

MALACAÑANG
MANILA

INSTRUMENT OF RATIFICATION

TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

KNOW YE, that whereas, the Treaty between the Republic of the Philippines and the People's Republic of China Concerning Mutual Legal Assistance in Criminal Matters was signed on 16 October 2000 in Beijing;

WHEREAS, the Treaty, consisting of twenty-four (24) articles, aims to improve cooperation between the two countries in respect of Mutual Legal Assistance in Criminal Matters on the basis of mutual respect for sovereignty and equality and mutual benefit;

WHEREAS, the Treaty states that the Parties shall provide, in accordance with its provisions, mutual assistance in the investigation and prosecution of criminal offenses and in proceedings related to criminal matters;

WHEREAS, the Treaty also provides that it will not apply to: (a) the extradition of any person, and (b) the execution of criminal judgments, verdicts or decisions rendered in the Requesting Party except to the extent permitted by the laws of the Requested Party except to the extent permitted by the laws of the Requested Party and the Treaty;

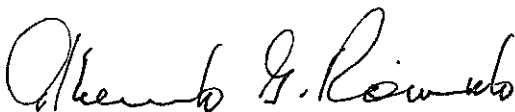
WHEREAS, Article 24 of the Treaty provides that it shall enter into force on the thirtieth that after the date of exchange of instruments of ratification;

NOW, THEREFORE, be it known that I, **BENIGNO S. AQUINO III**, President of the Philippines, after having seen and considered the Treaty between the Republic of the Philippines and the People's Republic of China Concerning Mutual Legal Assistance in Criminal Matters, do hereby ratify and confirm the same and each and every Paragraph and Clause thereof.

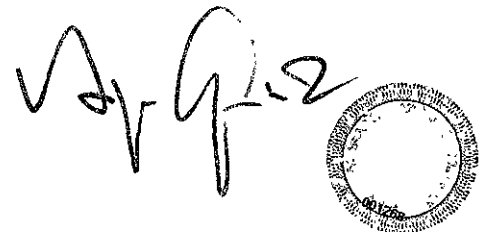
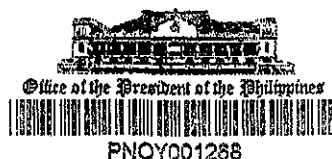
IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

GIVEN under my hand at the City of Manila, this 23 day of December in the year of our Lord two thousand and ten.

BY THE PRESIDENT:



ALBERTO G. ROMULO
Secretary of Foreign Affairs



TREATY BETWEEN
THE REPUBLIC OF THE PHILIPPINES
AND
THE PEOPLE'S REPUBLIC OF CHINA
CONCERNING
MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Republic of the Philippines and the People's Republic of China, hereinafter referred to as "The Parties";

With a view to improving the effective cooperation between the two countries in respect of mutual legal assistance in criminal matters on the basis of mutual respect for sovereignty and equality and mutual benefit,

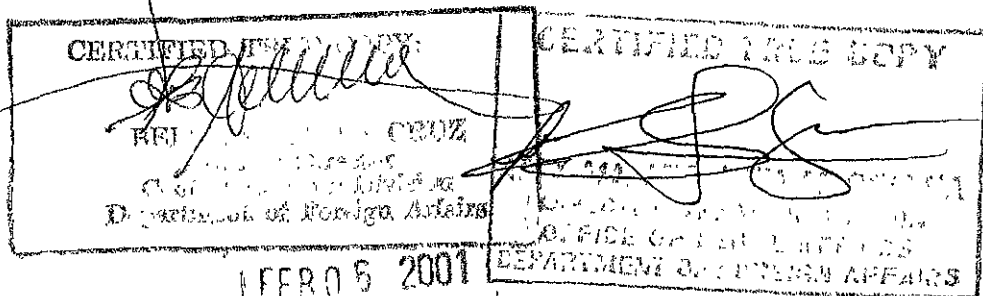
Have agreed as follows:

