

SENATE

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COMMITTEE REPORT NO. 563 RECEIVED BY 

Submitted by the Committee on Foreign Relations on _____

Re: P.S. Res. No. 1311, prepared by the Committee.

Recommending its approval without amendment.

Sponsor: Senator Defensor Santiago.

MR. PRESIDENT:

The Committee on Foreign Relations, to which was referred the Agreement, entitled:

**"HOST COUNTRY AGREEMENT BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF THE PHILIPPINES AND THE ASEAN CENTRE FOR
BIODIVERSITY"**

has considered the same and has the honor to report it back to the Senate with the recommendation that Proposed Senate Resolution No. 1311, prepared by the Committee, entitled:

**"RESOLUTION
CONCURRING IN THE RATIFICATION OF THE HOST COUNTRY
AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE
PHILIPPINES AND THE ASEAN CENTRE FOR BIODIVERSITY"**

be approved without amendment.

Respectfully submitted:


MIRIAM DEFENSOR SANTIAGO
Chair

Vice-Chairs:



AQUILINO Q. PIMENTEL JR.
Minority Leader



RODOLFO G. BIAZON

Members:



RICHARD J. GORDON



GREGORIO B. HONASAN II



PANFILO M. LACSON



MANUEL M. LAPID



LOREN LEGARDA



M.A. MADRIGAL



MAR ROXAS



ALAN PETER S. CAYETANO



PIA S. CAYETANO

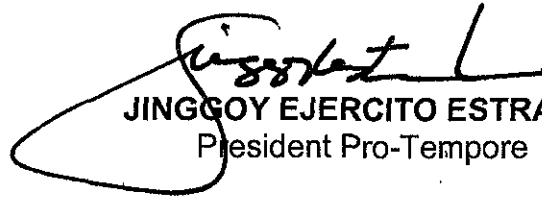


FRANCIS N. PANGILINAN




MANNY VILLAR

Ex-Officio Members:



JINGGOY EJERCITO ESTRADA
President Pro-Tempore



JUAN MIGUEL F. ZUBIRI
Majority Leader

JUAN PONCE ENRILE
President
Senate of the Philippines
Pasay City

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SENATE

P.S. RES. NO. 1311

RECEIVED BY



Prepared by the Committee on Foreign Relations

RESOLUTION
CONCURRING IN THE RATIFICATION OF THE HOST COUNTRY
AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE
PHILIPPINES AND THE ASEAN CENTRE FOR BIODIVERSITY

WHEREAS, the Constitution, Article 7, Section 21 states, "No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate";

WHEREAS, the Host Country Agreement Between the Government of the Republic of the Philippines and the ASEAN Centre for Biodiversity (Host Agreement) was signed on 8 August 2006 in Manila, Philippines, and it was transmitted to the Philippine Senate on 22 August 2007;

WHEREAS, the Host Agreement defines the Centre's headquarters seat and grants immunities and privileges accorded to international organizations of a universal character based in the Philippines;

WHEREAS, the privileges and immunities provided under the Host Agreement are accorded to ensure in all circumstances the free operation of the ACB and the complete freedom of the members of its Governing Board, executive director, other officials and internationally recruited consultants relative to the performance of their functions;

WHEREAS, in the hearing conducted by the Senate Committee on Foreign Relations on 22 May 2009, the following agencies endorsed the concurrence in the ratification of the Host Agreement:

1. Department of Foreign Affairs (DFA)
2. Department of Environment and Natural Resources (DENR)
3. University of the Philippines Los Baños (UPLB)
4. ASEAN Centre for Biodiversity Secretariat;

NOW, THEREFORE, be it resolved that the Senate of the Philippines concur as it hereby concurs in the ratification of the Host Country Agreement Between the Government of the Republic of the Philippines and the ASEAN Centre for Biodiversity.

Adopted,


MIRIAM DEFENSOR SANTIAGO
Chair

**HOST COUNTRY AGREEMENT
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES
AND THE ASEAN CENTRE FOR BIODIVERSITY**

WHEREAS, the Philippines hosted the European Union (EU) – assisted ASEAN Regional Centre for Biodiversity Conservation (ARCBC), and established its office at the University of the Philippines, Los Baños, Laguna, Philippines.

