

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE LIAISON OFFICE OF THE REPUBLIC OF
SOUTH AFRICA IN TAIPEI**

AND

**THE TAIPEI LIAISON OFFICE IN THE
REPUBLIC OF SOUTH AFRICA**

ON POLICE COOPERATION

PREAMBLE

The Liaison Office of the Republic of South Africa in Taipei and the Taipei Liaison Office in the Republic of South Africa (hereinafter jointly referred to as the "Parties" and separately as a "Party");

WISHING to ensure and promote mutual assistance between law enforcement authorities;

BEING concerned about crime, especially in its organized forms;

MOTIVATED by the desire to make an active contribution in combating criminal activity in all its forms;

HEREBY reach the following understandings:

Article 1

COMPETENT AUTHORITIES AND COOPERATION

- (1) The competent authorities responsible for the implementation of this Memorandum of Understanding will be -
 - (a) in the case of the South African authorities, the South African Police Service; and
 - (b) in the case of the authorities of Taiwan, the National Police Administration.

- (2) The competent authorities will use their best efforts to cooperate in accordance with the provisions of this Memorandum of Understanding, acting under their jurisdiction and subject to the domestic law applicable to the Parties.

Article 2

AREAS OF COOPERATION

- (1) The competent authorities will cooperate in preventing, detecting, suppressing and investigating crime, including, but not limited to -
- (a) corruption and organized crime;
 - (b) illicit trafficking in firearms, ammunition, explosives and poisonous substances, including radioactive materials;
 - (c) the illicit production of and traffic in narcotic drugs and psychotropic substances, including those materials which are used in their production;
 - (d) economic crimes, including money laundering;
 - (e) the production and sale of forged banknotes, securities and other fraudulent documents;
 - (f) trafficking in stolen goods; and
 - (g) trafficking in persons.

- (2) The competent authorities will also cooperate in the area of training of personnel.
- (3) This Memorandum of Understanding does not apply to extradition and mutual legal assistance in criminal matters.

Article 3

MANNER OF COOPERATION

In order to give effect to the provisions of Article 2, cooperation between the competent authorities is to take place in the following manner:

- (a) The exchange of information of interest relating to crimes which are being planned or have been committed and to persons and organizations involved in these crimes;
- (b) the execution of requests as contemplated in Article 5;
- (c) the search for persons who are evading criminal prosecution or execution of a sentence and also for persons who are reported missing;
- (d) the exchange of information, including operational and forensic information, relating to narcotic drugs and psychotropic substances, technology relating to their production and the materials which were used, as well as new methods of examination and identification of narcotic drugs and psychotropic substances;

- (e) the exchange of samples of drugs, psychotropic substances and substances used to make them;
- (f) the exchange of working experience;
- (g) the exchange of legislation;
- (h) the exchange, on a mutually beneficial basis, of scientific and technical literature and data related to the functions of the competent authorities.

Article 4

DEVELOPMENT OF COOPERATION

With due regard to the provisions of Article 2, this Memorandum of Understanding does not preclude the competent authorities from determining and developing other areas and forms of cooperation.

Article 5

REQUESTS FOR ASSISTANCE

- (1) Cooperation within the framework of this Memorandum of Understanding is to take place on the basis of requests for assistance from the interested competent authority or on the initiative of the competent authority which deems such assistance to be of interest to the other competent authority.

- (2) Requests for assistance will be made in writing. In cases of emergency, requests may be made orally, but will be confirmed in writing within seven days.
- (3) Should there be any doubt about the authenticity or the content of the request, further confirmation may be requested.
- (4) Requests for assistance will contain -
 - (a) the name of the agency of the competent authority which applies for assistance and the name of the agency of the competent authority to which application has been made for assistance;
 - (b) details of the case;
 - (c) the purpose of and grounds for the request;
 - (d) a description of the assistance requested; and
 - (e) any other information which may assist in the effective execution of the request.
- (5) Requests for assistance will be signed by the head of the competent authority or its delegate.

