

**National Interest Analysis [2012] ATNIA 11
with attachment on consultation**

**Agreement between the Government of Australia and the Government of the Republic of
Singapore concerning the Location of a Republic of Singapore Air Force Helicopter Squadron
at the Australian Army Aviation Centre Oakey
done at Singapore on 1 June 2012**

2012 ATNIF 7

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY SUMMARY PAGE

Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Location of a Republic of Singapore Air Force Helicopter Squadron at the Australian Army Aviation Centre Oakey done at Singapore on 1 June 2012 [2012] ATNIF 7

Nature and timing of proposed treaty action

1. The proposed treaty action is to replace the *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Location of a Republic of Singapore Air Force Helicopter Squadron at the Army Aviation Centre Oakey*, done at Canberra on 21 October 1996 and which entered into force on 19 November 1997 ([1997] ATS 25, “the 1997 Agreement”). The proposed *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Location of a Republic of Singapore Air Force Helicopter Squadron at the Australian Army Aviation Centre Oakey*, done at Singapore on 1 June 2012 (“the proposed Agreement”) will enter into force once Australia and Singapore have notified each other in writing that all domestic requirements to give effect to the proposed Agreement have been met (Article 17 of the proposed Agreement). It is proposed that Australia send this written notification to Singapore as soon as practicable following consideration of the proposed Agreement by the Joint Standing Committee on Treaties.
2. Once in force, the proposed Agreement will replace the 1997 Agreement, which is due to expire on 31 December 2012.

Overview and national interest summary

3. The purpose of the proposed Agreement is to allow for continued location of a Republic of Singapore Air Force (RSAF) helicopter squadron at the Army Aviation Centre, Oakey, Queensland, which has been ongoing since 1997. Access to the Army Aviation Centre is greatly valued by Singapore given its lack of domestic training areas and is a major element of our contribution to the bilateral defence relationship. The Singapore Armed Forces (SAF) also have access to RAAF Base Pearce for pilot training, and the Shoalwater Bay Training Area for further training by both SAF land and air forces. Bilateral agreements and arrangements are used to regulate these deployments also.
4. Use of the Army Aviation Centre under the proposed Agreement is part of Australia’s broader policy to allow access to Australian Department of Defence (ADOD) facilities by the SAF (which includes the RSAF). Permitting access to the Army Aviation Centre by the RSAF benefits Australia by enhancing the bilateral defence relationship with Singapore, improving the effectiveness of the RSAF as an exercise and training partner and as a potential partner or contributor to regional security operations, and promoting Australia’s broader policy of increasing regional security.

Reasons for Australia to take the proposed treaty action

5. The training conducted by the RSAF at the Army Aviation Centre under the proposed Agreement does not usually involve the Australian Defence Force. However, just as access is vital to the RSAF to enable them to develop and maintain their military capability, there are also

significant indirect benefits to Australia from the access provided to Singapore. The SAF is a significant exercise partner, possessing highly sophisticated technology, some of which is not in service with the Australian Defence Force. In addition, many of the RSAF assets used at the Army Aviation Centre, in particular aircraft, are employed elsewhere in bilateral and multilateral exercises involving Australia. Enabling the RSAF to generate and maintain capability in Australia therefore directly enhances the Australian Defence Force's ability to exercise with the SAF, thereby contributing to our own capability development goals.

6. Heightened SAF capability is also of benefit to Australia in that it makes the SAF more effective as a coalition partner and as a contributor to regional security. Granting access to the Army Aviation Centre is part of Australia's contribution to the broader bilateral defence relationship with Singapore. Australia gains considerable benefits from this relationship, for example through access to SAF facilities in Singapore and to SAF courses. Providing the RSAF access to the Army Aviation Centre for these reasons is consistent with Australia's broader policy of regional engagement, whereby positive defence relations with countries in the region are developed. These relationships develop ADOD military capability and help to support ADOD partnerships in the region, which are vital for the promotion of Australia's strategic objectives. The proposed Agreement will also benefit Australian commercial enterprises through access to commercial arrangements with the RSAF.

7. Due to the ongoing use of the Army Aviation Centre by the RSAF since 1997, failure to renew the 1997 Agreement by entering into the proposed Agreement would undermine Australia's longstanding political, defence and trade relationship with Singapore. This is particularly so in light of the fact that the proposed Agreement is broadly similar to the 1997 Agreement. The proposed Agreement will maintain and extend existing requirements under the 1997 Agreement, including those governing the day-to-day activities of the RSAF helicopter squadron at the Army Aviation Centre.

