

National Interest Analysis [2017] ATNIA 25

with attachment on consultation

Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Republic of Singapore Air Force Flying Training Institute Detachment at Royal Australian Air Force Base Pearce

(Singapore, 21 August 2017)

[2017] ATNIF 33

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY
SUMMARY PAGE

Agreement between the Government of Australia and the Government of the Republic of Singapore concerning the Republic of Singapore Air Force Flying Training Institute Detachment at Royal Australian Air Force Base Pearce

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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 Republic of Singapore concerning the Republic of Singapore Air Force Flying Training Institute Detachment at Royal Australian Air Force Base Pearce* (the proposed Agreement). For the Agreement to enter into force, the Parties must notify each other of the completion of their necessary internal procedures through an exchange of notes. The proposed Agreement will enter into force on the date of the last note (Article 23(1)). The exchange of notes by the Parties would occur following consideration by the Joint Standing Committee on Treaties (JSCOT).

Overview and national interest summary

2. The purpose of the proposed Agreement is to establish a legally-binding framework to support the continuation of Singapore's Flying Training Institute at the Royal Australian Airforce (RAAF) Base Pearce in Western Australia. The Flying Training Institute has operated under a Memorandum of Understanding (MoU) that was signed in 1993. The MoU is due to expire on 21 March 2018. In September 2014, the Minister for Foreign Affairs approved a mandate to negotiate the proposed Agreement to replace the MoU upon its expiry. The MoU will terminate on entry into force of the Agreement (Article 23(2)).
3. The proposed Agreement contributes to our national interest by continuing to strengthen the bilateral defence relationship with Singapore - our most advanced defence partner in South East Asia. The negotiation of the proposed Agreement also strengthens the broader relationship between Australia and Singapore, and was a key action under Australia's Comprehensive Strategic Partnership (CSP) – a longer term plan to deepen collaboration in all areas of our bilateral relations. Elevating the previous MOU into a legally-binding treaty will align the status of the RAAF Base Pearce instruments with those providing for Singapore training at Oakey and Shoalwater Bay in Queensland.

Reasons for Australia to take the proposed treaty action

4. The proposed Agreement will allow Singapore to continue training at RAAF Base Pearce for a further 25 years. The Flying Training Institute has been a central and positive element of Australia's defence relationship with Singapore for almost 25 years. The Royal Singapore Air Force's (RSAF) presence in Australia underpins our strong, high-end and wide-ranging defence engagement program.
5. Retaining a significant RSAF presence at RAAF Base Pearce will also ensure continued economic benefits to Australian businesses supporting the Flying Training Institute and the Singaporean personnel and their families. The local community is supportive of the Singaporean presence at RAAF Base Pearce.
6. Finally, the proposed Agreement demonstrates Australia's continued commitment to the CSP with Singapore and to the development of the wider bilateral relationship.

Obligations

Establishment of the Flying Training Institute

7. The proposed Agreement will enable the RSAF to maintain and operate a Flying Training Institute at RAAF Base Pearce in Western Australia in accordance with the Agreement (Article 2).

Activities of the Flying Training Institute

8. The proposed Agreement will allow the RSAF to undertake basic flying training and related courses at the Flying Training Institute (Article 3(1)), the details of which will be set out in an implementing arrangement to the Agreement (Article 3(2)). Importantly, the Australian Department of Defence (ADOD) can suspend these activities if it considers that they would adversely affect RAAF training, operations or operational readiness (as determined by the Chief of the RAAF), or in other extraordinary circumstances that preclude the activities. In this situation, the ADOD would use its best endeavours to find alternative arrangements for the Flying Training Institute in consultation with the RSAF (Article 3(3)).
9. The flying programmes of the Flying Training Institute are coordinated by the RAAF and RSAF at weekly meetings at RAAF Base Pearce. The RSAF must comply with the flying programs determined at these meetings, and must obtain the ADOD's consent before deploying its aircraft outside RAAF Base Pearce flying areas (Article 6). The 'rate of effort' (the number of flying hours in a defined period) for the Flying Training Institute will be set out in implementing arrangements to the proposed Agreement (Article 4(4)). This rate of effort will balance the RAAF's operational requirements, the RSAF's training needs, and the interests of the local community.

Composition of the Flying Training Institute

10. The Flying Training Institute may use up to 30 aircraft for basic flying training. The type of aircraft will be set out in implementing arrangements to the proposed Agreement (Article 4(1)). Previously, the RSAF has used PC-21 aircraft to conduct its training. The number of aircraft (and other assets) can also be increased with the consent of the ADOD (Article 4(2)).

11. The Flying Training Institute consists of two RSAF squadrons (Article 1(j)). The maximum number of Singaporean military and civilian personnel, as well as Singaporean contractors (who may form part of the Flying Training Institute), will be set out in implementing arrangements to the proposed Agreement (Article 4(5)).

Regulation of Activities

12. The proposed Agreement provides that activities of the Flying Training Institute must be conducted in accordance with Australian laws and policies, as well as ADOD instructions (Article 5(1)). Any activities that the ADOD considers do not comply with such laws, policies, and instructions must be suspended until the non-compliance is rectified to the satisfaction of the ADOD (Article 5(3)).
13. The proposed Agreement provides that the RSAF must notify the RAAF Commander of any breaches of flying regulations and participate in safety audits (Article 8(1) and (2)). The RSAF will undertake any corrective action needed to comply with these requirements. The RAAF will coordinate accident response at RAAF Base Pearce, but will seek to accommodate RSAF policies and procedures where practicable (Article 8(3)).
14. The numbers and types of aircraft, vehicles and equipment at the Flying Training institute will be closely monitored under the proposed Agreement (Article 9(1) and 4(3)). The RSAF will not use explosives at RAAF Base Pearce without ADOD consent, and any RSAF explosives must be stored in accordance with procedures to be detailed in an implementing arrangement to the proposed Agreement (Article 9(2) and (3)).

