land title instruments shall be reviewed by the Protected Area Superintendent and endorsed by the PAMB to the DENR Regional Office for validation or reversion.

All persons who fail to qualify as tenured migrants including transient farmers shall be allowed to gather and collect whatever they have planted within five (5) years from the effectivity of this Act. Any transfer of non-tenured migrants from the MSPLAS shall be undertaken being humanitarian considerations.

In the event of termination of a tenure instrument for cause or by voluntary surrender of rights, the Protected Area Superintendent shall take immediate steps to rehabilitate the area in order to return it to its natural state prior to the cultivation or other act by the tenured migrant

SEC. 17. Contract involving Lands within the MSPLAS. -Any purchase, sale, encumbrance, mortgage, usufruct, or any form of disposition, alienation or transfer of rights involving lands within the MSPLAS shall be restricted among tenured migrants or indigenous cultural communities or indigenous peoples, otherwise, it shall be null and void *ab initio*.

Lease of lands to persons not otherwise qualified to hold lands within the MSPLAS may only take place in Multiple Use, Recreation and Special Use Zones. Provided, That the use thereof is consistent with Section 2 of this Act and in accordance with the Management Plan: Provided, further, That persons not otherwise prohibited to hold lands within the MSPLAS may enter into joint venture agreements with the government.

ARTICLE V UTILIZATION OF RESOURCES AND FACILITIES

SEC. 18. Utilization of Resources. -Except for protected species or whenever detrimental to the ecosystem, use of resources derived from the MSPLAS by tenured migrants and indigenous cultural communities or indigenous peoples for their domestic needs or for their subsistence shall be permitted. Livelihood activities requiring the use of these resources shall be allowed only when sustainable, consistent with the Management Plan, and after prior PAMB approval. Only non-timber forest products can be used for livelihood purposes.

The PAMB is authorized to impose regulatory measures such as hunting moratoria, closed hunting seasons and other restrictions on the use of resources within the MSPLAS to ensure the sustainability of species and ecosystems: Provided, That these will not pose a threat to the food security of the indigenous cultural communities or indigenous peoples or tenured migrants directly dependent therein for their subsistence: Provided, further, that these restrictions shall be made upon due consultation with the indigenous cultural communities or indigenous peoples and tenured migrants.

Any exploration, exploitation or utilization of non-renewable resources within the MSPLAS for commercial purposes or by those who are not members of the indigenous cultural communities or indigenous peoples or tenured migrants shall not be allowed.

Energy projects within the MSPLAS shall be allowed only through an act of Congress except energy from wind, sun, waves and water resources: Provided, That in all instances, the primary beneficiaries shall be residents of MSPLAS: Provided, further, That it shall undergo the Environmental Impact Assessment

System as provided by law: Provided, finally, That the PAMB has endorsed the project.

Commercial exploitation of water resources within the MSPLAS shall require prior PAMB approval, must be in accordance with the Management Plan and should undergo the Environmental Impact Assessment System.

SEC. 19. Existing Facilities within the MSPLAS. -Within ninety (90) days from the effectivity of this Act, all existing commercial facilities within the MSPLAS with a total capitalization in excess of Fifty thousand pesos (P50,000.00) shall submit to the PAMB through the Protected Area Superintendent the following information:

- a) Potential for disturbance of protected species and their habitat, reproductive cycle, nesting and feeding grounds and migratory paths;
- b) Noise levels at all stages of operation;
- c) Emissions and effluent at all stage of operation;
- d) Energy requirements and sources of energy; and
- e) Requirements of water supply and resources of water.

Based on these submissions, the PAMB, with the assistance of the DENR shall determine whether the existence of such facilities and its future plans and operations will be detrimental to the MSPLAS.

Failure to submit the required information shall constitute a violation of this Act. The PAMB may prescribe other conditions for the operation of the facility to ensure that it does not contradict the management objectives of the MSPLAS. If any such conditions are violated, a fine of FIVE THOUSAND PESOS (P5,000.00) for every day violation shall be imposed upon the owners of said facility but not to exceed a total of Four hundred fifty thousand pesos (P450,000.00). Whenever necessary, the PAMB through the Protected Area Superintendent or other government entities shall cause the cessation and demolition of the facility at any time at the cost of its owners.

Existing facilities allowed to remain within the MSPLAS shall be charged a fee by the PAMB, which shall not be more than two percent (2%) of the annual gross income of the facility.