ARTICLE 1
Scope of Assistance

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

2. Assistance shall include:

- (a) serving documents;
- (b) identifying and locating persons;
- (c) obtaining evidence, articles or documents;
- (d) taking testimonies or statements from persons;
- (e) executing requests for search and seizure;
- (f) facilitating the personal appearance of witnesses;
- (g) effecting the temporary transfer of persons in custody to appear as witnesses;
- (h) obtaining originals or copies of judicial or official records;
- (i) tracing, restraining, forfeiting and confiscating the proceeds and instrumentalities of criminal activities, including restraining of



dealings in property or the freezing of assets alleged to be related to a criminal matter;

(j) providing and exchanging information on law, documents and records;

(k) lending of exhibits;

(l) obtaining and providing expert evaluations;

(m) conducting judicial inspections or examining sites or objects;

(n) notifying results of criminal proceedings and supplying criminal records; and

(o) other forms of assistance consistent with the objects of this Treaty which are not inconsistent with the laws of the Requested Party.

3. This Treaty does not apply to:

(a) the extradition of any person; and

(b) the execution of criminal judgments, verdicts or decisions rendered in the Requesting Party except to the extent permitted by the laws of the Requested Party and this Treaty.

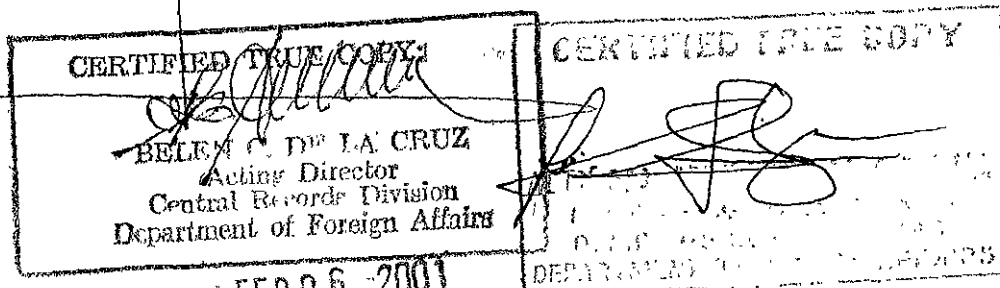
4. This Treaty is intended solely for mutual assistance between the Parties. The provisions of this Treaty shall not give rise to any right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request.

ARTICLE 2 Central Authorities

1. For the purpose of this Treaty, the Central Authorities designated by the Parties shall communicate directly with each other.

2. The Central Authority for the Republic of the Philippines shall be the Department of Justice. The Central Authority for the People's Republic of China shall be the Ministry of Justice.

3. Should either Party change its designated Central Authority, it shall inform the other Party of such change through diplomatic channels.



ARTICLE 3
Refusal or Postponement of Assistance

1. The Requested Party may refuse to provide assistance if:

(a) the request relates to conduct which would not constitute an offense under the laws of the Requested Party;

(b) the request is considered by the Requested Party as relating to a political offense;

(c) the request relates to an offense which is a purely military offense;

(d) there are substantial grounds for the Requested Party to believe that the request has been made for the purpose of investigation, prosecution, imposition of punishment or other proceedings against a person on account of that person's race, sex, religion, nationality or political opinions, or that that person's position may be prejudiced for any of those reasons;

(e) the Requested Party is conducting or has terminated criminal proceedings or has already rendered a final judgment against the same suspect or accused for the same offense as related to in the request;

(f) the Requested Party considers that the assistance requested lacks substantial connection with the case;

(g) the Requested Party determines that the execution of the request would impair its sovereignty, security, public order or other essential public interests, or would be contrary to the fundamental principles of its national laws;

(h) the request for assistance relates to the prosecution of a person who could no longer be prosecuted by reason of lapse of time or for any other reason if the offense had been committed within the jurisdiction of the Requested Party;

(i) the Requesting Party cannot comply with any conditions relating to confidentiality or limitation as to the use of material provided;

(j) the provision of the assistance sought could endanger the safety of any person or impose an excessive burden on the resources of the Requested Party.

