



PEMSEA EC Meeting Report 4

PROCEEDINGS OF THE FOURTH EXECUTIVE COMMITTEE MEETING

Beijing, PR China

20 December 2008



**PROCEEDINGS OF THE
FOURTH EXECUTIVE COMMITTEE MEETING**

**Huwan Hot Spring Leisure Hotel, Beijing, PR China
20 December 2008**

TABLE OF CONTENTS

	Page
A. Introduction	1
B. Opening Message	1
C. Adoption of Agenda and Organizational Matters	1
1.0 Progress Report on the Implementation of EAS Partnership Council and Executive Committee Decisions and Recommendations	1
1.1 East Asian Seas (EAS) Congress 2009	3
1.2 ICM Learning Centers	4
1.3 PEMSEA Trust Fund	5
1.4 Inclusion of IUCN-ARO as a PEMSEA non-Country Partner	6
2.0 PEMSEA's Legal Personality	6
3.0 Ministerial Forum 2009	9
4.0 Regional Implementation of SDS-SEA	10
4.1 PEMSEA's future thrusts and strategy for next phase	10
5.0 Other Business	12
5.1 5 th Executive Committee Meeting	12
5.2 Upgrading PEMSEA staff's capacity to meet the new challenges	12
D. Closing	13
Annex 1 List of Participants	14
Annex 2 List of Documents	16
Annex 3 Fourth Executive Committee Meeting Agenda	18
Annex 4 PEMSEA Trust Fund Management Guidelines	20
Annex 5 Draft Agreement Recognizing the International Legal Personality of the PEMSEA and Summary of Amendments on the Draft Agreement on the Recognition of PEMSEA Legal Personality	40

PROCEEDINGS OF THE FOURTH EXECUTIVE COMMITTEE MEETING

Huwan Hot Spring Leisure Hotel, Beijing, PR China, 20 December 2008

A. INTRODUCTION

- i. The Fourth Executive Committee Meeting was held at the Huwan Hot Spring Leisure Hotel in Beijing, PR China on 20 December 2008.
- ii. The Meeting was attended by the EAS Partnership Council Chair, Dr. Chua Thia-Eng, the Intergovernmental Session Chair, Dr. Li Haiqing and the Technical Session Chair, Mr. Hiroshi Terashima. Prof. Mao Bin, Mr. Liang Fengkui and Dr. Zhang Zaohui of the State Oceanic Administration (SOA) of PR China attended as the representatives of the meeting's host country. Mr. Takashi Ichioka of the Ocean Policy Research Foundation (OPRF) of Japan attended as an observer. The PEMSEA Resource Facility (PRF) served as the Secretariat.
- iii. A full list of participants is attached as Annex 1.

B. OPENING MESSAGE

- i. Dr. Chua Thia-Eng expressed his appreciation to the Executive Committee members for their attendance in spite of their busy schedules. He also thanked SOA China for the excellent arrangements for the meeting.

C. ADOPTION OF AGENDA AND ORGANIZATIONAL MATTERS

- i. The Secretariat introduced the provisional agenda and the documents for the meeting (Annex 2).
- ii. The Executive Committee reviewed the list of meeting documents and adopted the provisional agenda as submitted (Annex 3).

1.0 PROGRESS REPORT ON THE IMPLEMENTATION OF EAS PARTNERSHIP COUNCIL AND EXECUTIVE COMMITTEE DECISIONS AND RECOMMENDATIONS

- 1.1 The Executive Committee reviewed the progress pertaining to the implementation of decisions and recommendations of the 2nd EAS Partnership Council and the 3rd Executive Committee meetings. The meeting was informed that major items requiring review and recommendations from the Executive Committee, including the PEMSEA Trust Fund, PEMSEA's Legal Personality, the EAS Congress 2009 and the Ministerial Forum 2009, were scheduled for discussion later in the agenda.
- 1.2 The issues and challenges that the PRF has faced during the implementation of the decisions and recommendations were reported as:
 - a. streamlining the proposed activities and outputs identified in the GEF Project Document in consideration of the reduced staff and budget for the project;

- b. developing project assignments and secondment of qualified technical personnel from participating countries; and
 - c. exploring and implementing a junior professional officers program with donor countries.
- 1.3 As a measure to streamline the multiple activities identified in the GEF Project Document, the Executive Committee was informed that the PRF has developed templates for 4 consolidated project agreements/contracts covering: i) national SDS policy and programme development; ii) national ICM scaling up development and implementation; iii) integrated river basin and coastal area management; and iv) capacity development. It was reported that these consolidated project agreements/contracts are pursuant to the Memoranda of Agreement (MOAs) that have been signed with GEF-eligible countries, and will be utilized as a means to streamline the efforts of the PRF staff, the responsible National Focal Points (NFPs), the country level and local level Project Coordinating Committees (PCCs), Project Management Offices (PMOs) and the various national and local Technical Working Groups (TWGs), which are responsible for coordinating the implementation of more than 200 project activities identified in the Project Document. The Executive Committee was advised that the template agreements/contracts are currently being reviewed and finalized with NFPs/PMOs, in accordance with the respective country and local objectives, targets and capacities.
- 1.4 The Executive Committee agreed with the streamlining effort and emphasized that the PRF needs to maintain its focus on mentoring the country project staff and assisting the countries to implement the project activities within the ambit of their capacity. The PRF clarified that contract templates were prepared to effect the streamlining of activities but this does not signal a shift in focus to contract management.
- 1.5 The Executive Committee was informed that initial discussions were held with PR China (i.e., SOA) regarding secondment of technical staff, but there were no developments to report. Similarly, no actions had been undertaken with regard to the junior professional officers programme with donor countries.
- 1.6 The Executive Committee noted that there are many eligible persons who are seeking opportunities for practical experience through internships and fellowships, such as Ph.D students and researchers. Given that the rules and regulations for secondment and interns may differ from country to country, the terms of reference (TOR) for potential secondments and internships need to be prepared.
- 1.7 The Executive Committee thanked the PRF for its efforts in implementing the decisions and recommendations of the 2nd Council and the 3rd Executive Committee meetings.

The Executive Committee concluded that:

- 1.8 The PRF's implementation of the Council's and Executive Committee's decisions and recommendations has shown progress; and

- 1.9 The PRF should also consider the following approaches to streamline project implementation:
- a. strengthening the role of the national project coordinating offices in managing the implementation of project activities at the country level, where feasible;
 - b. utilizing the skills and services available within countries and among PEMSEA partners and collaborators as much as possible rather than issuing contracts to international consultants and organizations;
 - c. preparing project work plans, budgets and contracts well in advance with due consideration of the cumbersome approval procedures within the UNOPS;
 - d. mobilizing additional financial and human resources, by preparing project proposals for submission to donors and other sources of financing; and
 - e. preparing TORs and program packages for dissemination to Partners for the secondment of technical personnel and the establishment of a junior professional officers and internship programme.

The Executive Committee recommended that the PRF:

- 1.10 Streamline the project activities using the consolidated agreements/contracts;
- 1.11 Maintain close working relationship with the country focal points to ensure efficient implementation of all project activities and continue to strengthen the role of the national project coordinating office in implementing project activities where appropriate;
- 1.12 Operate with flexibility in implementing the GEF project, taking into account different situations of the GEF eligible countries and the procedures for contract and payment approvals within the UNOPS;
- 1.13 Develop TORs, program package and brochures for staff secondments, junior professional officers and internships, and disseminate the information to Partners and donors for their consideration and participation; and
- 1.14 Include progress reports on the Council's and Executive Committee's decisions as a regular agenda item in future Council and Executive Committee meetings.

East Asian Seas (EAS) Congress 2009

- 1.15 The status of preparations for the EAS Congress 2009 was reported, including: workshop themes for International Conference; key topics for the daily plenary keynote presentations and invited plenary speakers; securing co-convenors for the Conference workshops; publication of Congress information and promotional materials; and arrangements for various side meetings.
- 1.16 It was also reported that the 1st Meeting of the National Organizing Committee (NOC) of the EAS Congress 2009 which was chaired by the Department of Environment and Natural Resources of the Philippines and participated by representatives from various government agencies involved in the EAS Congress preparations and arrangements, was convened in 24 November 2008.