ARTICLE VI PROHIBITED ACTS AND PENALTIES

SEC. 20. Prohibited Acts. -The following acts shall be prohibited within the MSPLAS without prejudice to the application of pertinent laws and regulations:

- a) Hunting, collecting, catching, capturing, wounding, killing, destroying or possessing anywhere within the MSPLAS any protected species of plant or animal or their by-products or derivatives without prior PAMB approval;
- b) Hunting, collecting, catching, capturing, wounding, killing or destroying anywhere within the MSPLAS any other species of plant

and animal or their by-products or derivatives the trade of which is regulated by the PAMB;

- c) Bioprospecting without prior PAMB approval;
- d) The disturbance of protected species or their habitats, reproductive cycle, roosting and feeding grounds and migratory paths;
- e) Unauthorized cutting, gathering, collecting or removal of timber or other forest products: Provided, That any authorization issued shall only be valid for one (1) year at a time and given to (i) tenured migrants within sustainable, monitored and controlled quotas, and (ii) for scientific purposes necessary for protected area management in accordance with existing guidelines;
- f) Establishment or introduction of exotic species within the MSPLAS with harmful effects or those detrimental to endemic species, without prior PAMB approval;
- g) Exploration, exploitation or extraction, drilling or extracting for minerals or resources or engage in quarrying within the MSPLAS;
- h) Destroying, excavating, vandalizing or in any manner damaging any natural formation on land or sea, burial or religious/spiritual rites, artifacts, objects belonging to indigenous cultural communities or indigenous peoples and other objects of natural and scenic value;
- i) Unauthorized possession or use of blasting caps, explosives, or cyanide anywhere within the MSPLAS;
- j) Unauthorized possession or use of chain saws or band saws anywhere within the Strict Protection Zone of MSPLAS;
- k) Unauthorized use of motorized equipment anywhere within the Strict Protection Zone of MSPLAS;
- l) Unauthorized construction or maintenance of any kind of road, edifice, facility or any infrastructure project within the MSPLAS;
- m) Unauthorized occupation of any portion of land inside the MSPLAS;
- n) Clearing, construction of residence or any introduction of improvements shall constitute prima facie evidence of occupation or settlement;
- o) Alteration, removal, willful destruction of boundary marks or interpretative signals;
- p) Engaging in kaingin or in any manner causing a forest fire inside the MSPLAS;
- q) Unauthorized fishing anywhere within the MSPLAS;
- r) Fishing within the MSPLAS using spear and submerged underwater breathing apparatus, trawling equipment or gillnets of more than 100 meters in total length or any other equipment prohibited under Republic Act No. 8550 or the Fisheries Code of 1998;

- s) Destruction or in any manner damaging coral reefs except in cases of emergency;
- t) Introduction, disposal, dumping or causing to be dumped in the MSPLAS any waste material, including but not limited to, non-biodegradable, toxic, nuclear, hazardous and other prohibited substances; and
- u) Violation of any rules and regulations provided in the Management Plan or any resolution reached by the PAMB in the exercise of its adjudicative functions.

SEC. 21. Penalties. -(a) For any violation of the provisions of Section 20 hereof, a fine of not less than Five thousand pesos (P5,000.00) but not more than Five hundred thousand pesos (P500,000.00) and/or imprisonment of not less than one (1) year but not more than six (6) years shall be imposed.

b) Any provision to the contrary notwithstanding, the commission of any unlawful act as provided under the immediately preceding section shall carry the penalty of imprisonment of six (6) years and one (1) day to twelve (12) years, and a minimum fine of One million pesos (P1,000,000.00) in case the species involved is listed under CITES Appendix I, Seven hundred fifty thousand pesos (P750,000.00) for the species listed under CITES Appendix 11, and Five hundred thousand pesos (P500,000.00) for all threatened species, in addition to the accessory penalties provided in the immediately succeeding paragraph.

c) The commission of any of the foregoing acts shall likewise carry the accessory penalties of eviction from the MSPLAS, payment of damages for rehabilitation and restoration, and the forfeiture of all equipment, devices, weapons or any other instrument or tool used in the commission of the offense. Any resource found in the possession of the offender shall also be forfeited. Pending the outcome of the case, any resource confiscated shall be immediately turned over to the PAMB for proper disposal and the proceeds thereof deposited in a trust fund. In no case shall any confiscated or rescued protected animal species be sold or in any manner disposed of but shall be immediately turned over to the Protected Area Superintendent Office for release in its natural habitat. Valuation of the damage to the MSPLAS shall take into account biodiversity and conservation considerations as well as aesthetic, socio economic values and rehabilitation and restoration costs. Failure to comply with this provision shall constitute an offense under this sub-section.

