

2005 AGREEMENT ON THE ESTABLISHMENT OF THE ASEAN CENTRE FOR BIODIVERSITY

Adopted in 2005

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The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam;

Being members of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN");

AWARE of the immense importance of the rich diversity of biological resources in the ASEAN region and its contribution to social development, economic growth, environmental protection and ecosystem services, at the national, regional and global levels;

REITERATING their commitment to conserve and sustainably use these biological resources in accordance with national priorities and regional and international imperatives;

RECOGNISING the valuable achievements of the ASEAN Regional Centre for Biodiversity Conservation Project (1999-2004) in promoting biodiversity conservation and sustainable use, especially in terms of networking, training, research and database management;

RECALLING the support of the ASEAN ministers responsible for the environment for the continued sustainability of the ASEAN Regional Centre for Biodiversity Conservation as embodied in the Yangon Resolution on Sustainable Development signed on 18 December 2003 in Yangon, Myanmar:

THANKING the Government of the Republic of the Philippines for hosting the ASEAN Regional Centre for Biodiversity Conservation;

WELCOMING with appreciation the offer of the Government of the Republic of the Philippines to host the ASEAN Centre for Biodiversity to further strengthen regional cooperation on biological diversity;

DO HEREBY AGREE AS FOLLOWS:

ARTICLE 1: ESTABLISHMENT OF THE ASEAN CENTRE FOR BIODIVERSITY

There shall be established an ASEAN Centre for Biodiversity (ACB). hereinafter referred to as the "Centre". The Centre shall have its seat in the Republic of the Philippines.

ARTICLE 2: PURPOSE OF THE CENTRE

The purpose of the Centre shall be to facilitate cooperation and coordination among the members of ASEAN, and with relevant national governments, regional and international organisations, 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 3: STRUCTURE OF THE CENTRE

The Centre shall be composed of:

- (a) a Governing Board;
- (b) an Executive Director and such staff as shall be necessary to perform the functions of the Centre; and
- (c) such committees or subsidiary bodies as may be deemed necessary by the Governing Board.

ARTICLE 4: GOVERNING BOARD

1. There shall be established a Governing Board, hereinafter referred to as the Board, assuming overall responsibility, and accountable for the operations the Centre.
2. The Board shall comprise of the members of the ASEAN Senior Officials on the Environment or their representatives and the Secretary General of ASEAN or his representative.
3. The Board may invite observers as it deems appropriate to attend the Board Meetings.
4. The Board shall be chaired by the Chairman of the ASEAN Senior Officials on the Environment. The Executive Director shall act as Secretary to the Board.
5. The Board shall meet at least once a year. Extra-ordinary meetings may be called by the Chairman at the request of any member of the Board, provided that such request is supported by at least one other member.
6. The Board shall report to the ASEAN ministers responsible for the environment.

ARTICLE 5: FUNCTIONS OF THE BOARD

The functions of the Board shall be to:

- (a) provide policy guidance and directions, and undertake overall supervision of the operations of the Centre;
- (b) approve the organisational structure and staff requirements for the Centre;
- (c) approve the rules and procedures for the conduct of the meetings or proceedings of the Board, its committees or subsidiary bodies;
- (d) approve the rules, procedures and regulations for the operations of the Centre, including the staff and financial rules;
- (e) approve the business plan, including the annual work programmes and budget of the Centre and monitor their implementation;
- (f) appoint an Executive Director for the Centre and determine the terms and conditions for the position, and confirm the appointments of key professional staff;
- (g) administer the funds entrusted to the Centre. and to approve the rules and procedures for the management of such funds;

- (h) perform any other function as and when considered necessary to achieve the purpose under Article 2 of this Agreement.

ARTICLE 6: EXECUTIVE DIRECTOR

1. The Executive Director shall be responsible and accountable for the day-to-day operations of the Centre and any other function that may be directed by the Board.
2. The Executive Director shall be a citizen of an ASEAN member country, and have a term of office of three (3) years, which may be extended at the discretion of the Board. The Executive Director shall be selected by open recruitment. However, Member Countries that opt for nomination will conduct their own selection process and nominate suitable candidate[s] for the consideration of the Governing Board.
3. The Executive Director shall be assisted by professional and supporting staff to carry out the assigned functions and responsibilities as approved by the Board.
4. The Board shall designate an officer to serve as the Acting Executive Director if the office of the Executive Director should become vacant, or if he/she is deemed by the Board as unable to discharge his/her duties. The Acting Executive Director shall have the capacity to exercise all the powers of the Executive Director pursuant to this present Agreement.
5. The Executive Director shall:
 - (a) administer the Centre and its programmes with a view to ensuring that the Centre fulfils its purpose;
 - (b) prepare annual work programmes, plans, budgets, financial statements or any other documents for the consideration of the Board;
 - (c) report on the implementation of the activities of the Centre to the Board;
 - (d) appoint, subject to the confirmation of the Board, manage and supervise key professional staff of the Centre;
 - (e) appoint, manage and supervise supporting staff, consultants and experts to the Centre;
 - (f) develop and implement strategies to ensure appropriate funding for programmes and institutional activities relevant to the purpose and functions of the Centre; and
 - (g) perform such other duties as may be required by the Board.

