

Cooperation provisions of the Agreement

- 4.1 This chapter discusses the issues raised by submissions where they related specifically to particular areas of cooperation contemplated by the Agreement. This includes Article 2(3) and the defence, intelligence and nuclear cooperation provisions of the Agreement.

Article 2(3)

- 4.2 One of the key principles of the Agreement is a commitment by both Australia and Indonesia not to support or participate in activities which constitute a threat to the stability, sovereignty or territorial integrity of the other Party. Article 2(3) of the Agreement provides:

The Parties, consistent with their respective domestic laws and international obligations, shall not in any manner support or participate in activities by any person or entity which constitutes a threat to the stability, sovereignty or territorial integrity of the other Party, including by those who seek to use its territory for encouraging or committing such activities, including separatism, in the territory of the other Party.¹

¹ Article 2(3) of the Agreement.

- 4.3 As mentioned previously within the context of the bilateral relationship, many submissions considered Article 2(3) to be the key obligation and the primary motivation for the Agreement.

The Treaty is driven largely by the Indonesian government's attempt to elicit a formal non-intervention in internal affairs commitment from the Australian government.²

- 4.4 Many organisations and individuals felt that this Article was specifically aimed at the Indonesian province of Papua, although Papua is not directly referred to in the Agreement.³ Broadly speaking, many of the issues raised by the submissions related to the interpretation of Article 2(3). First, there was concern that the terms 'support', 'participate' and 'threat' were not defined in the Agreement and could be interpreted in a way disadvantageous to aid organisations in Papua. Second, there was concern that the content of the obligation under Article 2(3) was open to conflicting interpretation. Finally, and related to the second point, there was concern that this article would restrict the range of activities that supporters of Papuan independence or Papuan human rights could lawfully undertake in Australia.

- 4.5 The Australian Council for International Development (ACFID) raised the issue of textual clarity, particularly with regard to the terms 'support', 'participate' and 'threat', which are central to the understanding and operation of Article 2(3) but are not defined in the Agreement:

While the treaty has been drafted with the best of intentions on both sides, it was, in our view, an error to decide to avoid the use of clear textual language on matters that are at the heart of this relationship and which the treaty tries to deal with.⁴

- 4.6 ACFID suggested that misinterpreting Article 2(3) might lead to increased difficulty in the provision of aid to Papua.⁵ This may occur as a result of a misperception that some aid organisations were supporting or participating in activities that are thought to constitute

2 Flinders University, *Submission 14*, p. 1.

3 This Report uses the terminology 'Papua' unless it is quoting or citing from a source where 'West Papua' is used in the original.

4 Mr Paul O'Callaghan, *Transcript of Evidence*, 26 March 2007, p. 23.

5 Australian Council for International Development, *Submission 45*.

a threat to the stability, sovereignty or territorial integrity of Indonesia.⁶

4.7 The Committee recognises that AusAID⁷ programs in Papua currently operate under a slightly different approvals process than aid programs in the rest of Indonesia as a result of sensitivities regarding that province.⁸ However, representatives from ACFID acknowledged that the five agencies currently in Papua are 'able to operate their program activities with access and through meeting with relevant communities without major problems.'⁹ If difficulties for aid agencies working in Papua were to occur as a result of misinterpretation of the Agreement, the Committee would expect these to be raised by Australian government representatives with their Indonesian counterparts. This would be consistent with the process described by representatives from the Department of Foreign Affairs and Trade, who informed the Committee that any issues regarding interpretation of the Agreement would be dealt with by Australia and Indonesia through regular and close communication.¹⁰

4.8 The second issue regarding the interpretation of Article 2(3) was that it was open to conflicting interpretation by Indonesia and Australia. Professor Hugh White made this point when he appeared before the Committee:

It depends entirely ... on how you define 'support', 'participate' and 'threat'. The interpretation of that, I would suggest, is likely to occur within the context of the meaning of the latter clause ... :

... including by those who seek to use its territory for encouraging...