d) A fine of not less than One hundred twenty thousand pesos (P120, 000.00) but not more than Six hundred thousand pesos (P600,000.00) and/or imprisonment of not less than one (1) year but not more than six (6) years shall be imposed upon forest rangers or deputized personnel of the PAMB who shall unjustifiably refuse or refrain from instituting prosecution or shall tolerate the commission of the above mentioned offenses. Conviction of this offense shall carry penalty of perpetual disqualification from public office.

e) A fine of not less than One hundred pesos (P100.00) but not more than One thousand pesos (P1,000.00), or community service form one (1) day to one (1) week, or both, shall be imposed on anyone who enters into the Strict Protection Zone of the MSPLAS without prior PAMB permit.

ARTICLE VII PROCEEDS, FEES AND APPROPRIATIONS

SEC. 22. *Integrated Protected Area Fund.* -The Integrated Protected Area Fund (IPAF) is hereby established for the purpose of promoting the sustained financing the System. The fund may receive revenues generated within protected areas, donor support and other funds as provided by law, and disburse the same to finance projects of the National Integrated Protected Area System. IPAF income shall, among others, be derived from the following sources:

- a) Fees or taxes derived from permitted collection of flora and fauna and other resources within the MSPLAS other than protected species as may be set by the DENR and the PAMB;
- b) Proceeds from the lease of land and foreshore areas within multiple- use and recreational zones and permitted resource utilizations including commercially operated facilities within the MSPLAS;
- c) Fees, royalties and contributions from industries and facilities directly benefiting from resources originating from the MSPLAS;
- d) Fines and fees, including protected area entry and visitor's fees, as may be collected from the operation of the MSPLAS and set by the PAMB;
- e) Donations, endowments, grants and other gratuitous sums received from legal sources for the purposes of the management and conservation of the MSPLAS: *Provided, That lawful onerous conditions attached to the donations shall be respected: Provided, further, That these conditions shall be subject to review by the DENR Secretary; and*
- f) Such other revenues as may be derived from the operation of the protected areas.

Current sources of revenue of the local government units shall be excluded from the IPAF.

The PAMB shall have the power to disburse the IPAF. Twenty-five percent (25%) of the IPAF shall be for the use of the National Government for the support of the National integrated Protected Areas System: *Provided, That twenty-five percent (25%) thereof, excluding item (e) above, shall be allocated to the local government units comprising the MSPLAS.*

SEC. 23. *Appropriations.* -There is hereby appropriated the amount of Twenty million pesos (P20,000,000.00) for the first five (5) years from the effectivity of this Act to be included in the annual appropriations of the Department of Environment and Natural Resources. Thereafter, such sums as may be necessary for the implementation of this Act shall be sourced from the IPAF. It shall be included in the annual *General Appropriations Act* if not sufficient.

ARTICLE VIII TRANSITORY AND MISCELLANEOUS PROVISIONS

SEC. 24. *Construction.* -The provisions of this Act shall be construed liberally in favor of indigenous cultural communities or indigenous peoples and tenured migrants and in harmony with the principles of protection and conservation of biodiversity. Republic Act No. 7586 shall have suppletory effect in the implementation of this Act.

SEC. 25. *Transitory Provisions.* -In order to ensure the sustainability and recovery of biodiversity and to develop sustainable livelihood opportunities for tenured migrants, the DENR shall henceforth cease to issue concessions, licenses, permits, clearances, compliance documents or any other instrument that allows exploitation of resources within the MSPLAS until the Management Plan shall have been put into effect.

Pending the organization of a new PAMB in accordance with this Act, the incumbent PAMB members shall continue to hold office until a new PAMB has been convened.

SEC. 26. *Separability Clause.* -If any part or section of this Act is declared unconstitutional or invalid, such other parts or sections not affected thereby shall remain in full force and effect.

SEC. 27. *Repealing Clause.* -All laws, decrees, proclamations, executive orders, rules and regulations inconsistent with any provisions of this Act shall be deemed repealed or modified accordingly.

SEC. 28. *Effectivity Clause.* -This Act: shall be translated in Filipino by the Department of Environment and Natural Resources within thirty (30) days from the date of approval hereof. It shall be published once a week for three (3) consecutive weeks in a newspaper of general circulation readily available in the areas in and around the MSPLAS. It shall likewise be conspicuously posted simultaneously in the provincial, municipal and barangay halls within the MSPLAS as well as in three other places frequented by the public. Fifteen (15) days after the last publication and posting, this Act shall have full force and effect.

Approved,