



Agreement ASEAN/B7-300/IB/96/22

FINANCING AGREEMENT

between

THE EUROPEAN COMMUNITIES

and

THE ASSOCIATION OF SOUTH-EAST ASIAN NATIONS
(ASEAN)

"ASEAN Regional Centre for Biodiversity Conservation (ARCBC)"



FINANCING AGREEMENT

The Commission of the European Communities, hereinafter referred to as "THE COMMISSION", acting for and on behalf of the European Community, hereinafter referred to as "THE COMMUNITY",

on the one part, and

The Government of Philippines acting for and on behalf of the Governments of the Countries of the Association of South-East Asian Nations (ASEAN) which are parties to the Cooperation Agreement initially signed on 07 March 1980 with "THE COMMUNITY", hereinafter referred to as "THE RECIPIENT",

on the other part,

HAVE AGREED AS FOLLOWS:

The project referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out herein.

This Agreement comprises provisions, entitled "General Conditions", which are of general effect, provisions entitled "Special Conditions", the latter including the "Technical and Administrative Provisions" (Annex A), which apply specifically to the project referred to in Article 1 below, and Annex B - Arbitration.

The Special Conditions and their Annexes amend or supplement the General Conditions, and in the event of conflict prevail over the latter.

SPECIAL CONDITIONS

ARTICLE 1 NATURE AND SUBJECT

As part of its 1996 financial and technical co-operation programme, THE COMMUNITY shall contribute, by way of a grant, towards the financing of the following project:

Project N° : ALA/96/22

Title : ASEAN Regional Centre for Biodiversity Conservation (ARCBC)

Hereinafter referred to as "THE PROJECT".

ARTICLE 2 COMMITMENT OF THE COMMUNITY

The commitment of THE COMMUNITY is fixed at maximum 8,500,000 ECU (Eight million and five hundred thousand ECU) hereinafter referred to as "THE EC GRANT".

ARTICLE 3

ADDRESSES

Correspondence relating to the execution of THE PROJECT, stating THE PROJECT's number and title, shall be addressed to the following:

a) for the COMMUNITY:

Commission of the European Communities
Directorate General 1B - External Relations:
Southern Mediterranean, Middle and Near East, Latin America,
South and South-East Asia and North-South Cooperation
Rue de la Loi, 200
B - 1049 Brussels - Belgium
Telegraphic address: COMEUR BRUXELLES
Telex: 21877 COMEU B
Facsimile: (32.2) 2990204

Delegation of the Commission of the European Communities
7th floor Salustiana D. Ty Tower
104 Paseo de Roxas Street
Corner Perea Street, Legaspi Village
Makati, METRO MANILA, the Philippines
Facsimile: (63-2) 8126687

b) for THE RECIPIENT:

Department of Environment and Natural Resources (DENR)
Visayas Avenue
Diliman, Quezon City, 1100
The Philippines
Fax: (63-2) 9265595

ASEAN Secretariat
70 A Salan Sisingamangaraja
Jakarta, 12110
Indonesia
Telegraphic address: ASEANSEC Jakarta.
Fax: (62 21) 739 82 34 / 7243504

ARTICLE 4

NUMBER OF COPIES

This Agreement is drawn up in the English language in two copies each being equally valid.

ARTICLE 5 ENTRY INTO FORCE AND DURATION

This Agreement shall enter into force on the date that it has been signed by both parties.
The Annexes shall be deemed an integral part of this Agreement.

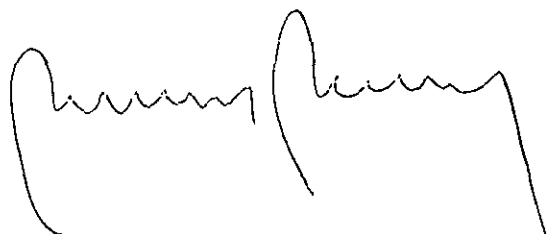
This Agreement is subject to an expiry date, after which any balance of funds remaining available under THE EC GRANT shall be automatically cancelled. THE COMMISSION may however, depending on the circumstances, agree to an appropriate extension of this expiry date, should such an extension be requested and properly justified by the recipient.

The time limit for the implementation of this commitment is set at the 31st of December 2004

Done at *Brussels,*

this day of
18 -07- 1997

For THE COMMUNITY



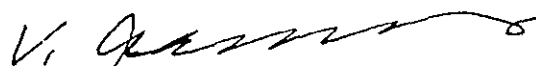
Manuel Marin
Vice-President
European Commission



Done at

this day of
JUL 22 1997

For THE RECIPIENT



Victor O. Ramos
Secretary
Department of Environment
and Natural Resources

GENERAL CONDITIONS

TITLE I: FINANCING OF PROJECTS

ARTICLE 1 COMMITMENT OF THE COMMUNITY

The commitment of THE COMMUNITY, the amount of which is laid down in the Special Conditions, shall determine the limit within which commitment and execution of payments shall be carried out, within the framework of duly approved contracts and estimates.

Any expenditure over and above the commitment of THE COMMUNITY shall be borne by THE RECIPIENT.

The commitment of THE COMMUNITY is subject to a time limit for implementation which is set down for each project in the Special Conditions of this Agreement.

THE COMMISSION may exceptionally extend the time limit for implementation on the basis of appropriate justifications to be provided by THE RECIPIENT.

ARTICLE 2 COMMITMENT OF THE RECIPIENT

Where project execution depends on financial commitments out of the own resources of THE RECIPIENT, as laid down in Annex A, the disbursement of the EC GRANT, in accordance with the schedule fixed in Annex A, shall be conditional upon performance of the obligations incumbent on THE RECIPIENT.

