

Agreement with the Republic of Indonesia for Cooperation in Scientific Research and Technological Development

Introduction

Background

- 2.1 The Agreement with Indonesia for Cooperation in Scientific Research and Technological Development¹ (the Agreement) is the result of the Joint Standing Committee on Foreign Affairs, Defence and Trade's (JSCFADT) May 2004 report titled *Near Neighbours-Good Neighbours: An Inquiry into Australia's Relationship with Indonesia*.²
- 2.2 JSCFADT found that Australia's relationship with Indonesia was highly important, providing value to both countries. Further, the report identified scientific areas such as biosecurity, agriculture and meteorology in which cooperation contributed to effective management.³
- 2.3 The existing Australia-Indonesia relationship is the fourth largest for Australia when measured by Australian Government support for international science activities. There is potential to expand and

1 The full title of the treaty action is: *Agreement between the Government of Australia and the Government of the Republic of Indonesia for Cooperation in Scientific Research and Technological Development, done at Jakarta on 11 July 2005.*

2 National Interest Analysis (NIA), para. 6.

3 NIA, para. 6.

promote this relationship, further generate knowledge and increase scientific and personal links in a mutually beneficial way.⁴

Purpose

- 2.4 This Agreement renews its predecessor agreement, which entered into force on 21 August 1996 and terminated on 21 August 2001. In addition, this Agreement amends the predecessor agreement by imposing revised obligations on Australia.⁵
- 2.5 The predecessor agreement was supported by a less than treaty status arrangement, the Collaboration in Science and Technology between Australia and Indonesia (COSTAI). When the Agreement was signed in July 2005 COSTAI was updated and replaced by a new, less than treaty status arrangement, Collaboration in Science and Innovation, Research and Technology (SIRTAI).⁶
- 2.6 The Agreement and SIRTAI provide the basis for activities performed or funded by the following Australian agencies and their Indonesian counterparts:
- Australian Centre for International Agricultural Research
 - Australian Nuclear Science and Technology Organisation
 - Bureau of Meteorology
 - Commonwealth Scientific and Industrial Research Organisation
 - Defence Science and Technology Organisation
 - GeoScience Australia
 - Australian Research Council
 - National Health and Medical Research Council.⁷
- 2.7 The Department of Education, Science and Training (DEST) added to this by stating:
- [The Agreement's] primary role is to amend and extend the existing arrangements between the Australian government and the government of the Republic of Indonesia. In addition to identifying key areas for scientific cooperation and the

4 NIA, para. 6 and 10; Ms Heather Dyne, *Transcript of Evidence*, 8 May 2006, pp. 21-22.

5 NIA, para. 1; Ms Heather Dyne, *Transcript of Evidence*, 8 May 2006, pp. 22-23.

6 NIA, paras 1 and 7.

7 NIA, para. 8.

types of cooperative activities covered, the agreement includes provisions for the protection of background and foreground intellectual property; the designation of an executive officer for each party; entry and exit of personnel, materials and equipment engaged in or for use in cooperative activities; and dispute resolution mechanisms.⁸

- 2.8 The Committee also received evidence that the Agreement will not affect the nature of university cooperation between Australia and Indonesia.⁹

Obligations

- 2.9 In addition to being premised on the principle of equality and mutual benefit promoting scientific and technological cooperation between parties,¹⁰ under the Agreement Australia is obliged to:

- designate an Executive Officer responsible for liaison between Parties on matters associated with the Agreement, wider science and technology matters of importance and developing appropriate guidelines for implementing arrangements
- develop implementing arrangements for the protection of intellectual property and ensure that ownership of any such property is apportioned in accordance with those arrangements
- facilitate entry to and exit from its territory of personnel, materials and equipment of the other Party when engaged on or for use in cooperative activities under the Agreement in accordance with prevailing laws and regulations
- resolve any disputes through consultation and negotiation.¹¹

- 2.10 New obligations not included in the predecessor Agreement include:

- Article 1(1) which clarifies the definition of Australia's territory to include 'other adjacent seas and the continental shelf over which

8 Ms Heather Dyne, *Transcript of Evidence*, 8 May 2006, pp. 22-23.

9 Ms Heather Dyne, *Transcript of Evidence*, 8 May 2006, p. 25.

10 NIA, para. 13.

11 NIA, para. 14.

Australia exercises sovereign rights and jurisdiction' in accordance with the 1982 United Nations Convention on the Law of the Sea

