

**TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS
BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE UNITED
STATES OF AMERICA**

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**TREATY BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE
PHILIPPINES AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

The Government of the Republic of the Philippines and the Government of the United States of America,

Desiring to provide for more effective cooperation between the two States in the prevention, investigation, and prosecution of crimes, such as public corruption and narcotics trafficking; and

Desiring to improve coordination and mutual assistance in criminal matters in general;

Have agreed as follows:

**ARTICLE 1
SCOPE OF ASSISTANCE**

1. The Contracting Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the prevention, investigation, and prosecution of criminal offenses, and in proceedings related to criminal matters.

2. Assistance shall include:

- (a) taking the testimony or statements of persons;
- (b) providing documents, records, and items of evidence;
- (c) serving documents;
- (d) locating or identifying persons or items;
- (e) transferring persons in custody for testimony or other purposes;
- (f) executing requests for searches and seizures;
- (g) assisting in proceedings related to forfeiture of assets, restitution, and collection of fines; and
- (h) any other form of assistance not prohibited by the laws of the Requested State.

2. Assistance shall be provided without regard to whether the conduct which is the subject of the investigation, prosecution, or proceeding in the Requesting State would constitute an offense under the laws of the Requested State.

3. This Treaty is intended solely for mutual legal assistance between the Parties. The provisions of this Treaty shall not give rise to a right on the part of any private

person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

ARTICLE 2 CENTRAL AUTHORITIES

1. Each Contracting Party shall designate a Central Authority to make and receive requests pursuant to this Treaty.
2. For the Republic of the Philippines, the Central Authority shall be the Secretary of Justice or a person designated by the Secretary of Justice. For the United States of America, the Central Authority shall be the Attorney General or a person designated by the Attorney General.
3. The Central Authorities shall communicate directly with one another, or through the diplomatic channel, for the purposes of this Treaty.

ARTICLE 3 LIMITATIONS ON ASSISTANCE

1. The Central Authority of the Requested State may deny assistance if:
 - (a) the request relates to a political offense;
 - (b) the request relates to an offense under military law which would not be an offense under ordinary criminal law;
 - (c) the execution of the request would prejudice its security or similar essential interests; or
 - (d) the request is not made in conformity with the Treaty.
2. Before denying assistance pursuant to this Article, the Central Authority of the Requested State shall consult with the Central Authority of the Requesting State to consider whether assistance can be given subject to such conditions as it deems necessary. If the Requesting State accepts assistance subject to these conditions, it shall comply with the conditions.
3. If the Central- Authority of the Requested State denies assistance pursuant to this Article, it shall inform the Central Authority of the Requesting State of the reasons for the denial.

ARTICLE 4 FORM AND CONTENT OF REQUESTS

1. A request for assistance shall be in writing except that the Central Authority of the Requested State may accept a request in another form in emergency situations. In the latter case, the request shall be confirmed in writing within ten days thereafter unless the Central Authority of the Requested State agrees otherwise. All requests and all documents accompanying the request shall be in the English language, unless otherwise agreed.
2. The request shall include the following:
 - (a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;

(b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including the specific criminal offenses which relate to the matter;

(c) a description of the evidence, information, or other assistance sought; and

(d) a statement of the purpose for which the evidence, information, or other assistance is sought.

2. To the extent necessary and possible, a request shall also include:

(a) information on the identity and location of any person from whom evidence is sought;

(b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;

(c) information on the identity and whereabouts of a person to be located;

(d) a precise description of the place or person to be searched and of the articles to be seized;

(e) a description of the manner in which any testimony or statement is to be taken and recorded;

(f) a list of questions to be asked of a witness;

(g) a description of any particular procedure to be followed in executing the request;

(h) information as to the allowances and expenses to which a person asked to appear in the Requesting State will be entitled;

(i) a description of any property sought to be restrained, frozen, or forfeited; and

(j) any other information which may be brought to the attention of the Requested State to facilitate its execution of the request.

ARTICLE 5 EXECUTION OF REQUESTS

1. The Central Authority of the Requested State shall promptly execute the request or, when appropriate, transmit it to the authority having jurisdiction to do so. The competent authorities of the Requested State shall do everything in their power to execute the request. The courts or other competent authorities of the Requested State shall have authority to issue subpoenas or other orders necessary to execute the request.

2. The Central Authority of the Requested State shall make all necessary arrangements for and meet the costs of the representation in the Requested State of the Requesting State in any proceedings arising out of a request for assistance.

3. Requests shall be executed in accordance with the laws of the Requested State except to the extent that this Treaty provides otherwise. However, the method of execution specified in the request shall be followed except insofar as it is prohibited by the laws of the Requested State.

4. If the Central Authority of the Requested State determines that execution of a request would interfere with an ongoing criminal investigation, prosecution, or proceeding in that State, it may postpone execution, or it may make execution subject to conditions determined necessary after consultations with the Central Authority of the Requesting State. If the Requesting State accepts the assistance subject to the conditions, it shall comply with the conditions.

5. The Requested State shall use its best efforts to keep confidential a request and its contents if such confidentiality is requested by the Central Authority of the Requesting State. If the request cannot be executed without breaching the requested confidentiality, the Central Authority of the Requested State shall so inform the Central Authority of the Requesting State, which shall then determine whether the request should nevertheless be executed.

6. The Central Authority of the Requested State shall respond to reasonable inquiries by the Central Authority of the Requesting State concerning progress toward execution of the request.

7. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the outcome of the execution of the request. If the request is denied, the Central Authority of the Requested State shall inform in writing the Central Authority of the Requesting State of the reasons for the denial.

ARTICLE 6 COSTS

The Requested State shall pay all costs relating to the execution of the request, except for the fees of expert witnesses, the costs of translation, interpretation, and transcription, and the allowances and expenses related to travel of persons pursuant to Articles 10 and 11, which fees, allowances, and expenses shall be paid by the Requesting State.

ARTICLE 7 LIMITATIONS ON USE

1. The Central Authority of the Requested State may request that the Requesting State not use any information or evidence obtained under this Treaty in any investigation, prosecution, or proceeding other than that described in the request without the prior consent of the Central Authority of the Requested State. In such cases, the Requesting State shall comply with the conditions.

2. The Central Authority of the Requested State may request that the information or evidence furnished under this treaty be kept confidential or be used only subject to terms and conditions it may specify. If the Requesting State accepts the information or evidence subject to such conditions, the Requesting State shall use its best efforts to comply with the conditions.

3. Information or evidence which has been made public in the Requesting State in accordance with paragraph 1 or 2 of this Article may thereafter be used for any purpose.