ARTICLE 3 DISBURSEMENT

Within the limit set on the EC GRANT, requests for funds shall be presented by THE RECIPIENT in accordance with the schedule laid down in Annex A and on presentation of documentary evidence relating to payments made in respect of THE PROJECT.

However, supplies contracts and study contracts may provide for direct payment by THE COMMISSION to the contractors. Each contract shall lay down the rate and time of such payments, together with the documentary evidence to be produced.

TITLE II: CONCLUSION OF CONTRACTS

ARTICLE 4 CONCLUSION OF CONTRACT

The procedure to be followed prior to conclusion of works and supplies contracts, and prior to conclusion of technical cooperation contracts, shall be laid down in Annex A, following the principles set out below.

ARTICLE 5 PROCUREMENT

1 For those operations for which THE COMMUNITY is the sole source of external aid, participation in invitations to tender and contracts shall be open on equal terms to all natural persons, firms and

companies falling within the scope of the Treaty establishing the European Economic Community and to all natural persons, firms and companies of THE RECIPIENT.

2. The same rules shall apply in cases where THE COMMUNITY co-finances with other agencies. In cases of co-financing, participation by third countries in the contracts, tendering procedures and other procedures for the award of contracts, may be allowed only after case-by-case examination within THE COMMUNITY.

ARTICLE 6 EQUALITY OF CONDITIONS

THE COMMISSION and THE RECIPIENT shall take the measures necessary to ensure equality of conditions for participation in the contracts, tendering procedures and other procedures for the award of contracts financed by THE COMMUNITY.

To this end, steps will be taken in particular to ensure that:

- (a) there is prior publication of invitations to tender simultaneously in the Official Journal of the European Communities and the Official Gazette of THE RECIPIENT, or by any other suitable means of advertisement;
- (b) adequate time limits are introduced by mutual agreement for the submission of tenders;
- (c) any discriminatory practice or technical specification such as might prejudice the participation under equal conditions of all natural and legal persons of the states entitled to participate by virtue of Article 5 shall be eliminated;
- (d) General Conditions of Contract shall be drawn up in conformity with the models in international use, such as the General Conditions of Contract applicable in Developing Countries receiving EC Aid.

ARTICLE 7 AWARD OF WORKS AND SUPPLIES CONTRACTS

THE COMMISSION and THE RECIPIENT shall ensure that for every operation Article 6 hereof is respected and that the offer selected is economically the most advantageous, particularly in view of the qualifications and guarantees offered by the tenderers, the nature and conditions for execution of the work or supplies, the price of the services, their cost of utilisation and technical value.

Results of the invitations to tender shall be published in the Official Journal of the European Communities as quickly as possible.

ARTICLE 8 TECHNICAL COOPERATION CONTRACTS

- 1 Technical cooperation contracts shall be concluded following invitation to tender or, when technical, economic or financial reasons so justify, by mutual agreement.
- 2 For each technical cooperation project, one or more candidates shall be selected on the basis of criteria guaranteeing their qualifications, experience and independence and taking into account their availability for the project in question.

3. Contracts shall be drawn up, negotiated and concluded by THE RECIPIENT or by THE COMMISSION when Annex A so provides.
4. Where contracts are drawn up, negotiated and concluded by THE RECIPIENT, THE COMMISSION shall select one or more candidates on the basis of the criteria laid down in paragraph 2.

When there is a mutual agreement procedure and THE COMMISSION has selected several candidates, THE RECIPIENT shall freely chose the candidate with which it proposes to conclude the contract from among those put forward.

When there is recourse to a tendering procedure, the contract shall be awarded to the candidate which has submitted the offer which is acknowledged by THE RECIPIENT and THE COMMISSION to be economically the most advantageous.

TITLE III: EXECUTION OF CONTRACTS

ARTICLE 9 ESTABLISHMENT AND RIGHT OF INSTALLATION

Natural and legal persons taking part in works, supplies or services contracts shall benefit, under equal conditions, from a provisional right of residence and installation if the nature of the contract so justifies. The said right shall be acquired only for the benefit of the technical staff necessary to carry out studies preparatory to drawing up tenders; it shall continue until expiry of one month following the nomination of the successful tenderer.

The tenderer to whom the contract has been awarded shall enjoy similar rights throughout the period of execution of the contract and until expiry of one month following final acceptance.

Natural and legal persons who have established themselves for the purpose of executing works, supplies or services shall enjoy the absolute freedom, if they so desire, to re-export materials imported by them into the states of THE RECIPIENT for the purpose of execution.

ARTICLE 10 ORIGIN OF MATERIALS AND SUPPLIES

Save when otherwise authorised by THE COMMUNITY, materials and supplies required for execution of contracts must originate in the states entitled to participate by virtue of Article 5.

ARTICLE 11 IMPORT AND EXCHANGE CONTROL

THE RECIPIENT hereby undertakes to grant the import permits and exchange control permits necessary to execute THE PROJECT. It equally undertakes to apply the national regulations in the field of exchange control without discrimination among the states entitled to participate by virtue of Article 5

ARTICLE 12 TAX REGULATIONS

Taxes, customs and import duties shall be excluded from the financing of THE COMMUNITY.

ARTICLE 13 PAYMENT PROCEDURES

1. For contracts financed by THE COMMUNITY, tenders shall be drawn up in ECUs except in the case of tenders restricted to THE RECIPIENT where tenders may be drawn up in the currency of THE RECIPIENT.
2. Payments will be made in ECUs. Conversion from other currencies into ECUs shall be made using the monthly rates published in the supplement to the European Communities' Official Journal after the 10th of each month. These rates will be applicable to expenditure incurred in the same month.

