

National Interest Analysis [2017] ATNIA 18

with attachment on consultation

**Agreement between the Government of Australia and the Government of the State of
Israel on Bilateral Cooperation in Technological Innovation and Research and
Development**

(Sydney, 23 February 2017)

[2017] ATNIF 19

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

Agreement between the Government of Australia and the Government of the State of Israel on Bilateral Cooperation in Technological Innovation and Research and Development

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Nature and timing of proposed treaty action

1. The proposed treaty action is to bring into force the *Agreement between the Government of Australia and the Government of the State of Israel on Bilateral Cooperation in Technological Innovation and Research and Development* (the proposed Agreement).
2. For the proposed Agreement to enter into force, the Parties must notify each other in writing of the completion of their domestic procedures (Article VIII(1)). The proposed Agreement will enter into force on the date of the last notification (Article VIII(1)).
3. It is proposed that Australia provide its notification to Israel as soon as practicable after the Joint Standing Committee on Treaties tables its report.

Overview and national interest summary

4. The purpose of the proposed Agreement is to provide a broad legally-binding framework for enhanced technological innovation and research and development cooperation between Australia and Israel. Such cooperation between entities of both countries contributes to their ability to conduct world leading research and technology development which, in turn, leads to important socio-economic benefits for both countries.
5. Australia and Israel share a mutual interest in making progress in research, development and technological innovation for peaceful purposes on the basis of mutual advantages. This proposed Agreement serves the national interest in strengthening and encouraging bilateral cooperation by providing a formal framework that allows for the negotiation and conclusion of implementing arrangements to govern cooperative, technological innovation and research and development activities.

Reasons for Australia to take the proposed treaty action

6. The proposed Agreement will provide a formal legal-framework for Australian researchers to undertake collaborative research with Israeli partners in technological innovation and research and development (R&D) activities. Innovation and science are central to Australia's economic policy in delivering economic growth, productivity and job creation. This is clearly reflected in Australia's National Innovation and Science Agenda (NISA).
7. The proposed Agreement builds on the 1987 *Memorandum of Understanding between the Department of Science of Australia and the Ministry of Science and Development of the State of Israel on Cooperation in the Fields of Science and Technology* to support joint activities in innovation aiming for commercialisation in the global market. It is expected that Australia and Israel will benefit from technological innovation and research and development partnerships with each other, particularly in the medium to longer term.
8. The proposed Agreement does not include specific commitments to fund cooperative activities. Cooperative activities, with a focus on innovation, will be carried out by "entities", including persons, businesses, corporations and other relevant enterprises. The nature of the cooperative activities will be negotiated between the relevant organisations and where appropriate, may be supported by relevant government authorities from each side.

Israel's science and technology landscape

9. Israel has a highly developed science and technology sector. According to the Organisation of Economic Co-operation and Development (OECD), Israel spent 4.2 per cent of its Gross Domestic Product (GDP) on R&D in 2013, the highest in the world, and almost double Australia's 2.1 per cent of GDP. Israel is ranked first in the world for business research and development expenditure with businesses spending 3.5 per cent of Israel's GDP on R&D in 2013, compared with 1.2 per cent in Australia.
10. Competitive grants and tax incentives are the two main policy instruments for governments to support business research and development. With government incentives and the availability of highly trained human capital, Israel has become an attractive location for the research and development centres of leading multinationals.
11. The National Technological Innovation Authority of the State of Israel (the Israel Innovation Authority), an executive arm of the Israeli Ministry of Economy, is responsible for implementing cooperative activities under the proposed Agreement. The Israel Innovation Authority plans and manages the development of technological innovation and research and development and identifies national priorities which include:
 - developing a hi-tech industry, while utilising and expanding the existing technological and scientific infrastructure and human resources in Israel;
 - creating jobs in the industry and incorporating scientific and technological personnel, as well as creating returns for the economy and encouraging growth; and
 - increasing productivity and promoting technological innovation across all of Israel's industrial sectors.

Bilateral science and technology engagement

12. Australian investment into Israel is centred on the innovation sector, mostly through conventional venture capital funds and online crowd funding. Niche opportunities for Australian companies have been identified in cyber security, drone technologies, financial technology, agri/water technology, renewable energy and biotechnology. This proposed Agreement will assist in further developing the relationship in these areas.
13. Australia and Israel are already building shared opportunities. Launched in 2016, the Landing Pad in Tel Aviv was one of five landing pads established through the Global Innovation Strategy, an initiative under the Australian Government's NISA. The Landing Pad seeks to bridge Australian and Israeli innovation eco-system and offer Australian companies, entrepreneurs and other ecosystem participants a platform to build links with both Israeli and multi-national contacts.
14. Opportunities for new areas of technological innovation and better coordination of activities will become available as the relationship continues to develop at an institutional level.

Obligations

Cooperation

15. The proposed Agreement obliges the Parties to encourage and support cooperative activities in innovation between entities from Australia and Israel (Article IV).

Sharing of information

16. The proposed Agreement obliges the Parties to endeavour to facilitate the sharing of scientific and technological information of a non-proprietary nature derived from cooperative activities under the proposed Agreement, to third parties, in accordance with the normal policies and procedures of the entities (Article VI(3)).

Non-disclosure of information

17. The proposed Agreement obliges the Parties not to transmit confidential information received from the other to any third party, without written approval, subject to their domestic laws (Article V(1)). If a Party is required by their domestic laws to transmit confidential information received from the other Party, it must notify the other Party immediately (Article V(2)).

Protection of legal and commercial interests

18. The proposed Agreement provides that entities participating in cooperative activities under the proposed Agreement are solely responsible for taking necessary steps to protect their own legal and commercial interests (Article VI(1)).

19. The proposed Agreement also provides that entities participating in cooperative activities are responsible for the protection and ownership of intellectual property rights arising out of those cooperative activities (Article VI(2)).

Settlement of disputes

20. The proposed Agreement obliges the Parties to settle any disputes between them arising out of the interpretation or implementation of the proposed Agreement amicably through consultation or negotiation (Article VII(2)).

Implementation

21. Australia's obligations under the proposed Agreement can be implemented without new legislation or amendment to existing legislation.

Costs

22. The proposed Agreement does not commit Australia to any financial outlays or to participation in specific programmes. It is the responsibility of the Implementing Authorities to meet the costs of cooperative activities from their own resources, sponsorship or government grants.

Regulation Impact Statement

23. The Office of Best Practice Regulation has been consulted and advised that a Regulation Impact Statement is not required.

Future treaty action

24. The proposed Agreement may be amended by mutual written determination of the Parties (Article VIII(2)). For amendments to enter into force, the Parties must notify each other of the completion of their domestic procedures (Article VIII). Amendments will enter into force on the date of the last notification (Article VIII). Any amendment to the proposed Agreement would be subject to Australia's domestic treaty-making requirements.

Withdrawal or denunciation

25. The proposed Agreement provides that either Party may terminate the proposed Agreement by notifying the other Party in writing (Article VIII(3)). Termination will take effect six months after the date of notification (Article VIII(3)). Cooperative activities under this proposed Agreement that have not been completed at the date of notification will be managed in a manner mutually determined by the Parties (Article VIII(4)).

Contact details

International Negotiation – Science and Innovation Section
Science and Commercialisation Policy Division
Department of Industry, Innovation and Science

ATTACHMENT ON CONSULTATION

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CONSULTATION

State and Territory Consultation

1. The State and Territory Governments have been consulted on the proposed Agreement through the Commonwealth-State-Territory Standing Committee on Treaties. No comments were received from the State and Territory Governments. No action will be required from the State and Territory Governments to implement the proposed Agreement.