

駐南非共和國台北聯絡代表處

與

駐台北南非聯絡辦事處

間

警政合作瞭解備忘錄

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駐南非共和國台北聯絡代表處

與駐台北南非聯絡辦事處

(以下合稱“締約雙方”，分稱“締約一方”)

●至盼確保及促進兩國執法機關間之互助合作

●關切犯罪問題，特別是組織犯罪

●期能積極促進打擊各種形態之犯罪

達成以下所列共識：

第一條

權責機關

1、締約雙方執行本備忘錄之權責機關：

(1) 在台灣之主管單位為警政署。(註：隸屬內政部)

(2) 在南非之主管單位為南非警政署。(註：隸屬南非公共安全部)

2、締約雙方權責機關，基於其職權範圍內及現行國內法規範，應依據本備忘錄各項條款致力進行合作。

第二條

合作之範圍

1、締約雙方權責機關將合作預防、偵查、打擊及調查下列(但

不限於) 犯罪：

- (a) 貪瀆及組織犯罪。
 - (b) 非法買賣槍枝、彈藥、爆裂及有毒物質，包含放射性物品。
 - (c) 非法製造及買賣麻醉性及精神奮進性物品，包含其製造原料。
 - (d) 經濟犯罪，包含洗錢。
 - (e) 製造及販賣偽造鈔票、證券及其他文件證明。
 - (f) 買賣贓物。
 - (g) 販賣人口。
- 2、締約雙方亦將在人員訓練方面進行合作。
- 3、本備忘錄將不適用於引渡及刑事司法互助事項。

第三條

合作之方式

為有效執行第二條所規定之合作事項，締約雙方將依下列方式進行合作：

- (a) 交換犯罪情資，包括正在預備中或已進行之犯罪，以及涉及該犯罪之人士與組織。
- (b) 執行第五條所規定之請求事項。
- (c) 協助追查逃避刑事追訴及刑期執行之人士及失蹤人口之行蹤。
- (d) 交換實務及法醫學上，有關麻醉性及精神奮進物品之製

製造技術、使用原料，以及最新之檢驗及辨識方法等情資。

- (e) 交換毒品、精神奮進物品及毒品原料等樣品。
- (f) 交換工作經驗。
- (g) 交換立法。
- (h) 基於互惠之原則，交換科學及技術性之文獻，以及有關雙方權責機關運作之資料。

第四條

合作之發展

在充分顧及第二條規定情形下，本備忘錄不排除締約雙方權責單位決定及發展其他合作範圍及形式。

第五條

請求協助之提出

- 1、締約雙方在本備忘錄架構下之所從事之合作，係基於一方有關權責單位提出請求或一方權責單位認為將有利對方權責單位而主動進行協助。
- 2、請求協助須以書面提出，但在緊急情形下，亦得先以口頭提出，惟應於七日內以書面確認。

- 3、如對請求函內容之真偽或內容有所懷疑時，得要求進一步確認。
- 4、請求協助應包括以下事項：
 - (1) 請求方及受請求方之權責單位機關名稱。
 - (2) 案情細節。
 - (3) 請求之目的及理由。
 - (4) 請求協助事項之敘述。
 - (5) 有助於有效執行該請求之其他相關情資。
- 5、請求函須由請求方權責單位之機關首長或其指定之代理人簽署。

第六條

請求之拒絕

- 1、在本備忘錄範圍內之請求，受請求方權責單位如認為執行該請求將有危害該國之國家安全、公共秩序、管轄內重大權益；或是違反該國有關國內法或國際義務時，將可全部或局部拒絕。
- 2、請求方所提出之請求協助調查行為，如依受請求方國內法之規定不構成犯罪者，受請求方權責單位得拒絕其請求。
- 3、執行請求將造成受請求方權責單位人力及物力之過度負擔時，得拒絕其之請求。
- 4、如有可能，受請求方權責單位依據本條第一項及第二項規定決定拒絕請求前，應事先與請求方權責單位磋商，以確