... What is significant about that second clause, the second part that begins with 'including', is that it appears to place obligations on the states parties to regulate the activity of those on their territory – that is, 'individuals'.¹¹

4.9 It was put to the Committee that there are two potential consequences of the misinterpretation of Article 2(3). First, restriction or control of

6 Australian Council for International Development, *Submission 45*, p. 3.

7 AusAID stands for the Australian Agency for International Development.

8 See Australian Council for International Development, *Submission 45*, p. 1.

9 Mr Paul O'Callaghan, *Transcript of Evidence*, 26 March 2007, p. 26.

10 Ms Gillian Bird, *Transcript of Evidence*, 26 March 2007, p. 41.

11 Professor Hugh White, *Transcript of Evidence*, 26 March 2007, p. 43.

the activities of private individuals in support of Papuan human rights or independence in Australia. Second, conflict in Australia's bilateral relationship with Indonesia when Indonesian expectations of Australia's obligations under this article are not fulfilled.

- 4.10 On the first point, the Committee notes that there was considerable concern that Article 2(3) will restrict activities by private individuals in Australia in support of Papuan independence or human rights:

This phrase puts in place a mechanism to restrict Australian support for West Papua, through the pretext that support for the region is implicit support for the separatist movement. Despite the assurances of the National Interest Analysis [2006] background paper accompanying the treaty, the intention of this phrase is to prevent support for West Papua.¹²

We are deeply concerned about Article 2 Principle 3. Does this principle limit or preclude our democratic right in Australia of freedom of speech and assembly to discuss and comment on the affairs of the respective parties, including the rights and wrongs, merits or otherwise of such ideas as self-determination or 'separatism' for indigenous people?¹³

- 4.11 Responding directly to these concerns, the Department of Foreign Affairs and Trade made it clear that the obligation in Article 2(3) would not prevent peaceful demonstrations conducted in accordance with the law, political commentary or free speech from occurring.¹⁴ Furthermore, Article 2(3) would not limit other fundamental rights:

On the specific claim that the agreement could commit Australia to suppress Papuan independent separatists, let me emphasise that the agreement does not in any way infringe rights to freedom of expression or freedom of association.¹⁵

... this treaty is about what the parties to this treaty – the Australian government and the Indonesian government – will do or not do. It does not infringe on the rights of those individuals or groups who want to hold such conferences or put forward such views.¹⁶

12 The Hon Meredith Burgmann MLC, *Submission 20*, p. 2.

13 Christians for a Democratic West Papua, *Submission 24*, p. 4.

14 NIA, para. 19.

15 Ms Gillian Bird, *Transcript of Evidence*, 26 March 2007, p. 42.

16 Ms Gillian Bird, *Transcript of Evidence*, 30 April 2007, p. 46.

4.12 The rules on state responsibility also provide that:

Parties and reference to parties in international agreements means that parties are responsible for their own actions – that is, of the government or of their agents, not of private individuals within their territory unless there is a specific statement to that effect. An ordinary interpretation informed by an understanding of the treaties process would inevitably bring an informed reader to that conclusion.¹⁷

4.13 Finally, the Department of Foreign Affairs and Trade reiterated the Australian government position in relation to Papuan independence and fundamental human rights:

The Australian government does not support separatism or Papuan independence but we support freedom of speech and assembly.¹⁸

4.14 The Committee is satisfied that Article 2(3) will not limit the expression of support for Papuan human rights or independence in Australia, provided it is in accordance with Australian law. However, there was some discussion as to whether this understanding of Article 2(3) accorded with Indonesia's expectations of the content of the obligation in Article 2(3).¹⁹

The critical question for the way in which this language affects the future of Australia-Indonesia relations is whether that is the reading Indonesia has.²⁰

4.15 It is clear to the Committee that this article provides a treaty-level commitment that the Australian government supports the province of Papua as part of Indonesia. The Department of Foreign Affairs and Trade confirmed that the significance of this article related to the question of Australian support for an independent Papua and that there is no misunderstanding as to its purpose:

There is no confusion over what this article means in the Indonesian mind or in ours. When we negotiated the treaty we went through these things very carefully with the Indonesians. They also, obviously, have access to our own

17 Mr Michael Bliss, *Transcript of Evidence*, 30 April 2007, p. 47, citing the rules on state responsibility as adopted by the 56th General Assembly of the United Nations in 2001.