For currencies not quoted in the Official Journal, conversions shall be made at the rates published in the *Financial Times* on the first Tuesday of the relevant month.

3. THE COMMISSION shall take all measures necessary to ensure execution of payments due to contractors within the shortest possible time.
4. Payments shall be made within sixty days of receipt of the request for payment and shall be deemed to have been made on the date on which they are debited to the Commission's account.

The Commission may, however, after giving notice to the Contractor, defer payment if the services covered by the request for payment are contested by the Commission or if the vouchers in support of the request are incomplete. Where payment is so deferred, the Commission shall not be liable to pay interest or indemnities of any kind.

ARTICLE 14 DISPUTES BETWEEN THE RECIPIENT AND THE CONTRACTOR

Disputes arising between THE RECIPIENT and the contractor during performance of a contract financed by THE COMMUNITY shall be settled definitely in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce.

TITLE IV: COLLABORATION BETWEEN THE COMMISSION AND THE RECIPIENT

ARTICLE 15 FOLLOW-UP OF EXECUTION

1. THE COMMISSION shall have the right to send its own agents or duly authorised representatives to carry out any technical or financial mission or audit that it considers necessary to follow the execution of THE PROJECT.

THE RECIPIENT hereby undertakes to supply all information and documents which shall be requested of it, and to take all suitable measures to facilitate the work of persons instructed to carry out audits or inspections. It shall be kept informed of the visit of the officials referred to above.

2. THE RECIPIENT shall:

(a) maintain records and accounts adequate to identify the works, supplies or services financed under this Agreement in accordance with sound accounting procedures;

(b) insure that representatives of THE COMMISSION have the right to inspect all relevant documentation and accounts pertaining to items financed under this Agreement, and assist the Court of Auditors of the European Communities to carry out audits relating to the utilisation of the EC GRANT.

ARTICLE 16 FOLLOW-UP OF PROJECT

THE COMMISSION shall follow the execution of THE PROJECT and may request any explanation and, where necessary, may agree, with the consent of THE RECIPIENT, on a new project orientation which is agreed to be better adapted to the objectives in view.

THE RECIPIENT shall make reports to THE COMMISSION following the time-schedule laid down in Annex A, throughout the period of project execution and after completion thereof.

Where there is a failure to carry out an obligation set out in this Agreement, which has not been the subject of remedial measures taken in due time, THE COMMISSION may suspend the financing of THE PROJECT.

TITLE V: GENERAL AND FINAL PROVISIONS

ARTICLE 17 RENUNCIATION BY THE RECIPIENT

THE RECIPIENT may, with the agreement of THE COMMISSION, renounce in whole or in part the execution of THE PROJECT.

An exchange of letters shall set out the details of the said renunciation.

ARTICLE 18 AMENDMENT

Any amendment to this Agreement must be agreed between the parties hereto and shall only be adopted after approval in writing by the parties.

ARTICLE 19 CONSULTATION - DISPUTES

1. Any question relating to execution or interpretation of this Agreement which has not been resolved by application of the provisions herein shall be the subject of consultation between THE RECIPIENT and THE COMMISSION.

2. Any dispute relating to this Agreement which cannot be resolved by applying paragraph 1 of this Article shall be settled according to the arbitration procedure referred to in the Annex hereto (Annex B).

ARTICLE 20 NOTICES - ADDRESSES

Any notice and any agreement between the parties provided for herein must be the subject of a written communication referring explicitly to the number and title of THE PROJECT.

Such notices or agreements shall be made by letter sent to the party authorised to receive the same, and sent to the address notified by the said party. In case of urgency, telegraphic or telex communications shall be permitted and deemed to have been validly served, provided that they are confirmed immediately by letter.

The addresses are set out in the Special Conditions.

Annex A

TECHNICAL AND ADMINISTRATIVE PROVISIONS

Recipient : ASEAN

Title : ASEAN Regional Center for Biodiversity Conservation (ARCBC)

Project No. : ALA/96/22

1. PROJECT OBJECTIVES

1.1. Overall objectives

The overall project goal is to intensify biodiversity conservation through improved co-operation in a comprehensive regional context, by assisting in setting up a network of institutional links among ASEAN countries and between ASEAN and EU partner organisations.

The project will assist the ASEAN member countries in developing a framework for improving technical and institutional approaches through regional cooperation for managing biodiversity conservation.

In practical terms this aim is considered to be best achieved by supporting the establishment of an ASEAN Regional Centre for Biodiversity Conservation (ARCBC), which will serve as a central focus point for the elaboration and co-ordination of a regional permanent network through the National Biodiversity Reference Units (NBRUs) located in the ASEAN countries, maintaining and intensifying the links established by this project beyond the duration of the EC support.

