

**AGREEMENT****in the form of an exchange of letters between the European Union and the Philippines on the participation of the Philippines in the European Monitoring Mission in Aceh (Indonesia) (Aceh Monitoring Mission — AMM)**

A. *Letter from the European Union*

Jakarta, 26 October 2005

Your Excellency,

The Memorandum of Understanding (MoU) between the Government of Indonesia (GoI) and the Free Aceh Movement (GAM) signed at Helsinki on 15 August 2005, provides *inter alia* for the establishment by the European Union and ASEAN Contributing Countries of an Aceh Monitoring Mission (AMM) in Aceh (Indonesia). This MoU also provides that the status, privileges and immunities of the AMM and its members will be agreed between the GoI and the European Union (EU).

Accordingly, I have the honour to propose, in the Annex to this letter, the provisions which would apply to the participation of your country in the AMM, and the personnel deployed by your country, the status, privileges and immunities of which are set out in the agreement between the GoI, the EU and the ASEAN Contributing Countries.

I would be grateful if you could confirm your acceptance of the provisions set out in the Annex, and also confirm your understanding that this letter and its Annex, together with your reply, shall constitute a legally binding agreement between the EU and the Government of the Republic of the Philippines, which shall enter into force on the day of signature of your reply, and shall remain in force for the duration of your country's participation in the AMM.

Please accept, Excellency, the assurances of my highest consideration.

H.E. MR. CHARLES HUMFREY, CMG  
*Ambassador of the United Kingdom to Indonesia*

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## ANNEX I

1. The Republic of the Philippines shall, as provided in the MoU, participate in the AMM, in accordance with the following provisions and any required implementing arrangements, without prejudice to the decision-making autonomy of the European Union.
2. The EU participation is based on the Joint Action adopted by the Council on 9 September 2005 on the European Union Monitoring Mission in Aceh (Indonesia) (Aceh Monitoring Mission — AMM). The Republic of the Philippines shall associate itself with those provisions of the Joint Action that concern its participation and that of its personnel in the AMM, subject to the provisions of this Annex.
3. The decision to end the EU participation in the AMM shall be taken by the Council of the European Union, following consultation with the Republic of the Philippines and provided that the Republic of the Philippines is still contributing to the AMM at the date at which that decision is taken.
4. The Republic of the Philippines shall ensure that its personnel participating in the AMM undertake their mission in conformity with:
  - the relevant provisions of the Joint Action adopted by the Council of the European Union on 9 September 2005 and possible subsequent amendments,
  - the Operation Plan (OPLAN) as approved by the Council of the European Union on 9 September 2005,
  - implementing arrangements under this agreement.
5. Personnel seconded to the AMM by the Republic of the Philippines shall carry out their duties and conduct themselves solely with the interest of the AMM in mind.
6. The Republic of the Philippines shall inform in due time the AMM Head of Mission of any change to its contribution to the AMM.
7. Personnel seconded to the AMM as of the start of the mission shall undergo a medical examination, vaccination and be certified medically fit for duty by a competent authority from the Republic of the Philippines. Personnel seconded to the AMM shall produce a copy of this certification.
8. The status of the AMM personnel, including the personnel contributed to the AMM by the Republic of the Philippines, shall be governed by the agreement on the status, privileges and immunities of the AMM between the GoI, the European Union and the ASEAN Contributing Countries.
9. Without prejudice to the agreement on the status of mission referred to in Section 8, the Republic of the Philippines shall exercise jurisdiction over its personnel participating in the AMM.
10. The Republic of the Philippines shall, in accordance with its national law and subject to any immunities conferred by the agreement on the status, privileges and immunities of the AMM, be responsible for answering any claims linked to the participation in the AMM, from or concerning any of its personnel. The Republic of the Philippines shall be responsible for bringing any action, in particular legal or disciplinary, against any of its personnel, in accordance with its laws and regulations.
11. The Republic of the Philippines undertakes, on the basis of reciprocity, to make a declaration as regards the waiver of claims against any State participating in the AMM, and to do so when signing this Exchange of Letters. A model for such a declaration is set out in Annex II.
12. The European Union shall ensure that its Member States make, on the basis of reciprocity, a declaration as regards the waiver of claims, for the participation of the Republic of the Philippines in the AMM, and to do so when signing this Exchange of Letters. A model for such a declaration is set out in Annex II.
13. The rules regarding the exchange and security of classified information are set out in Annex III. Further guidance may be issued by competent authorities, including the AMM Head of Mission.