The Executive Committee concluded that:

- 1.17 The following strategies can assist the PRF with the EAS Congress organization, preparations and sustainability:
- a. as appropriate, adding and revising topics/titles in order to make the workshops more attractive to potential co-convenors and participants, with the possible inclusion of food contamination as a workshop topic;
 - b. securing renowned plenary keynote speakers as early as possible, and publicizing their participation (e.g., Dr. Rajendra Pachauri, the Chair of the Intergovernmental Panel on Climate Change (IPCC));
 - c. selecting/securing good papers for the various workshops in order to make the workshops more valuable to Congress participants;
 - d. securing key sponsors and co-convenors for the workshops early in 2009, in order to facilitate good planning and coordination;
 - e. identifying and soliciting target attendees for each PEMSEA country and local government partner;
 - f. engaging the media as a key player for the publicity of the Congress;
 - g. disseminating information bulletins more frequently in 2009; and
 - h. mobilizing existing networks/interest groups, such as the youth, local governments, scientists, legislators, business sector, ICM learning centers and universities to enhance the diversity of people and interests being called together under a common regional event.

The Executive Committee recommended that the PRF:

- 1.18 Explore and promote the organization of side events/meetings of existing networks and interest groups, such as policy-makers/legislators, scientific groups and universities, during the EAS Congress 2009 and attempt to regularize meetings of such networks into the Congress every 3 years;
- 1.19 Strengthen the promotion of the EAS Congress 2009, providing frequent updates/announcements on prominent keynote speakers and renowned experts who have confirmed their interest in the Congress;
- 1.20 Set targets for the number of participants from each country and ICM site, and promote and facilitate countries' efforts to meet their targets; and
- 1.21 Organize the interactive workshop sessions with legislators, experts and representatives of the media as Chairs or members of the panels.

ICM Learning Centers

- 1.22 The Executive Committee was informed that MOAs had been signed between the PEMSEA and two universities in the Philippines (i.e., Xavier University of Cagayan de Oro City and De La Salle University - Lipa of Batangas City) regarding the establishment of ICM Learning Centers. It was further noted that discussions are on-going with 6 other universities/research institutions in the region regarding similar designations.

- 1.23 It was recalled that the purpose of the ICM Learning Centers was to strengthen the region's intellectual capital and human resources for addressing policy, economic, scientific, technical and social challenges and constraints to integrated management and sustainable use of the marine and coastal environment and resources of the Seas of East Asia. Under the MOA, the ICM Learning Center commits to establishing a core team of skilled trainers to conduct ICM training among local governments using the PEMSEA ICM model training course. PEMSEA's commitment is to conduct ICM training-of-trainers courses for the core teams, and to provide resource materials and technical support in the development and implementation of ICM training courses at a country level, in collaboration with National Focal Agencies.
- 1.24 The Executive Committee was informed that the ICM Learning Center is a demand-driven process taking into account the needs of National ICM scaling up programmes of the respective countries.

The Executive Committee concluded that:

- 1.25 ICM Learning Centers are an important resource to PEMSEA. In this regard, careful selection of the centers is essential, including the following considerations:
- a. qualification and capacity of the candidate institutes for sustaining the centers and performing the necessary trainings;
 - b. documentation of the process of selection, with clearly defined selection criteria and an approval procedure; and
 - c. publication and promotion of the designated institutions as a PEMSEA Network of ICM Learning Centers.

The Executive Committee recommended that the PRF:

- 1.26 Continue its work on establishing the ICM Learning Centers as scheduled; and
- 1.27 Finalize the procedure and criteria for the selection of the ICM Learning Centers to be presented at the next Executive Committee meeting in July 2009.

PEMSEA Trust Fund

- 1.28 In line with the 3rd Executive Committee Meeting recommendations, the meeting was advised that the PRF had established a PEMSEA Trust Fund and deposited the outstanding balance from the IMO Trust Fund into the new bank account, with the cooperation of IMO.
- 1.29 The PEMSEA Trust Fund Management Guidelines (Guidelines) were submitted to the Executive Committee for consideration and approval. Key features of the Guidelines were identified as:
- a. organizational and administrative arrangements for managing the Fund;
 - b. sourcing voluntary contributions and use of the Fund;
 - c. financial management and external auditing; and
 - d. procurement procedures.

- 1.30 The Executive Committee commended the efforts of the PRF in securing the transfer of funds from the IMO Trust Fund to the PEMSEA Trust Fund. The Executive Committee further emphasized that the PEMSEA Trust Fund belongs to the region and hence there is a need to establish a transparent check and balance mechanism for the management of the Fund. In this light, the establishment of the Guideline was timely and appropriate.

The Executive Committee concluded that:

- 1.31 The use of the Fund as a contingency for project activities being supported by GEF or other donors, when such funds are delayed due to processing procedures should be discouraged. The Executive Committee pointed out that the contingent use of the Fund needs to be utilized when there is no other option, and in consultation with the Council Chair. The Executive Committee advised that, as a good management practice, the PRF needed to prepare the project's financial documents in a timely manner in order to minimize the use of the Fund as a contingency measure.
- 1.32 External auditors should be appointed by the EAS Partnership Council and report directly to Council. During intersessional periods between Council meetings, the Executive Committee would act on behalf of the Council.

The EC recommended that:

- 1.33 With the incorporation of the above-noted clarifications, the endorsement of the PEMSEA Trust Fund Management Guidelines, as attached in Annex 4.

Inclusion of IUCN-ARO as a PEMSEA non-Country Partner

- 1.34 The Executive Committee reviewed the request from the Asia Regional Office of International Union for Conservation of Nature (IUCN-ARO), dated 17 November 2008, for inclusion as a non-Country Partner of PEMSEA.
- 1.35 The Executive Committee welcomed the application of IUCN-ARO and acknowledged IUCN's reputation as the world's largest international organization for conservation of nature and natural resources.

The Executive Committee recommended:

- 1.36 The acceptance of the IUCN-ARO as a non-Country Partner of PEMSEA, for endorsement by the EAS Partnership Council; and
- 1.37 The PRF develop collaborative activities with IUNC-ARO including joint organization of workshops for the EAS Congress 2009.

2.0 PEMSEA'S LEGAL PERSONALITY

- 2.1 The meeting was informed of the consultations with Country Partners on the draft "Agreement Recognizing the International Legal Personality of the Partnerships

- in Environmental Management for the Seas of East Asia (the Agreement)" since the 2nd EAS Partnership Council Meeting in July 2008.
- 2.2 The Secretariat presented the Agreement, which was revised incorporating the concerns and comments from Country Partners, and a summary of amendments on the draft Agreement. The Executive Committee reviewed the draft Agreement, article by article, the amendments and the rationale for any changes.
 - 2.3 The Executive Committee was informed that the copies of the refined Agreement were submitted to Partner Countries, including Brunei Darussalam, Malaysia and Thailand. Countries were requested to formally communicate with the PRF, on or before 30 January 2009, regarding: (i) endorsement of the text of the Agreement, and (ii) an indication of their government's willingness and readiness to sign the Agreement.
 - 2.4 The Executive Committee commended the efforts of the PRF and the TWG on the Agreement. It was acknowledged that the Agreement has been formulated capturing all the concerns and suggestions for modification.
 - 2.5 The Executive Committee reviewed the status of consultations with PEMSEA Country Partners. Having preliminary positive responses on the Agreement from more than three Partner Countries, the Executive Committee expressed its confidence on achieving PEMSEA's legal status before the EAS Congress 2009. The Executive Committee emphasized that the PRF should focus on receiving as many signatures as possible on the Agreement through strategic approaches for each Partner Country.
 - 2.6 The Executive Committee pointed out that some countries will require additional assistance in order to overcome constraints to recognizing PEMSEA's legal personality. As an endeavor to assist the efforts of the National Focal Points, the Executive Committee emphasized the need for documents/materials that will be helpful in explaining the background and achievements of PEMSEA to the respective Foreign Ministries. The supporting documents/materials would include, for example, PEMSEA's 14 years of experience and achievements in the respective countries including the development of national policies and conformance with international commitments through the implementation of the SDS-SEA. It was also suggested that the supporting information materials should cover not only environment but also economic and political aspects, including security and peace, achieved through the implementation of the SDS-SEA.
 - 2.7 The Executive Committee was informed that the recently approved Philippines-China Joint Plan of Action includes a section on PEMSEA, and a commitment by both countries to strengthen their cooperation in sustainable development of coastal and marine areas of the region under the framework of the PEMSEA regional programme. The Plan of Action will be signed in ASEAN+3 Meeting in Bangkok in 2009.
 - 2.8 The Executive Committee expressed appreciation to the PRF for facilitating the inclusion of the section on PEMSEA into the Philippines-China Joint Plan of Action. The Committee also thanked the Governments of PR China and the Philippines for their consideration and continuing support to PEMSEA.