1.2. Specific objectives and activities

The above general objective will be achieved through the implementation of a programme of financial and technical assistance which shall:

- Promote the formation of a regional network of institutional intra-ASEAN and ASEAN/EU links in the biodiversity sector which will focus on the importance of strengthened biodiversity conservation and management policies and strategies.
- Foster collaborative partnerships on biodiversity between Asean and European universities and institutions in the field of training, research, information management, etc.
- Identify the needs and assist in the training of the manpower required to bring about significant improvements in the management of biodiversity conservation in the ASEAN region and in the implementation of biodiversity conservation strategies.
- Identify and help overcome the critical information gaps which impede effective management and protection of ASEAN's biodiversity. In particular, it will support specific research projects in biodiversity conservation and facilitate institutional capabilities that link applied environmental and socio-economic research to biodiversity conservation and related planning priorities.
- Analyse, document and disseminate information on regional biodiversity conservation.
- Establish and maintain an appropriate database referral system which links national and international institutions and agencies holding information relevant to biodiversity conservation, to the ARCBC and NBRUs database networks, and possibly with the ASEANweb network where appropriate.
- Assist the relevant biodiversity bodies and institutions in the analysis of existing biodiversity legislation and the formulation of proposals for co-ordinating regional policies and initiatives on biodiversity conservation, in line with international treaties and agreements.
- Organise workshops, conferences and seminars on regional biodiversity conservation issues, and assist in increasing awareness and participation among national decision makers and officials and other relevant bodies and actors on regional biodiversity issues.
- Assist in upgrading curricula on biodiversity conservation used in ASEAN universities and training institutions

1.3. Location

The ARCBC will be located in Los Banos, Laguna, Philippines, within the premises of the ERDB (Ecosystems Research and Development Bureau) a staff bureau of the DENR (Department of Environment and Natural Resources), which will provide sufficient office space and supporting staff and ensure the covering of operating expenses for the centre.

National Biodiversity Reference Units (NBRUs) will be established as part of the ASEAN network by each ASEAN member country, located in similar institutions with similar arrangements.

1.4. Costs and Financing

The total cost of the project is estimated at ECU 10,300,000. Of this, the EC grant will amount to ECU 8,500,000 while ASEAN member countries contribution will be of the equivalent of ECU 1,800,000, as detailed in par. 2.5 below.

2. PROJECT DESCRIPTION

2.1. Project Components

The project comprises four principal components:

i. Networking function and Institution Building

An intra-ASEAN and EU-ASEAN network of Biodiversity Institutions will be promoted, linking together scientific knowledge and facilitating information exchanges and synergies on the subject.

The intra-ASEAN network will be organised through the connecting of a series of focal points, the National Biodiversity Reference Units (NBRUs), one in each ASEAN country, to operate within existing national institutions and co-ordinated by the regional Centre.

An exchange of University professors/researchers is foreseen among ASEAN institutions, while European leading experts in biodiversity conservation will be invited to ASEAN in order to facilitate the transfer of knowledge and experience on this subject (Biodiversity Visiting Chairs).

In connection with these exchanges, workshops and thematic congresses will be periodically organised on specific topics to bring together international and regional expertise.

Further, the Regional Centre, through its regional network, will focus on facilitating ASEAN capabilities to deal with common analysis and policy formulation by creating a specific and permanent forum for this purpose.

The Centre through its network will assist national authorities in developing an ASEAN agenda for policy analysis covering common strategies for transborder biodiversity conservation. The implementation of the agenda will then be followed up by relevant national bodies while the Centre will assist in facilitating consensus building and organisational networking.

ii. Training

A Training Need Assessment (TNA) will be carried out at the beginning of the project to identify the needs, elaborate training programmes and assess the requirements for improving existing courses available in ASEAN national or regional institutions.

the project will develop training packages and methods and establish co-operative linkages with competent ASEAN training institutions. Further, it will sponsor training for ASEAN operators, managers, administrators and policy-makers involved in biodiversity conservation and protected areas management.

This component will cover three levels:

- a) Training courses carried out and/or facilitated by the centre. Two forms of training are envisaged: regional short-term courses for operators involved with biodiversity conservation and policy seminars and workshops for administrators and policy-makers. The project will make contributions towards the participation in the training courses within the available budget.
- b) Development of training models and packages to be first experimented and refined by the centre and subsequently taken over by ASEAN national and regional institutions and/or training centres where appropriate
- c) Advice for upgrading and harmonisation of training courses and assistance to national authorities in order to improve the biodiversity curricula already present or to be introduced in ASEAN universities and relevant institutions.

iii. Research

Activities which will promote the building-up and sharing of information between national and international research institutions, particularly with respect to 'common theme' initiatives, will be initiated.

This component will in particular consist of five different phases:

1. Assist relevant national bodies in the setting-up of guidelines for the definition and identification of ASEAN regional biodiversity conservation research priorities.
2. On the basis of the above guidelines, the ARCBC will assist the country NBRUs to review the projects of regional relevance proposed by the various ASEAN countries for urgent implementation and to select the most relevant among them. It will then proceed to the preparation of a research prospectus which will identify and prioritise ASEAN regional research requirements. The research prospectus in a draft form will then be circulated among relevant European and ASEAN Universities/Institutions.
3. Afterwards, the ARCBC will proceed to the organisation of a Research Conference inviting eminent biodiversity conservation personalities from leading ASEAN and European Universities and Research Institutions in order to discuss and finalise the recommendations contained in the research prospectus and identify institutions - both in ASEAN and in Europe - to be involved in the proposed research programmes on regional issues. At the end of the Conference the research prospectus will be revised to take into account the results of the Conference.
4. Priority projects and/or urgent actions having regional relevance and promoting scientific co-operation with Europe, will be included in the revised final prospectus and, after approvals as per 2.6.2. below, will form the ARCBC Research Programme to be financed by the Centre within the applied research budget sub-component.
5. Those regional research projects approved and endorsed by the ARCBC and relevant project authorities which will be not included in the Centre's existing research funding will be submitted by the same to relevant donor agencies for possible funding outside this project.

