

# 2002 AGREEMENT ON INFORMATION EXCHANGE AND ESTABLISHMENT OF COMMUNICATION PROCEDURES

*Signed in Putrajaya, Malaysia on 7 May 2002*

2002 AGREEMENT ON INFORMATION EXCHANGE AND ESTABLISHMENT OF COMMUNICATION PROCEDURES .....2

ARTICLE I OBJECTIVE .....2

ARTICLE II SCOPE AND FORMS OF COOPERATION .....2

ARTICLE III AREAS OF COOPERATION .....3

ARTICLE IV PARTICIPATION AND ORGANIZATION .....5

ARTICLE V ADMINISTRATIVE AND OPERATIONAL REQUIREMENTS .....5

ARTICLE VI ESTABLISHMENT OF A JOINT COMMITTEE .....5

ARTICLE VII RESERVATIONS .....6

ARTICLE VIII EXPENSES .....6

ARTICLE IX DISCLOSURE OF INFORMATION .....6

ARTICLE X SETTLEMENT OF DISPUTES .....6

ARTICLE XI ENTRY INTO FORCE, AMENDMENT AND TERMINATION .....6

ANNEX I PROJECTS TO IMPLEMENT THE AGREEMENT ON INFORMATION EXCHANGE AND ESTABLISHMENT OF COMMUNICATION PROCEDURES .....8

## **2002 AGREEMENT ON INFORMATION EXCHANGE AND ESTABLISHMENT OF COMMUNICATION PROCEDURES**

*Signed in Putrajaya, Malaysia on 7 May 2002*

The Governments of the Republic of the Philippines, the Republic of Indonesia, and Malaysia, hereinafter referred to singularly as "the Party" and collectively as "the Parties";

RECOGNIZING the value of enhancing the existing bilateral defense, border and security cooperation arrangements between them;

DESIRING to promote further cooperation in and to introduce a system to facilitate the exchange of information and intelligence and establish communication procedures among them;

REALIZING the need to establish a framework to facilitate cooperation and interoperability among themselves to address border and security incidents, transnational crimes, and other illegal activities occurring within their territories;

Have agreed as follows:

### **ARTICLE I OBJECTIVE**

This Agreement shall provide the framework for cooperation in the exchange of information and the establishment of communication procedures.

### **ARTICLE II SCOPE AND FORMS OF COOPERATION**

1. The scope of cooperation among the Parties in the exchange of information and the establishment of communication procedures shall be in relation to the areas enumerated in Article III of this Agreement.
2. Consistent with the laws, regulations and procedures in force in their respective territories, the Parties agree that the areas of cooperation enumerated in Article III of this Agreement may be carried out in the following forms:
  - (i) facilitating proper coordination and collaboration during border and / or security incidents, transnational crimes and other illegal activities where individual resources of a Party may be inadequate;
  - (ii) establishing common understanding and approaches in managing the multiple and complex issues arising from transnational crimes;
  - (iii) strengthening national and sub-regional capacities to manage border and/or security incidents and transnational crimes through information exchanges, agreed communication procedures and training;

- (iv) reviewing and enhancing internal rules and regulations, both legal and administrative, to ensure proper, effective, and timely collaboration and responses to border and / or security incidents and in times of operational constraints in the implementation of defense, border and security arrangements;
- (v) providing opportunities for the Parties' duly authorized representatives to establish linkages to facilitate cooperation;
- (vi) facilitating dialogue among the Parties on criminal and crime-related activities committed within their respective territories which may adversely affect the interests of any or all of the other Parties; and
- (vii) establishing mechanisms for immediate response and assistance among the Parties.

### **ARTICLE III AREAS OF COOPERATION**

The Parties undertake to cooperate among themselves in preventing the utilization by anyone of their land-air-sea territories for the purpose of committing or furthering any or all of the following activities:

- (i) **Terrorism**, which in this Agreement is understood to mean any act of violence or threat thereof perpetrated to carry out within the respective territories of the Parties or in the border area of any of the Parties an individual or collective criminal plan with the aim of terrorizing people or threatening to harm them or imperiling their lives, honour, freedoms, security or rights or exposing the environment or any facility or public or private property to hazards or occupying or seizing them, or endangering a national resource, or international facilities, or threatening the stability, territorial integrity, political unity or sovereignty of Independent States.
- (ii) **Money Laundering**, which in this Agreement is understood to mean any act of a person who -
  - (a) engages directly or indirectly in a transaction that involves the proceeds of any unlawful activity;
  - (b) acquires, receives, possesses, disguises, transfers, converts, exchanges, carries, disposes, uses, removes from or brings into the territory of any of the Parties proceeds of any unlawful activity; or
  - (c) conceals, disguises or impedes the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any unlawful activity;
- (iii) **Smuggling**, which in this Agreement is understood to mean -
  - (a) in relation to goods, the act of bringing into or taking out of the border area of any of the Parties' goods, including arms and explosives, contrary to the laws of the respective Parties;
  - (b) in relation to persons, the act of-