- 2.9 The Chinese delegation indicated that the aforementioned clause in the Philippines-China Joint Plan of Action would be helpful in facilitating support from the Ministry of Foreign Affairs for recognition of PEMSEA's legal personality. The delegation further informed the meeting of a SOA initiative to prepare a document summarizing 14 years of PEMSEA's achievements, for submission as background material to the Ministry of Foreign Affairs in China. It was indicated that this material would be shared with the PRF, for review, refinement and use in the promotion of recognition of PEMSEA's legal personality.
- 2.10 With regard to country signature of the Agreement, the Executive Committee requested the PRF to develop a proper strategy, bearing in mind possible sensitivities among countries. The Executive Committee suggested that the PRF consider various options and events that could serve as an occasion for signing of the Agreement, including:
- a. the World Ocean Conference in Manado, Indonesia in May 2009;
 - b. the Ministerial Forum at the EAS Congress 2009;
 - c. Separate signing ceremonies organized in consultation with the concerned countries prior to the Congress.

The Executive Committee concluded that:

- 2.11 The draft Agreement is well formulated and has incorporated the comments of Country Partners; and
- 2.12 As PEMSEA will be entering into an international organization with its own legal personality, the PRF should be more active in marketing PEMSEA products and services.

The Executive Committee recommended:

- 2.13 The endorsement of the Agreement as a final draft with minor revisions, as attached in Annex 6;
- 2.14 The PRF visit countries in order to directly assist Country Partners in their efforts to obtain approvals for the Agreement from their respective Foreign Ministries and/or to solicit the support of key officials within countries to help with the approval process;
- 2.15 The PRF prepare information materials on PEMSEA's achievements for distribution to Country Partners, as well as promotion/exhibition during upcoming forums and events within and outside of the region, covering for example: parallels between the SDS-SEA and other international agreements and strategies (e.g., European Marine Strategy); ICM implementation/experience in support of international agreements and action plans; political achievements, including PEMSEA's contributions to peace and security in the EAS region; the evolution of PEMSEA's recognition as a legal personality, starting with the Putrajaya Declaration; and the uniqueness of PEMSEA among GEF International Waters projects; and

- 2.16 The PRF proceed with securing country signature to the Agreement as soon as possible, and to keep the Executive Committee advised on the status of signatures.

3.0 MINISTERIAL FORUM 2009

- 3.1 The Executive Committee was informed of the preparations for the 3rd Ministerial Forum, including: i) the Forum programme; ii) the concept paper for the Ministerial Declaration containing a proposed strategy and approach to climate change adaptation; and iii) the work schedule for drafting the Declaration.
- 3.2 The Executive Committee discussed the need to make the Ministerial Forum and its Declaration unique from other fora and declarations currently addressing climate change issues.
- 3.3 The Executive Committee emphasized that a “Ministerial Declaration on the Application of ICM for Climate Change Adaptation” should embody the following features:
- a. national policy on scaling up ICM practices as a vehicle for addressing climate change adaptation at the local level;
 - b. regional indicators for success and/or time-bound targets for climate change adaptation actions;
 - c. key ICM tools that are relevant to climate change adaptation, including vulnerability assessment, interagency coordination, and State of the Coasts (SOC) reporting, which can be implemented by local governments to guide their actions and progress;
 - d. mechanisms for reporting and evaluating the progress towards regional indicators of success/climate change adaptation actions;
 - e. a call to action for the Partners, international agencies and organizations, donors and other collaborators with specific roles and responsibilities defined; and
 - f. the role of PEMSEA *vis-à-vis* climate change adaptation and the implementation of ICM programmes across the region.
- 3.4 The Meeting was reminded of the two initiatives that the PRF has been embarking on since 2008: the State of the Coasts (SOC) reporting system and the Framework of Partnership Programme (FoPP). The Executive Committee suggested the PRF explore ways of customizing and intensifying the indicators and formats of the SOC and FoPP in order to strengthen their application in monitoring the progress of climate change adaptation actions.
- 3.5 The “Experts Forum on Climate Change Adaptation Strategies for Coasts and Oceans,” which was held in the Philippines on December 2008, was discussed briefly. It was reported that the purpose of the Forum was to raise awareness among members of the Philippines Senate on the need for a holistic management perspective and approach to addressing climate change issues in the country. The usefulness of ICM as a tool for adaptation to climate change was also introduced.

The Executive Committee concluded that:

- 3.6 PEMSEA has a special advantage with respect to developing and implementing programmes focused on climate change adaptation because of its ICM experience. This advantage needs to be documented and promoted, with due consideration to existing commitments of Partner Countries regarding scaling up ICM practices across the region, and the formulation of supporting coastal and ocean policy;
- 3.7 There is a need to document ICM case studies and good practices under the PEMSEA regional programme regarding climate adaptation actions at the local government level. These materials would serve as reference documents in support of the Declaration. The case studies should explain the relationship between ICM and climate change adaptation, identifying relevant and urgent concerns regarding climate change impacts in the coastal area, and the Framework for the Sustainable Development at Coastal Areas and ICM Cycle. The documents should also highlight PEMSEA's strengths and progress with regard to: national policy, institutional arrangements and legislation; the integration of economic and environmental programmes; local government capacity in addressing global concerns and commitments through ICM implementation; and the partnership approach; and
- 3.8 Future Ministerial Forums should culminate with the signing of a Declaration, respectively focusing on specific areas of concern or emerging issues that are relevant to the effective implementation of the SDS-SEA.

The Executive Committee recommended that the PRF:

- 3.9 Finalize the programme for the Ministerial Forum in consultation with the National Organizing Committee (NOC) of the EAS Congress 2009;
- 3.10 Develop a Ministerial Declaration with due consideration of discussions of the meeting, to be presented at the 5th Executive Committee Meeting in July 2009; and
- 3.11 Develop appropriate materials, brochures, case studies, and policy briefs concerning the application of ICM as a practical strategy and measure for implementation of climate change adaptation at the local level, as accompanying documents to the Ministerial Declaration.

4.0 REGIONAL IMPLEMENTATION OF SDS-SEA

PEMSEA's future thrusts and strategy for next phase

- 4.1 The Meeting reviewed a working document that outlined various considerations with regard to PEMSEA's future thrusts and strategies.
- 4.2 It was noted that several regional programmes and projects, including the South China Sea LME, Yellow Sea LME, Sulu Sulawesi Seas Ecoregion and Coral Triangle Initiative (CTI) are in the process of establishing sub-regional mechanisms for coordinating the implementation of Strategic Action Plans

- (SAPs) or similar action programmes. The potential role of PEMSEA, with its international legal personality, to serve as an umbrella regional mechanism for these various sub-regional initiatives was suggested. PEMSEA's legal personality could be mutually beneficial to these sub-regional programmes and projects, by reducing the time and resources for establishing legal personalities, including the possibility of improved coordination across overlapping boundaries among these different programs, within the framework of the SDS-SEA.
- 4.3 In addition, various priority issues were tabled as possible on-the-ground elements of PEMSEA's next phase, including:
- a. climate change adaptation through scaling up of ICM practices and covering such issues as: integrated water resources management; land management; agriculture; infrastructure development; disaster preparedness and prevention, and community resiliency;
 - b. conservation and sustainable use of biodiversity, including restoration of habitats, sustainable management of protected areas, wetlands and coastal fisheries, and food security and livelihood management; and
 - c. energy conservation, utilization of renewable energy technologies and the mitigation of greenhouse gases through innovative approaches to waste management and pollution reduction, restoration and rehabilitation of wetlands, mangroves, etc.
- 4.4 The Executive Committee emphasized that, as part of a review on future thrusts of PEMSEA, there is also a need to draft an implementation strategy for each component of the SDS-SEA, with time-bound targets and a road map for countries and other stakeholders to use. It was also suggested that the implementation strategy include indicators of success, identification of roles and responsibilities, and monitoring, evaluation and reporting procedures.

The Executive Committee concluded that:

- 4.5 Future thrusts and strategies for PEMSEA required review and deliberation by the Country Partners and that the points raised by the PRF were a useful starting point;
- 4.6 PEMSEA needs to exert further effort to establish its niche and role in the region as an intergovernmental and multisectoral partnership that crosses national and subregional boundaries, with a framework strategy, tools and skills to support sustainable development of marine and coastal resources of the Seas of East Asia; and
- 4.7 PEMSEA should be promoting its capacity as a regional platform for cooperation involving all sub-regional programmes and projects, including various products and services that have been developed and tested under PEMSEA (e.g., ICM training; environmental investments; information management) that can be shared across programmes and projects in the region.