Obligations

8. The proposed Agreement defines the obligations, division of responsibilities and costing arrangements between Australia and Singapore for the deployment of up to 16 helicopters and accompanying RSAF personnel to the Army Aviation Centre until 31 December 2027.

9. The proposed Agreement is substantially similar to the 1997 Agreement, but is updated to reflect changes to policy during the past 15 years and to bring the proposed Agreement in line with similar agreements and arrangements between Australian and Singapore, in particular, the *Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Use of Shoalwater Bay Training Area and the Use of Associated Facilities in Australia*, done at Singapore on 31 May 2009 ([2010] ATS 5). The most significant changes set out in the proposed Agreement include: improving the definition of "explosives" (proposed Article 1, paragraph (i)) to bring it in line with ADOD policy; increasing the number of RSAF helicopters stationed at the Army Aviation Centre to 16 (proposed Article 4, paragraph 1); updates throughout the treaty to reflect changed responsibilities for base and airspace management at the Army Aviation Centre and within the ADOD; and the addition of more extensive provisions, including those relating to ADOD procedures with regard to the RSAF helicopter squadron (proposed Article 4), noise abatement procedures (proposed Article 5), facilities (proposed Article 8), security (proposed Article 10), disciplinary policies (proposed Article 11), the use of Australian commercial enterprises (proposed Article 13) and financial arrangements (proposed Article 14). The proposed increased number of aircraft is regarded as being sustainable by the ADOD without disrupting Australian training or operational

requirements at the Army Aviation Centre.

10. Proposed Article 1 sets out definitions of key terms used in the proposed Agreement. Proposed Article 2 sets out the scope of the proposed Agreement. In accordance with proposed Article 2(3), a series of subordinate (non-treaty) Implementing Arrangements will be used to document further detail relating to the day-to-day management of the interaction between the ADOD and the RSAF at the Army Aviation Centre, including: details of activities that may be undertaken by RSAF (proposed Article 3); squadron composition and personnel (proposed Article 4); storage of hazardous material (Article 4); use and storage of weapons and explosives (proposed Article 4); conduct of flying operations and accident response (proposed Article 5); ADOD administrative and other support for RSAF operations (proposed Article 6); provision of facilities required by the RSAF (proposed Article 8); security arrangements (proposed Article 10); access to medical and dental services (proposed Article 12); commercial support services (proposed Article 13) and financial arrangements (proposed Article 14) .

11. Proposed Article 3 sets out obligations relating to the conduct of the RSAF helicopter squadron activities at the Army Aviation Centre for the purpose of training to maintain flying skills and operational capabilities. All RSAF activities in Australia shall be conducted in accordance with Australian laws, regulations, policies and procedures, and RSAF activities at the Army Aviation Centre are to be conducted in accordance with the rules, procedures and standard operating procedures applied to other users of the Centre, including the ADOD. To facilitate this, relevant policies, rules and procedures of the ADOD will be provided in writing to the RSAF. Australia is required to inform Singapore as soon as practicable if the Army Aviation Centre becomes temporarily unavailable for a substantial period during the allocated period, and must use its best endeavours to identify suitable alternative arrangements. Australia will not be responsible for any costs incurred by Singapore should the Army Aviation Centre become unsuitable or unavailable for RSAF training. Proposed Article 3 also provides that, upon vacating the Army Aviation Centre, Singapore is obliged to leave the land in good order and condition and to pay for the demolition of facilities not required by Australia, or the return of such facilities to their original state. If the facilities are required by Australia, the Parties undertake to consult concerning compensation by Australia for the residual value of those facilities erected at Singapore's expense.

12. Proposed Article 4 sets out the composition of the RSAF helicopter squadron, in terms of aircraft, equipment and personnel. It restricts the helicopter squadron to 16 helicopters, unless otherwise mutually determined, and requires the RSAF to advise all details of the aircraft forming the RSAF helicopter squadron to the Commander Army Aviation Centre. With the consent of the ADOD, other RSAF aircraft, vehicles and equipment may visit the Army Aviation Centre to support the RSAF helicopter squadron. It also makes provision for the Parties to mutually determine the personnel component of the RSAF helicopter squadron. No RSAF personnel shall remain in Australia for any period beyond three years from the date of their arrival. Australia is obliged to facilitate the entry and exit of contractors to and from Australia in a manner consistent with the *Exchange of Notes constituting a Status of Forces Agreement between the Government of Australia and the Government of the Republic of Singapore*, done at Singapore on 10 February 1988 ([1988] ATS 6, "the SOFA"). Proposed paragraph 9 of Article 4 prohibits the RSAF from using or storing explosives and other weapons without prior written ADOD approval.