2. The Requested Party may postpone to provide assistance if execution of a request would interfere with an ongoing investigation, prosecution or other proceedings in the Requested Party.

CERTIFIED TRUE COPY:
[Signature]
EILEEN C. DE LA CRUZ
Acting Director
Central Records Division
Department of Foreign Affairs

CERTIFIED TRUE COPY
[Signature]
OFFICE OF THE SECRETARY
DEPARTMENT OF FOREIGN AFFAIRS

3. Before refusing a request or postponing its execution, the Requested Party shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with them.

4. If the Requested Party refuses or postpones to provide assistance, it shall inform the Requesting Party of the reasons for the refusal or postponement.

ARTICLE 4
Form and Content of Requests

1. A request shall be made in writing and be affixed with the signature or seal of the Central Authority of the Requesting Party. In urgent situations, the Requested Party may accept a request in other forms and the Requesting Party shall confirm the request in writing promptly thereafter.

2. A request for assistance shall include the following:

(a) the name of the competent authority conducting the investigation, prosecution or other proceedings to which the request relates;

(b) a description of the nature of the relevant case, a summary of the relevant facts thereof and the provisions of laws applicable to the case to which the request relates;

(c) a description of the assistance sought and that of the purpose and relevance for which the assistance is sought; and

(d) the time limit within which the request is desired to be executed.

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

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

(b) information on the identity and residence of the person to be served and that person's relationship to the proceedings.

CERTIFIED TRUE COPY
[Signature]
BELYNDIA CRUZ
Director
Central Liaison Division
Department of Foreign Affairs
FEB 06 2001

CERTIFIED TRUE COPY
[Signature]
ATTY. MA. E.
DIRECTOR
OFFICE OF LEGAL ATTACHES
DEPARTMENT OF FOREIGN AFFAIRS

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

(d) description of the place or object to be inspected or examined;

(e) description of any particular procedure desirous to be followed in executing the request and reasons therefor;

(f) description of the place to be searched and of the property to be subject to inquiry, freezing and seizure;

(g) description of the need for confidentiality and the reasons therefor;

(h) information as to the allowances and expenses to which the person invited to be present in the Requesting Party to give evidence or assist in investigation will be entitled; and

(i) such other information which may facilitate execution of the request.

4. If the Requested Party considers the contents contained in the request not sufficient to enable it to deal with the request, it may request additional information.

5. Requests and supporting documents made under this Article shall be accompanied by a translation in the language of the Requested Party. Nevertheless, upon request, the above-mentioned requests and supporting documents may be in English.

ARTICLE 5
Execution of Requests

1. A request shall be promptly executed in accordance with the laws of the Requested Party and, to the extent not prohibited by the laws of the Requested Party, in accordance with the directions stated in the request insofar as practicable.

2. The Requested Party shall promptly inform the Requesting Party of the outcome of the execution of the request. If the assistance requested cannot be provided, the Requested Party shall inform the Requesting Party of the reasons.

CERTIFIED TRUE COPY:
[Signature]
BELEFANT DE LA CRUZ
Assistant Secretary
Central Security Division
Department of Foreign Affairs

CERTIFIED TRUE COPY
[Signature]
ATTY. GEN.
DIRECTOR
OFFICE OF LEGAL ATTACHES
DEPARTMENT OF FOREIGN AFFAIRS

FEB 06 2001

ARTICLE 6
Confidentiality and Limitation on Use

1. The Requested Party shall keep confidential a request, including its contents, supporting documents and any action taken in accordance with the request, if so requested by the Requesting Party. If the request cannot be executed without breaching such confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine whether the request should nevertheless be executed.