The EC recommended that the PRF:

- 4.8 Further refine the concept of PEMSEA's future thrust and strategy for the next phase of PEMSEA taking into account the mutual benefits of Partners and collaborators in the region, for submission to the next EAS Partnership Council meeting in July 2010;
- 4.9 Develop an implementation strategy for each component of the SDS-SEA, including a monitoring, evaluation and reporting system that builds on the work undertaken on the SOC reporting system and the Framework of Partnership Programmes (FoPP), which are being developed under the current regional project for submission to the next EAS Partnership Council meeting.

5.0 OTHER BUSINESS

5th Executive Committee Meeting

- 5.1 The meeting was reminded of the tentative dates and arrangements for the 5th Executive Committee, which is scheduled for July 2009 in Manila, as an expanded meeting inviting all Partners.
- 5.2 It was noted that the 5th Executive Committee meeting is expected to have a one-day workshop on the Ministerial Declaration, where representatives of the Country Partners will review and finalize the text of the Declaration.

The EC recommended that:

- 5.3 The PRF organize the 5th EC Meeting on 24-25 July 2009, as a tentative date, with one-day workshop on Ministerial Declaration.

Upgrading PEMSEA staff's capacity to meet the new challenges

- 5.4 The meeting discussed effective ways of developing the capacity of PEMSEA staff in order to carry out identified and future activities related to SDS-SEA implementation.
- 5.5 As means of increasing the capacity of the PRF staff, the Executive Committee suggested the following approaches:
 - a. organizing in-house seminars with visiting experts; training workshops and/or staff education/re-education;
 - b. regular review of staff performance;
 - c. hosting of seconded personnel/staff taking advantage of willingness of Partners for providing secondment; and
 - d. hosting of interns.
- 5.6 As PEMSEA is transforming into an international organization, the need of introducing a new system of hiring of staff was raised. The objectives of the system of hiring staff would be aiming at building a strong team of secretariat with a group of efficient and dynamic staff.

The EC recommended that the PRF:

- 5.7 As appropriate, provide opportunities to the PRF staff for capacity development through, for example, workshops or trainings in order to increase their capacity to carry out new activities and overcome challenges.

D. CLOSING

- i. On behalf of the Executive Committee, Dr. Chua Thia-Eng thanked the host agency for the meeting, the SOA, PR China, for the excellent venue and hospitality. He also expressed appreciation to the PRF for the preparation of the documents and arrangements for the meeting, and advised the Secretariat to prepare for the 5th expanded Executive Committee meeting to be held in Manila in July 2009.
- ii. On behalf of Chinese government, Dr. Li expressed his sincere appreciation to Executive Committee for visiting Beijing for its 4th meeting. He also thanked the Secretariat for the preparation of the Meeting.
- iii. Dr. Chua declared the Meeting closed at 6:30 PM, 20 December 2008.

Annex 1

LIST OF PARTICIPANTS

FOURTH EXECUTIVE COMMITTEE MEETING
Beijing, PR China
20 December 2008

List of Participants

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Annex 2
List of Documents

FOURTH EXECUTIVE COMMITTEE MEETING
Beijing, PR China
20 December 2008

List of Documents

ITEM NO.	AGENDA ITEM	DOCUMENT	DOCUMENT NUMBER
		List of Documents	EC/08/DOC/01
		Provisional Agenda	EC/08/DOC/02
		Annotated Agenda	EC/08/DOC/03
1.0	Progress Report on the Implementation of EAS Partnership Council and Executive Committee Decisions and Recommendations	Progress Report on the Implementation of EAS Partnership Council and Executive Committee Decisions and Recommendations	EC/08/DOC/04
1.1	East Asian Seas (EAS) Congress 2009	East Asian Seas (EAS) Congress 2009	EC/08/DOC/04a
1.2	ICM Learning Centers	Establishing ICM Learning Centers	EC/08/DOC/04b
1.3	PEMSEA Trust Fund	The PEMSEA Trust Fund Management Guidelines	EC/08/DOC/04c
1.4	New PEMSEA non-country Partner	IUCN-ARO as a PEMSEA Partner	EC/08/DOC/04d
2.0	PEMSEA's Legal Personality	Recognition of PEMSEA's Legal Personality	EC/08/DOC/05
3.0	Ministerial Forum 2009	Ministerial Declaration Concept Paper	EC/08/DOC/06
4.0	Regional Implementation of SDS-SEA		
4.1	PEMSEA's future thrusts	PEMSEA's future thrusts and strategy for next phase	EC/08/DOC/07
4.2	Strategy for next phase		
5.0	Other Business		-

Annex 3

Fourth Executive Committee Meeting Agenda

FOURTH EXECUTIVE COMMITTEE MEETING
Beijing, PR China
20 December 2008

Provisional Agenda

09:00-11:00	1.0	Progress Report on the Implementation of EAS Partnership Council and Executive Committee Decisions and Recommendations
11:00-12:00	2.0	PEMSEA's Legal Personality
12:00-13:30		Lunch
13:30-14:30		Continuation of Agenda Item 2.0
14:30-15:30	3.0	Ministerial Forum
15:30-16:30	4.0	Regional Implementation of SDS-SEA
	4.1	PEMSEA's future thrusts
	4.2	Strategy for next phase
16:30-17:30	5.0	Other Business
	5.1	5 th EC Meeting
	5.2	Upgrading PEMSEA staff's capacity to meet the new challenges

Annex 4

PEMSEA Trust Fund Management Guidelines

CONTENTS

INTRODUCTION

- I. THE PEMSEA TRUST FUND AND MANAGEMENT GUIDELINES**
- II. MANAGEMENT ARRANGEMENTS**
- III. SOURCES OF FUND**
- IV. USE OF THE FUND**
- V. PEMSEA TRUST FUND PROGRAMME AND BUDGET**
- VI. FINANCIAL MANAGEMENT**
- VII. EXTERNAL AUDIT**
- VIII. PROCUREMENT**

APPENDIX

- A. FINANCING RULES AND REGULATIONS**

THE PEMSEA TRUST FUND MANAGEMENT GUIDELINES

I. THE PEMSEA TRUST FUND AND MANAGEMENT GUIDELINES

- A.** The objective of the Partnerships in Environmental Management for the Seas of East Asia Trust Fund (the “PEMSEA Trust Fund”) is to manage funds received and generated to finance activities related to the implementation of the Sustainable Development Strategy for the Seas of East Asia (the “SDS-SEA”).
- B.** These PEMSEA Trust Fund Management Guidelines (“Guidelines”) shall govern the overall management of the PEMSEA Trust Fund.

II. MANAGEMENT ARRANGEMENTS

- A.** Administration
 - 1. The Executive Committee of the East Asian Seas Partnership Council shall serve as the policy-making body of the PEMSEA Trust Fund and provide policy directions and guidance on the management of the PEMSEA Trust Fund.
 - 2. The Executive Director of the PEMSEA Resource Facility shall act as the custodian and administrator of the PEMSEA Trust Fund.
 - 3. The Finance Section, Procurement Committee and Contracts Committee of the PEMSEA Resource Facility shall provide technical assistance and support with respect to financial management, procurement, contract drafting and review.
- B.** Responsibilities of the Executive Director
 - 1. The Executive Director shall administer the PEMSEA Trust Fund in accordance with these Guidelines.
 - 2. The Executive Director shall:
 - a) receive, allocate and disburse funds;
 - b) designate the bank or banks in which the funds shall be kept and the bank signatories, subject to the approval of the Executive Committee;

3. The Executive Director shall submit annual financial reports to the Executive Committee.
4. The Executive Director may delegate, subject to the approval of the Executive Committee, such of his powers as he deems necessary to ensure the effective administration of the PEMSEA Trust Fund.

C. Management

The PEMSEA Trust Fund shall be managed with the required due diligence to improve its financial position while achieving the sustainable development of the Seas of East Asia.

III. SOURCES OF FUNDS

A. The sources of funds for the PEMSEA Trust Fund are as follows:

1. voluntary contributions from governments, programmes, multilateral and bilateral organizations, foundations, including private entities and individuals,
2. Other amounts received from activities of PEMSEA,
3. Investment Incomes
 - Interest income received from bank deposits; and
 - Income received from investment instruments.

B. The Executive Committee may identify other sources of fund.

IV. USE OF FUNDS

A. Upon the recommendation of the Executive Director and the approval of the Executive Committee, the PEMSEA Trust Fund may be made available to finance, on cost recovery basis, activities that enhance regional capacities for the implementation of the SDS-SEA, including:

1. EAS Congress,
2. Trainings and workshops,
3. Development and distribution of books and other information materials;

4. Scientific and technical meetings and forums; and
5. Technical cooperation and technology transfer, including technical products, tools and support services.