Article 6**REFUSAL OF ASSISTANCE**

- (1) Assistance within this Memorandum of Understanding may be refused wholly or partially, if the requested competent authority deems the execution of the request to be detrimental to the security, public order or other essential interests of the jurisdiction represented by it, or deems it to be in conflict with the domestic law or international obligations applicable to the relevant Party.
- (2) Assistance may be refused by the requested competent authority if the act in relation to which the request was forwarded is not punishable under the domestic law applicable to the relevant Party.
- (3) Assistance may also be refused if execution of the request imposes an excessive burden on the resources of the requested competent authority.
- (4) Should it be possible, the requested competent authority will, before taking a decision to refuse the assistance requested in accordance with subArticles (1) and (2), consult with the requesting competent authority in order to establish whether the assistance may be granted on the conditions which the requested competent authority may impose. If the requesting competent authority agrees to receive assistance under the suggested conditions, it will comply with these conditions.
- (5) The requesting competent authority will be notified in writing about

full or partial refusal to execute the request together with an explanation of the reasons for such refusal.

Article 7

EXECUTION OF REQUESTS

- (1) The requested competent authority will take all necessary measures to ensure the prompt and full execution of requests.
- (2) The requesting competent authority will be notified immediately of any circumstances hampering the execution of the request or causing considerable delay in its execution.
- (3) If the execution of the request does not fall within the competence of the requested competent authority, it will immediately notify the requesting competent authority accordingly.
- (4) The requested competent authority may request such further information as it deems necessary to duly execute the request.
- (5) If the requested competent authority considers that the immediate execution of the request may hamper criminal prosecution, other proceedings or investigations being carried out in its country, it may suspend the execution of the request or allow the execution under conditions which were set as necessary after consultations with the requesting competent authority. If the requesting competent authority agrees to receive assistance under the suggested conditions, it will comply with these conditions.

- (6) On receipt of the application made by the requesting competent authority, the requested competent authority will take all necessary measures to ensure the confidentiality of the fact that the request was made, its contents and annexed documents, as well as the fact of providing assistance. If it is not possible to execute the request without preserving its confidentiality, the requested competent authority will inform the requesting competent authority accordingly, after which the latter may decide as to whether it will be acceptable to execute the request under such conditions.
- (7) The requested competent authority will, at its earliest convenience, inform the requesting competent authority about the results of the execution of the request.

Article 8

LIMITATIONS RELATING TO THE USE OF INFORMATION, DOCUMENTS AND PERSONAL DATA

- (1) Each competent authority will ensure the confidentiality of information, documents and personal data received from the other competent authority, if they are restricted or the latter competent authority disapproves of its disclosure. The degree of such a restriction is to be determined by the providing competent authority.
- (2) Information, documents and personal data received in accordance with this Memorandum of Understanding are not to be used without the consent of the providing competent authority for purposes other

than those for which they were requested and provided.

- (3) In order to share information, documents and personal data received by a competent authority in accordance with this Memorandum of Understanding with a third party, the prior consent of the providing competent authority is required.

Article 9

EXPENSES

Ordinary expenses incurred in processing a request in terms of this Memorandum of Understanding will be borne by the requested Party, unless otherwise agreed upon by the Parties. Should the request involve high or extraordinary expenses, the Parties will consult each other in order to establish the terms and conditions under which the request is to be processed, and the way in which the expenses are to be borne.

Article 10

LANGUAGE

The competent authorities, in the course of their cooperation in accordance with this Memorandum of Understanding, will use English as the medium of communication.

Article 11

MEETINGS AND CONSULTATIONS

The representatives of the competent authorities will, when necessary, have meetings and consultations with a view to discussing and improving cooperation in accordance with this Memorandum of Understanding.

Article 12

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation or implementation of this Memorandum of Understanding will be settled amicably through consultation or negotiation between the Parties.

Article 13

ENTRY INTO FORCE, TERMINATION AND AMENDMENT

- (1) This Memorandum of Understanding will enter into effect on the date of signature thereof.
- (2) This Memorandum of Understanding will remain in effect until terminated by either Party giving six months written notification in advance to the other Party of its intention to terminate it.
- (3) This Memorandum of Understanding may be amended by mutual consultation between the Parties.

IN WITNESS WHEREOF the undersigned, have signed this Memorandum of Understanding in two originals in the English and Chinese languages. In case of divergence between the texts, the English text will prevail.

Done at *Pretoria* on this *21st* day of *February* in this year 2003.

B. van der ...

FOR THE LIAISON OFFICE OF
THE REPUBLIC OF SOUTH
AFRICA IN TAIPEI

[Signature]

FOR THE TAIPEI LIAISON
OFFICE IN THE REPUBLIC OF
SOUTH AFRICA