18 Ms Gillian Bird, *Transcript of Evidence*, 30 April 2007, p. 46.

19 See *Transcript of Evidence*, 26 March 2007, pp. 40-45.

20 Professor Hugh White, *Transcript of Evidence*, 26 March 2007, p. 43.

national interest analysis, which makes it crystal clear what this article means.²¹

[This article] will enable the Indonesian government to put to rest the suggestions that are still made from time to time that the Australian government would like to see the break-up of Indonesia; to see Papua secede, for example.²²

4.16 In addition, the Committee was informed that any future asylum seekers arriving from Papua would be assessed within the existing legal framework administered by the Department of Immigration and Citizenship.²³

4.17 Although the Committee cannot speak to Indonesia's understanding or expectations of Article 2(3), it is satisfied that its purpose is to provide a binding commitment by the Australian *government* not to support the secession of Papua.

4.18 On the issue of differences between Australian and Indonesian interpretations of the Agreement, the Department of Foreign Affairs and Trade informed the Committee that:

Any questions about interpretation of the agreement can be resolved through the regular and close communication that takes place between the two governments.²⁴

Intelligence cooperation

4.19 Article 3(12), the intelligence cooperation provision of the Agreement, provides for the:

Cooperation and exchange of information and intelligence on security issues between relevant institutions and agencies, in compliance with their respective national legislation and within the limits of their responsibility.

4.20 A number of submissions expressed concern that safeguards, such as the ability to refuse a request if it relates to an offence which might attract the death penalty, may not apply to intelligence sharing under the Agreement.

21 Ms Gillian Bird, *Transcript of Evidence*, 30 April 2007, p. 44.

22 Ms Gillian Bird, *Transcript of Evidence*, 30 April 2007, p. 44.

23 Ms Gillian Bird, *Transcript of Evidence*, 30 April 2007, p. 44.

24 Ms Gillian Bird, *Transcript of Evidence*, 26 March 2007, p. 41.

There is no guarantee in this treaty that information that is provided in a security context will not lead to people being arrested and prosecuted and then facing the death penalty.²⁵

4.21 Currently, information sharing between Australia and Indonesia can take place through a formal mutual assistance request or through informal arrangements, such as police-to-police cooperation or agency-to-agency cooperation.²⁶ Safeguards exist under mutual assistance legislation which provide the discretion to refuse a mutual assistance request where it relates to a charge for which the death penalty may be imposed.²⁷ The legislation also provides other grounds for refusing to provide assistance.²⁸ Information provided through police-to-police cooperation is subject to the Australian Federal Police (AFP) Practical Guide on International Police to Police Assistance in Death Penalty Charge Situations.²⁹ These guidelines allow information to be shared prior to charges being laid which may result in the death penalty being imposed. After charges have been laid which may result in the death penalty, the Minister for Justice and Customs may decide that police-to-police assistance can continue.³⁰

4.22 A representative from the Australian Federal Police informed the Committee that:

Normally, what we deem police to police exchange covers intelligence exchange ... when we move to a more formal exchange where coercive powers may be requested from country to country – such as the execution of search warrants in that jurisdiction – they are matters normally covered by mutual assistance requests under the mutual assistance framework. The day-to-day exchange of intelligence from police is not covered under that framework.³¹

25 Mr Cameron Murphy, *Transcript of Evidence*, 30 April 2007, p. 1.

26 See *Mutual Assistance in Criminal Matters Act 1987* (Cth) and the *Treaty between Australia and the Republic of Indonesia on Mutual Assistance in Criminal Matters*, see JSCOT Report 1.

