No. 09-0143

The Department of Foreign Affairs of the Republic of the Philippines presents its compliments to the Embassy of the United States of America, and has the honor to refer to the Embassy’s Note No. 1043 dated 08 August 2008, requesting approval for the conduct of marine scientific research to be carried out by R/V Melville within the maritime jurisdictions of the Philippines during the period from 25 January to 15 March 2009, and its letter dated 15 January 2008 stating that the marine scientific research will include data gathering during its approach to Manila from 31 January 2009 to 15 March 2009.

The Government of the Republic of the Philippines grants its consent to the conduct of the aforesaid marine scientific research in accordance with Article 245 of the United Nations Convention on the Law of the Sea (UNCLOS), and subject to strict adherence to the terms and conditions set forth in the attached Grant of Consent.

The Department of Foreign Affairs of the Republic of the Philippines avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Pasay City,
CONSENT TO CONDUCT MARINE SCIENTIFIC RESEARCH IN AREAS UNDER THE NATIONAL JURISDICTION OF THE REPUBLIC OF THE PHILIPPINES

Cruise Name and Number:

PHILIPPINE ARCHIPELAGO EXPERIMENT: HIGH RESOLUTION TOWED-BODY SURVEYS OF SBMESOSCALE VARIABILITY

1. Consent is hereby granted to the marine scientific research (MSR) to be conducted aboard the vessel R/V Melville operated by the Scripps Institution of Oceanography sponsored by the US Office Naval Research from 31 January to March 15, 2009 in areas within the maritime jurisdiction of the Republic of the Philippines.

2. The MSR project shall be conducted in accordance with the information submitted by the US Embassy in Manila through its Note No. 1043 dated 08 August 2008, with enclosure and letter (Annex A) citing the nature and objective of the project:

   - “This research program seeks to understand the means and direction by which information gets routed through the archipelago. We know that the interior is forced to some extent by fluctuating distribution around the edge. On the Pacific side these come from westward propagating Rossby waves that hit the Philippine coastline.”

3. The MSR project shall be undertaken subject to strict adherence with the provisions on marine scientific research in the United Nations Convention on the Law of the Sea (UNCLOS) and to the following conditions:

   3.1 The research vessel R/V MELVILLE shall be subject to the applicable laws, rules, regulations, and requirements of concerned agencies and instrumentalities of the Government of the Republic of the Philippines;

   3.2. The Scripps Institution of Oceanography/US Office of Naval Research shall declare all institutional and individual affiliations, including the names of cruise member and students sponsored by such industry, or supervised by researchers with connections to, affiliations with, or funding from such industry

   Other than the ship’s normal crew, the MSR expedition shall not include staff who are members, affiliates, or representatives of, or those who may be deemed as proxies for, commercial organizations or interests, without the express permission of the Philippines.
Violation of the aforementioned precautionary requirement will create a prima facie presumption that the requesting state is engaged in unlicensed prospecting.

The Philippines reserves the right to exclude from the research any person or MSR organization which it perceives may have a conflict of interest with the country.

3.3 Permits are required for the export of biological and rock/mineral samples from the Philippines. All samples remain the property of the Philippines and shall have full access to the samples when required.

The Scripps Institution of Oceanography/U.S. Office of Naval Research shall take responsibility to apply for a Gratuitous Permit (GP) from the Department of Agriculture - Bureau of Fisheries and Aquatic Resource (DA-BFAR) for MSR project that requires collection of aquatic resources pursuant to the provisions of R.A. 9147 otherwise known as “The Wildlife Protection and Conservation Act”.

3.4 The Scripps Institution of Oceanography/U.S. Office of Naval Research shall guarantee the right of Philippine experts, scientists or official representatives to participate in the MSR project, especially on board research vessel and other craft or scientific research installation, when practicable. Such participation shall not oblige the Philippines to contribute to the costs of the project;

3.5 The vessel R/V MELVILLE and its vehicles, platforms, devices, and installations used in the conduct of the MSR project shall be subject to close monitoring by the Philippine Navy (PN) and/or Philippine Coast Guard (PCG) as it enters the Philippines’ Exclusive Economic Zone (EEZ);

In exceptional circumstances, such vessel, platform or equipment may also be subject to prior inspection.

The research vessel shall notify the PN and PCG of her location prior to entering the EEZ and shall regularly provide Periodic Position Reports (POSREP) and Situation Reports (SITREP) as the MSR cruise progresses until its actual departure from the EEZ to the following:

- Office of the Assistant Chief of Naval Staff for Plans, N5, Philippine Navy
  Telefax: +632 5254987
  Tel : +632 524 20 61 local 6357

- Philippine Coast Guard Action Center
  Tel : +632 527 27 24
3.6 The vessel shall provide the Philippine Coast Guard (PCG) with regular updates and changes in the research activities so that appropriate Notice to Mariners could be issued.