smuggling of persons, that is, the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into the territory of a Party of which the person is not a national or a permanent resident;

trafficking in persons, that is, the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person, having control over another person, for the purpose of exploitation (which includes, at a minimum, the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.)

- (iv) **Piracy/Robbery at Sea**, which in this Agreement is understood to mean any unlawful act of violence, detention, intimidation or depredation committed for private ends by the crew or the passengers of a seaborne vessel and directed against another seaborne vessel or against persons or property on board such vessel or abetting any of the aforementioned acts including the seizing of or exercising of control over a seaborne vessel;
- (v) **Hijacking**, which in this Agreement is understood to mean any unlawful act of interference, seizing or exercising control of an aircraft, or attempting to perform any such act, by the use of force or by threats of any kind;
- (vi) **Intrusion**, which in this Agreement is understood to mean any unlawful clandestine attempt, activity and / or action to introduce unobtrusively any person or small groups of persons, including insurgent elements, into the territory of any of the Parties in order to undermine the security or subvert the interest of that Party;
- (vii) **Illegal Entry**, which in this Agreement is understood to mean the act of entering or facilitating the entry of any person or group of persons into the territory of any of the Parties contrary to the immigration laws of that Party;
- (viii) **Drug Trafficking**, which in this Agreement is understood to include manufacturing, importing, exporting, keeping, concealing, buying, selling, giving, receiving, storing, administering, transporting, carrying, sending, delivering, procuring, supplying or distributing any dangerous drugs without lawful authority;
- (ix) **Theft of Marine Resources**, which in this Agreement is understood to mean the unlawful extraction or removal, by whatever means, of marine resources, living or non-living on, under or above the seabed and subsoil of the continental shelf and exclusive economic zone of any of the Parties and the superjacent waters thereof;
- (x) **Marine Pollution**, which in this Agreement is understood to mean the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazard to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities; and
- (xi) **Illicit Trafficking in Arms**, which in this Agreement is understood to mean the import, export, acquisition, sale, delivery, movement or transfer of arms, their parts and components and ammunition from or across the territory of one Party to that of another

Party if any one of the Parties concerned does not authorize it in accordance with the terms of its laws or if the arms are not marked in accordance with its laws.

## **ARTICLE IV PARTICIPATION AND ORGANIZATION**

1. Each Party shall designate an organization to act as the communication cum liaison center within its respective territory for the purpose of the implementation of this Agreement.
2. The designated communication cum liaison center of each Party shall be staffed by representatives of the respective Parties' defense, security and / or police establishments, and may also include representatives from such other agencies of the Party as it considers fit.
3. The Parties shall designate a communications network to be used among the participating communication cum liaison centers and shall endeavor to maintain easy access to an open channel.
4. Communication procedures shall be established among the communication cum liaison centers of the Parties.

## **ARTICLE V ADMINISTRATIVE AND OPERATIONAL REQUIREMENTS**

1. The Parties shall designate a communications system to be used for the purposes of this Agreement, taking into consideration interoperability and security requirements.
2. Logistical arrangements for the exchange of information, the establishment of communication procedures and the maintenance of equipment used within the territory of each Party shall be the responsibility of the respective Parties.
3. The Parties undertake to use their best endeavors to expeditiously relay information about any activity that falls under the areas of cooperation enumerated in Article III to the relevant Party to enable appropriate action to be taken by that Party. The information shall be relayed by any convenient and expeditious means of communication available and shall be followed by a written report or summary.
4. A person arrested for an offense shall be dealt with in accordance with the laws of the arresting Party.
5. If a national of any of the Parties is arrested for an offense by an authorized law enforcement agency of another Party in the latter's territory, the designated communication cum liaison center, shall, subject to its national laws and security considerations, endeavor to inform its counterpart, as expeditiously as possible, of such arrest, giving the status and action taken thereon.

