

Memorandum on implementation of the 2005 China-WHO Taiwan MOU

IMPLEMENTATION OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE WHO SECRETARIAT AND CHINA

1. A Memorandum of Understanding Between the Ministry of Health of the People's Republic of China and the Secretariat of the World Health Organisation (MOU) was signed on 14 May 2005 by the Director-General and the Minister of Health of the PRC. The MOU establishes exceptional arrangements concerning (1) the participation of Taiwanese medical and public health experts in technical activities organized by the Secretariat, (2) the dispatch of staff members or experts to Taiwan, China to investigate the public health or epidemiological situation there; as well as (3) the provision of medical and public health technical assistance to Taiwan, China by the Secretariat.

2. The purpose of this memorandum is to set out clear procedures which the competent technical units both at Headquarters and in regional or country offices must follow in correctly implement the provisions of the MOU.

3. The following general points should be underscored at the outset: (i) the implementation of the MOU must take place with full respect for resolution WHA 25.1 (copy attached) and the consequent obligation for the Secretariat of refraining from action which could constitute a recognition of a separate status of Taiwanese authorities and institutions;

(ii) As explained in more detail below, requests under the MOU must in all cases be channelled through a Focal Point at Headquarters, who will interact with the Permanent Mission of China in Geneva as well as with DGO and LEG, as necessary. That also applies to requests arising in regional or country offices. The Director General, Department of Governance has appointed Dr B.P. Kean (e-mail: keanb@who.int; tel 791 364). Should Dr Kean be absent, Ms C. Rose-Oduycrni (e-mail: roseoduyernni@who.int; tel 791 2554) and Mr P. Mertens (e-mail: mertensp@who.int; tel 791 2554) from the same Department will be acting on his behalf;

(iii) Please refer to Paragraphs 19-22 below for general Instructions on dealing with the Taiwanese authorities on issues unrelated to the Memorandum.

4. The MOU addresses three broad areas, which will be revisited in turn: (a) Invitation of Taiwanese medical and public health experts to technical activities organized by the Secretariat; (b) Dispatch of staff members and experts to Taiwan, China, to investigate the health situation there and provision of medical and public health technical assistance, whether or not it entails dispatching WHO staff and experts to Taiwan, China; (c) Responses by the Secretariat in case of an acute public health emergency in Taiwan, China which can include any of the activities spelt out under a) and b) above. Invitation of Taiwanese and public health experts to technical activities organized by the Secretariat.

5. Invitations could either be generated by requests from Taiwanese experts or by competent technical unit in the Secretariat. Informal contacts between WHO technical staff and possible invitees (e.g. by e-mail or telephone) are allowed as long as it is made clear that they are only for the purpose of verifying their potential availability and interest and that those contacts do not imply a commitment on the part of the Secretariat. In either case, the participation of Taiwanese experts in WHO technical activities, involving

meetings and conferences, has to be justified by the particular expertise of the person or persons to be invited as well as the nature of the event. Initiations are to be considered on a case-by-case basis. The MOU would not allow, for example, the inclusion of Taiwanese experts in WHO expert advisory panels.

6. The following procedures shall be observed:

- Requests to invite Taiwanese medical and public health experts shall be sent by the competent technical unit to the Focal Point (see 3(ii) above) as early as possible, and no later than five weeks before the beginning of the technical activity or meeting in question, giving all necessary details about the meeting or activity concerned, the reason for wishing to invite specific experts, and full contact details of the latter;
- The requests should as a rule identify the individual experts to be invited, with an indication of their affiliation, expertise and contact address, as well as an explanation of why the invitation is considered necessary or appropriate by the technical unit. It is anticipated, however, that situations may exceptionally arise in which it is either not possible to initially identify specific persons, or it is only possible to identify a group of experts among whom the participants would be chosen;
- The Focal Point shall, in consultation with DGO and LEG as necessary, make an assessment of the requests received from a policy point of view and may seek additional information from the technical unit concerned. Should the request not appear justified, the Focal Point will inform the technical unit accordingly;
- Those requests which appear justified from both a technical and policy point of view are sent to the Permanent Mission of China in Geneva (the Chinese Mission) for transmission to the Ministry of Health (MOH). The technical unit should fill for this purpose the model note contained in Annex 1 (Annex 1 is available on the "PubDept" drive Legal-All Legal Team level, and can be provided by LEG electronically upon request.) and send it to the Focal Point together with its request. The Chinese Mission shall inform the Secretariat of the MOH's agreement or disagreement with the proposed invitation within two weeks from the receipt of the request from the Secretariat;
- After obtaining the agreement of the Chinese MOH, the technical unit may issue a written intimation to the Taiwanese experts, with a copy to the Chinese Mission and the Focal Point. The technical unit should use for this purpose the model letter contained in Annex 2 (Annex 2 is available on the "PubDept" drive; Legal-All Legal-Team level, and can be provided by LEG electronically upon request.), adapting it as necessary. Letters should be signed in principle by the responsible Director or Coordinator.
- As to the geographic expression to be included in the mailing address for any correspondence with invited Taiwanese experts, the use of "Republic of China" or "Taiwan" is not acceptable. At the same time, the use of expression "Taiwan, China" could possibly discourage the

participation of the invited experts. Consequently, technical units should only indicate the name of the city of the addressee, without indicating a "country" of destination, and invitations should as much as possible be sent by telefax to avoid problems with the regular mail. Any deviation from this practice should be cleared with the Focal Point;

7. Participation by Taiwanese medical and public health experts in technical activities is subject to the following conditions:

- The experts shall participate in their personal capacity. When designations are used (e.g. on conference badges or lists of participants), reference shall be made to "Taiwan, China";
- Only experts under the level of "director-general" in their respective institutions or agencies may be invited;
- The Secretariat shall request the experts in question not to engage in political activities during their participation. If they do not comply with this requirement, the, the Secretariat should request them to stop any activity of a political nature and, if necessary, shall terminate their participation in the technical activities.
- The technical unit concerned should make efforts to also invite medical and public health experts from mainland China when inviting Taiwanese experts.