WHEREAS, the ARCBC project ended on December 16, 2004, and the ARCBC facilities, library, and equipment were turned over to the Philippine Government, represented by the Department of Environment and Natural Resources (DENR);

WHEREAS, recognizing the valuable achievements of the ARCBC Project (1999-2004) in promoting biodiversity conservation and sustainable use, especially in terms of networking, training, research and database management;

WHEREAS, to continue and institutionalize the functions of ARCBC, the ASEAN Member Countries have agreed to establish a new institution which will have a legal personality of its own, under the auspices of the Association of Southeast Asian Nations (ASEAN), the said entity to be known as the ASEAN Centre for Biodiversity or ACB;

WHEREAS, the said entity was formally established by the ASEAN Ministers on the Environment through the signing of the Agreement on the Establishment of the ASEAN Centre for Biodiversity, as part of their commitment to conserve and sustainably use the biological resources in the ASEAN Region;

WHEREAS, it has also been the agreement and decision of ASEAN Member Countries to have ACB operate in the Philippines, and the said country has graciously agreed to host the ACB;

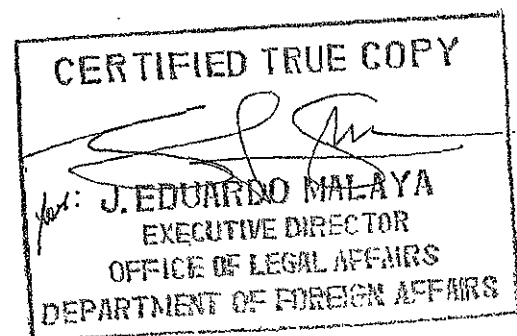
WHEREAS, with appreciation the offer of the Government of the Republic of the Philippines to host the ACB to further strengthen regional cooperation on biological diversity;

NOTING, with appreciation for the support of the European Union for the establishment of the ACB.

NOW THEREFORE, for and in consideration of the foregoing premises the Parties hereby enter into this Agreement under the following terms and conditions:

**ARTICLE I
DEFINITION OF TERMS**

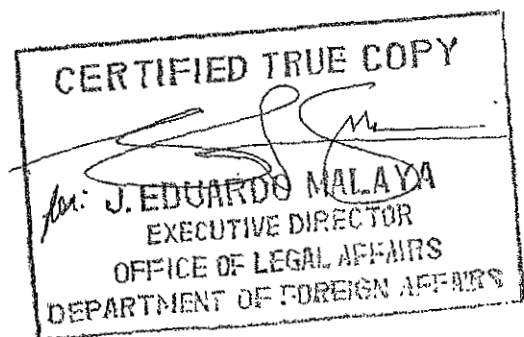
1. For purposes of this Agreement, the following words, unless otherwise specifically provided, shall mean:



- a) Government – the Government of the Republic of the Philippines
- b) ACB – the ASEAN Centre for Biodiversity
- c) ACB Agreement – Agreement on the Establishment of the ASEAN Centre for Biodiversity.
- d) ARCBC.– the ASEAN Regional Centre for Biodiversity Conservation
- e) DENR – the Department of Environment and Natural Resources
- f) ASEAN – Association of Southeast Asian Nations
- g) EU – European Union
- h) Laws of the Republic of the Philippines – the Constitution of the Philippines, legislative acts, judicial and quasi-judicial decisions, local government ordinances, and other government regulations and orders.
- i) Officials – the members of the Governing Board, the Executive Director, Directors and those considered officials of the ACB in accordance with this Agreement.
- j) Dependents – the spouse and unmarried minor children of a person entitled to the benefits under this Agreement.
- k) Consultants – technical experts whose services are contracted by ACB pursuant to its rules and regulations.
- l) Headquarters Seat –
 - (i) The offices currently occupied by ARCBC in the Philippines as have been or may be agreed upon by the Parties to this Agreement; and
 - (ii) Lands and buildings erected thereon and future additional land and/or buildings which may be agreed upon by the Parties to this Agreement.