## **ARTICLE VI ESTABLISHMENT OF A JOINT COMMITTEE**

1. The Parties shall establish a Joint Committee, consisting of such members as the Parties may consider appropriate for the purpose of carrying out the obligations under this Agreement, in particular:

- (i) to determine and set out the administrative and operational requirements of exchanging information and establishing communication procedures; and
  - (ii) to undertake implementable projects or activities as listed in Annex 1 of this Agreement.
2. The Joint Committee shall periodically submit reports to the Senior Officials, for their consideration and action.
3. The Joint Committee shall convene its inaugural meeting on a date and at a venue acceptable to all Parties, as may be determined through diplomatic channels.

## **ARTICLE VII RESERVATIONS**

Each Party reserves the right, for reasons of national security, public order or health -

- (i) to refuse to exchange any particular information or intelligence; and
- (ii) to suspend temporarily, either in whole or in part, the implementation of this Agreement which shall be effective thirty (30) days after written notification has been given to the other Parties through diplomatic channels.

## **ARTICLE VIII EXPENSES**

The expenses incurred in the implementation of this Agreement shall be borne by the respective Parties.

## **ARTICLE IX DISCLOSURE OF INFORMATION**

Each Party agrees to preserve the confidentiality and secrecy of documents, information, and other data received from the other Parties, including the source thereof, even after the termination of this Agreement.

## **ARTICLE X SETTLEMENT OF DISPUTES**

Any difference or dispute arising from the implementation of the provisions of this Agreement shall be settled amicably through consultation or negotiation between the Parties concerned, through diplomatic channels, without reference to any third Party or international tribunal.

## **ARTICLE XI ENTRY INTO FORCE, AMENDMENT AND TERMINATION**

1. This Agreement shall enter into force on the date of the last notification by the Parties, through diplomatic channels, indicating that they have complied with their domestic requirements for its entry into force.

2. Other ASEAN member countries may accede to this Agreement upon consensus by existing Parties. As regards any such Party, the Agreement shall come into force at the date of its notification indicating that it has complied with its domestic requirements for its entry into force.
3. Any amendment to the provisions of this Agreement shall be effected by consent of all Parties, and shall enter into force in accordance with paragraph 1 of this Article. Any such amendment shall be without prejudice to the rights and obligations arising from or based on this Agreement prior or up to the date of such amendment.
4. This Agreement shall remain in force until it is terminated, with the written consent of all Parties through diplomatic channels. The termination of this Agreement shall be without prejudice to the rights and obligations arising from or based on this Agreement prior or up to the date of its termination.

This Agreement shall be drawn up in the English language in three (3) original copies, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Putrajaya, Malaysia, this 7th day of May 2002.

**JOSE D. LINA, Jr.**

Secretary of Interior and Local Government  
Republic of the Philippines

**N. HASSAN WIRAJUDA**

Foreign Minister  
Republic of Indonesia

**DATUK SERI SYED HAMID ALBAR**

Foreign Minister  
Malaysia

**ANNEX I**  
**PROJECTS TO IMPLEMENT THE AGREEMENT ON INFORMATION**  
**EXCHANGE AND ESTABLISHMENT OF COMMUNICATION**  
**PROCEDURES**

- 1) Establishing cooperation and Standard Operating Procedures on Search and Rescue;
- 2) Establishing of focal point in each country;
- 3) Setting up of hot lines;
- 4) Sharing of airline passenger lists, as appropriate;
- 5) Providing access to each other's computerized fingerprint databank, as appropriate;
- 6) Conducting consultations on visa waiver lists of third country nationals;
- 7) Sharing blacklists at visa-issuing offices;
- 8) Undertaking joint efforts to combat terrorism;
- 9) Conducting joint training and exercises on combating terrorism and other transnational crimes;
- 10) Strengthening border control through, among others, the establishment of designated entry and exit points and sealanes;
- 11) Increasing harmonization of legislation to combat terrorism and other transnational crimes;
- 12) Recommending / strengthening legislation to combat terrorism and other transnational crimes by, among others, the enhancement of penalties;
- 13) Recommending accession to and ratification of international conventions on terrorism and other transnational crimes;
- 14) Recommending institution and capacity-building and their harmonization against terrorism and other transnational crimes;
- 15) Undertaking joint public diplomacy to counter terrorists' propaganda;
- 16) Recommending the deployment of more law enforcement agents in their respective territories identified as entry and exit points for illegal activities;
- 17) Exchanging information regarding fake or forged documents;
- 18) Increasing public awareness on trafficking in persons by, among others, undertaking a study on this issue in the region; and
- 19) Recommending the creation of a built-in early warning system to counter trafficking in persons.