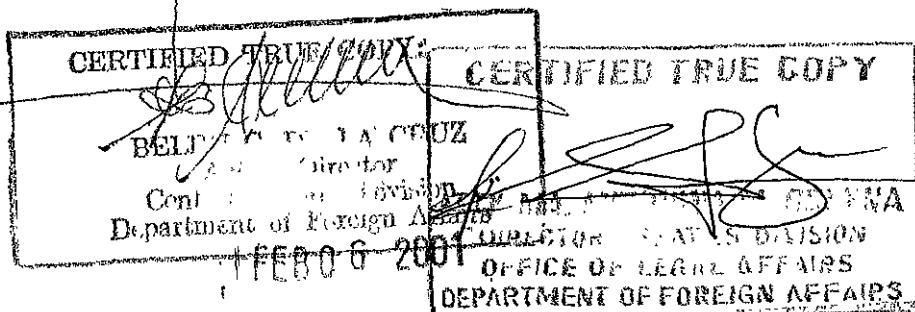
2. The Requesting Party shall keep confidential the information and evidence provided by the Requested Party, if so requested by the Requested Party, or shall use such information or evidence only under the terms and conditions specified by the Requested Party.

3. The Requesting Party shall not use any information or evidence obtained under this Treaty for any purposes other than for the case described in the request without the prior written consent of the Requested Party.

ARTICLE 7
Service of Documents

1. The Requested Party shall, in accordance with its national laws and upon request, effect service of documents that are transmitted by the Requesting Party. However, the Requested Party shall not be obligated to effect service of a document which requires a person to appear as the accused.

2. The Requested Party shall, after effecting service, provide the Requesting Party a proof of service that shall include the date, place, and means or mode of service, and be affixed with the signature or seal of the authority which served the document. If service cannot be effected, the Requesting Party shall be so informed and be advised of the reasons therefor.



ARTICLE 8
Taking of Evidence

1. The Requested Party shall, in accordance with its national laws and upon request, take evidence and transmit it to the Requesting Party.

2. When the request concerns the transmission of documents or records, the Requested Party may transmit certified copies or certified photocopies thereof. However, where the Requesting Party explicitly requires transmission of originals, the Requested Party shall meet such requirement to the extent possible.

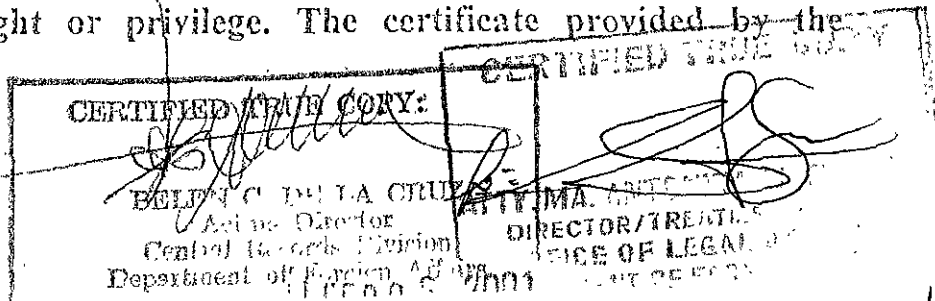
3. Insofar as not contrary to the laws of the Requested Party, the documents and other materials to be transmitted to the Requesting Party in accordance with this Article shall be certified in such forms as may be requested by the Requesting Party in order to make them admissible according to the laws of the Requesting Party.

4. Insofar as not contrary to the laws of the Requested Party, the Requested Party shall permit the presence of such persons as specified in the request during the execution of the request, and shall allow such persons to pose questions, through judicial personnel of the Requested Party, to the person from whom evidence is to be taken. For this purpose, the Requested Party shall promptly inform the Requesting Party of the time and place of the execution of the request.

ARTICLE 9
Refusal to Give Evidence

1. A person who is required to give evidence under this Treaty may refuse to give evidence if the laws of the Requested Party permit the person not to give evidence in similar circumstances in proceedings originated in the Requested Party.

2. If a person who is required to give evidence under this Treaty asserts a right or privilege of immunity from giving evidence under the laws of the Requesting Party, the Requested Party shall request the Requesting Party to provide a certificate containing the legal basis for invoking such right or privilege. The certificate provided by the



Requesting Party shall be regarded as conclusive evidence on the right or privilege unless there is convincing evidence otherwise.