Detailed modalities for the utilisation of the applied research budget sub-component indicated under 2.5 below (item 7.1) will be set out in a specific proposal to be submitted in conjunction with the Overall Work Plan by the ARCBC for the approval of the Steering Committee and the Commission. This proposal will be

prepared in accordance with the Commission normal administrative and financial procedures and will cover as a minimum the following issues: Eligibility, Submission of Research Proposals, Criteria for Scientific Evaluation, Selection Methodology together with a standard type of draft contract setting out conditions for financing of selected research projects, budgetary and disbursement procedures, reporting, monitoring, etc., as well as ownership and use of research results.

iv. Database Establishment and Information Dissemination

The ARCBC will facilitate the flow of biodiversity-related information among scientists and scientific institutions and other relevant bodies in ASEAN and between ASEAN and the EU scientific institutions by creating and maintaining institutional formal links and electronic repositories of sources of biodiversity data in each country.

The approach will be to create a synergy and co-ordination among existing data banks present in ASEAN national scientific institutions for common regional benefits. Information handling via ARCBC accessible databases will be offered to interested parties on payment of a distribution fee.

A newsletter will be issued regularly and documentation on biodiversity conservation in ASEAN will be produced in different languages.

2.2. Project inputs

The EC contribution to the project will mainly consist of providing means for networking, applied research projects, training and Technical Assistance. The European TA will include a project Co-director specialised in biodiversity conservation, a Financial Manager, a Training Adviser and a Database Expert, as well as a number of short term experts, specialised in various specific fields relevant to the achievement of the project's goals. In addition, a number of long-term (Database Expert and Training Expert) and short term local (ASEAN) experts for a total of 105 m/m will be contracted. This TA team will work closely in partnership with local (ASEAN) counterparts. The ARCBC as well as all the NBRUs will be equipped with computer interlinked stations and other office equipment as necessary. Furthermore, a contribution to the initial running costs of the Regional Center will be provided.

Each ASEAN country will staff and cover the running costs of its own NBRU to be established within existing institutions. The Government of Philippines will provide adequate office space and facilities for the setting up of the ARCBC, adequate support personnel and cover the related running costs.

2.3. Time Schedule

The project will be implemented over a period of five years calculated from the date of the signature of the Technical Assistance contract.

2.4. Financial and other contributions

The EC will contribute to the project costs by way of a grant covering the items indicated under 2.5. below for a total amount of 8,500,000 ECU.

The ASEAN member countries contribution will mainly include the provision of appropriate facilities, counterpart personnel, technical and supporting staff and associated costs. The ASEAN member countries will further cover the running costs of the necessary offices (ARCBC and NBRUs) and technical facilities in each ASEAN country, consistent with national budgetary procedures.

2.5. Project cost estimates

Cost Estimates (per category) (in ECU)	EC (82%)	ASEAN (18%)	Total (100%)
1. Services			3.911.500
1.1 Expatriate TA	2.425.000		2.425.000
1.2 Local TA	136.500		136.500
1.3 Evaluation & Audit	170.000		170.000
1.4 Studies	30.000		30.000
1.5 Training	1.150.000		1.150.000
2. Supplies			512.000
2.1 Equipment	512.000		512.000
4. Informat.-Visibility	50.000		50.000
5. Operation & Mainten.			1.978.600
5.1 Local Personnel		1.206.000	1.206.000
5.2 Others	260.600	512.000	772.600
7. Funds			2.500.000
7.1 Grants for Applied Research	2.500.000		2.500.000
8. Others			1.006.000
8.1 Networking	735.000		735.000
8.2 Research Component	171.000		171.000
8.3 Information disseminat.	100.000		100.000
Sub-total	8.240.100	1.718.000	9.958.100
9. Contingencies*	259.900	82.000	341.900
Total Project Cost	8.500.000	1.800.000	10.300.000

* to be utilised only upon prior approval by the Commission

Budget lines 1.1. and 1.3., will be directly managed by the Commission

2.6. Implementation

2.6.1. Organisation and Management

The Executing Agency will be the DENR, acting on behalf of ASEAN and being responsible in this context to the Steering Committee (SC) appointed by ASEAN countries and composed by the members of ASOEN and chaired by the ASOEN Chairman. The two Co-directors of the PMU will participate to the SC and will act as its secretariat. A representative of the EC and of the ASEAN Secretariat will also be invited to the SC meetings as observers. The Steering Committee will convene a minimum of two times per year.

The Steering Committee will have a role of overall project co-ordination and guidance, approve project workplans and reports on behalf of ASEAN and approve the appointment of the ASEAN co-director of the project. Project workplans (annual and overall) and reports will then be subject also to the approval of the Commission.

The SC will in turn appoint a panel of scientific experts (the Scientific Experts Committee - SEC), proposed and financially supported one by each ASEAN member country, which will advise the PMU on all research

proposals and other research activities to be included in the annual workplans and Research Programme or elaborated by the Center for external financing. The SEC will in particular be associated to the preparation of the Research Prospectus, participate to the Research Conference and approve the ARCBC Research Programme prior to submission to the SC and the Commission. The Scientific Experts Committee will convene periodically in Manila, on PMU request, normally once every six months.

For the project duration, the ARCBC will be managed by a Project Management Unit (PMU) charged by the DENR to implement the project. It will be headed jointly by an EC co-director and an ASEAN co-director. The EC co-director will also be the Team Leader of the project's Technical Assistance team.

The PMU will have technical, administrative and financial autonomy within the framework of agreed workplans and budgets.

