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Our Reference : CPIB/5.18.6
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Mr Masaki Sasaki
Director, UNAFEI
1-26, Harumi-Cho, Fuchu
Tokyo 183-0057
JAPAN

Dear Mr Sasaki,

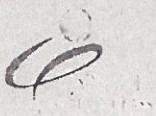
RECOVERY OF MARCOS ASSETS (PAPER BY DR JAIME S. BAUTISTA)

We refer to the above paper presented at the Third Regional Seminar on Good Governance for South East Asia Countries on "Measures to Freeze, Confiscate and Recover Proceeds of Corruption, including Prevention of Money-Laundering" co-hosted by UNAFEI, the Department of Justice of the Republic of Philippines and the UNODC Regional Centre for East Asia and the Pacific held in Manila in December 2009. The presentation was subsequently included in the related UNAFEI publication that was issued in October 2010. We had received a copy courtesy of the good office of UNAFEI in January 2011.

2 The presentation and paper contained several material inaccuracies which need to be addressed and rectified. Singapore ratified the UN Convention Against Corruption (UNCAC) on 6 November 2009.

3 With respect to the Marcos Funds case, that has been discussed at pages 72 to 79 of the Paper by Dr Bautista, Singapore would disagree with the arguments concerning this issue. In 2008, the Singapore Court of Appeal decided that the Philippines government could not rely on State Immunity to assert a claim over the relevant funds where there are other claimants, and that this should be more appropriately ascertained through a full hearing of all parties claiming the funds. The Singapore Court of Appeal also noted that the Philippines government has asked the Court to order that the funds be paid to it. This required the Singapore Court of Appeal to rule on the merits of the claim of the government of the Philippines. The Court of Appeal considered this as a submission to the Court's jurisdiction.

4. The Singapore Ministry of Foreign Affairs (MFA) explained to the Philippines authorities in 2008 that the Singapore Government was and is not in a position to dismiss any on-going matter before the Courts of Singapore. Any attempt to do so would constitute



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Executive interference with judicial proceedings and be contrary to our Constitution. For the same reasons, the Government of Singapore is also not in a position to intervene in the next step of proceedings before the High Court in relation to the substantive merits of the case of each claimant.

5. Singapore had previously explained to the Philippines authorities that although the Court of Appeal had decided that State Immunity does not apply in this instance, this decision does not preclude the Philippines government from presenting its arguments fully on the substantive aspect of the case in subsequent proceedings. The Singapore High Court has not yet made a final decision as to which party is the rightful owner of the funds as the matter is still being litigated by the claimants.

6. We also disagree with the contention in Dr Bautista's paper that the Singapore proceedings appear to run counter to the current trends on multi-lateral co-operation. With respect to the UNCAC, the Convention does not oblige State Parties to interfere in judicial proceedings which are underway. In fact, article 57(2) of the UNCAC requires, very clearly, that the rights of bona fide third parties must be taken into account in any proceedings relating to the recovery of assets. The current proceedings before the Singapore Courts are therefore in line with the provisions of Article 53(a) of the UNCAC, and in no way run counter to the current trends in multilateral co-operation.

7. We trust that we have explained and clarified Singapore's position in respect of the proceedings in the Singapore Courts on the recovery of Marcos assets and that Dr Bautista will be made aware of our position. We would also request that a copy of this letter be enclosed as an addendum to the Paper by Dr. Bautista, in future hard copy or electronic editions of UN publications reproducing Dr Bautista's Paper.

Thank you.

Yours faithfully,



Eric Tan
Director
Corrupt Practices Investigation Bureau
Singapore