

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF AUSTRALIA CONCERNING COOPERATION ON MIGRATION MANAGEMENT AND BORDER C...

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The Government of the Republic of the Philippines and Government of Australia, hereinafter referred to as "the Parties", enter this Memorandum.

Acknowledging the continued importance of a strong cooperative relationship between their two countries;

Valuing the social and economic benefits that the lawful and orderly movement of people brings to both countries;

Recognizing the benefits and importance of migration management and effective border control for the prosperity and security of both countries and the region;

Conscious of the need to cooperate in detecting and deterring terrorist movements, people smuggling, people trafficking and other forms of irregular migration;

and consequently

Record the following understandings that will guide bilateral, regional and multilateral cooperation on migration management and border control between the Parties:

OBJECTIVE

1. The Parties wish to achieve greater practical cooperation in migration management and border control, and to thereby contribute to regional efforts to facilitate legitimate travel and strengthen border controls.

AREAS OF COOPERATION

2. The Parties, where appropriate and in accordance with their respective laws, will cooperate to:

a)

facilitate and streamline procedures for the lawful movement of people;

b)

prevent irregular movement of people;

c)

combat people smuggling, people trafficking and related transnational crime; and

d)

facilitate the return of persons who, after due investigation and hearing, are determined to have no lawful basis

to remain in each country.

FORMS OF COOPERATION

Managed Migration

3. The Parties will cooperate bilaterally on managed migration and border control, including:

a)

exchanging information on best practice and other assistance, in conformity with their respective laws, in managing the lawful and orderly movement of people. This may include, but is not limited to:

(i)

passport and visa issuance systems and processes

(ii)

border management systems, including for the Maritime border;

(iii)

the international humanitarian protection framework;

(iv)

settlement of migrants;

(v)

migration and citizenship legislation and processes;

(vi)

immigration law enforcement;

(vii)

appeals systems;

(viii)

returns;

(ix)

management of operational data;

(x)

immigration intelligence;

(xi)

management of irregular migrants; and

(xii)

professional standards and conduct:

b)

technical cooperation and exchange of information on developments in fraud detection, including fraud trends, forensic document examination techniques, document security features, impostor recognition and interviewing techniques; and

c)

technical cooperation and exchange of information on training techniques and programs for personnel involved in immigration processing, immigration law enforcement, fraud detection and immigration intelligence.

BORDER CONTROL

4. The Parties will work cooperatively to combat irregular migration, people smuggling and people trafficking, in conformity with their respective laws. This may include, but is not limited to:

a)

cooperation in identifying, preventing and, where practicable, prosecuting organizers of people smuggling, escorts of irregular migrants and those involved in the trafficking of persons;

b)

exchange of information on the methods of operation and activities of people smugglers, people traffickers, escorts of irregular immigrants and other transnational criminals, including details of their operating procedures, transit routes and travel modes;

c)

consideration of requests to interview persons detained for involvement in people smuggling or people trafficking;

d)

cooperation to maximize the effectiveness of alert lists, including technical assistance and consideration of requests to enroll alerts of people and documents of concern;

e)

consideration of requests to check or confirm movement, visa and passport records and alerts relating to persons and documents of concern;

f)

exchange of statistical and other data on the movement, interdiction, exclusion, removal and deportation of persons;

g)

cooperation to prevent the movement of inadequately documented passengers, including assistance to airlines;

h)

cooperation in matters related to the investigation and prosecution of immigration fraud;

i)

exchange of information and cooperation to assist each Party in identifying, preventing and, where practicable, prosecuting persons who import, fabricate or sell fraudulent travel or identity documents; and

j)

cooperation to ensure appropriate and fair treatment of irregular migrants and trafficked persons in accordance with international law and practice, including arrangements for regional cooperation that afford effective protection.

5. The Parties will cooperate to ensure the orderly return of unlawful migrants as soon as reasonably practicable to their countries of nationality, or to any other country which will authorize them to enter and reside, on the basis of mutual cooperation between the relevant agencies of each country.

6. On a case-by-case basis, the Parties will cooperate to facilitate the issuance of valid travel documents for the return of persons duly recognized as their citizens or persons who are lawful residents of their country, who have breached immigration laws, and whom the respective Parties mutually decide to return.

REGIONAL AND MULTILATERAL COOPERATION

7. The Parties will work cooperatively in or with relevant multilateral and regional bodies and international organizations, including the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the Bali Process on People Smuggling and Trafficking, the Asia Pacific Consultations on Refugees, Displaced Persons and Migrants, the APEC Informal Experts Group on Business Mobility and the ASEAN Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs (DGICM).

8. The Parties will work towards implementing the relevant migration and border related initiatives of these bodies.

AGENCIES WITH RESPONSIBILITY

9. The agencies with responsibility for the operation of the Memorandum of Understanding are, unless mutually determined otherwise:

(i)

for the Government of the Republic of the Philippines; the Bureau of Immigration of the Department of Justice; and

(ii)

for the Government of Australia; the Department of Immigration and Citizenship.

CONSULTATION

10. The primary mechanism for consultation under this Memorandum of Understanding will be meetings of senior officials representing the responsible agencies within the government of both countries, who will meet as mutually determined.

DISCLOSURE OF INFORMATION

11. The Parties commit not to disclose or distribute any confidential information, documents or data received under the provisions of this Memorandum of Understanding to third parties without the consent of the other Party.

RESOLUTION OF DIFFERENCES

12. Any differences or disputes arising from the interpretation or implementation of the provisions of this Memorandum of Understanding will be resolved amicably through consultation between the Parties.

DURATION

13. This Memorandum of Understanding will have effect from the date of signature. It will be valid for a period of five (5) years and may be renewed by mutual consent in writing thereafter.

14. Either Party may terminate this Memorandum of Understanding by providing written notification to the other Party six (6) months prior to the proposed date of termination through official channels.

AMENDMENT

15. This Memorandum of Understanding may be amended by mutual, written determination through official channels.

Signed at Manila this 8[th] day of February 2011, duplicates in the English language.

FOR THE GOVERNMENT OF
AUSTRALIA

FOR THE GOVERNMENT OF
THE REPUBLIC OF THE
PHILIPPINES

(Sgd.) (Sgd.)

Rod Smith Atty. Ronaldo P. Ledesma

Ambassador to the
Republic of the Philippines Officer-in-Charge
Bureau of Immigration

Entry into Force: February 8, 2011

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