

## MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA ON COOPERATION AGAINST ILLICIT TRAFFIC...

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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 the illicit use and traffic of narcotic drugs and psychotropic substances constitute a serious threat to the economy and endanger the physical health of the people of both states;

DESIRING to cooperate to combat and prevent illicit cultivation, production, distribution, and abuse of narcotic drugs and psychotropic substances;

MINDFUL of the obligations provided in the Single Convention of Narcotics Drugs of 1961 as amended by the 1972 Protocol, the Convention on Psychotropic Substances of 1971 and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (hereinafter referred to as the "1988 Convention");

COGNIZANT of the provisions of the Political Declaration, Guiding Principles of Drug Demand Reduction and Measures to Enhance International Cooperation to Counter the World Drug Problem, adopted by the Special Session of the General Assembly on June 10, 1998;

BEARING in mind the basic principles of international law, the obligations arising from international treaties and the laws of their respective countries, and on the basis of mutual respect for sovereignty;

Have reached the following understanding:

### ARTICLE I

#### OBJECTIVE AND SCOPE OF COOPERATION

The Parties, subject to the laws and regulations in force in their respective states, shall promote and encourage various modes of cooperation in order to effectively prevent and control the various aspects of illicit production, distribution, trafficking and abuse of narcotic drugs and psychotropic substances and the diversion of precursors and essential chemicals that may be used in the illicit manufacture of narcotic drugs and/or psychotropic substances.

### ARTICLE II

#### EXCHANGE OF INFORMATION

The Parties shall establish and maintain channels of communication between their competent agencies to facilitate the rapid and timely exchange of relevant information on various matters, including the following;

1. Laws and other issuances of competent bodies of the Parties that may help in efforts to reduce drug supply and demand;

2. Matters relative to the investigation of drug offenses to include:

- a. Information on any suspicion of illicit traffic of narcotic drugs, psychotropic substances or illegal diversion of chemical precursors and essential chemicals towards either of the Parties;
- b. Methods used in manufacture, smuggling and sale of narcotic drugs, psychotropic substances, and precursor chemicals;
- c. Drug trafficking routes and modus operandi used by persons and organizations suspected of trafficking in narcotic drugs and psychotropic substances;
- d. Methods used for the transfer, concealment, or disguise of proceeds, property, and instrumentalities involved in drug trafficking;

3. Studies, researches and information on treatment and rehabilitation and reintegration programs on drug abuse carried out by the Parties;

4. Programs on drug prevention;

5. Information on new and emerging forms of illicit drugs;

6. Information on clandestine manufacturing methods of illicit drugs;

7. Information on relevant fields of experience and expertise including scientific analysis in combating the abuse of illicit narcotic drugs and psychotropic substances;

8. Information on measures for the purpose of confiscation or forfeiture of property or proceeds derived from illegal activities in relation to illicit trafficking of narcotic drugs and psychotropic substances; and

9. Information concerning nationals of either Party already detained or arrested on charges of illicit trafficking of narcotic drugs and psychotropic substances.

### ARTICLE III

#### PARTICIPATION IN INVESTIGATIONS AND SPECIAL INVESTIGATIVE TECHNIQUES

1. A Party, upon request to and approval of the other Party, may participate in investigations being carried out in that state subject to a "Terms of Reference" which will be agreed upon by both Parties on a case-to-case basis;

2. The Parties shall consider the joint applicability of the methods of controlled delivery, under the 1988 Convention.

### ARTICLE IV

#### PREVENTION OF DIVERSION AND ILLICIT TRAFFICKING OF PRECURSORS AND ESSENTIAL CHEMICALS

The Parties shall cooperate in adopting measures to implement and reinforce provisions of the 1988 Convention regarding precursors and essential chemicals particularly those concerning the importation, exportation, and transshipment of such substances involving the Parties.

### ARTICLE V

#### OTHER FORMS OF COOPERATION

1. The Parties shall facilitate the exchange of visits of officials and experts from their competent agencies and relevant organizations;

2. The Parties shall improve the sharing of intelligence data and the development of investigative strategies to

combat drug trafficking organizations operating in the territories of the Parties, and shall cooperate on specific projects, without prejudice to the jurisdictions of the Parties;

3. The Parties shall encourage the provision of the service of experts and exchange of personnel for training purposes in relevant fields including drug law enforcement training;

4. The Parties shall establish communication channels and procedures between their respective national drug control authorities to facilitate coordination and cooperation with the objective of ensuring rapid responses and decisions;

5. The Parties shall encourage appropriate language training for officers likely to be in contact with officers of the other Party; and

6. The Parties may decide on cooperation in other fields as may be necessary.

## ARTICLE VI 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.

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 VII 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 VIII

## DENIAL OR DEFERMENT OF REQUESTS

1. The requested Party may refuse to comply with a request if:
  - a. the request is not submitted in conformity with the provisions of this Memorandum of Understanding or
  - 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 IX

## 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:
  - 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 X

## COSTS

1. The requesting Party shall bear all costs associated with 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 XI

## RESOLUTION OF DISPUTES

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

## ARTICLE XII

## 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 on this 30th day of October 2001, in duplicates in English and Chinese, both texts being equally authentic.

**FOR THE GOVERNMENT OF THE**

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**REPUBLIC OF THE PHILIPPINES**

**PEOPLE'S REPUBLIC OF CHINA**

Entry into Force: May 28, 2002

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