14. All personnel participating in the AMM shall remain under the full command of their national authorities.
  15. National authorities shall transfer operational control to the AMM Head of Mission, who shall exercise that command through a hierarchical structure of command and control.
  16. The Head of Mission shall lead the AMM and assume its day-to-day management.
  17. The Republic of the Philippines shall have the same rights and obligations in terms of the day-to-day management of the operation as participating European Union Member States taking part in the AMM, in accordance with the legal instrument referred to in Section 2.
  18. The AMM Head of Mission shall be responsible for disciplinary control over AMM personnel. Where required, disciplinary action shall be taken by the national authority concerned.
  19. A National Contingent Point of Contact (NPC) shall be appointed by the Republic of the Philippines to represent its national contingent in the AMM. The NPC shall report to the AMM Head of Mission on national matters and shall be responsible for day-to-day contingent discipline.
  20. The Republic of the Philippines shall assume all the costs associated with its participation in the mission.
  21. The Republic of the Philippines shall not contribute to the financing of the operational budget of the AMM.
  22. In case of death, injury, loss or damage to natural or legal persons from the State in which the mission is conducted, the Republic of the Philippines shall, when its liability has been established, pay compensation under the conditions foreseen in the agreement on the status, privileges and immunities of the AMM as referred to in Section 8.
  23. Any necessary technical and administrative arrangements to implement this agreement shall be concluded between the Secretary General of the Council of the European Union/High Representative for the Common Foreign and Security Policy or by the Head of Mission, and the appropriate authorities of the Republic of the Philippines.
  24. Either Party shall have the right to terminate this agreement by serving a written notice of one month.
  25. Disputes concerning the interpretation or application of this agreement shall be settled only by diplomatic means between the Parties.
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## ANNEX II

**Texts for reciprocal declarations referred to in Sections 11 and 12**

Text for the EU Member States:

'The EU Member States applying the Joint Action adopted by the Council of the European Union on 9 September 2005 on the EU Monitoring Mission in Aceh (Aceh Monitoring Mission — AMM) will endeavour, insofar as their internal legal systems so permit, to waive as far as possible claims against the Republic of the Philippines for injury, death of their personnel, or damage to, or loss of, any assets owned by themselves and used by the AMM if such injury, death, damage or loss:

- was caused by personnel from the Republic of the Philippines in the execution of their duties in connection with the AMM, except in case of gross negligence or wilful misconduct, or
- arose from the use of any assets owned by the Republic of the Philippines, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of AMM personnel from the Republic of the Philippines using those assets.'

Text for the Republic of the Philippines:

'The Republic of the Philippines participating in the AMM as referred to in paragraph 5.3 of the MoU and in the Joint Action adopted by the Council of the European Union on 9 September 2005 on the European Union Monitoring Mission in Aceh (Aceh Monitoring Mission — AMM) will endeavour, insofar as its internal legal system so permits, to waive as far as possible claims against any other State participating in the AMM for injury, death of its personnel, or damage to, or loss of, any assets owned by itself and used by the AMM if such injury, death, damage or loss:

- was caused by personnel in the execution of their duties in connection with the AMM, except in case of gross negligence or wilful misconduct, or
  - arose from the use of any assets owned by States participating in the AMM, provided that the assets were used in connection with the mission and except in case of gross negligence or wilful misconduct of AMM personnel using those assets.'
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## ANNEX III

**Rules on the exchange and security of classified information**

In order to establish a framework for exchanging classified information relevant in the context of the AMM up to classification level RESTRICTED (RESTREINT UE) between the European Union and the Republic of the Philippines, the following rules will apply.

