BILATERAL

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES ANDTHE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA ON COOPERATION IN COMBATING TRANSNATION...

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The Government of the Republic of the Philippines and the Government of the People's Republic of China (hereinafter referred to as the "Parties");

Recognizing that rapid globalization has paved the way for the increase of transnational crime;

Cognizant of the growing sophistication of transnational crime and its serious threats to the national security and interests of both states;

Conscious of the need to have a concerted, synchronized, and focused effort between the law enforcement agencies of both countries;

Desirous of strengthening the law enforcement cooperation between the two countries, and to combat transnational crimes more effectively;

On the basis of mutual respect for sovereignty, equality and mutual benefit;

Have reached the following understanding:

ARTICLE I

AREAS OF COOPERATION

As provided for in this Memorandum of Understanding and in compliance with relevant international treaties, subject to their respective domestic laws, the Parties shall cooperate in the prevention and investigation of transnational crime, including:

a. illicit drug trafficking;

b. money laundering, financial crimes and other economic crimes;

c. terrorism in all its forms;

d. homicide, kidnapping and other violent criminal acts in relation to the commission of a transnational crime;

e. smuggling;

f. trafficking in persons and human smuggling;

g. forgery/falsification of passports and travel documents in relation to the commission of a transnational crime;

h. counterfeiting of currency and negotiable securities/instruments;

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i. piracy;

j. illegal trafficking in weapons, ammunition, explosives, toxic, environmentally destructive and radioactive materials;

k. illegal acquisition, import or export of cultural treasures;

l. violation of intellectual property rights; and

m. any other forms of transnational crime as may be agreed upon by the Parties.

ARTICLE II

FORMS OF COOPERATION

1. The cooperation between the Parties, referred to in Article I, may take the following forms:

a. intelligence exchange;

b. provision of information on cases under investigation and/or pending in court;

c. search for and provision of assistance for persons who are reported missing and in the timely repatriation of persons who are evading criminal investigation, prosecution, trial or execution of a sentence in accordance with their respective domestic laws and existing bilateral agreements and on the basis of mutual respect for sovereignty, equality and mutual benefit;

d. exchange of public records and documents; and

e. exchange of relevant knowledge and expertise.

2. In order to facilitate the smooth implementation of the cooperation under this Memorandum of Understanding, the Parties shall undertake relevant cooperation in law enforcement technology, equipment and personnel training, as may be agreed upon between them.

3. This Memorandum of Understanding shall not prevent the Parties from developing other mutually acceptable forms of cooperation and shall not affect cooperation involving other law enforcement agencies.

ARTICLE III

PROCEDURE

The procedure governing the cooperation, referred to in Article I, shall be as follows:

1. Requests for cooperation shall be:

a. for the Republic of the Philippines, by the Secretary of Interior and Local Government or his duly designated representative, addressed and submitted directly to the Minister of Public Security of the People’s Republic of China or his duly designated representative;

b. for the People’s Republic of China, by the Minister of Public Security or his duly designated representative, addressed and submitted directly to the Secretary of Interior and Local Government of the Republic of the Philippines or his duly designated representative.

2. Requests shall be submitted formally in writing including through mail, fax, or other electronic means of communications.

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3. Requests shall include the following information:

a. name of the law enforcement agency conducting the investigation or within whose jurisdiction the matter lies;

b. subject of the investigation to which the request for cooperation pertains;

c. description of the type of information or other cooperation being sought;

d. purpose for which the information or other cooperation is being requested; and

e. date by which the information is desired.

4. The requested Party shall inform in writing the requesting Party of the outcome of the request.

ARTICLE IV

CONFIDENTIALITY

All information and documents to be exchanged pursuant to this Memorandum of Understanding shall be kept confidential by the Parties and shall be used only subject to such terms as each Party may specify. The Parties shall not use the information for purposes other than that specified without the prior written consent of the other Party.

ARTICLE V

DENIAL OR DEFERMENT OF REQUESTS

1. The requested Party may deny a request if:

a. the request is not submitted in conformity with the provisions of this Memorandum of Understanding;

b. compliance with the request is contrary to its domestic laws

2. The requested Party may defer compliance if the implementation of the request would interfere with its own investigation or with judicial proceedings.

3. In case of denial or deferment of cooperation, the requested Party shall:

a. promptly inform the requesting Party of the reason for denial or deferment; and

b. consult with the requesting Party to determine whether cooperation is possible on other mutually acceptable terms.

4. The reason/s for denial or deferment should be specified in the form of a statement.

ARTICLE VI

COOPERATION MECHANISM

1. In accordance with the laws of their respective countries, the competent authorities of the Parties shall formulate and develop mechanisms and arrangements for the implementation of this Memorandum of Understanding.

2. The competent authorities of the Parties shall be:

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a. for the Republic of the Philippines, the Department of Interior and Local Government; and

b. for the People's Republic of China, the Ministry of Public Security.

3. The Parties shall meet in the place and on the date agreed upon by the Parties communicated through diplomatic channels. The venue of the said meetings shall alternate between the Republic of the Philippines and the People's Republic of China.

ARTICLE VII

COSTS

1. The requesting Party shall bear all costs associated with the international travel, meals and accommodation of its representatives.

2. The requested Party shall provide necessary assistance to the requesting Party for the compliance of the request.

ARTICLE VIII

RESOLUTION OF DISPUTES

Disputes concerning the implementation or interpretation of this Memorandum of Understanding shall be resolved through diplomatic consultation between the Parties.

ARTICLE IX

ENTRY INTO FORCE, AMENDMENT, VALIDITY AND TERMINATION

1. This Memorandum of Understanding shall enter into force on the date of the later written notification by the Parties, through diplomatic channels, indicating that the internal legal requirements for its entry into force have been complied with.

2. Any amendment to or revision of the text of this Memorandum of Understanding shall be in writing and shall be done by the mutual consent of the Parties. The amendment or revision shall enter into force in accordance with the preceding paragraph.

3. This Memorandum of Understanding shall remain in force until either of the Parties notifies the other Party in writing, through diplomatic channels, of its intention to terminate the same. The notice of termination shall become effective six (6) months after the date thereof.

4. The termination of this Memorandum of Understanding shall not adversely affect any valid or subsisting agreement or undertaking concluded or entered into pursuant to the same.

Done in Beijing this 30th day of October 2001, in duplicates in the English and Chinese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF

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FOR THE GOVERNMENT OF

THE REPUBLIC OF THE PHILIPPINES

THE PEOPLE'S REPUBLIC OF CHINA

Entry into Force: May 28, 2002

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