BILATERAL

MEMORANDUM OF UNDERSTANDING BETWEEN THE MINISTRY OF FOREIGN AFFAIRS OF THE KINGDOM OF THE NETHERLANDS AND THE DEPARTMENT OF FOREIGN AFFAIRS OF THE REPUBLIC OF THE PHILIPPINES ON...

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The Minister of Foreign Affairs of the Kingdom of the Netherlands and the Secretary for Foreign Affairs of the Republic of the Philippines (hereafter referred to individually as 'the Signatory' and jointly as 'the Signatories');

Desirous of replacing the Memorandum of Understanding on the reciprocal permission for the gainful employment of diplomat's dependants of 7 July 1998;

Have come to the following Understanding:

1. Authorisation to engage in gainful employment

Family members, as defined below, will be authorised to engage in gainful employment in the receiving State in accordance with the laws and regulations of that State.

2. Definitions

For the purposes of this MoU:

a.

The term 'members of the mission' means the head of a Diplomatic Mission or Consular Post and the members of the diplomatic, consular, administrative, technical and service staff of a Diplomatic Mission or Consular Post of the sending State who carry out duties at those diplomatic or consular missions or posts and who do not have the nationality of the receiving State nor reside permanently in that State;

b.

A 'family member' means:

c.

the spouse of a member of the mission, as such spouse may be defined under the laws of the sending State;

d.

an unmarried financially dependent child of a member of the mission, who is

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between the ages of 16 up to and including 24;

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between the ages of 25 up to and including 27 and registered as fulltime student in a regular educational institution in the receiving State;

e.

an unmarried financially dependent child of a member of the mission, who is considered by the receiving State, on the basis of national regulations or on humanitarian grounds, to form part of the household of the member of the mission;

f.

A child that engages in full-time gainful employment, cannot be considered to be financially dependent.

3. Procedure

3.1

This MoU will not absolve a family member from the obligation to obtain authorisation from the receiving State before engaging in gainful employment in that State. The Embassy of the sending State will send a request for authorisation, on the family member's behalf, to the Protocol Department of the Ministry of Foreign Affairs of the receiving State. The request will be accompanied by the necessary documentation concerning the employment the family member wishes to engage in, establishing the full identity of the person concerned and indicating the nature of the employment for which authorisation is requested.

3.2

This MoU will not exempt a family member from the obligation to comply with special requirements applicable to the performance of certain occupations. The sending State may not interpret the provisions of this MoU as conferring a right to engage in a particular profession.

3.3

Upon verification that the person on whose behalf authorisation is being requested is a family member as defined in this MoU and that the applicable procedure referred to above in paragraph 3.1 has been complied with, the Ministry of Foreign Affairs of the receiving State will officially notify the Embassy concerned of the decision taken on the request for authorisation to engage in gainful employment under the applicable legislation of the receiving State.

3.4

The authorisation to engage in gainful employment will be printed on the family member's identity card.

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3.5

The receiving State may refuse or cancel authorisation to engage in gainful employment if at any time the family member does not comply with the immigration or naturalization laws or the tax laws of the receiving State.

4. Immunity

4.1

This MoU will not extend immunity from civil or administrative jurisdiction to a family member who engages in gainful employment in respect of any claims brought against him or her on account of acts or omissions directly connected with the performance of that employment.

4.2

If the family member has been granted immunity from the criminal jurisdiction of the receiving State on the basis of the Vienna Convention on Diplomatic Relations or any other international agreement, the sending State will waive the immunity of the family member in question from the criminal jurisdiction of the receiving State in respect of all acts or omissions relating to the gainful employment that he or she carries out, except in special cases in which the sending State considers that such a waiver would be contrary to its interests.

4.3

The waiver of immunity does not cover pre- or post-judgment measures of constraint for which a separate waiver of immunity in writing is required. The receiving State may request such a waiver from the sending State.

5. Social security and taxes

5.1

A family member who has obtained authorisation to engage in gainful employment under this MoU will be subject to the social security regime of the receiving State for all matters connected with his or her employment in that State.

5.2

This MoU does not exempt a family member from his or her obligation to pay, in the receiving State, all taxes on income arising from employment carried out in accordance with this MoU.

6. Ending of authorisation

6.1

The authorisation to engage in gainful employment granted to the family member under this MoU ends when the appointment of the member of the mission in question ends.

6.2

Employment under this MoU does not entitle the family member to continue to reside in the receiving State. Nor does it entitle the family member to remain in that employment or to engage in different employment in the receiving State once the authorisation granted under this MoU has ended.

7. Coming into effect, duration, termination

This revised Memorandum of Understanding will come into effect on the date of signature by both Signatories and will remain in effect until terminated by either Signatory.

Either Signatory may terminate this MoU by notifying the other Signatory accordingly through diplomatic channels. The MoU will cease to apply from the first day of the third month after the date of the said notification.

This Memorandum of Understanding does not create any rights or obligations under international law.

Signed in duplicate in Manila, Philippines, on 30 October 2023, in the English language.

(Sgd.)

(Sgd.)

HANKE BRUINS SLOT
Minister of Foreign Affairs
Kingdom of the Netherlands

ENRIQUE A. MANALO
Secretary of Foreign Affairs
Republic of the Philippines

Entry into Force: October 23, 2023

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