13. Proposed Article 5 governs RSAF flying operations at the Army Aviation Centre. RSAF flying operations at the Army Aviation Centre shall not be undertaken unless compliance with relevant rules and procedures can be assured to the satisfaction of Australia. RSAF is required to assign a liaison officer to coordinate ADOD and RSAF flying programs. RSAF is required to

comply with the flying programs determined at flying planning conferences or by the Commander Army Aviation Centre. Activities related to ADOD training, operations or operational readiness shall have priority over all other activities, including RSAF activities, at the Army Aviation Centre and the ADOD is required to manage sequencing of ADOD and RSAF aircraft in order to ensure the most efficient use of airspace. The RSAF helicopter squadron is permitted to deploy away from the Army Aviation Centre with the prior written approval of the ADOD and subject to any directions of the ADOD. Proposed Article 5 obliges the RSAF to participate in periodic safety audits; contribute to accident response on a pro-rata basis; and conduct flying operations in accordance with ADOD noise abatement procedures. Paragraphs 7-9 of proposed Article 5 set out procedures for responding to any noise complaints made in relation to RSAF activities, including the division of costs for settling any complaints.

14. Proposed Article 6 provides that the provision of ADOD administrative and other support to the RSAF Helicopter Squadron is to be mutually determined in an Implementing Arrangement. Any additional ADOD support shall be subject to the priorities of the ADOD and to cost recovery pursuant to Article 14 of the proposed Agreement.

15. Proposed Article 7 obliges Singapore to arrange private residential accommodation for its personnel and dependants in Australia. RSAF personnel and dependants shall have the same access to amenities and membership privileges and responsibilities with respect to ADOD messes and sporting clubs or social organizations as their ADOD counterparts.

16. Proposed Article 8 requires the Parties to consult on any implications for facilities related to the RSAF helicopter squadron operations. Australia may provide additional land on which Singapore may build new facilities required by the RSAF helicopter squadron, though it is not obliged to do so. Where the ADOD concludes that, based on the requirements of the ADOD, additional or upgraded facilities (including shared facilities) are necessary to effectively accommodate the RSAF helicopter squadron, the RSAF is obliged to bear the costs of those additional or upgraded facilities. The consequence of these provisions is that the ADOD will not be required to cover the costs of any facility requirements at the Army Aviation Centre which arise as a result of the RSAF helicopter squadron's presence.

17. Proposed Article 9 requires the RSAF to inform the Commander Army Aviation Centre in writing before introducing or removing aircraft, vehicles and equipment to or from the Army Aviation Centre and to provide reasons where such material is removed back to Singapore.

18. Proposed Article 10 deals with security. The ADOD holds the primary responsibility for security of the Army Aviation Centre. Singapore shall be responsible for any increased charges incurred by the ADOD as a result of providing security for facilities used by RSAF. Paragraph 2 of proposed Article 10 requires Australia and Singapore to comply with the *Agreement between the Government of Australia and the Government of the Republic of Singapore for the Reciprocal Protection of Classified Information Transmitted Between the Australian Department of Defence and the Singapore Ministry of Defence*, done at Canberra on 15 October 1996 ([1997] ATS 18) in relation to any classified information and material exchanged, provided or generated pursuant to the proposed Agreement. Proposed Article 10 also sets out requirements in relation to physical access to, and security of, RSAF and ADOD facilities including; identity documents; fire safety; security inspections; and reporting and investigation of security breaches. In the event of non-compliance with Australian laws, regulations or policies relating to security with respect to the RSAF helicopter squadron or activities undertaken pursuant to the proposed Agreement, the ADOD is permitted to take immediate remedial action under Australian laws, regulations or policies where necessary for security or safety. The ADOD may also take, or request the RSAF

to take, action under Sections 1 or 2 of Annex II of the SOFA (relating to criminal jurisdiction and security) or under Article 11 of the proposed Agreement (relating to discipline, command and control). Singapore would be responsible for the costs of any remedial action undertaken by ADOD.