27 See *Mutual Assistance in Criminal Matters Act 1987* (Cth), sections 8(1A) and 8(1B).

28 See *Mutual Assistance in Criminal Matters Act 1987* (Cth), section 8(1)(a) to (f).

29 See the AFP Practical Guide on International Police to Police Assistance in Death Penalty Charge Situations, accessed 18 May 2007:

<http://afp.gov.au/__data/assets/pdf_file/21096/Guideline_for_international_death_penalty_situation.pdf>

30 See the AFP Practical Guide on International Police to Police Assistance in Death Penalty Charge Situations, note 29 above.

31 Federal Agent Tim Morris, *Transcript of Evidence*, 26 February 2007, p. 13.

- 4.23 The Committee supports a system of safeguards which will govern the provision of intelligence and information. As a starting point, the Committee was informed that there is no obligation on Australian intelligence agencies to share information with their Indonesian counterparts:

It does not place any obligations on us to exchange – for instance, that we must or must not exchange intelligence on specific issues. Each agency can still make decisions about what it will or will not exchange intelligence on with their Indonesian or Australian counterparts.³²

- 4.24 However, as a framework agreement with little detail on the information sharing which will occur between Australia and Indonesia, there are practical difficulties in inserting a provision on safeguards against the death penalty. This point was made by the Attorney-General's Department:

This is a framework treaty. The issue of the assistance provided in death penalty cases is dealt with in more detail in the mutual assistance treaty with Indonesia, and that is the appropriate place to do it.³³

- 4.25 As the Agreement does not provide details on information sharing, the discussion as to what safeguards do or do not apply is largely hypothetical. It may be the case that no new information sharing arrangements are concluded as a result of the Agreement. If that is the case, the formal and informal processes which currently exist, that is mutual assistance and police-to-police cooperation, already have a system of safeguards in place. The Committee has considered these issues previously and is generally satisfied with the safeguards as they stand although it has some outstanding concerns that information shared lawfully under police-to-police cooperation may inadvertently result in the death penalty being carried out.³⁴ If new information sharing processes are concluded as a result of the Agreement, the Committee expects at least the same type of safeguards that are currently in practice to apply to any new arrangements.

- 4.26 The Committee also recognises the value of intelligence sharing between Australia and Indonesia, particularly as a means of

32 Federal Agent Tim Morris, *Transcript of Evidence*, 30 April 2007, p. 53.

33 Mr William Campbell, *Transcript of Evidence*, 26 February 2007, p. 13.

34 See JSCOT Report 79, chapter 3.

combating traditional and non-traditional security threats. The Committee would be concerned if the Agreement specifically precluded the AFP and other bodies from sharing information in situations which might lead to the death penalty, as it would severely limit the ability of the AFP to combat a range of security threats. On this point, the Committee was informed that:

It depends on the final wording but, if such a clause were inserted it would mean that most of our activities on terrorism and drug trafficking would have to cease. If there were the possibility that, eventually, someone might be charged with an offence that involved the death penalty, we would have to cease those activities. We would certainly have to cease our counterterrorism activities with Indonesia, and many lives – both Australian and Indonesian lives – would be put at risk.³⁵

Defence cooperation

4.27 The defence cooperation provisions of the Agreement provide for:

Regular consultation on defence and security issues of common concern; and on their respective defence policies;

Promotion of development and capacity building of defence institutions and armed forces of both Parties including through military education and training, exercises, study visits and exchanges, application of scientific methods to support capacity building and management and other related mutually beneficial activities;

Facilitating cooperation in the field of mutually beneficial defence technologies and capabilities, including joint design, development, production, marketing and transfer of technology as well as developing mutually agreed joint projects.³⁶