ARTICLE II
OBJECTIVE OF THE AGREEMENT

The objective of the present Agreement is to set forth the terms and conditions of the Government Obligations as provided for in Article 7 of the ACB Agreement.



**ARTICLE III
PURPOSE OF THE ACB**

The purpose of the ACB shall be to facilitate cooperation and coordination among the ASEAN Member Countries and with relevant national government, regional and international organizations, on the conservation and sustainable use of biological diversity and the fair and equitable sharing of benefits arising from the use of such biodiversity in the ASEAN region.

**ARTICLE IV
ACTIVITIES OF THE ACB**

1. To achieve its purpose, the ACB shall undertake activities in accordance with the ACB Agreement.

**ARTICLE V
HOST GOVERNMENT OBLIGATIONS**

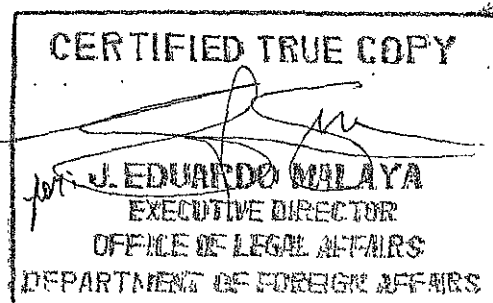
1. As a commitment to the ACB, the Government shall provide at its own cost adequate premises for the ACB and operational facilities and such other facilities needed for the operations of the ACB.
2. The Government shall also grant to the ACB and its staff privileges and immunities as may be necessary for the performance of their duties and functions, similar to those accorded to the ASEAN Secretariat and its staff and in accordance with the laws and regulations prevailing in the jurisdiction of the Government.

**ARTICLE VI
JURIDICAL PERSONALITY**

1. ACB possesses full juridical personality and capacity by virtue of the ACB Agreement and other existing laws and ordinances relative to, and agreements between the Government and the ACB.

**ARTICLE VII
THE HEADQUARTERS SEAT**

1. The principal office of the ACB shall be in the Headquarters Seat and shall not be removed therefrom unless the parties to this Agreement should so decide.
2. The Laws of the Government shall apply within the Headquarters Seat and the courts shall have jurisdiction over acts done in the Headquarters Seat except as otherwise provided in this Agreement.



**ARTICLE VIII
IMMUNITIES AND PRIVILEGES**

A. Grant of Immunities and Privileges

1. The ACB shall enjoy the immunities and privileges accorded to an international organization of universal character.
2. Immunity in general shall be accorded to non-Filipino officers of the ACB only. Immunity for Filipino officers shall be limited to those relative to the performance of their functions or duty.

B. Purpose of Immunities

1. The privileges and immunities provided for in this Agreement are not intended for the personal benefit of the officials of ACB. They are accorded to ensure in all circumstances the free operation of ACB and the complete freedom of its trustees, officials and internationally recruited consultants.
2. The Executive Director of the ACB shall have the right and duty to waive the immunity of any official 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.

C. Immunity from Legal Processes

1. ACB shall enjoy immunity from any penal, civil and administrative proceedings except insofar as the Executive Director of ACB or his authorized representative has expressly waived that immunity.
2. The members of the Governing Board, officials, staff and consultants of ACB shall enjoy immunity from legal process, including arrest and detention, in respect of words spoken or written and acts performed by them in their official capacity, except where such immunity is waived by the Executive Director of ACB 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.


D. Taxation and Customs

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

ACB shall also be exempt from the duty to withhold taxes on its income payments to other entities, including payments of compensation to its Filipino staff and/or employees. However, its Filipino staff and/or employees are still required to file their income tax returns and to pay the corresponding income tax due thereon as required under existing laws and regulations.