19. Proposed Article 11 applies the disciplinary and criminal jurisdiction provisions set out in the SOFA to RSAF personnel and accompanying dependants. Non-Australian contractors of Singapore shall be subject to Australian civilian criminal jurisdiction unless otherwise provided for in applicable international agreements or arrangements. The Commanding Officer of the RSAF helicopter squadron shall exercise command and overall control of all RSAF personnel present in Australia pursuant to the proposed Agreement. The RSAF shall require all RSAF personnel to adhere to all relevant ADOD directions while present in Australia. The ADOD may request in writing the removal of RSAF personnel, their accompanying dependants, or non-Australian contractors who display behaviour which is considered professionally or socially unacceptable.

20. Proposed Article 12 requires the RSAF to ensure that all RSAF personnel are medically and dentally fit prior to their arrival in Australia and requires the RSAF to be responsible for the continuing medical and dental support of RSAF personnel in Australia. The RSAF is to advise the ADOD immediately if the activities of the RSAF have the potential to introduce an infectious disease into Australia or if there has been an inadvertent breach of these requirements.

21. Proposed Article 13 requires Singapore to demonstrate a practical commitment to supporting Australian Commercial Enterprises (as defined in proposed Article 1) and to require its contractors to demonstrate such a commitment, subject to certain limitations. Specifically, the RSAF is required to source from Australian Commercial Enterprises services to repair and maintain aircraft deployed in Australia pursuant to the proposed Agreement. The Parties shall develop and maintain a commercial support plan to give effect to these commitments. Where the RSAF does not use Australian Commercial Enterprises, it shall advise ADOD in writing of its reasons. Proposed Article 13 also requires the Parties to protect Commercial-in-Confidence information that is provided by the other Party.

22. Proposed Article 14 requires Singapore to pay for goods, services and facilities provided by the ADOD for the conduct of RSAF activities pursuant to the proposed Agreement on a full cost recovery basis. Where goods, services and facilities are shared by the RSAF and the ADOD, Singapore is only required to pay a pro-rata share of direct costs.

23. Proposed Article 15 sets out how claims will be handled by the Parties. The SOFA is to apply to the settlement of claims arising from combined activities involving the ADOD and RSAF. The SOFA will also apply to the settlement of claims arising from RSAF-only activities, with three modifications: neither Party shall waive claims against the other for damage to property or damages for injury or death suffered by a member of either Defence Force that occurred in the course of official duties; Singapore will make full compensation in accordance with the applicable law for damage to property; and with respect to claims by third parties for damage in circumstances where the Government of Singapore alone is responsible for the damage, the cost incurred in satisfying claims is to be borne wholly by Singapore provided the claim is settled in consultation with Singapore.

24. Proposed Article 16 requires that disputes arising under the proposed Agreement or any Implementing Arrangements be settled in the first instance by negotiation between the Parties through nominated liaison officers. Disputes which cannot be settled at the working level shall be

resolved between the Parties through consultation and negotiation without recourse to any third party or tribunal. This proposed Article also obliges the Parties to meet as required at the request of either Party.

Implementation

25. No changes to national laws, regulations or policies are required to implement the proposed Agreement. The proposed Agreement will not effect any change to the existing roles of the Australian Government or the State and Territory governments.

Costs

26. The proposed Agreement does not impose any foreseeable direct financial costs on Australia, except that Australia may compensate Singapore for the residual value of any RSAF facilities that Australia intends to use following termination of the Agreement (proposed Article 3 paragraph 5). Australia also does not receive any financial benefit under the proposed Agreement, except through the contracting of Australian Commercial Enterprises. In accordance with proposed Article 14, all support provided by Australia to activities under the proposed Agreement is on a full cost recovery basis except for shared support, which is calculated on a pro-rata basis of direct costs. Article 17 of the proposed Agreement ensures that the termination or expiration of the proposed Agreement will not extinguish any debts incurred while the proposed Agreement is in force.

Regulation Impact Statement

27. The Office of Best Practice Regulation, Department of Finance and Deregulation, has been consulted and confirms that a Regulation Impact Statement is not required.