3.7 The vessel shall provide the Philippine Atmospheric, Geophysical and Astronomical Services Administration-Department of Science and Technology (PAGASA-DOST) real-time observations of available meteorological parameters at standard hours 0000, 0600, 1200 and 1800 UTC upon entry and navigation within the Philippine territory. Data and information shall be transmitted to the Weather Forecasting Office- PAGASA at any of the following telephone numbers, e-mail addresses and radio frequency:

- +632 9264258; +632 9272877
- +632 9271541; +632 9204070
- +632 9271335; +632 9263167
- +632 9282031; +632 9263151
- +632 4342618
- fredolina_baldonedo@yahoo.com
- c_sawi@hotmail.com

Radio frequency: 7995.5 SSB

3.8 The vessel shall advise the Coast and Geodetic Survey Department (CSGD)-National Mapping and Resources Information Authority (NAMRIA) at least one week before the commencement of activity at the project site on the following:

3.8.1 Name and detailed description of work platform, or vessels used while executing the project and related endeavors (telephone: (+632-8104831 to 41)

3.8.2 Local time and date of start and end of each planned activity, simultaneously marking the place or exact location of each activity, with limits or area to be defined by geographic coordinates expressed either in Old Luzon or WGS-84 Datum.

3.8.3 Whatever changes thereof for all, or any of the above should be forwarded without delay to CGSD.

4. No hydrographic survey shall be undertaken while within Philippine waters.

5. Drilling, the use of explosives and/or the introduction of harmful substances into the marine environment are prohibited.
6. Appropriate navigation warning devices that comply with international navigational safety standards must be installed on board the research vessel to be used to warn transiting vessels in the area;

7. Exploitation, production, culture or gathering of fish, fingerling or any species of fish or fishery aquatic products or processing of the same or engaging in any fishery activity in the Philippines shall not be undertaken.

8. Unless otherwise agreed upon, all installations and equipment used in the course of the research shall be removed once the research is completed.

9. The scientist in charge of the MSR project shall:

   A. Submit/deposit a complete set of specimens and biological samples with the concerned Philippine institution after the MSR expedition;

   B. Submit through diplomatic channels, to the Ocean Concerns Office of the Department of Foreign Affairs (DFA-OCO) within thirty (30) days after the conclusion of the MSR cruise two (2) copies of the following:

      • The preliminary results of the MSR project;
      • The vessel's cruise track and sample sites chart;
      • All cruise data in CD and/or DVD format; and
      • A completed Report of Observations/ Samples Collected by Oceanographic Programs (ROSCOP) Form

10. Two (2) copies of the final MSR project report and two (2) copies of all other publications arising out of the MSR project shall be submitted through diplomatic channels to DFA-OCO within twelve (12) months after the completion of the MSR cruise;

11. Scripps Institution of Oceanography/U.S. Office of Naval Research shall provide the Government of the Republic of the Philippines unrestricted access to all original data and samples derived from the MSR project as well as copies of data and/or samples which may be divided without detriment to their scientific value. Upon request, all cruise data in magnetic, CD and/or DVD format or samples collected during the cruise shall be provided to the nominated representatives prior to disembarkation.

   Assistance in the assessment and/or interpretation of such data, samples and research results shall be provided by the Scripps Institution of Oceanography/U.S. Office of Naval Research
a. Scripps Institution of Oceanography/U.S. Office of Naval Research shall make the MSR results internationally available through appropriate channels as soon as practicable.

12. DFA-OCO shall be notified of any changes in the MSR project prior to the conduct of the MSR. Failure to notify DFA-OCO of such changes shall be cause for the immediate suspension of the MSR project, except in case of force majeure occurring while the MSR project is in progress.

13. If the MSR project is not conducted in accordance with the information communicated in the Notification of Proposed Research Cruise, with the provisions on marine scientific research under UNCLOS and the conditions set herein, the Republic of the Philippines, through the Department of Foreign Affairs, reserves the right to order the immediate suspension or cessation of the MSR project.

14. Evidence of this Grant of Consent shall be kept on board the vessel.

OCEAN CONCERNS OFFICE
Office of the Undersecretary for Special and Ocean Concerns
Department of Foreign Affairs
2330 Roxas Blvd. Pasay, City 1300
Republic of the Philippines
Telefax: +632 8314767

Pasay City, 

[Signature]
AMB. LEONIDES T. CADAY, SFAA
Officer-in-Charge
The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and has the honor to request approval from the Government of the Republic of the Philippines for the conduct of marine scientific research to be carried out by R/V Melville sometime during the period of from January 25 to March 15, 2009.

The R/V Melville, a United States—flagged vessel operated by the Scripps Institution of Oceanography, seeks to conduct high-resolution towed-body surveys of submesoscale variability in the Philippine Archipelago.

The chief scientist for the study is Dr. Craig M. Lee of the Applied Physics Laboratory, University of Washington, in Seattle.

Drs. Cesar Villanoy and Laura David of the Marine Science Institute, University of the Philippines, are the Filipino scientists involved in the study. The study will also involve a scientific staff of
R/V Melville, owned by the Office of Naval Research and operated by the Scripps Institution of Oceanography, is 85 meters long with a maximum 5 meters draught and with gross tonnage of 2516. The ship’s master is Captain Christopher Curl with a crew of 22. International radio call sign is WECB. The vessel uses standard Global Maritime Distress Safety system (GMDSS) frequencies for calling, distress, and dissemination of marine safety information.

The cruise is planned to begin on January 25, 2009. Delays may arise which could cause the cruise to commence 1-2 weeks later. The vessel would depart Philippine waters no later than March 15, 2009.

The Embassy of the United States of America avails itself of this opportunity to renew to the Department of Foreign Affairs assurances of its highest consideration.

Attachments: Application for Consent.

Embassy of the United States of America,

Manila, August 8, 2008.