2. Pursuant to existing laws and regulations, all gifts, bequests, donations and contributions which may be received by ACB from any source whatsoever, or which

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for: **J. EDUARDO MALAYA**
EXECUTIVE DIRECTOR
OFFICE OF LEGAL AFFAIRS
DEPARTMENT OF SOCIAL WELFARE

may be granted by ACB to any individual or non-profit organization for educational or scientific purposes, shall be exempt from the payment of taxes. All gifts, contributions and donations to ACB shall be considered allowable deductions for purposes of determining the income tax of the donor.

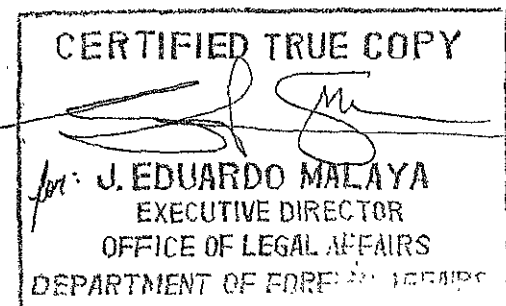
3. Non-Filipino citizens serving on the staff of the ACB shall be exempt from the payment of income tax on salaries and stipends in foreign currency received by them solely and by reason of services rendered to ACB.
4. ACB shall be exempt from the payment of all custom duties and related levies of any 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 Department of Finance in similarly situated cases.
5. ACB shall also be exempt from prohibitions and restrictions on the import or export of articles intended for its official use. However, live forms or tissues for use in scientific or research purposes shall be subject to the usual quarantine requirements and clearances from the proper authorities prior to importation or exportation.
6. Goods released tax and duty-free under the agreement, will be subjected to import duties and taxes if sold, transferred or exchanged in the Philippines to non-exempt persons or entities pursuant to Section 107 of the NIRC and Section 105 of the TCCP.

E. Communications

1. ACB shall enjoy, for its official communications, treatment no less favorable than that accorded to other comparable international organizations with headquarters in the Philippines.
2. ACB shall have the right to use codes for its official communications.
3. Correspondence and other official communications of ACB shall be immune from censorship.
4. The import and export of ACB's publications and those intended for it shall not be subject to restrictions.

F. Freedom of Entry and Sojourn

1. The Government shall take appropriate measures to facilitate the entry into, sojourn in, and departure from the Philippine territory of the following categories of non-immigrants of other nationals which grant similar concessions to Philippine citizens of a class visiting such countries:
 - a. Members of the Governing Board, Executive Director, officers and staff of the ACB;
 - b. The ACB's consultants and visiting scientists;
 - c. The dependents of the persons referred to in (a) and (b) above who live with them;



- d. Any other persons who, by reason of their functions, must have access to the ACB in an official capacity.
2. Visas which may be required from persons referred to in Article VIII of this Agreement 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, such as:
 - a. Multiple entry in the Philippines;
 - b. Exempt from payment of immigration fees; and
 - c. Express lane counter upon their arrival and departure at the airport.
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 this Agreement, except for reasons of health and national security.

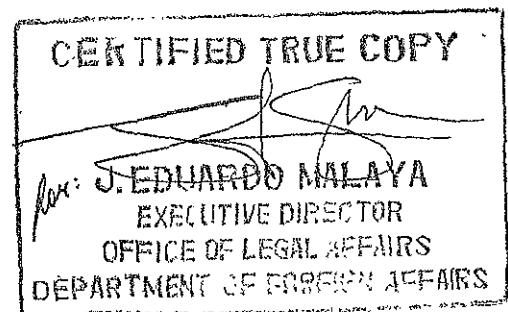
G. Foreign Exchange Arrangement

Without being subject to any financial controls, regulations or moratoria of any kind:

1. The ACB and its staff may hold funds or currency of any kind and operate accounts in any currency; and
2. The ACB and its staff shall be free to transfer its funds, securities or currency from one country to another or within the Philippines and to convert any currency held by it into any other currency, provided that purchase with pesos of foreign currency from banks in the Philippines shall be in accordance with existing rules of the Bangko Sentral ng Pilipinas and Republic Act No. 9160 (The Anti-Money Laundering Act of 2001), as amended.