Future treaty action

28. The proposed Agreement does not provide for the negotiation of any future legally binding instruments.

29. Article 17 of the proposed Agreement provides that the Parties may agree in writing to amend the proposed Agreement at any time. Such amendments would enter into force upon an exchange of notes confirming that each Party had completed its domestic requirements to give effect to the amendment. Any amendment to the proposed Agreement would be subject to Australia's domestic treaty process.

Withdrawal or denunciation

30. Pursuant to its Article 17, the proposed Agreement will remain in force until 31 December 2027, unless terminated earlier, or until a later date agreed upon by the Parties. Within two years of the expiry of the proposed Agreement, the Parties shall consult at the request of either Party concerning its extension (proposed Article 2 paragraph 2). Entry into force of the proposed Agreement automatically terminates the 1997 Agreement (Article 17 paragraph 2).

31. The proposed Agreement may be terminated by either Party giving 12 months' written notice of its intention to terminate. Alternatively, the Parties may mutually consent to the termination of the proposed Agreement at any time (proposed Article 17 paragraph 5). Any decision to terminate the proposed Agreement will be subject to Australia's domestic treaty

process.

32. The provisions of the proposed Agreement relating to security and compliance with laws, policies, procedures and directions will remain in force, notwithstanding termination or expiration, while any RSAF personnel, vehicles, equipment, weapons, explosives and materiel associated with the RSAF helicopter squadron remain in Australia (proposed Article 17 paragraph 7). Provisions relating to claims and settlement of disputes shall also continue in force notwithstanding termination or expiration.

Contact Details

Director of Operations and Training Area Management
Base and Customer Support Services Branch
Department of Defence

ATTACHMENT ON CONSULTATION

Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Location of a Republic of Singapore Air Force Helicopter Squadron at the Australian Army Aviation Centre Oakey done at Singapore on 1 June 2012 [2012] ATNIF 7

Consultation

33. The State and Territory governments have been consulted on the proposed Agreement through the Commonwealth-State-Territory Standing Committee on Treaties' (SCOT) biannual schedule of treaty action under negotiation, consideration and review. No comment has been received from State and Territory governments to date.

34. In addition to consultation through SCOT, the Australian Department of Defence has conducted wider public consultation. On 5 March 2012, a letter was sent to the following political representatives advising them of negotiations to renew the proposed Agreement and inviting comment:

Federal Member for Groom – Hon Ian Macfarlane MP
State Member for Toowoomba North – Hon Kerry Shine MP
State Member for Toowoomba South – Hon Michael Horan MP
Mayor, Toowoomba Regional Council – Cr Peter Taylor
CEO, Toowoomba Regional Council – Mr Ken Gouldthorp

None of the above recipients raised any issues of concern.

35. On 22 March 2012 a public community consultation meeting was held at the Oakey Community Centre to discuss the continuation of the RSAF helicopter squadron at the Army Aviation Centre and to invite comment. This was advertised in March 2012 in the Toowoomba Chronicle and the Oakey Champion newspapers.

36. The Commander Army Aviation Centre, COL David Burke, addressed the audience and discussion or comment was invited. The local community was very positive and expressed support for the Singaporean presence, with no negative issues raised.

37. The following comments were made by the local community:

- The Singaporeans were good tenants and they enjoyed having them in the community;
- A question was raised as to the level of noise complaints arising from Singaporean aircraft activities. Defence responded that this was approximately one out of 40 of all noise complaints received by the Army Aviation Centre.
- A question was raised as to the future of the Army Aviation Centre at Oakey. COL Burke mentioned that there were currently no plans to move the Base, but training at the Army Aviation Centre in old aircraft types was being phased out by the ADF in favour of training in new types of aircraft such Multi-Role Helicopters (MRH-90) and Tigers (ARH-90). COL Burke also noted that a new agreement with Singapore would last for 15 years.
- A question was raised as to whether local coal mining would have any impact on the Army Aviation Centre. Base Support Manager – Darling Downs, Mr Mark O'Connell, noted that

his staff were involved with a consultation group with the mining companies as part of the environmental assessment of this mining, and highlighted that the Army Aviation Centre served as an alternate or diversionary airfield for civilian or emergency aircraft in times of low visibility at Toowoomba Airport and for emergency purposes.

- The members of the local community present at the meeting highlighted how the contractor used by the RSAF had provided jobs for their family members. They also particularly noted the relationships which the RSAF personnel had developed in the local Oakey community, including support to local charity and sporting organisations.