定是否可在受請求方權責單位附帶條件下給予協助。如請求方權責單位同意在所提議之附帶條件下接受協助，則其將必須遵守該等附帶條件。

- 5、請求方權責單位應獲得全部或部分拒絕執行請求之書面通知，以及拒絕之理由說明。

第七條

請求之執行

- 1、受請求方權責單位應採取必要之措施，以確保迅速及完全的執行請求。
- 2、如遇有任何阻礙順利執行請求或造成嚴重延遲之狀況時，請求方權責單位應立即獲得通知。
- 3、如遇執行請求不屬於受請求方權責單位之權限範圍之情形時，應立即通知請求方。
- 4、受請求方權責單位認為適切執行請求所需，得要求提供進一步有關情資。
- 5、受請求方權責單位如認為立即執行請求，將有妨礙該國進行中之刑事追訴、其他程序或偵查之情形時，得暫停執行該請求；或與請求方權責單位磋商後，在附帶必要條件下進行；如請求方權責單位同意在所提議之條件下接受協助，則其必須遵守該等條件。
- 6、當接獲請求方權責單位之請求後，受請求方應採取必要之措施以確保請求業經提出之事實、其內容、所附之相關文

件及請求提供協助之事實等事項機密性；如執行該請求將無法維護其機密性時，受請求方權責單位應即通知請求方權責單位，後者應決定是否同意在此種情況下接受協助。

- 7、受請求方權責單位應儘速將執行請求之結果通知請求方權責單位。

第八條

使用情資、文件及個人資料之限制

- 1、締約一方權責單位應確保維護他方權責單位所提供之情資、文件或個人資料之機密性，如該等資料之使用有所限制或提供方不同意將其公佈。該等資料之使用限制等級將由提供機關決定。
- 2、依本備忘錄所獲得之情資、文件或個人資料使用在其受請求及提供目的之外他用途時，應事先取得提供方權責單位之同意。
- 3、締約一方權責單位如欲將依本備忘錄所獲得之情資、文件或個人資料與第三者分享時，應事先取得提供方權責單位之同意。

第九條

費用

依據本備忘錄處理對方請求時所產生之一般費用，除雙方另有議定外，應由受請求方負擔；但如所欲執行之請求將涉及巨額或額外之費用時，締約雙方應先進行磋商，以確認執行請求之條件，以及如何負擔經費。

第十條

使用語文

締約雙方權責單位依據本備忘錄進行合作時，將以英文作為雙方溝通工具。

第十一條

會議及諮商

締約雙方權責單位之代表於必要時，應舉行會議及進行諮商，以期商討及改善依據本備忘錄進行之合作。

第十二條

爭議之解決

如遇詮釋或履行本備忘錄產生爭議時，締約雙方應透過諮商或談判予以友善解決。

第十三條

生效、終止及修正

- 1、本瞭解備忘錄自雙方簽署之日起生效。
- 2、本瞭解備忘錄將繼續有效，惟任一方得於六個月前書面通知另一方終止本瞭解備忘錄。
- 3、雙方得經相互協商修正本瞭解備忘錄。

為此，締約雙方爰於本備忘錄簽署，以昭信守。本備忘錄以中文及英文各繕兩份，如遇中文本與英文本內容有不合致時，以英文本作準。

西元二〇〇三年二月二十一日訂於南非普勒多利亞

駐南非共和國台北聯絡代表處代表

杜 稜

駐台北南非聯絡辦事處代表

Brune

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE TAIPEI LIAISON OFFICE IN THE
REPUBLIC OF SOUTH AFRICA

AND

THE LIAISON OFFICE OF THE REPUBLIC OF
SOUTH AFRICA IN TAIPEI

ON POLICE COOPERATION

PREAMBLE

The Taipei Liaison Office in the Republic of South Africa and the Liaison Office of the Republic of South Africa in Taipei (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 authorities of Taiwan, the National Police Administration; and
 - (b) in the case of the South African authorities, the South African Police Service.

- (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 Chinese and English 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.



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FOR THE TAIPEI LIAISON
OFFICE IN THE REPUBLIC OF
SOUTH AFRICA



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