4.28 The Department of Foreign Affairs and Trade informed the Committee that this is likely to include:

35 Federal Agent Tim Morris, *Transcript of Proceedings*, 30 April 2007, p. 53.

36 Article 3(1), (2) and (3) of the Agreement.

Senior-level reciprocal visits, training and postgraduate education focusing on professional development and governance, annual single service staff talks, a defence strategic dialogue and combined exercises.³⁷

- 4.29 There were strong concerns regarding the defence cooperation provisions of the Agreement and many submissions questioned the benefit to Australia of such cooperation.³⁸

The benefit is principally to Indonesia, and in particular through legitimising the status of the TNI in the eyes of other states.³⁹

- 4.30 Some submissions argued that previous defence cooperation with Indonesia had not increased respect for, or observance of, human rights by the TNI – the Indonesian military – and also questioned the appropriateness of cooperating with a military which has a questionable human rights record.

...unlike the Australian Defence Force, the TNI is not a neutral institution of the elected civilian government. It is a partisan force with its own agenda. Its military, civil and economic agenda is executed through its territorial command structure, a structure that is embedded in every strata of the Indonesian society including the bureaucracy, legislation and economy.⁴⁰

- 4.31 A further, more serious, suggestion was that defence cooperation with Indonesia will increase its capacity to commit human rights abuses.

...our main concern is defence ties with the Indonesia military that this treaty would commit us to. We believe that any aid or training given to the Indonesian military will only be used to oppress the West Papuan people.⁴¹

- 4.32 Similar to the provision on intelligence cooperation, the difficulty with assessing the provisions on defence cooperation in a framework agreement is that there is no detail of how such cooperation will work

37 Ms Gillian Bird, *Transcript of Evidence*, 26 February 2007, p. 3.

38 See Assoc. Professor Damien Kingsbury, *Submission 2*, and Dr Clinton Fernandes, *Submission 31*.

39 Assoc. Professor Damien Kingsbury, *Submission 2*, pp. 4-5. See also Dr Clinton Fernandes, *Submission 31*, whose submission examines the typical claims used to justify close links between the Australian Defence Force and the Indonesian military.

40 Clemens Runawery, *Submission 35*, p. 3.

41 Australia West Papua Association (Sydney), *Submission 6*, p. 2.

in practice. However, representatives from the Department of Foreign Affairs and Trade informed the Committee that:

Part of Australia's defence engagement with Indonesia is focused on enhancing the Indonesian military's human rights awareness and accountability. ADF training with TNI seeks to increase professionalism and emphasises adherence to strict rules of engagement based on the laws of armed conflict and respect for human rights.⁴²

4.33 The Committee was also informed that government policy limits cooperation to exclude any persons 'known to have links to violent groups or have backgrounds of known human rights concern'.⁴³

4.34 This was reiterated by the Department of Defence:

The other aspect I should mention is that any kind of training we do obviously – but let me state for the record – does not relate to teaching of any kind of human rights abuses. If there are records of people who are committing abuses they are not picking up those ideas or techniques from us. Another point that I should make is that a very large part of our defence training and education is deliberately focused on the broad area of governance and human rights issues ... I suppose the difference that we have found in recent years compared to what we found in the 1990s is the interest by the senior leadership of TNI and also by defence generally in Indonesia in this whole area of governance. They are much more interested in engagement in the activities and training that support good governance than they were in the past.⁴⁴

4.35 The Committee recognises the concerns regarding the Indonesian military. However, the Committee expects that the focus on human rights and good governance, in conjunction with stated policy that known or suspected abusers of human rights will not participate in such cooperation, provides appropriate safeguards to ensure that defence cooperation will be beneficial to both Australia and Indonesia.