B. The PEMSEA Trust Fund may cover, subject to the approval of the Executive Committee, administrative expenses in respect of:

1. Administrative expenses pertaining directly to activities and projects financed by the resources of the PEMSEA Trust Fund; and
2. Operating costs including costs for the conduct of external audits.

C. The PEMSEA Trust Fund may also serve as a contingency fund, subject to the rules set forth below:

1. The Executive Director, in consultation with the Council Chair, is authorized to utilize the PEMSEA Trust Fund to finance programs and activities, where the release of the relevant funds has been delayed due to unavoidable circumstances.
2. The PEMSEA Trust Fund that are utilized to bridge finance the activities shall be reimbursed as soon as the relevant funds for the activities and programmes have been received.
3. The use of the PEMSEA Trust Fund for bridge financing shall not exceed USD50,000 per semester.

V. PEMSEA TRUST FUND PROGRAMME AND BUDGET

A. The Executive Director shall prepare annually the PEMSEA Trust Fund Programme and Budget for the approval of the Executive Committee.

B. Supplemental Budget may be submitted for the approval of the Executive Committee in respect of inflation forecasts, currency fluctuations, or other cost factors which are expected to have a significant impact on approved Programme and Budget.

VI. FINANCIAL MANAGEMENT

A. Financial Period

1. The financial period shall be 12 months of the calendar year.

2. To provide for continuity in the programming and implementation of projects, the financial period for the purpose of the proposed utilization of resources entrusted to PEMSEA and of entering into obligations in such respect shall be the duration of each project as defined in the MOA, MOU, LOA and other contractual documents.

B. Financial Management

1. The Executive Director shall implement an internal financial control and management system, in accordance with the Financial Rules and Regulations attached as Appendix A, which shall provide for an effective current examination and review of financial, management and operational activities, in order to ensure:
 - a) The regularity of receipts, custody and disposal of income, as well as resources entrusted to PEMSEA;
 - b) The conformity of obligations and disbursements with the appropriations, allocations or other financial provisions decided upon by the Executive Committee or with agreements with other organizations and other entities;
 - c) The effective and efficient management of funds and the effective, efficient and economic use of income, as well as of the resources entrusted to PEMSEA.
2. Under the supervision of the Executive Director, the Finance Section of the PEMSEA Resource Facility shall be responsible for internal financial control and management of the PEMSEA Trust Fund in accordance with the Financial Rules and Regulations, attached hereto as Annex A.
3. All bank accounts shall be opened and maintained, and all deposit and investment instruments shall be registered in the name of PEMSEA.
4. Voluntary contributions, fees or income shall be received by the Finance Section and an official receipt issued therefor.

C. Appropriations

1. Appropriations based on the budget for the period approved by the Executive Committee shall, subject to the availability of income, constitute an authorization to the Executive Director to incur obligations and to make payments for the purposes for which the appropriations were approved and up to the amounts so approved.

2. No contract, agreement or undertaking of any nature for an amount to be specified from time to time shall be entered into until funds have been reserved in the accounts, by means of an obligating document.
3. Commitments, in the interest of PEMSEA, against resources anticipated for future financial periods maybe authorized only by the Executive Director. Such commitments shall normally be restricted to administrative requirements of a continuing nature and to other contractual arrangements where longer lead-times are required to endure timely delivery and shall be treated as a first charge to the relevant appropriations as these are approved by the Executive Committee.

VII. EXTERNAL AUDIT

A. Appointment

1. The East Asian Seas Partnership Council shall appoint an External Auditor to perform the audit of the PEMSEA Trust Fund, which shall be in conformity with international standards of auditing.
2. External auditors shall be completely independent and solely responsible for the conduct of the audit. External auditors shall express and sign an opinion on the financial statements.

B. Authority

1. External auditor may make observations with respect to the efficiency of the financial procedures, the accounting system, internal financial controls and, in general the administration and management of the funds.
2. External auditors shall have no power to disallow items in the accounts but shall draw to the attention of the Executive Director for appropriate action any transaction concerning which it entertains doubts to legality or propriety. Audit objections to these or any other transactions arising during the examination of the accounts shall be communicated immediately to the Executive Director.

VIII. PROCUREMENT

The Procurement Committee of the PEMSEA Resource Facility, under the supervision of the Executive Director, shall be responsible for the procurement of goods and services in accordance with existing Procurement Rules.

APPENDIX A FINANCIAL RULES AND REGULATIONS

1. ADMINISTRATION

1.1 Applicability

- 1.1.1 These Rules and Regulations, as may be amended and approved by the Executive Committee from time to time, shall govern the financial management of the PEMSEA Trust Fund.
- 1.1.2 These Rules and Regulations are effective from the date of approval by the Executive Committee.
- 1.1.3 The Finance Section, under the supervision of the Executive Director, shall implement these Rules and Regulations

1.2 The Finance Section

- 1.2.1 The Finance Section shall be composed of a finance officer and a finance assistant.
- 1.2.2 The Finance Section shall perform the following roles and responsibilities:
 - a) Receive and disburse funds,
 - b) Issue official receipts,
 - c) Certify availability of budget,
 - d) Prepare financial reports,
 - e) Perform such duties and functions as may be assigned from time to time.

1.3 Definitions

- 1.3.1 The following words used in these Rules and Regulations shall have the following meaning:
 - a) Allotment Advice - advice that budget has been allocated for a specific activity based on the approved PEMSEA Trust Fund Programme and Budget
 - b) Budget Code - a system of providing codes for each item of expenditure
 - c) Executive Director - Executive Director of the PEMSEA Resource Facility
 - d) Miscellaneous Income - income from investments as well as from PEMSEA activities financed by the PEMSEA Trust Fund

- e) PEMSEA Trust Fund – Fund established by PEMSEA to receive contributions for the sustainable development of the Seas of East Asia
- f) Proposed Projects and Budget – identification of proposed activities and budget prepared by the relevant officers and submitted to the Executive Director for consideration in the preparation of the PEMSEA Trust Fund Programme and Budget.

2. PEMSEA TRUST FUND PROGRAMME AND BUDGET

2.1 Annual PEMSEA Trust Fund Programme and Budget

- 2.1.1 The Executive Director shall prepare the Annual PEMSEA Trust Fund Programme and Budget taking into consideration the Proposed Projects and Budget prepared by the relevant officers.
- 2.1.2 The PEMSEA Trust Fund Programme and Budget shall be submitted for the approval of the Executive Committee no later than 30 November of the current year.
- 2.1.3 The PEMSEA Trust Fund Programme and Budget shall indicate the activities to be financed by the PEMSEA Trust Fund with the corresponding budgetary requirements in US Dollars.
- 2.1.4 The Finance Section shall implement a system of budget codes and budget lines to regulate limits of expenditure as well as facilitate monitoring of expenditures.
- 2.1.5 The proposed budget shall be accompanied by:
 - a) A list of activities to be undertaken within the year to be financed by the PEMSEA Trust Fund,
 - b) A detailed table showing the estimated budgetary requirements and the itemized expenditures per Budget Code for each activity identified;
 - c) For purposes of comparison, the appropriations for the current year shall be indicated alongside the estimates for the following year;
 - d) A table showing estimated income under appropriate headings; and
 - e) Explanatory statements with regard to proposed expenditure levels.

2.2 Proposed Projects and Budget

2.2.1 The Executive Director shall require the relevant officers to prepare the Proposed Projects and Budget specifying the proposed projects and the budgetary requirements.

2.2.2 The Proposed Projects and Budget shall be submitted to the Executive Director no later than 31 October 2008 for consideration in the preparation of the PEMSEA Trust Fund Programme and Budget.

2.2.3 The Proposed Projects and Budget shall include:

a) Summary of each project in narrative form

- i. Description
- ii. Objective
- iii. Period covered and duration
- iv. Linkage to PEMSEA activities and objectives
- v. Quantitative indicators of expected outputs
- vi. Quantitative indicators of expected outcomes

b) Budgetary requirements for each project broken down into budget lines in accordance with the budget codes established

2.3 Supplemental Budget

2.3.1 The Executive Director may submit a supplemental budget:

a) Where modifications are warranted by inflation forecasts, currency fluctuations, or other cost factors that will significantly impact on approved PEMSEA Trust Fund Programme and Budget;

b) As exceptional measure, the relevant officers certify that additional funds are necessary for reasons other than those described in the immediately preceding paragraph.