The long-term Technical Assistance to the project, to be provided by the EC will comprise, together with the EC Co-director, an EC Financial Manager, an EC Training Adviser, an EC Database Expert, a local (ASEAN) Database Expert and a Training Consultant plus a number of scientific and technical short-term European and ASEAN expertise. Besides the ASEAN Co-director, ASEAN will further provide a long-term Administration Officer as a full time counterpart to the EC Financial Manager.

The ARCBC will make use of the means put at the project's disposal by the Government of the Philippines, including office space and related operation costs and appropriate support personnel.

Each ASEAN country will establish and maintain a National Biodiversity Reference Unit (NBRU) within an existing institution, to interface the ARCBC with national authorities and institutions, provide a local instrument for the in-country follow-up of the project activities and constitute a first reference for the screening of research proposals to be submitted for formal endorsement to the ARCBC. The NBRUs will represent the national focal points of the ASEAN Biodiversity Network. Each ASEAN country will adequately staff its own NBRU providing at a minimum a Country Representative, acting as the NBRU co-ordinator, a database expert and other support staff as necessary and bear the associated costs.

ASEAN countries will maintain the right to increase the staff allocated to their own NBRU according to their need and workload, for the overall benefit of the project.

6.2 Planning and Reporting

The Co-Directors will prepare plans and reports conforming to the EC standards. These will include:

- an Initial Plan of Activities (IPA) within 1 month of arrival
- an Overall (5 years) Work Plan & Budget (OWP/B) within the first six months for the approval of the SC and the Commission.
- successive Annual Work Plans & Budgets (AWP/Bs) for the approval of the SC and of the Commission.
- quarterly and annual technical and financial Progress Reports, submitted to the Executing Agency, the SC and the Commission.
- a final Completion Report
- the ARCBC Research Programme foreseen under the research component above (2.1) to be submitted to the SEC, the SC and the Commission for approval within the first 24 months.

The PMU will present, within the time limit of 6 months before the end of the project, a proposal for transferring the project to the beneficiary.

2.7. Financial Procedures

For those expenditures funded under the EC grant and involving direct payments in currencies other than Filipino Pesos, payment shall be made directly by the Commission using its own procedures.

For those expenditures funded under the EC grant and involving local expenditures in Filipino Pesos, payment shall be made as follows:

- The project shall establish appropriate bank accounts in the Philippines (one in ECU and one in Filipino Pesos) for this sole purpose. These accounts shall be operated with the joint signatures of the two Co-directors. Subordinate accounts in currencies of other ASEAN member countries may only be opened with the express agreement of the Commission.
- The Commission shall make an initial advance of ECU 50,000 following notification of the opening of the accounts.
- The Commission shall, on the basis of the agreed workplan and estimates make a further advance of up to 100 % of the estimated expenditure during the first year of implementation, decreased by the amounts already transferred.
- Disbursement from the project accounts shall be made jointly by the two Co-directors, in line with project requirements. The balance in the Filipino Pesos account shall not normally exceed two months' estimated expenditure, nor fall below one month's estimated expenditure. The exchange rate applied to transfers from the ECU account to the Filipino Pesos account shall be the regular market exchange rate applicable on the day on which the transfer is made.
- Interest arising from Bank accounts reserved for the management of the programme shall be the subject of a separate accounting system. Use of this accumulated interest may be reserved for the benefit of the programme, only following prior agreement of the Commission.
- For reimbursement, the conversion of other currencies to ECU will be done on the basis of the exchange rate published in the Official Supplement of the European Communities after the 10th day of the month in which the expenditure has occurred.
- Bi-monthly reports of expenditure from the project accounts shall be prepared by the two Co-directors and submitted for inspection to a qualified firm of auditors to be hired by the project for this purpose. The selection of auditors shall be subject to the prior concurrence of the Executing Agency and the Commission. Once certified by the auditors as being in conformity with project progress and the agreed workplans and estimates, these bi-monthly reports shall be the basis of request by the two Co-directors to the Commission for the transfer of additional funds, which shall normally be made yearly.
- In case of urgency, duly justified by the two Co-directors, the Commission may be requested to make a temporary partial reimbursement on the basis of an un-audited request. Any such temporary reimbursement will be recovered from subsequent audited request.
- Copies of all requests for transfer of funds made by the two Co-directors to the Commission shall be provided simultaneously to the Executing Agency.
- For the second and subsequent years of project implementation, the outstanding advance of the preceding year shall be adjusted to reflect the agreed estimates of expenditures for the current year. This adjustment will be effected by providing a supplementary advance, or by decreasing subsequent payment instalments made in respect of reimbursement requests during that current year.
- All requests for transfer of funds must be presented in accordance with the schedules and timing stipulated in the workplans, approved in conformity with the conditions of this Financing Agreement.
- All funds in the project accounts, including any interest generated thereon, shall remain the property of the Commission. Any unused balances remaining available on the termination of the project shall revert to the Commission.

- All project expenses covered by the financial contribution of the Community shall be accompanied by justifying documents in the form of invoices, receipts, bank statements and audited accounts, which shall be preserved together with the accounting books by the Executing Agency for a period of 5 years following the final payment. The project accounting books shall use the double entry system, where each receipt and expenses is noted.

For those expenditures funded by ASEAN countries from their own budgetary resources, expenditures and their accounting shall be made by the PMU in accordance with the relevant government procedures. A summary of such expenditures, annual and cumulative, shall however be included in the project's annual reports.

For recording purposes, the PMU shall inform the Executing Agency, on a quarterly basis, of the value of all goods and services received by the project in reflection of expenditures funded under the EC grant.