Dispatch of staff members and experts for investigating the public health or epidemiological situation or provisions of medical and public health technical assistance to Taiwan, China

8. Under the MOU, the Secretariat may dispatch staff members and experts to Taiwan, China to investigate the local health or epidemiological situation, as well as provide medical and public health technical assistance to Taiwan, China. Such assistance may be provided through the dispatch of WHO staff members and experts or through other means, such as seeking medical products and equipments or making available public health information publications.

9. Technical units at Headquarters or regional offices may receive from Taiwanese agencies or institutions requests for technical assistance or for visits by WHO staff members and experts to investigate the public health or epidemiological situation on the island. In such a case, they should assess from a technical point of view whether or not they are justified before transmitting them to the Focal Point. Requests under this section may also be formulated by the technical units concerned.

10. The following procedures shall be observed:

- Requests shall be sent by the competent technical unit to the Focal Point as early as possible, preferably no later than five weeks before the intended visit or the provision of technical assistance. Requesting units should provide the Focal Point with all necessary details about the activity or assistance concerned, as well as of the staff members or experts they intend to dispatch to Taiwan, China. If the request is urgent, the submitting technical units should inform the Focal Point accordingly, with an indication of the reasons for the urgency;
- The requests should identify the staff members or experts to be dispatched , or indicate the technical assistance envisaged, its justification and purpose, its intended beneficiaries, and an

estimate of its duration;

- The Focal Point shall, in consultation with DGO and LEG as necessary, make an assessment of the requests received from a policy point of view and may seek additional information from the technical unit concerned;
- The requests which appear justified from both a technical and policy point of view are sent to the Permanent Mission of China in Geneva (the Chinese Mission) for transmission to the Ministry of Health (MOH). The technical unit shall inform the Secretariat of the M MOH's agreement or disagreement with the proposed invitation within two weeks from the receipt of the request from the Secretariat.
- After obtaining the agreement of the Chinese MOH through the Chinese Mission, the technical unit may make arrangements for the dispatch of staff members or experts or the provision of technical assistances. The Focal Point should be kept regularly informed of the outcome of the activities carried out under this section.

11. If WHO dispatches staff members to Taiwan, China, they shall be at Director level or below. consequently, no visits by staff members above that level may be envisaged under the MOU. WHO staff members may initiate and accept meetings and discussions with Taiwanese medical and public health officials under the level of "Director-General". More generally, WHO staff members should recall and abide by resolution WHA25.1, mentioned above.

12. If WHO dispatches experts other than staff members (e.g. temporary advisers or persons holding an SSA or an APW), they should not have a profile due to either current or previous affiliations such that it may give rise to political implications. Current or former governmental or political personalities, for example, should in principle not be selected for expert assignments under this section.

13. Under the MOU, China agrees in case of an acute public health emergency in Taiwan, China, the Director-General, in consultation with the MOH of China through the Chinese Mission, may deem it necessary to dispatch staff members or experts to Taiwan, China for field visits, or provide technical assistance or to invite Taiwanese medical and public health experts to participate in relevant technical activities organized by the Secretariat.

14. The MOU does not define what may constitute an acute public health emergency in Taiwan, China, the Director-General, in consultation with the MOH of China through the Chinese Mission, may deem it necessary to dispatch staff members or experts to Taiwan, China for field visits, or provide technical assistance or to invite Taiwanese medical and public health experts to participate in relevant technical activities organised by the Secretariat.

15. In view of the foregoing, it is very important that technical units which consider that the gravity of an event consult without delay with the Focal Point and provide as much information as possible. The Focal Point, with the assistance of the technical unit concerned if appropriate, shall consult with the Chinese Mission with a view to enable the Director-General to decide whether action by WHO is necessary. If the Director-General so decides, the technical unit or units concerned may take the necessary actions.

16. The Focal Point shall keep the Chinese Mission regularly informed of the development of the acute public health emergency and the response by WHO. No later than eight weeks after the decision to take action has been taken, the Focal Point shall , with the assistance of the technical unit concerned if

appearance, review in consultation with the Chinese Mission whether the emergency is still occurring. In the event of a continuing emergency, the Focal Point, with the assistance of the technical unit concerned if appropriate, shall consult periodically with the Chinese Mission.

17. The conditions spelt out in paragraphs 7, 11 and 12 apply to the implementation of activities in response to an acute public health emergency.

Other issues

18. Other health issues not specifically covered by the MOU as described above, but falling within the general aim of facilitating technical contacts, shall be handled on a case-by-case basis through consultations between the Focal Point and the Chinese Mission.

Additional measures to avoid unauthorized interactions

19. Correspondence, proposals and requests other than those referred below from Taiwanese authorities, institutions or individuals, except those relating to implementation of the MOU on which guidance is provided in the preceding section of this note, must be forwarded to the Office of the Legal Counsel. The Office will advise, in consultation with the Office of the Director-General as necessary, as to whether and how to respond to them. No reply should be given before contacting the Office of the Legal Counsel.

20. Technical meetings open to any individual without pre-screening of participants should not be held. Particular care should be taken to ensure proper care of participants if invitations or registration forms are available on-line.

21. Particular attention should be paid to ensure that NGO's participating in WHO meetings do not contain representatives of the Taiwanese authorities on their delegation.

22. Lists of participants for meetings should be checked in advance by the relevant Director to avoid the unintended inclusion of Taiwanese individuals.

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