2.3.2 In case of exceptional measure, the relevant officers may submit a request for modification to the Executive Director specifying the reasons or justifications for such request.

2.3.3 The Executive Director may deny such request provided that the reason for such denial shall be communicated in writing to the relevant officer.

2.3.4 In case the Executive Director grants the request for modification, he shall prepare a Supplemental Budget, in the form consistent with the approved PEMSEA Trust Fund Programme and Budget for the approval of the Executive Committee, subject to 2.3.5 below.

- 2.3.5 Where the Supplemental Budget presents only a reallocation in the budget lines for a project and does not reflect any corresponding increase in the total budget appropriation for the project as certified by the Finance Section, the approval of the Executive Committee shall not be required.

2.4 Budget Revisions

- 2.4.1 Whenever a project ceases to reflect actual circumstances or current expectations in any significant respect, the relevant officer may request the Executive Director for the revision of the Budget or the Executive Director may prepare the budget revision accordingly as he may deem fit.
- 2.4.2 The Executive Director shall prepare the Budget Revisions and submit for the approval of the Executive Committee.

3. FINANCIAL MANAGEMENT

3.1 Financial Period

- 3.1.1 The financial period for the purpose of both the proposed utilization of resources and the incurring of and accounting for expenditures shall be 12 months of the calendar year.
- 3.1.2 To provide for continuity in the programming and implementation of projects, the financial period for the purpose of the proposed utilization of resources entrusted to PEMSEA and of entering into obligations in such respect shall be the duration of each project as defined in the MOA, MOU, LOA and other contractual documents.

3.2 Bank Accounts and Signatories

- 3.2.1 All bank accounts shall be opened and maintained in the name of PEMSEA Trust Fund.
- 3.2.2 The Executive Director shall designate the banks and the signatories, subject to the approval of the Executive Committee.
- 3.2.3 Signatories of bank accounts shall be the Executive Director of the PEMSEA Resource Facility and other signatories designated by the Executive Director.
- 3.2.4 The limits of authority for withdrawals are as follows:
- a) Below USD 30,000: Any two signatories designated by the Executive Director.

- b) USD 30,000 to USD 200,000: The Executive Director and signatory designated by the Executive Director.
- c) Over USD 200,000: The Executive Director and signatory designated by the Executive Director, with prior written approval of the Executive Committee.

3.2.5 All bank accounts shall be reconciled on a regular basis, preferably monthly, with the attached bank statements.

3.2.6 All funds received shall be deposited intact in an official bank account designated by the Executive Director not later than the next business day following the date of receipt.

3.3 Bank Documents, Securities and Other Instruments

3.3.1 All securities, bank documents or any evidence of deposit or investment shall be deposited either in the custody of duly appointed bankers or in safe deposit vaults maintained by a recognized financial institution designated by the Executive Committee.

3.4 Receipt of Incomes

3.4.1 All voluntary contributions from countries, organizations, individuals, foundations and other entities shall be covered by a Letter of Agreement indicating the amount contributed in cash and for the general purpose of supporting the sustainable development of the Seas of East Asia region.

3.4.2 Contributions shall be in the form of a check or deposited in the bank account of PEMSEA duly designated for the purpose.

3.4.3 Upon confirmation of fund transfer, the Finance Section shall issue to the Contributor an acknowledgement of the receipt of the funds on such date the contribution is received.

3.4.4 Receipt of contributions shall be recorded in the accounts on the date received.

3.4.5 Investment Income and Income from PEMSEA Activities shall be deposited in the Bank account and recorded as Miscellaneous Incomes.

3.5 Appropriation

3.5.1 The PEMSEA Trust Fund Programme and Budget indicates the activities to be financed by PEMSEA Trust Fund and corresponding budgetary requirements.

- 3.5.2 The PEMSEA Trust Fund Programme and Budget constitutes, subject to the availability of funds, an authorization to the Executive Director to incur obligations and to make payments for the purposes for which the appropriations were approved and up to the amounts so approved.
- 3.5.3 The Finance Section shall reserve the funds based on the PEMSEA Trust Fund Programme and Budget, and prepare the Allotment Advice for each activity based on calendar year ending December 31, approval by the Executive Director.
- 3.5.4 The Executive Director shall release the Allotment Advice to the relevant officers who are in charge of the specific activities.
- 3.5.5 The Allotment Advice shall be available for obligation until the end of the calendar year indicated; provided however, that the Allotment Advice may be extended for another 12 months in respect of outstanding legal obligation where activities have commenced within the Allotment Advice year.
- 3.5.6 At the end of the Allotment Advice year, the remaining balance of any appropriations will be recorded as income. Subject to paragraph 3.5.5, any unliquidated obligations of the AAA year shall be canceled or, where the obligation remains a valid charge, transferred as an obligation against current appropriations.
- 3.5.7 Commitments, in the interest of PEMSEA, against resources anticipated for future financial periods maybe authorized only by the Executive Director. Such commitments shall normally be restricted to administrative requirements of a continuing nature and to other contractual arrangements where longer lead-times are required to endure timely delivery and shall be treated as a first charge to the relevant appropriations as these are approved by the Executive Committee.
- 3.5.8 In any given year, expenditure per budget line may exceed an approved budget for that year by \$20,000 or 4% thereof, whichever is higher, provided that it does not incur overall expenditures for that year in excess of 2% of the total allocations made to it.

3.6 Project Completion and Financial Reports

- 3.6.1 As soon as all project activities have ceased, the Executive Director shall declare a project operationally completed, report should be submitted reflecting actual and estimated expenditures to date.
- 3.6.2 A project which has been operationally completed or terminated and for which all financial transactions have been recorded, the project accounts closed and a final project budget revision approved shall be considered financially completed.

- 3.6.3 The financial completion of a project shall be accomplished within 12 months after the month in which it is operationally completed or terminated.

4. INTERNAL CONTROL

4.1 Financial Obligations

- 4.1.1 The financial obligation shall, at all times, be established by documents either a contract, agreement or other form of undertaking or liability recognized by PEMSEA.
- 4.1.2 All payments shall be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received and that payments have not previously been made.
- 4.1.3 The Finance Section, under the supervision of the Executive Director, shall maintain an internal financial control which shall provide for an effective current examination and review of financial, management and operations activities, in order to ensure:
- a) The regularity of receipts, custody and disposal of income, as well as resources entrusted to PEMSEA;
 - b) The conformity of obligations and disbursements with the appropriations, allocations or other financial provisions decided upon by the Executive Committee or with agreements with other organizations and other entities;
 - c) The effective and efficient management of funds and the effective, efficient and economic use of income, as well as of the resources entrusted to PEMSEA.

4.2 Certification and Approval Process for Project Payments

- 4.2.1 No contract, agreement or undertaking of any nature shall be entered into nor any payment for obligation be made unless the project shall have been included in the PEMSEA Trust Fund Programme and Budget as approved by the Executive Committee, and the Allotment Advice is issued by the Finance Section for the project evidencing budget appropriations.
- 4.2.2 The Finance Section shall have the responsibility of ensuring that all documents required for establishing obligations have been submitted and recommend payment to the approving officer in accordance with the these Rules and Regulations.
- 4.2.3 Payment shall be initiated by a Request for Payment prepared by the relevant officers in charge of projects, accompanied by:

- a) the accomplished project outputs;
 - b) certification by the relevant officer to the propriety of the charge or claim being made;
 - c) certification that funds necessary to satisfy the present or anticipated claim are currently available in the relevant account.
- 4.2.4 When a charge or claim exceeds the amount so reserved by a specified amount in the budget line, the relevant officer shall present the Supplemental Budget or Revised Budget as approved or an explanation that the amount does not exceed the total budget.
- 4.2.5 The Request for Payment and the required documents shall be submitted to the Finance Section for review the documents, validate the request and compute the payment due, deducting fines for delays, if any.
- 4.2.6 In case the submission is not satisfactory, the Finance Section may request for further documents from the Relevant Officer.
- 4.2.7 Upon satisfactory completion and validation of the submission, the Finance Section shall prepare the Payment Form and transmit the same together with the Request for Payment Documents within forty-eight (48) hours, to the Executive Director for approval.
- 4.2.8 The Executive Director shall approve the payment within five (5) days. In case of denial, the Executive Director shall communicate the reasons for such denial.
- 4.3 Unforeseen Obligation or Expenditure**
- 4.3.1 Proposed payments against liabilities which had inadvertently not been previously obligated shall require both certification and approval by the appropriate officials before payment can be effected but shall not require an obligation document to be established.
- 4.3.2 For payments for which funds that do not need to be reserved by the recording of an obligation, the documentation supporting payment voucher must be certified by the relevant officer before the payment is approved.
- 4.3.3 Within the limits established by the Executive Committee, the Executive Director shall have the authority to incur unforeseen personnel and related administrative expenditures against unspent and/or projected income, subject to post-facto approval of such actions by the Executive Committee.
- 4.3.4 The Executive Director may reject any proposal for obligation or expenditure, provided that in case of rejection, the Executive Director shall state his reasons therefor.