4.36 The Committee does not regard defence cooperation with Indonesia to be, in principle, damaging or harmful. The Committee supports an approach which engages, rather than isolates, the Indonesian military

42 Ms Gillian Bird, *Transcript of Evidence*, 26 February 2007, p. 3.

43 Mr Michael Pezzullo, *Transcript of Evidence*, 26 February 2007, p. 8.

44 Mr Ben Coleman, *Transcript of Evidence*, 30 April, 2007, pp. 48-49.

as contact and communication provide a greater opportunity for progress to be achieved on the issues of concern. The Department of Defence and the Department of Foreign Affairs and Trade have made it clear that the purpose of such cooperation is to improve the professionalism of the Indonesian military and this is in both Australia's and Indonesia's national interest.

Recommendation 2

The Committee recommends that the Australian Government increase transparency in defence cooperation agreements to provide assurance that Australian resources do not directly or indirectly support human rights abuses in Indonesia.

Comment on Papua

4.37 The Committee is conscious that most of the submissions to its inquiry concerned human rights and the independence of Papua. To some degree, these issues overlapped with issues regarding the defence cooperation provisions of the Agreement. Unfortunately, much of this discussion was not put to the Committee in a way that was relevant to the terms of the Agreement, and as a result, its inquiry. However, the Committee thought it was appropriate to comment briefly on these issues.

4.38 As media access is restricted in the province of Papua, the Committee is not in a position to comment directly on human rights matters, particularly where they relate to the Indonesian military. However, the Committee agrees that more open access to Papua would help to ensure greater respect for human rights:

If the goal is to improve human rights, Australia must ensure that there is unhindered access for human rights monitors and foreign journalists to anywhere in Indonesia, and especially in West Papua.⁴⁵

4.39 The Committee supports increased access for the media and for human right monitors in Papua as an additional measure which would allay specific concerns regarding the operation of the military

45 Dr Clinton Fernandes, *Submission 31*, p. 8.

in Papua, and by extension, the value of defence cooperation under the Agreement.

Recommendation 3

The Committee recommends that the Australian Government encourage the Indonesian Government to allow greater access for the media and human rights monitors in Papua.

Counter-Terrorism Cooperation

4.40 Article 3, sub-articles 8 to 11, provide for cooperation to combat and eliminate international terrorism. For instance, Article 3(8) provides that Australia and Indonesia will:

[Do] everything possible individually and jointly to eradicate international terrorism and extremism and its roots and causes and to bring those who support or engage in violent criminal acts to justice in accordance with international law and their respective national laws.

4.41 Dr Ben Saul raised concerns regarding the operation of this provision, pointing out that there is no agreed definition of terrorism, both in the Agreement itself and in international law generally.⁴⁶

Australia and Indonesia have very different definitions of terrorism, so the extent of both countries' obligations to cooperate under the treaty is unclear.⁴⁷

4.42 Australia's definition of terrorism is relatively narrow in comparison to the definition of terrorism under Indonesian law, which states that terrorism is 'any violent act that could create terror or insecurity among the public, violate the public's freedom, cause the death of other people or cause the destruction of vital or strategic objects.'⁴⁸

46 Dr Ben Saul, *Submission 43*, p. 3.

47 Dr Ben Saul, *Submission 43*, p. 3.

48 Dr Ben Saul, *Submission 43*, p. 3, citing *Regulation in Lieu of Law No 1/2002 on the Eradication of Criminal Acts of Terrorism*. For Australia's definition, see section 100.1 of the *Commonwealth Criminal Code*

- 4.43 The Department of Foreign Affairs and Trade informed the Committee that counter-terrorism cooperation, as with other areas of cooperation under the Agreement, would occur to the extent that there is agreed understanding between Australia and Indonesia:

I suppose the important point about this treaty ... is that we are talking here about cooperative activities between Australia and Indonesia. So when we are talking about terrorism – as is the case when we are talking about the other issues – we are talking about issues on which we both agree that it is in our mutual interest to cooperate. So I do not see the potential for misunderstanding as a result of the fact that there is no common agreed definition of terrorism.⁴⁹