The Republic of the Philippines will ensure that EU classified information (i.e. any information (namely knowledge that can be communicated in any form) or material determined to require protection against unauthorised disclosure and which has been so designated by a security classification) released to it retains the security classification given to it by the EU and will safeguard such information in accordance with the following rules, based on the Council Security Regulations <sup>(1)</sup>, in particular:

- the Republic of the Philippines will not use the released EU classified information for purposes other than those for which those EU classified information have been released to the Republic of the Philippines and for other than those established by the originator,
- the Republic of the Philippines will not disclose such information to third parties without the prior consent of the EU,
- the Republic of the Philippines will ensure that access to EU classified information released to it will be authorised only for individuals who have a valid need-to-know,
- the Republic of the Philippines will ensure that, before being given access to EU classified information, all individuals who require access to such information are briefed on and comply with the requirements of the protective security regulations relevant to the classification of the information they are to access,
- taking into account their level of classification, EU classified information will be forwarded to the Republic of the Philippines by diplomatic bag, military mail services, secure mail services, secure telecommunications or personal carriage. The Republic of the Philippines will notify in advance to the General Secretariat of the Council of the EU the name and address of the body responsible for the security of classified information and the precise addresses to which the information and documents must be forwarded,
- the Republic of the Philippines will ensure that all premises, areas, buildings, offices, rooms, communication and information systems and the like, in which EU classified information and documents are stored and/or handled, are protected by appropriate physical security measures,
- the Republic of the Philippines will ensure that EU classified documents released to it are, on their receipt, recorded in a special register. The Republic of the Philippines will ensure that copies of EU classified documents released to it which may be made by the recipient body, their number, distribution and destruction, are recorded in this special register,
- the Republic of the Philippines will notify the General Secretariat of the Council of the EU about any case of compromise of EU classified information released to it. In such a case, the Republic of the Philippines will initiate investigations and take appropriate measures to prevent a recurrence.

For the purposes of the present rules, classified information released to the European Union by the Republic of the Philippines will be treated as if it were EU classified information and will be granted an equivalent level of protection.

Once the present agreement has expired or been terminated, all classified information or material provided or exchanged pursuant to it shall continue to be protected in accordance with the provisions set forth herein.

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<sup>(1)</sup> OJ L 101, 11.4.2001, p. 1. Document annexed to the present letter.

## B. Letter from the Philippines

Jakarta, 17 January 2006

Your Excellency,

I have the honor to refer to the letter of your predecessor as representative of the President of the Council of the European Union, H.E. Charles Humfrey, CMG, dated 26 October 2005, together with its Annex, which read as follows:

'The Memorandum of Understanding (MoU) between the Government of Indonesia (GoI) and the Free Aceh Movement (GAM) signed at Helsinki on 15 August 2005, provides *inter alia* for the establishment by the European Union and ASEAN Contributing Countries of an Aceh Monitoring Mission (AMM) in Aceh, (Indonesia). This MoU also provides that the status, privileges and immunities of the AMM and its members will be agreed between the GoI and the European Union.

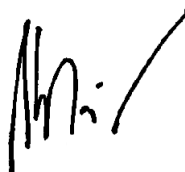
Accordingly, I have the honour to propose, in the Annex to this letter, the provisions which would apply to the participation of your country in the AMM, and the personnel deployed by your country, the status, privileges and immunities of which are set out in the agreement in the GoI, the EU and the ASEAN Contributing Countries.

I would be grateful if you could confirm your acceptance of the provisions set out in the Annex, and also confirm your understanding that this letter and its Annex, together with your reply, shall constitute a legally binding agreement between the EU and the Government of the Republic of the Philippines, which shall enter into force on the day of signature of your reply, and shall remain in force for the duration of your country's participation in the AMM.

Please accept, Excellency, the assurances of my highest consideration.'

In reply to this letter dated 26 October 2005, together with its Annex, I have the honor to confirm, on behalf of the Government of the Republic of the Philippines, its acceptance of the provisions set out in the Annex, and also confirm its understanding that this letter, shall constitute a legally binding agreement between the Government of the Republic of the Philippines and the European Union, which shall enter into force on the date of this letter.

Accept, Excellency, the renewed assurances of my highest consideration.



SHULAN O. PRIMAVERA

*Ambassador Extraordinary and Plenipotentiary of the Republic of the Philippines*

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