H. Status of the Governing Board, Officials, Staff and Consultants of the ACB

1. The Governing Board, officials, staff and consultants of the ACB shall enjoy in the Philippines the following privileges, subject to the other provisions of this Article.
 - a. Customs facilities in respect of their personal effects and exemption from baggage inspection in the same conditions as are accorded to diplomatic agents on temporary mission;
 - b. The right to use codes in official communications and to receive and dispatch papers and official correspondence by diplomatic courier or in sealed bags;
 - c. Exemption from immigration restrictions and alien registration, and from national service;
 - d. Exemption from exchange restrictions in the same conditions as are accorded to diplomatic agents on temporary mission.



I. Immunities and Facilities Accorded to
Officers and Staff of the ACB

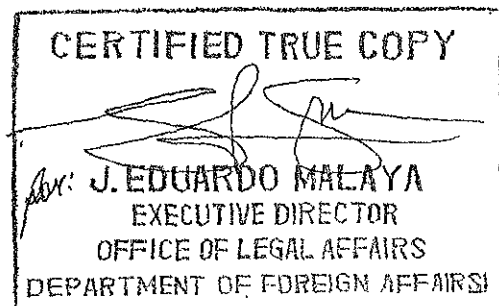
1. The non-Filipino members of staff of the ACB shall be exempt from taxation in respect of their salaries, emoluments and indemnities paid to them in U.S. dollars or other foreign currency by the ACB. Benefits paid in U.S. dollars or other foreign currency in any circumstances by a pension fund or provident scheme shall also be exempt in the Philippines from taxation at the time of their payment, as shall all benefits paid in U.S. dollars or other foreign currency for sickness, accidents, and so forth.
2. The Executive Director of the ACB shall enjoy in the Philippines the privileges, immunities, exemptions, and facilities accorded to ambassadors who are heads of diplomatic missions. He shall designate, for approval of the Government, the officials who, by reason of their responsibilities or their functions, shall enjoy in the Philippines the same privileges, immunities, exemptions, and facilities as are accorded to the ASEAN Secretariat and its staff and in accordance with the laws and regulations prevailing in the jurisdiction of the Government.
3. The non-Filipino officers, staff and consultants of the ACB and their dependents shall enjoy in the Philippines the privileges, immunities, exemptions, which include other levies on the importation of furniture and other personal effects within six(6) months after first taking up their post in ACB, in accordance with the laws and regulations prevailing in the jurisdiction of the Government.

**ARTICLE IX
INTERPRETATION AND APPLICATION**

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

**ARTICLE X
FINAL PROVISIONS**

1. ACB and all persons enjoying the immunities, privileges, exemptions and facilities 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.
2. This Agreement may be revised at the request of either party. In this event the two parties shall consult with each other concerning the revisions to be made in its provisions.
3. The Government and ACB may enter into such supplementary agreements as may be necessary within the scope of this Agreement.
4. This Agreement shall be provisionally effective from the date of signature. It shall enter into force on the date of the written notification by the Government, through



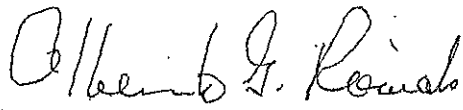
diplomatic channels, indicating that all the domestic requirements for its entry into force shall have been complied with.

5. 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.

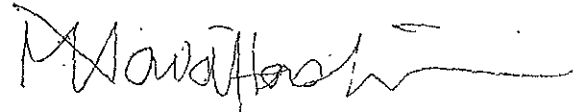
IN WITNESS WHEREOF, the representatives duly authorized therefore have signed the Agreement this 8th day of August 2006 at Manila, Philippines.

For the Government of the
Republic of the Philippines

For the ASEAN Centre for
Biodiversity (ACB)



ALBERTO G. ROMULO
Secretary
Department of Foreign Affairs



HAJI MOHD. SAID BIN POKPS DP HAJI HASHIM
Chairman of the Governing Board
ASEAN Centre for Biodiversity (ACB)