2.8. Procurement procedures

Procurement of works, supplies and local services under the EC grant shall be carried out through international or local tendering, international or local calls for quotation, or mutual agreement, consistent with the government rules and regulations for each relevant ASEAN member country.

The procedure for particular categories or sizes of procurement (other than those relating to Technical Assistance) according to the actual EC internal rules is detailed in the tables annexed hereto (tables 1 to 3).

Technical Assistance services will be procured by the Commission under its own procedures; the Consultant who will provide these services will be selected and appointed by the Commission, after the concurrence of the Executing Agency on the selected Consultant has been obtained.

2.9. Monitoring and Evaluation

Monitoring will be a continuous process and will be undertaken by the PMU itself. During the first year of operation, the PMU will carry out a local open tender leading to the appointment of a reputable chartered accountant whose role shall include the financial and administrative monitoring of the project and the auditing of project financial reports as specified under 2.7 above.

A mid-term evaluation will be carried out by an independent team recruited by the Commission to assess results achieved by the project and give recommendations on project activities, including steps to be taken to ensure the sustainability of the ARCBC.

An ad hoc independent scientific evaluation is foreseen before the EC approval of the ARCBC Research Programme. For this purpose the Commission shall select and appoint a panel of European leading experts in biodiversity conservation (a minimum of three) to review the proposed Research Programme.

A post-completion evaluation will also be carried out.

3. SPECIAL PROVISIONS

- The Government of Philippines and in particular the Department of Environment and Natural Resources (DENR) will receive a mandate from the Asean countries in order to sign on behalf of ASEAN this Financing Agreement which will form the legal and contractual document for the starting and implementation of this project.
- The DENR as the project's Executing Agency will ensure, inter alia, that no activity will be financed and/or implemented under the EC grant without workplans being approved by the Steering Committee and the Commission. It will further ensure that the PMU will receive the necessary functional autonomy and agreed resources.
- The ASEAN Co-director and administrator will be appointed in principle for the total duration of the project, except in case of proven non-performance.
- The Government of Philippines will grant to the expatriate Technical Assistance staff working under this project - and to their families - benefits, privileges and exemptions which are no less favourable than those granted to expatriates employed under other bilateral or multilateral agreements or arrangements for Technical Co-operation, especially the right of free circulation in, out and into the Republic of the Philippines, as required for the proper execution of the project.
- The representatives of the Commission and the Court of Auditors of the EC will be allowed to have unrestricted access to the project books and supporting documents at any time following reasonable advance notice. All financial justifications will be held at the project's headquarters.
- Equipment and vehicles purchased by the project will be imported free of taxes and duties, according to rules and regulations of each ASEAN member country. At the end of the project, equipment and vehicles will be handed over respectively to the ARCBC in Manila or to the various NBRUs to which they were allocated, based on a proposal duly prepared by the PMU.
- The Government of Philippines will provide the offices space, other facilities and counterpart personnel for the ARCBC as described in the present document and carry out any infrastructure improvement which may be necessary to make these facilities conform to the project needs and purposes.
- The ASEAN member countries agree that they will maintain their level of support to the ARCBC beyond the end of the EC-supported phase.

.. VISIBILITY

The programme must at all times provide maximum visibility for the cooperation managed by the Commission of the European Communities. The recipient shall pay particular attention to preventing any confusion between this programme and projects financed by other international bodies and other donors, with the aim of making cooperation between the European Community and ASEAN clearly visible.

Special attention shall be devoted to implementing these rules at events and in all public or official written material connected with the programme. Objects, equipment and documentation connected with the project shall carry the European symbol (a blue flag bearing twelve yellow stars) with text in the language of the recipients. The symbols identifying the Community shall be of the same size and appearance as any symbols identifying the recipients, should the latter be present. All such activities shall be conducted in close collaboration with the Commission Delegation.

Public relations and publicising work shall be conducted in order to give European Community cooperation maximum visibility, and in order to make the project better known and more effective.

A detailed plan of action for publicity measures for this project shall be submitted for approval to the Commission before the project itself begins.

FINANCING AGREEMENT

The Commission of the European Communities, hereinafter referred to as "THE COMMISSION", acting for and on behalf of the European Community, hereinafter referred to as "THE COMMUNITY",

on the one part, and

The Government of Philippines acting for and on behalf of the Governments of the Countries of the Association of South-East Asian Nations (ASEAN) which are parties to the Cooperation Agreement initially signed on 07 March 1980 with "THE COMMUNITY", hereinafter referred to as "THE RECIPIENT",

on the other part,

HAVE AGREED AS FOLLOWS:

The project referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out herein.

This Agreement comprises provisions, entitled "General Conditions", which are of general effect, provisions entitled "Special Conditions", the latter including the "Technical and Administrative Provisions" (Annex A), which apply specifically to the project referred to in Article 1 below, and Annex B - Arbitration.

The Special Conditions and their Annexes amend or supplement the General Conditions, and in the event of conflict prevail over the latter.

SPECIAL CONDITIONS

ARTICLE 1 NATURE AND SUBJECT

As part of its 1996 financial and technical co-operation programme, THE COMMUNITY shall contribute, by way of a grant, towards the financing of the following project:

Project N° : ALA/96/22

Title : ASEAN Regional Centre for Biodiversity Conservation (ARCBC)

Hereinafter referred to as "THE PROJECT".

ARTICLE 2 COMMITMENT OF THE COMMUNITY

The commitment of THE COMMUNITY is fixed at maximum 8,500,000 ECU (Eight million and five hundred thousand ECU) hereinafter referred to as "THE EC GRANT".