Noise Abatement

15. The proposed Agreement includes provisions to mitigate noise generated by the Flying Training Institute's activities. If the ADOD determines that RSAF's flying is jeopardising noise abatement procedures at RAAF Base Pearce, then the parties will consult and take measures to rectify the situation, including altering the composition of the Flying Training Institute or its activities to reduce noise from RSAF aircraft (Article 7(1) and (2)).
16. The proposed Agreement also provides a mechanism to handle any noise complaints from the local community that result from RSAF flying, or a combination of the RSAF and RAAF flying. The ADOD will liaise with the local community on these matters on behalf of the RSAF, and any costs of settlement will be apportioned according to the responsibility of the RSAF and RAAF (Article 7(3) and (4)).

ADOD and Commercial Support

17. The proposed Agreement allows for the ADOD to use its best endeavours to provide administrative or other support to the Flying Training Institute (Article 10). Singapore may also procure goods and services from commercial entities, noting that it must demonstrate a practical commitment to the use of local Australian suppliers and report against this requirement (Article 11(1)(c) and (3)). However, the use of Australian suppliers is subject to reasonable exemptions (Article 11(2)).

Facilities, Accommodation and Security

18. The proposed Agreement provides for development of facilities by Singapore at RAAF Base Pearce (Article 12(1)). Singapore does not have exclusive control of these facilities, and Authorised ADOD personnel retain a right of access. RSAF personnel may escort Australian personnel within the facilities where practicable (Article 12(3) and (4)). The proposed Agreement also makes arrangements for the accommodation of Singaporean personnel and their dependants at RAAF Base Pearce, or in the community (Article 17).
19. The ADOD is responsible for overall security at RAAF Base Pearce. The RSAF must comply with security regulations and instructions, and report and rectify any breaches (Article 13(1)-(9)). Classified information exchanged under the proposed Agreement is governed by 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 1997* (or successor agreement) (Article 13(10)).

Personnel

20. Singaporean military and civilian personnel at the Flying Training Institute and their dependants must be Singaporean nationals or permanent residents, and may stay for up to three years in Australia unless a longer period is approved by Australia (Article 15). The Singaporean personnel and their dependants will receive certain immunities from Australian criminal jurisdiction under the *Exchange of Notes constituting a Status of Forces Agreement between the Government of Australia and the Government of the Republic of Singapore 1988* ('SOFA') (Article 14(1)). An RSAF commander will be responsible for control and discipline of the Singaporean personnel at all times (Article 14(2)). All the Singaporean personnel must be medically fit before arrival in Australia (Article 16(1)). The Singaporean personnel may be provided medical care at RAAF Base Pearce as set out in an implementing arrangement to the proposed Agreement (Article 16(4)).

Claims and Disputes

21. Claims arising under the proposed Agreement will be handled in accordance with the SOFA, except that no claims will be waived for damage to property or personal injury, and Singapore will pay all compensation arising from conduct for which it is solely responsible (Article 20). All disputes arising under the Agreement must be settled by consultation and negotiation (Article 22).

Implementation

22. Australia's implementation of the proposed Agreement will be led by the Department of Defence. Implementation of the Agreement does not require changes to Australian laws or regulations.

Costs

23. Singapore will be responsible for all costs associated with the Flying Training Institute. Further details regarding finances will be set out in implementing arrangements to the proposed Agreement (Article 18). Singaporean military and civilian personnel and

their dependants will be entitled to certain exemptions from duties in accordance with the SOFA (Article 19).

Future treaty action

24. The proposed Agreement provides that the Parties may develop implementing arrangements to give effect to the proposed Agreement (Article 23(5)). The Parties may agree to amend the proposed Agreement at any time (Article 23(7)).
25. Amendments to the proposed Agreement would be subject to Australia's domestic treaty-making requirements, including tabling in Parliament and consideration by JSCOT.
26. Such amendment will enter into force on the date of last notification that Australia and Singapore have completed their respective domestic requirements to give effect to the amendment (Article 23(8)).

Termination

27. The proposed Agreement will remain in force for a period of 25 years, unless terminated (Article 23(3)). The Parties will consult at an early stage regarding extension of the proposed Agreement (Article 23(4)).
28. The Parties may agree to terminate the proposed Agreement (Article 24(1)). A Party may also terminate the proposed Agreement by giving 12 months' notice if extraordinary circumstances have arisen and the parties cannot mutually determine alternative arrangements for the continuation of the Flying Training Institute (Article 24(2)). The Parties will consult within the 12 months' notice period to equitably manage the consequences of such a termination, including in relation to facilities constructed by the RSAF at RAAF Base Pearce (Article 24(3)). The RSAF will return its personnel and assets to Singapore within an appropriate timeframe upon termination or expiry of the Agreement (Article 24(4)).
29. Obligations relating to protection of information, jurisdiction, finances, claims, and disputes will continue to apply despite any termination of the Agreement (Article 24(5)).

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ATTACHMENT ON CONSULTATION

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CONSULTATION

State and Territory Governments

30. States and Territories were informed of negotiations through the bi-annual meeting of the Commonwealth-State-Territory Standing Committee on Treaties (SCOT). No comments were received from the States or Territories. No action will be required from States or Territories to implement the proposed Agreement.

Public Consultation

31. The community around RAAF Base Pearce remain supportive of the presence of the Flying Training Institute.