4.4 Disbursements

- 4.4.1 Upon approval for payment by the Executive Director, the Finance Section shall prepare the voucher for payment.
- 4.4.2 An approving officer shall approve a voucher for payment when:
- a) it has been determined that payment had not previously been made;
 - b) it is supported by documents which indicate that the goods or services for which payment is claimed have been received or rendered in accordance with the terms of the contract and related obligation; and
 - c) no other information is available which would bar the payment.
- 4.4.3 When a liability is incurred in currencies other than United States dollars, it shall be recorded in the accounts in the United States dollar equivalent at the prevailing market rate of exchange.
- 4.4.4 At the time of payment, where currency fluctuation has resulted in a change in the United States Dollar equivalent from the original amount obligated, the difference is to be charged or credited to the same account against which the obligation was recorded.
- 4.4.5 In such cases, an amendment to the original obligation documents is not required. Valid obligations at 31 December should be revalued to reflect the current operational rate of exchange in effect on that date, and an amended obligation on document issued, should revalued obligation exceed the original by an amount specified by the Executive Director.
- 4.4.6 Except to the extent that cash disbursements are authorized by the Executive Director, all payments shall be made through bank transfer to the account of the claimant, or by checks, upon the election of the claimant.
- 4.4.7 Disbursements shall be recorded in the accounts as of the date:
- a) when the cheque is issued;
 - b) the bank transfer is requested; or
 - c) cash is paid out.
- 4.4.8 Adequate evidence of receipt shall be obtained for all disbursements.

4.5 Writing-offs

- 4.5.1 The Executive Director, may, after full investigation, authorize the writing-off of losses of cash, accounts receivable and notes receivable deemed to be irrecoverable, except that proposals to write-off amount in excess of U\$10,000 shall be submitted to the Executive Committee for approval.
- 4.5.2 The investigation shall, in each case, fix the responsibility, if any, attaching to any officer in charge for the loss. Such officer may be required to reimburse the loss either partially or in full.
- 4.5.3 The amount authorized for waiver of investigation and write-off is U\$50.

5. INVESTMENT OF FUNDS

- 5.1 The Executive Director may make short term investments of the resources of the PEMSEA Trust Fund not needed for immediate requirements. Except as otherwise authorized by the Executive Committee, such investment shall be made in accordance with the Rules on investments adopted and approved by the Executive committee.
- 5.2 The Executive Director, after consultation with the Executive Committee, may make long term investments of funds as he may deem appropriate and advantageous to the PEMSEA Trust Fund.
- 5.3 Income derived from investments shall be credited to miscellaneous income.

6. INTERNAL AUDIT

6.1 Audits and Accounts

- 6.1.1 Audits and accounts shall be in accordance with the generally accepted principles of accounting and auditing.
- 6.1.2 All accounts shall be presented in United States dollars. Accounting records may however be kept in such currency or currencies as may be deemed necessary.
- 6.1.3 The unit of account is based on the rates of exchange prevailing in effect on the date of the report or on the date of the transactions as may be appropriate.
- 6.1.4 When required by the contributors, United Nations operational rate of exchange for a currency may be used.

6.1.5 Any liability held in any currency shall be revalued, for financial statement purposes, in terms of US dollars and any gain or loss shall be debited or credited to miscellaneous income.

6.1.6 Principal accounts shall consist of :

- a) Fund by source of funds; and
- b) Accounts showing all income, expenditure, cash in bank/s, investments, receivables and other assets, reserves, payables and other liabilities.

6.2 The Finance Section

6.2.1 The Finance Section shall be responsible for the internal audit and shall have access to all books, records and other documents which are, in its opinion, necessary for the performance of the audit.

6.2.2 The Finance Officer shall conduct internal audit and provide comments and recommendations to the Executive Director on financial, management and operational activities in respect of:

- a) The regularity of the receipt, custody, expenditure, accounting and reporting of all financial resources and the effectiveness of existing internal controls and accounting systems;
- b) The conformity of expenditures with purposes for which funds were appropriated or otherwise provided by the Executive Committee;
- c) The compliance of all financial activities and transactions with established regulations, rules, policies, procedures and administrative instructions; and
- d) The effective and efficient management and economical use of resources of the PEMSEA Trust Fund.

6.3 Accounting Records and Reports

6.3.1 Accounting and other financial records and all supporting documents shall be retained for such periods as may be agreed with the external auditor after which on the authority of the Executive Director such record and documents may be destroyed.

6.3.2 No later than March 15 of the year following the end of the calendar year, the Executive Director shall submit accounts annually to the Executive Committee in respect of the PEMSEA Trust Fund accounts, give information as may be appropriate to indicate the current financial position, and maintain such accounts and records as are necessary.

- 6.3.3 Financial statements should include:
- a) bank reconciliation;
 - b) cash position report; and
 - c) such other information as the Executive Committee may require.
- 6.3.4 The Executive Director shall certify that to the best of his knowledge, information and belief, all material transactions have been properly charged in the accounting records and are properly reflected in the financial statements and supporting schedules.

7. EXTERNAL AUDIT

7.1 Appointment of External Auditor

- 7.1.1 The East Asian Seas Partnership Council shall appoint an External Auditor to perform the audit of the accounts of PEMSEA Trust Fund, which shall be in conformity with international standards of auditing.

7.2 Role of External Auditor

- 7.2.1 The External auditor may make observations with respect to the efficiency of the financial procedures, the accounting system, internal financial controls and, in general the administration and management of the funds.
- 7.2.2 The External auditor shall be completely independent and solely responsible for the conduct of the audit. External auditors shall express and sign an opinion on the financial statements.
- 7.2.3 The External auditor shall have no power to disallow items in the accounts but shall draw to the attention of the Executive Director for appropriate action any transaction concerning which it entertains doubts to legality or propriety. Audit objections, to these or any other transactions, arising during the examination of the accounts shall be communicated immediately to the Executive Director.

8. MISCELLANEOUS

8.1 Amendments and Modifications

- 8.1.1 These Rules and Regulations may be amended from time to time subject to the approval of the Executive Committee.

8.2 Effectivity

- 8.2.1 Effectivity of the Amendments shall commence from the date of approval by the Executive Committee.

Annex 5.

**Draft AGREEMENT RECOGNIZING THE INTERNATIONAL LEGAL
PERSONALITY OF THE PARTNERSHIPS IN ENVIRONMENTAL
MANAGEMENT FOR THE SEAS OF EAST ASIA**

And

**SUMMARY OF AMENDMENTS ON THE
Draft Agreement on the Recognition of
PEMSEA Legal Personality**

**AGREEMENT RECOGNIZING THE INTERNATIONAL LEGAL
PERSONALITY OF THE PARTNERSHIPS IN ENVIRONMENTAL
MANAGEMENT FOR THE SEAS OF EAST ASIA**

THE PARTIES TO THIS AGREEMENT,

RE-AFFIRMING that the Haikou Partnership Agreement on the Implementation of the Sustainable Development Strategy for the Seas of East Asia (the Haikou Partnership Agreement) and the Partnership Operating Arrangements for the Implementation of the Sustainable Development Strategy for the Seas of East Asia (the Partnership Operating Arrangements), adopted and signed at the Ministerial Forum held in Haikou, China on 15 December 2006, transformed the Partnerships in Environmental Management for the Seas of East Asia (PEMSEA) from a project-based arrangement to the regional mechanism mandated for the implementation of the Sustainable Development Strategy for the Seas of East Asia (SDS-SEA);

RECOGNIZING that this mandate requires PEMSEA to carry out its responsibilities through contractual relations and collaborative arrangements and to manage and conserve its property and resources in accordance with best practices, as it provides technical advice and assistance and promotes bilateral and multilateral cooperation in the region;

AWARE that PEMSEA, supported by the Global Environment Facility, implemented through the United Nations Development Program and executed by the International Maritime Organization and United Nations Office for Project Services, has been playing a critical role in establishing stakeholder partnerships and building confidence to address the increasing environmental challenges in the Seas of East Asia Region since 1993;