Annex B

ARBITRATION

Any dispute between the parties to the Agreement which is not settled by applying the procedures laid down in Article 19 of the Agreement, shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

The parties to such arbitration shall be THE RECIPIENT on the one side and THE COMMISSION on the other side.

The Arbitral Tribunal shall consist of three arbitrators appointed as follows:

- one arbitrator shall be appointed by THE RECIPIENT;
- a second arbitrator shall be appointed by THE COMMISSION;
- the third arbitrator (hereinafter called "THE UMPIRE") shall be appointed by agreement of the parties or, if they shall not agree, by the Secretary-General of the United Nations.

If either side fail to appoint an arbitrator, such arbitrator shall be appointed by THE UMPIRE.

Should any arbitrator appointed in accordance with this section resign, die or become unable to act, another arbitrator shall be appointed in the same manner as the arbitrator whose place he takes; such successor shall have all the powers and duties of the original arbitrator.

Summary Table 1 - Annexes IV to VI

SERVICE CONTRACTS CONCLUDED EXTERNALLY FOR A NON-MEMBER COUNTRY

{PRIVATE }Value of contract (x) (in ecus)	$x < 12\ 000$	$12\ 000 < x < 70\ 000$	$70\ 000 < x < 137\ 000^{**}$
Eligibility	Community, recipient country	Community, recipient country	Community, recipient country
Procedure	Direct agreement	Principle: negotiated procedure Variant: <i>framework</i> contract if duration less than 6 months	Principle: restricted invitation to tender with publication in local press Variant: <i>framework</i> contract if duration less than 6 months
Number of firms consulted or invited to tender	1 or more	Principle: minimum 3 Variant: <i>framework</i> contract	Principle: shortlist minimum of 5 firms. Variant: <i>framework</i> contract if duration less than 6 months.
Approval of invitation to tender file	Contracting authority	Contracting authority with agreement of delegation	Principle: IB-E/2
Assessment of tenders	Contracting authority	Contract award committee with participation of delegation	Contract award committee with participation of delegation
Award decision	Contracting authority	Contracting authority with agreement of delegation	Delegation if contract to go to lowest bidder. Otherwise: IB-E/2
Contract	Contract signed by contracting authority	Contract signed by contracting authority Variant: contract signed by IB-E/2	Principle: contract signed by contracting authority Variant: contract signed by IB-E/2

* Delegations, project management units or recipients.

** ECU 137 000 or more: contract concluded by headquarters (see Annex III).

Summary Table 2 - Annexes XII to XV

SUPPLY CONTRACTS CONCLUDED LOCALLY FOR A NON-MEMBER COUNTRY

{PRIVATE } Value of contract x) (in ecus)	$x < 5\,000$	$5\,000 < x < 25\,000$	$25\,000 < x < 137\,000$	$x > 137\,000$
Origin	No rules on origin	Community, recipient country, eligible countries	Community, recipient country, eligible countries	Community, recipient country, eligible countries
Procedure	Direct contract	Direct contract	Principle: open invitation to tender - publication in local press. Variant (with prior agreement of headquarters): restricted invitation to tender	International invitation to tender - publication in OJ and local press
Number of firms consulted or invited to tender	1 or more	at least 3	Principle: open Variant: minimum of 5 firms, at least 2 from Community	Open
Dispatch of invitation to tender	/	/	File sent to delegation	File sent to delegation
Approval of invitation to tender file	/	/	Delegation	Commission approval required (headquarters)
Assessment of tenders	Contracting authority	Contracting authority	Assessment committee on which delegation is entitled to sit	Assessment committee with participation of delegation
Award decision	Contracting authority	Contracting authority	Delegation: if proposed contractor is lowest bidder and amount is not in excess of budget limits. Otherwise: headquarters	Headquarters
Contract	Order signed by contracting authority Copy and supporting documents filed	Contract signed by contracting authority Copy and supporting documents filed	Contract signed by contracting authority, then by contractor.	Contract signed by contracting authority endorsed by Commission (headquarters), then by contractor.

Eligible countries: MEDA Regulation, Article 8 (1): Mediterranean partners.

ALA Regulation, Article 13: developing countries, case by case. Exceptionally, others.

Summary Table 3 - Annexes XVI to XIX

WORKS CONTRACTS CONCLUDED LOCALLY FOR A NON-MEMBER COUNTRY

{PRIVATE }Value of contract (x) (in ecus)	$x < 100\ 000$	$100\ 000 < x < 500\ 000$	$500\ 000 < x < 5\ 000\ 000$	$x > 5\ 000\ 000$
Procedure	Direct contract	Restricted invitation to tender	Invitation to tender - publication in local press	International invitation to tender - publication in OJ and local press
Number of firms consulted or invited to tender	at least 3	at least 5	Open	Open
Dispatch of invitation to tender file	/	/	File sent to delegation	File sent to delegation
Approval of invitation to tender file	/	/	Commission approval required (delegation).	Commission approval required (headquarters)
Assessment of tenders	Contracting authority	Assessment committee on which delegation is entitled to sit	Assessment committee on which delegation is entitled to sit	Assessment committee with delegation participation
Award decision	Contracting authority	Contracting authority	Delegation: if proposed contractor is lowest bidder and amount is not in excess of budget limits. Otherwise: headquarters	Headquarters
Contract	Order signed by contracting authority Copy and supporting documents filed.	Contract signed by contracting authority Copy and supporting documents filed.	Contract signed by contracting authority, then by contractor	Contract signed by contracting authority, endorsed by Commission (headquarters), then by contractor.