ARTICLE 10
Availability of Persons
to Give Evidence or Assist in Investigation

1. When the Requesting Party requests the appearance of a person to give evidence or assist in investigation in the territory of the Requesting Party, the Requested Party shall invite the person to appear before the appropriate authority in the territory of the Requesting Party. The Requesting Party shall indicate the extent to which allowances and expenses will be paid to the person. The Requested Party shall promptly inform the Requesting Party of the person's response.

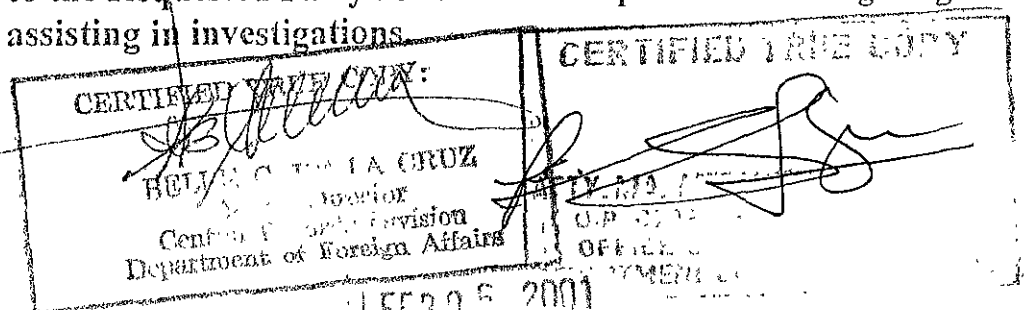
2. The Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the territory of the Requesting Party no less than sixty days before the scheduled appearance unless, in urgent cases, the Requested Party has agreed to a shorter period of time.

ARTICLE 11
Transfer of Persons in Custody
for Giving Evidence or Assisting in Investigations

1. The Requested Party may, at the request of the Requesting Party, temporarily transfer a person in custody in its territory to the Requesting Party for appearing before an authority to give evidence or assist in investigations, provided that the person so consents and the Parties have previously reached a written agreement on the conditions of the transfer.

2. If the person transferred is required to be kept in custody under the laws of the Requested Party, the Requesting Party shall hold that person in custody.

3. The Requesting Party shall promptly return the person transferred to the Requested Party as soon as that person finishes giving evidence or assisting in investigations.



4. For the purpose of this Article, the person transferred shall receive credit for service of the sentence imposed in the Requested Party for the period of time served in the custody of the Requesting Party.

ARTICLE 12

Protection of Witnesses and Experts

1. Any witness or expert present in the territory of the Requesting Party shall not be investigated, prosecuted, detained, punished or be subject to any other restriction of personal liberty by the Requesting Party for any acts or omissions which preceded that person's entry into its territory, nor shall that person be obliged to give evidence or to assist in any investigation, prosecution or other proceedings other than that to which the request relates, except with the prior consent of the Requested Party and that person.

2. Paragraph 1 of this Article shall cease to apply if the person referred to therein has stayed on in the territory of the Requesting Party fifteen days after that person has been officially notified that his/her presence is no longer required or, after having left, has voluntarily returned. But this period of time shall not include the time during which the person fails to leave the territory of the Requesting Party for reasons beyond his/her control.

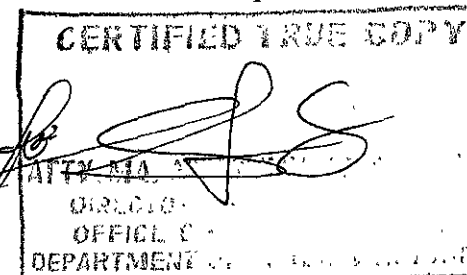
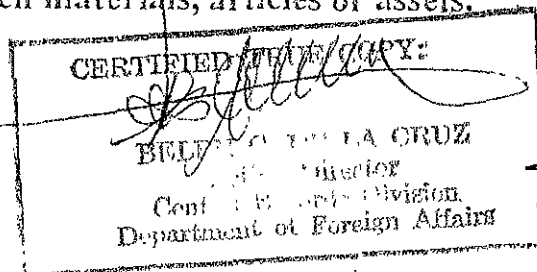
3. A person who refuses to give evidence or assist in investigations in accordance with Articles 10 or 11 shall not be subject to any penalty or mandatory restriction of personal liberty for such refusal.