- a definition of 'objects and or materials' to mean biological and non biological resources used in a cooperative activity
- clarification of the definition of 'implementing arrangements'
- a new definition of 'Executive Officer'
- a confidentiality provision
- extending the fields in which scientific and technological cooperation can be undertaken to: environmental science and technology; forestry; calibration and measurement systems; and standardisation and quality
- a new article to require that where cooperative activities utilise biological materials, the implementing arrangements shall take into account the agreed objectives and principles under the Convention on Biological Diversity
- amendment to the list of considerations on which the implementing arrangements should be developed with respect to the apportionment of intellectual property rights between participants
- expiration or termination of the Agreement will not affect the rights and obligations regarding intellectual property that exist at the time unless decided otherwise by Parties or relevant participants
- that it is the sole responsibility of prospective and actual participants involved in collaborative activities to take all necessary steps to ensure their legal and commercial positions are adequately and effectively protected
- the factors that need to be taken into account in measuring the value of objects and/or materials used in a cooperative activity.¹²

2.11 DEST informed the Committee that scientific cooperation under the Agreement will take a variety of forms:

... the treaty has made provisions to encourage cooperation at all levels. Cooperation activities covered by the treaty include exchange of information; visits and exchanges of scientists

12 NIA, para. 15.

and other experts or technical personnel; meetings of various forms such as joint seminars, workshops and exhibits of scientific research and technological development; execution of joint or cooperative projects and programs; provision of necessary materials and equipment; education, training, and participation in ongoing programs.¹³

Entry into force and withdrawal

- 2.12 The Agreement will enter into force through an exchange of diplomatic notes between Parties once all domestic requirements for entry into force have been met.¹⁴
- 2.13 Amendment to the Agreement may be made at any time by mutual written agreement between Parties.¹⁵
- 2.14 Withdrawal from the Agreement can only take effect a minimum of six months after written notice of termination is received by either Party.¹⁶

Consultation

- 2.15 Consultation occurred with the following Australian Government Ministers who gave approval for the Agreement to be ratified: The Treasurer; Attorney-General; Foreign Affairs; Agriculture, Fisheries and Forestry; Trade; Communications, Information Technology and the Arts; Transport and Regional Services; Immigration, Multicultural and Indigenous Affairs; Finance and Administration; Industry, Tourism and Resources; Environment and Heritage; Defence; and Justice and Customs. The Prime Minister has been informed of the process to bring the Agreement into force.¹⁷
- 2.16 Consultation also occurred with State and Territory Governments through the Commonwealth-State/Territory Standing Committee on

13 Ms Heather Dyne, *Transcript of Evidence*, 8 May 2006, p. 22.

14 NIA, para. 2.

15 NIA, para. 19.

16 NIA, para. 20.

17 NIA Consultation Annex, para. 1.

Treaties; and the Australian Academy of Science through the Science and Technology Working Group of the Australia-Indonesia Ministerial Forum.¹⁸ There was broad support of the Agreement from Australia's scientific community.¹⁹

- 2.17 Three Ministers provided comment on the Agreement. The Minister for Defence raised a concern that the Agreement should not commit or constrain Defence science interaction with Indonesia. The Minister for Transport requested that his Department be consulted with regard to any issues concerning aircraft or space technologies raised under the Agreement. The Minister for Justice and Customs wished to highlight mandatory compliance with Customs regulations and requirements.²⁰

Costs

- 2.18 The Agreement will create the need for an Executive Officer, the costs of which will be absorbed by the Department of Education, Science and Training.²¹

Legislation

- 2.19 Australian practice is already consistent with the provisions of the proposed Agreement and no new domestic legislation is required for its entry into force.²²

Conclusion and recommendation

- 2.20 The Committee acknowledges and understands the importance of continuing to build a positive, strong relationship with Indonesia in various science fields.

18 NIA Consultation Annex, paras 6 and 7.

19 Ms Heather Dyne, *Transcript of Evidence*, 8 May 2006, p. 26.

20 NIA Consultation Annex, paras 2-5.

21 NIA, para. 17; Ms Heather Dyne, *Transcript of Evidence*, 8 May 2006, p. 23.

22 NIA, para. 16.

- 2.21 The Committee believes this Agreement improves on its predecessor agreement and paves the way for further valuable science cooperation between Australia and Indonesia.

Recommendation 1

The Committee supports the *Agreement between the Government of Australia and the Government of the Republic of Indonesia for Cooperation in Scientific Research and Technological Development*, done at Jakarta on 11 July 2005 and recommends that binding treaty action be taken.

