

April 28, 2000

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES AND THE GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC
OF CHINA FOR THE TRANSFER OF SENTENCED PERSONS**

The Government of the Republic, of the Philippines and the Government of the Hong Kong Special Administrative Region of the People's Republic of China having been duly authorised to conclude this agreement by the Central People's Government of the People's Republic of China,

Desiring to co-operate in the transfer of sentenced persons to facilitate their reintegration into society,

Have agreed as follows-

**ARTICLE 1
DEFINITIONS**

For the purposes of this Agreement

- (a) 'transferring Party' means the Party from whose jurisdiction the sentenced person may be, or has been, transferred;
- (b) 'receiving Party' means the Party to whose jurisdiction the sentenced person may be, or has been, transferred;
- (c) 'sentenced person' means any person who has been sentenced by a court in the jurisdiction of the transferring Party;
- (d) 'sentence' means any punishment or measure involving deprivation of liberty ordered by a court in the course of the exercise of its criminal jurisdiction.

**ARTICLE 2
GENERAL PRINCIPLES**

A sentenced person may be transferred from the jurisdiction of the transferring Party to the jurisdiction of the receiving Party in accordance with the provisions of this Agreement in order to serve the sentence imposed on him.

**ARTICLE 3
CENTRAL AUTHORITIES**

- (1) Each Party shall establish a Central Authority.
- (2) The Central Authority for the Republic of the Philippines shall be the Secretary of Justice or a person designated by the Secretary of Justice. The Central Authority for the Hong Kong Special Administrative Region shall be the Secretary for Justice or an officer authorised by the Secretary for Justice. Either Party may change its Central Authority in which case it shall notify the other of the change.
- (3) Requests for transfer shall be conveyed through the Central Authority as may be notified from time to time by one Party to the other.

(4) The Central Authorities shall process requests for transfer in accordance with the provisions of this Agreement.

ARTICLE 4

CONDITIONS FOR TRANSFER

A sentenced person may be transferred only on the following conditions:

- (a) the conduct on account of which the sentence has been imposed would constitute a criminal offence according to the law of the receiving Party if it had been committed within the jurisdiction of its courts;
- (b) where the Republic of the Philippines is the receiving Party the sentenced person is a citizen of the Philippines;
- (c) where the Hong Kong Special Administrative Region is the receiving Party the sentenced person is a permanent resident of, or has close ties with the Hong Kong Special Administrative Region;
- (d) the sentence imposed on the sentenced person is for a period of 3 years or more of which at least one year remains to be served at the time of the request for transfer;
- (e) the judgment is final and no further proceedings relating to the offence or any other offence are pending in the transferring Party;
- (f) the transferring and receiving- Parties and the sentenced person all agree to the transfer, provided that where either Party considers it necessary, the sentenced person's consent may be given, by a person entitled to act on his behalf.

ARTICLE 5

PROCEDURE FOR TRANSFER

(1) The Parties shall inform sentenced persons of their right to transfer under this Agreement.

(2) A request for transfer may be made by the transferring Party or the receiving Party to the other Party. If the sentenced person wishes to be transferred, he may express such a wish to the transferring Party or the receiving Party, which shall consider such an expressed wish against the criteria set out in Article 4 before deciding whether to request a transfer.

(3) Subject to the provisions of paragraph (1) of Article; 8 the transferring Party shall provide the receiving Party with the following information in any request for transfer:

- (a) the facts upon which the conviction and sentence were based and the text of the legal provisions creating the offence;
- (b) the duration of the sentence and the length of time already served by the sentenced person and any remissions to which he is entitled on account of work done, good behaviour, pre-trial confinement or other reasons;
- (c) proof of the conviction and sentence;