ARTICLE 13

Search and Seizure

1. The Requested Party shall, to the extent its national law permits, execute a request for inquiry, examination, search, freezing and seizure of evidencial materials, articles and assets.

2. The Requested Party shall provide the Requesting Party with such information as requested concerning the results of executing the request, including information on the results of inquiry or search, the place and circumstances of freezing or seizure, and the subsequent custody of such materials, articles or assets.



11/10/01

3. The Requested Party may transmit the seized materials, articles or assets to the Requesting Party if the Requesting Party agrees to the terms and conditions for such transmission as proposed by the Requested Party.

ARTICLE 14

Return of Documents, Records and Articles of Evidence to the Requested Party

Upon the request of the Requested Party or when the originals of documents or records and articles of evidence provided under this Treaty are no longer needed, the Requesting Party shall return the above-mentioned originals and articles to the Requested Party as soon as possible.

ARTICLE 15

Forfeiture of Proceeds from Criminal Activities and Instruments of Crime

1. The Requested Party shall, upon request, endeavor to ascertain whether any proceeds from criminal activities or instruments of crime are deposited within its territory and shall notify the Requesting Party of the result of inquiries. In making the request, the Requesting Party shall state to the Requested Party the reasons for inferring that the proceeds or instruments may be deposited in the latter's territory.

2. Once the suspected proceeds or instruments of crime are found in accordance with paragraph 1 of this Article, the Requested Party shall, at the request of the Requesting Party, take measures to freeze, seize and forfeit such proceeds or instruments according to its national laws.

3. At the request of the Requesting Party, the Requested Party may, to the extent permitted by its national laws and under the terms and conditions agreed to by the Parties, transfer all or part of the proceeds or instruments of crime or the proceeds from the sale of such assets to the Requesting Party.

CERTIFIED TRUE COPY
 BELLA CRUZ LA CRUZ
 Director
 Central Records Division
 Department of Foreign Affairs
 1980 5
 CERTIFIED TRUE COPY
 DIRECTOR
 OFFICE OF
 DEPARTMENT OF

ARTICLE 16
Notification of Results of Proceedings
in Criminal Matters

The Requesting Party shall, upon request, inform the Requested Party of the results of criminal proceedings which were the subject of the Requesting Party's prior request under this Treaty.

ARTICLE 17
Criminal Records

Upon request, the Requested Party shall provide the Requesting Party with the past criminal records and information of sentences, if any, in the territory of the Requested Party, of any person subject to investigation or prosecution in the territory of the Requesting Party.

ARTICLE 18
Exchange of Information on Law

Upon request, the Parties shall furnish each other with the laws and judicial practices in their respective countries related to the implementation of this Treaty.

ARTICLE 19
Certification and Authentication of Documents

For the purpose of this Treaty, any documents transmitted in accordance with this Treaty shall not require any form of certification or authentication unless this Treaty otherwise provides.

ARTICLE 20
Expenses

1. The Requested Party shall meet the cost for executing the request, but the Requesting party shall bear the following:

(a) necessary and reasonable expenses for persons to travel to, stay in and leave from the Requested Party under Article 8 (4);

CERTIFIED TRUE COPY

[Signature]

BELEN DE LA CRUZ
Cent. ...
Depart ...

[Signature]
DIRECTOR ...
OFFICE OF ...
DEPARTMENT ...

(b) necessary and reasonable allowances or expenses for persons to travel to, stay in and leave from the Requesting Party under Articles 10 or 11 in accordance with the standards or regulations of the place where such allowances or expenses have been incurred;

(c) necessary and reasonable expenses and fees of experts; and

(d) expenses and fees of translation and interpretation.