- 4.44 Moreover, the Committee was informed by the Australian Federal Police that the different definitions of terrorism would not affect activities which are lawful in Australia but might be regarded as terrorism under Indonesia's broad definition of the term:

CHAIR – So in a situation which involves legitimate political protest or freedom of expression –

Federal Agent Morris – That would not be of any interest to the Australian Federal Police in their joint activities with the Indonesian National Police.⁵⁰

- 4.45 The Committee is satisfied that the lack of an agreed definition of terrorism poses no difficulty to the operation of the Agreement.

Nuclear Cooperation

- 4.46 The commitment to nuclear cooperation is located under the proliferation of weapons of mass destruction provision.⁵¹ Article 3(17) provides cooperation for:

Strengthening bilateral nuclear cooperation for peaceful purposes, including to further the objective of non-proliferation of weapons of mass destruction and strengthen international nuclear safety and security through enhanced standards, in accordance with international law.

49 Ms Gillian Bird, *Transcript of Evidence*, 30 April 2007, p. 42.

50 Federal Agent Tim Morris, *Transcript of Evidence*, 30 April 2007, p. 42.

51 Article 3(17) of the Agreement.

- 4.47 The Australian Conservation Foundation (ACF) raised concerns about the development of nuclear programs and activities in Indonesia. The ACF point out that nuclear technology is 'dual use, potentially having both a civil and military purpose'.⁵² The geological instability of Indonesia also means that the siting, construction and operation of nuclear facilities increases the risk of any nuclear programs and activities.⁵³
- 4.48 The Committee recognises there are often community concerns where any kind of nuclear activity is proposed. The inquiry into the Australia China Uranium Agreement is a recent example.⁵⁴ However, the kind of cooperation contemplated by the Agreement moves Australia and Indonesia towards cooperation for peaceful purposes, including the improvement of safety and security standards and a commitment to non-proliferation of weapons of mass destruction.
- 4.49 This was confirmed by representatives from the Department of Foreign Affairs and Trade:

The kinds of activities that that would cover are the activities that ASNO and ANSTO are taking part in with Indonesia and other regional countries. ASNO, the Australian Safeguards and Non-Proliferation Office, is working with Indonesia and other regional countries on the application of best practice for nuclear safeguards and security. In fact, we are going to be co-hosting with Indonesia an APEC meeting in Sydney in June of this year to discuss the establishment of an Asia-Pacific regional association of safeguards authorities. ANSTO, the Australian Nuclear Science and Technology Organisation, is working with Indonesia and other regional countries on peaceful nuclear science and technology applications, issues to do with operation and maintenance of nuclear research reactors. That is the kind of thing that is meant by 'nuclear cooperation for peaceful purposes.'⁵⁵

52 Australian Conservation Foundation, *Submission 36*, p. 2; see also Mr Dave Sweeney, *Transcript of Evidence*, 30 April 2007, pp. 54-59.

53 Australian Conservation Foundation, *Submission 36*, p. 3.

54 See JSCOT Report 81, *Agreement between the Government of Australia and the Government of the People's Republic of China on the Transfer of Nuclear Material* (Canberra, 3 April 2006) and the *Agreement between the Government of Australia and the Government of the People's Republic of China for Cooperation in the Peaceful Uses of Nuclear Energy* (Canberra, 3 April 2006).

55 Ms Gillian Bird, *Transcript of Evidence*, 30 April 2007, pp. 49-50.

- 4.50 The nuclear cooperation provision appears to be confined to nuclear activities for peaceful purposes and this was confirmed by government representatives. For this reason, the Committee is satisfied that the kind of cooperation proposed under Article 3(17) of the Agreement is intended to improve Indonesia's nuclear safety and security standards. The development and improvement of safety and security standards would seem to address some of the issues that ACF had regarding nuclear activities and programs in Indonesia.