ARTICLE 7: HOST GOVERNMENT OBLIGATIONS

1. As a commitment to the Centre, the Government of the Republic of the Philippines, hereinafter referred to as the Host Government, shall provide at its own cost, adequate premises, operational facilities and such other facilities needed for the operations of the Centre.
2. The Host Government shall also grant to the Centre 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 country of the Host Government.

ARTICLE 8: FINANCIAL ARRANGEMENTS

1. There shall be established an ASEAN Biodiversity Fund, hereinafter referred to as the Fund.
2. The Fund shall be utilised to meet the expenses necessary to implement the activities required to fulfil the purpose of the Centre, as approved by the Board.
3. The ASEAN member countries may make voluntary contributions to the Fund.
4. The Fund shall be open to contributions from other governments and organisations, as approved by the Board.

ARTICLE 9: JURIDICAL PERSONALITY

The Centre shall possess juridical personality and have the capacity to:

- (a) contract;
- (b) acquire and dispose of movable and immovable property; and
- (c) institute legal proceedings.

ARTICLE 10 AMENDMENTS

Any member country may propose amendments to this Agreement. Such amendments, when approved by all Member Countries, shall come into force on such date as may be agreed upon.

ARTICLE 11: REVIEW AND TERMINATION

1. This Agreement shall be reviewed at least every five years by the Member Countries to this Agreement.
2. This Agreement shall be terminated by agreement of all the ASEAN member countries and shall be conducted in a manner as not to prejudice their respective interests in this matter. Upon termination of this Agreement, the Centre shall stand dissolved.
3. Upon the dissolution of the Centre, the disposal of the assets and liabilities of the Centre shall be determined jointly by all ASEAN Member Countries.

ARTICLE 12: SETTLEMENT OF DISPUTES

Any dispute concerning the interpretation or implementation of the Agreement shall be settled amicably through consultation or negotiation.

ARTICLE 13: STATUS OF ANNEXES TO THE AGREEMENT

The Annexes attached to this Agreement shall constitute an integral part of the Agreement.

ARTICLE 14: FINAL PROVISIONS

1. This Agreement shall be subject to ratification by the ASEAN member countries and shall enter into force on the deposit of the sixth instrument of ratification with the Secretary General of ASEAN.
2. The Agreement shall be deposited with the Secretary General of ASEAN who shall promptly furnish a certified copy thereof to each ASEAN member country.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments have signed this Agreement.

Done at the respective capitals of ASEAN member countries on the dates indicated.

For the Government of Brunei Darussalam,
H.E. PEHIN DATO SERI SETIA DR. AWANG HAJI AHMAD BIN HAJI JUMAT
Minister of Development
Date: 19/04/2005

For the Government of the Kingdom of Cambodia,
H.E. DR. MOK MARETH
Senior Minister, Minister for the Environment
Date: 28/04/2005

For the Government of the Republic of Indonesia,
H.E. MR. RACHMAT WITOELAR
Minister for the Environment
Date: 31/08/2005

For the Government of the Lao People's Democratic Republic,
H.E. PROF. DR. BOUNTIEM PHISSAMAY
Minister to Prime Minister's Office
Chairman of Science, Technology and Environment Agency
Date: 04/04/2005

For the Government of Malaysia,
H.E. DATO SRI HAJI ADENAN BIN HAJI SATEM
Minister of Natural Resources and Environment
Date: 26/07/2005

For the Government of the Union of Myanmar,
H.E. U NYAN WIN
Chairman of the National Commission for Environmental Affairs and Minister for Foreign Affairs
Date: 17/03/2005

For the Government of the Republic of the Philippines,
H.E. MR. MICHAEL T. DEFENSOR
Secretary of Environment and Natural Resources
Date: (Illegible)

For the Government of the Republic of Singapore
H.E. DR. YAACOB IBRAHIM
Minister for the Environment and Water Resources
Date: 05/08/2005

For the Government of the Kingdom of Thailand
H.E. MR. YONGYUT TIYAPAIRAT
Minister of Natural Resources and Environment
Date: 12/09/2005

For the Government of the Socialist Republic of Viet Nam
H.E. MR. MAI AI TRUC
Minister of Natural Resources and Environment
Date: 27/09/2005