2. The Requesting Party shall, upon request, pay in advance the expenses, allowances and fees it shall bear.

3. If it becomes apparent that the execution of a request requires expenses of an extraordinary nature, the Parties shall consult each other to determine the terms and conditions under which the request can be executed.

ARTICLE 21

Service of Documents and Taking of Evidence by Diplomatic or Consular Officials

Either Party may serve documents to and take evidence from its nationals in the territory of the other Party through its diplomatic or consular agents therein, provided that the laws of the other Party will not be violated and that no coercive measures of any kind will be taken.

ARTICLE 22

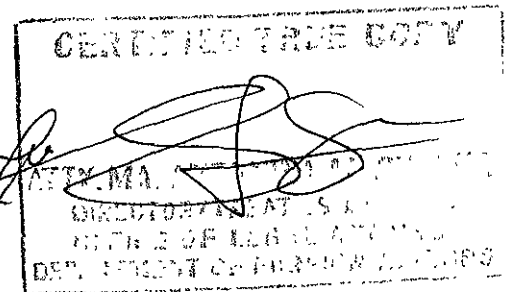
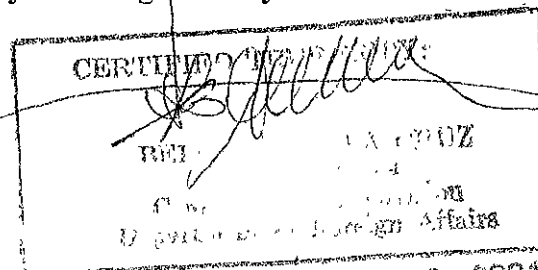
Other Basis for Cooperation

This Treaty shall not prevent either Party from providing assistance to the other Party according to other applicable international agreements or its national laws. The Parties may also provide assistance in accordance with any other arrangement, agreement, or practice which may be applicable.

ARTICLE 23

Consultation

The Parties, through their respective Central Authorities or diplomatic channels, shall consult promptly, at the request of either, concerning the interpretation, the application or the carrying out of the present Treaty either generally or in relation to a particular case.



Article 24
Entry into Force, Amendment and Termination

1. This Treaty is subject to ratification. The instruments of ratification shall be exchanged at Manila. This Treaty shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification.

2. This Treaty may be amended at any time by written agreement between the Parties.

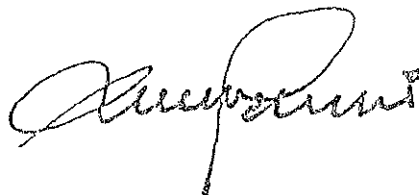
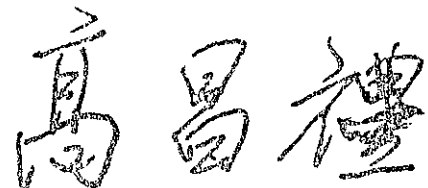
3. Either Party may terminate this Treaty at any time by notice in writing to the other Party through diplomatic channels. Termination shall take effect on the one hundred and eightieth day after the date on which the notice is given.

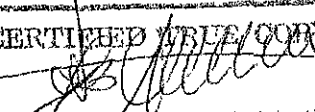
4. This Treaty applies to any requests presented after its entry into force even if the relevant acts or omissions occurred before this Treaty enters into force.

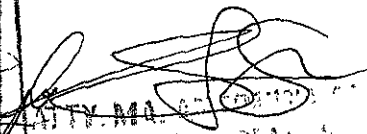
IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

DONE at Beijing on this 16th day of October (month) 2000 (year), in duplicate in English and Chinese, both texts being equally authentic.

For the Republic of the Philippines For the People's Republic of China

CERTIFIED TRUE COPY:

BELEN C. DE LA CRUZ
Acting Director
Central Records Division
Department of Foreign Affairs

CERTIFIED TRUE COPY

DIRECTOR GENERAL
OFFICE OF LEGAL ATTACH
DEPARTMENT OF FOREIGN AFFAIRS

FEB 06 2001