RECALLING that the States of the Seas of East Asia Region, through the Putrajaya Declaration signed in Putrajaya, Malaysia on 12 December 2003 adopted the SDS-SEA as a common platform for regional cooperation and as a framework for policy and programme development and implementation;

CONSCIOUS that the signatory countries to the Haikou Partnership Agreement and the Partnership Operating Arrangements (Partner Countries) established the organizational structure of PEMSEA to ensure the effective implementation of the SDS-SEA;

MINDFUL that the non-country signatories to the Partnership Operating Arrangements (Other Partners) act in synergetic and cooperative unity with the Partner Countries to carry out the broad-ranging functions set forth in the Haikou Partnership Agreement;

ACKNOWLEDGING that PEMSEA, represented by its Interim Executive Director, and the Department of Environment and Natural Resources of the Philippines (DENR), represented by its Secretary, entered into a Memorandum of Agreement in July 2007 under which the latter commits to host PEMSEA and provide office facilities for its use located within the DENR Compound, Visayas Avenue, Diliman, Quezon City;

HEREBY AGREE AS FOLLOWS:

**ARTICLE I
RECOGNITION OF INTERNATIONAL LEGAL PERSONALITY**

1. The international legal personality of PEMSEA is hereby recognized. PEMSEA shall have the legal capacity to contract, hold and dispose of property, and such capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.
2. Other than recognition of the international legal personality of PEMSEA, this Agreement imposes no obligation on any of the Parties, and in particular, imposes no obligation to provide any form of financial contribution or support to PEMSEA or to guarantee any of the liabilities, debts and other financial obligation incurred by PEMSEA.
3. PEMSEA shall have its seat in Metro Manila, Philippines.

**ARTICLE II
ORGANIZATIONAL STRUCTURE**

1. The East Asian Seas Partnership Council provides the policy and operational guidance for PEMSEA. The Council is composed of the Intergovernmental Session and the Technical Session.

- a. The Intergovernmental Session, composed of the duly designated representatives of the Partner Countries, considers and decides on the recommendations of the Technical Session, and provides policy guidance, coordination and evaluation of the progress of the SDS-SEA implementation.
 - b. The Technical Session, composed of the duly designated representatives of the Partner Countries and Other Partners, discusses matters related to the scientific, technical and financial aspects of SDS-SEA implementation and makes appropriate recommendations to the Intergovernmental Session.
2. The Executive Committee, comprised of the Council Chair, the Session Chairs, and the Executive Director as its Secretary, ensures and oversees the implementation of the decisions of the Council. The Members of the Executive Committee shall be the officers of the Council.
3. The PEMSEA Resource Facility serves as the secretariat providing technical and secretariat services for the implementation of the SDS-SEA and is headed by its Executive Director. The PEMSEA Resource Facility is responsible to the Council through the Executive Committee.

ARTICLE III DEPOSITARY

The Executive Director of the PEMSEA Resource Facility shall be the depositary of this Agreement and of the instruments of notification and of accession.

ARTICLE IV ENTRY INTO FORCE

1. This Agreement shall enter into force on the date on which at least three Parties, including the Host Country, have expressed their consent to it.
2. Subject to the internal legal requirements of the Parties, consent to this Agreement may be expressed by signature, ratification or accession. With respect to ratifying or acceding Parties, this Agreement shall enter into force on the date of deposit of the instrument of ratification or of accession with the Depositary.

**ARTICLE V
WITHDRAWAL**

After this Agreement has entered into force, a Party may withdraw from it by giving written notice of withdrawal to the depositary. The withdrawal shall be effective one year from the date the notice is received by the Depositary.

**ARTICLE VI
AMENDMENTS**

Any Party may propose an amendment to this Agreement. The amendment shall take effect upon approval by all of the Parties.

**ARTICLE VII
DISSOLUTION**

This Agreement shall lapse once PEMSEA is dissolved or when, as a result of withdrawals and denunciations, less than three (3) Parties remain.

**ARTICLE VIII
TEXT OF THE AGREEMENT**

The authentic text of this Agreement shall be in English.

**ARTICLE IX
TRANSITORY PROVISION**

Pending the entry into force of this Agreement, the Executive Director of the PEMSEA Resource Facility, as currently existing, shall act as the depositary.

IN WITNESS WHEREOF, the undersigned have signed this Agreement.

Done this ___ day of ___ 200__ in _____.

**SUMMARY OF AMENDMENTS ON THE
DRAFT AGREEMENT ON THE RECOGNITION OF
PEMSEA LEGAL PERSONALITY**

1. Preamble

- a. Paragraphs 1-7 were rearranged to give a logical flow while retaining the EAS Partnership Council's decision to mention the Haikou Partnership Agreements, which created PEMSEA, in the first paragraph.
- b. The following paragraphs were modified for clarity to incorporate definitions of the terms "Partner Countries" and "Other Partners" as used in the document.

- Paragraph 3 was modified to read as follows:

CONSCIOUS, that the signatory countries to the Haikou Partnership Agreement and the Partnership Operating Arrangements (Partner Countries)xxx

- Paragraph 6 was modified to read as follows:

MINDFUL, that the non-country signatories to the Partnership Operating Arrangements (Other Partners) act in synergetic and cooperative unity with the Partner Countries to carry out the broad-ranging functions set forth in the Haikou Partnership Agreement;

- c. The last paragraph was modified by deleting the reference to dates, to read as follows:

ACKNOWLEDGING that PEMSEA, represented by its Interim Executive Director, and the Department of Environment and Natural Resources of the Philippines (DENR), represented by its Secretary, entered into a Memorandum of Agreement in July 2007 under which the latter commits to host PEMSEA and provide office facilities for its use located within the DENR Compound, Visayas Avenue, Diliman, Quezon City;

2. Article I Recognition of International Legal Personality

- a. The first sentence of paragraph 1 was simplified and rephrased. The revised sentence reads as follows:

*The international legal personality of PEMSEA is hereby recognized.
PEMSEA shall have the legal capacity xxx*

b. Paragraph 2 was revised to emphasize clearly that the parties do not have any obligation other than the recognition of legal personality. The revised paragraph 2 reads as follows:

Other than recognition of the international legal personality of PEMSEA, this Agreement imposes no obligation on any of the Parties, and in particular, imposes no obligation to provide any form of financial contribution or support to PEMSEA or to guarantee any of the liabilities, debts and other financial obligation incurred by PEMSEA.

c. The term “Manila” in paragraph 3 was replaced by the word “Metro Manila” which is the official name of the political subdivision which includes the current office site, which is in Quezon City.

3. **Article II Organizational Structure**

a. Article II was rearranged to reflect the governance hierarchy in PEMSEA starting from the EAS Partnership Council with the Intergovernmental and Technical Sessions, followed by the Executive Committee and finally, the PEMSEA Resource Facility.

b. Paragraph 1 was modified to incorporate the first sentence in paragraph 2. Paragraph 1, was moved to paragraph 2, and reads as follows:

The Executive Committee, comprised of the Council Chair, the Session Chairs, and the Executive Director as its Secretary, ensures and oversees the implementation of the decisions of the Council. The Members of the Executive Committee shall be the officers of the Council.

c. Paragraph 2 was moved to paragraph 1. The first sentence of paragraph 2 was incorporated in paragraph 1. Sentence 2 was modified to establish clearly the policy-making role of the Partnership Council over PEMSEA. Paragraph 2 also added a sentence describing the composition of the East Asian Seas Partnership Council. As amended, paragraph 2 reads as follows:

The East Asian Seas Partnership Council (Council) provides the policy and operational guidance for PEMSEA. The Council is composed of the Intergovernmental Session and the Technical Session.

d. Paragraph 3 is now subparagraph 1-b. The term “Partners” was replaced by “Partner Countries and “Other Partners.”

e. Paragraph 4 is now subparagraph 1-a.

4. ARTICLE VII DISSOLUTION

The term “Partner Countries” was replaced by the term “Parties” for consistency. The revised article reads as follows:

This Agreement shall lapse once PEMSEA is dissolved or when, as a result of withdrawals and denunciations, less than three (3) Parties remain.

5. Article IX TRANSITORY PROVISION

A new Article IX on Transitory Provision was incorporated, at the request of the host country. This provision will authorize the PRF, as currently existing, to serve as the depositary prior to the entry into force of the Agreement. Article 24 of the Vienna Convention on the Law of Treaties allows the depositary to assume its functions before the entry into force of the treaty. Article IX expressly articulates this rule by granting authority to the Executive Director of the PRF to perform the role of a depositary prior to the recognition of PEMSEA’s legal personality.
