

Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan

Introduction

- 2.1 The proposed treaty action, otherwise known as the *Japan–Australia Acquisition and Cross Servicing Agreement (ACSA)*, sets out the basic terms and conditions for the reciprocal provision of supplies and services between the Australian Defence Force and the Japanese Self-Defence Forces.¹
- 2.2 The agreement covers defence co-operation during joint exercises and United Nations led peace keeping operations, international humanitarian and disaster relief operations. It does not apply to offensive military operations, nor supply of weapons or ammunition.²

1 *National Interest Analysis (NIA)*, [2010] ATNIA 54, Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan, done at Tokyo on 19 May 2010 [2010] ATNIF 29, para. 6.

2 NIA, paras 6 and 10.

- 2.3 The Committee was informed that this is the second only cross-servicing agreement in place with Japan and, as such, is an important advance for future bilateral engagement between our two defence organisations:

As the defence logistics relationship between Japan and Australia matures, it is likely that subordinate, non-treaty level implementing arrangements may be developed to address specific bilateral activities. Examples could be the exchange of fuel between defence forces or the sharing of airlift capability.³

- 2.4 The advantage of the treaty in practical terms is that it will provide an agreed framework of conditions for supply and other activities, which otherwise would have to be negotiated on a case-by-case basis.⁴
- 2.5 It is expected that the new arrangements will allow 'capability gaps' identified in past joint activities with Japan, such as during the Padang earthquake, to be addressed. In particular, the capacity to respond promptly in non-combatant evacuation operations and to deliver medical assistance during emergency relief operations.⁵
- 2.6 Japan's other cross-servicing agreement is with the United States. The agreement will increase the uptake in joint and trilateral training and security opportunities across the region, exemplified by the trial trilateral Pacific Bond exercise conducted between Australia, Japan and the United States in late 2009.⁶

Obligations

- 2.7 The agreement provides for reciprocity in procedural arrangements and limits the potential for non-military application of supplies and services.
- 2.8 Article I details the proposed activities to be covered:
- joint exercises and training conducted by both the Australian Defence and Japan's Self-Defence forces, but with unilateral exercises conducted by each Party excluded;

3 Air Vice Marshal Margaret Staib, Department of Defence, *Transcript of Evidence*, 7 February 2011, p. 2.

4 Air Vice Marshal Staib, Department of Defence, *Transcript of Evidence*, 7 February 2011, p. 3.

5 Mr Benjamin Burdon, Department of Defence, *Transcript of Evidence*, 7 February 2011, pp. 4, 5.

6 Air Vice Marshal Staib, Department of Defence, *Transcript of Evidence*, 7 February 2011, pp. 2, 6.

- United Nations Peacekeeping Operations, humanitarian international relief operations or relief for large scale disasters in party territories or a third country;
 - transportation of nationals of either Party or, where appropriate, others for evacuation overseas in case of exigency of the situation; and
 - communication and co-ordination or other routine activities, including visits by ships or aircraft of either Party in each other's territory.
- 2.9 Article II (3) contains a prohibition on the provision of weapons or ammunition, specifying categories to be covered.⁷
- 2.10 Article III requires that these supplies and services must be used consistently with the Charter of the United Nations, which prohibits 'threat or use of force against the territorial integrity or political independence of any state'.⁸ Article III also prohibits transferral of services or supplies procured under the agreement to external forces unless with written permission.⁹
- 2.11 Articles IV and V specify the procedural arrangements for the agreement, addressing financial and other terms of transaction to ensure equity of price, quality and quantity on exchange. Taxation exemptions are also required.
- 2.12 Article VI sets out the approach for dispute resolution, and excludes application of the agreement to Australian Defence Force activities conducted under the *Agreement Regarding the Status of the United Nations Forces in Japan*, 1954.
- 2.13 The Committee was advised that payment for any supplies and services transferred under the agreement is to be made either as a cash reimbursement or replacement in kind.¹⁰

7 Including provision of food, water, medical services, communications, billeting, transportation, petroleum, storage, spare parts and components, repair and maintenance, and airport and seaport services, Article II (2).

8 Article 2(4).

9 NIA, para. 11.

10 Air Vice Marshal Staib, Department of Defence, *Transcript of Evidence*, 7 February 2011, p. 2.

Implementation

- 2.14 After exchange of diplomatic notes, this agreement will remain in force for ten years and is renewable.¹¹
- 2.15 The *National Interest Analysis* (NIA) found implementation of the treaty would not generate a financial cost or need to change national laws, regulations or policies, nor Commonwealth, State or Territory government roles.¹²
- 2.16 State and territory governments gave unqualified support to the proposed treaty in consultations.¹³

Conclusion

- 2.17 Australia and Japan have a well-developed partnership in conducting humanitarian and disaster relief operations.
- 2.18 The Committee considers the agreement will provide a secure and reliable arrangement to advance defence co-operation between Australia and Japan, building closer bilateral ties between the parties, and with tangible benefits to international peacekeeping and humanitarian rescue operations.
- 2.19 The Committee supports binding treaty action being taken.

Recommendation 1

The Committee supports the *Agreement between the Government of Australia and the Government of Japan concerning Reciprocal Provision of Supplies and Services between the Australian Defence Force and the Self-Defense Forces of Japan* and recommends that binding treaty action be taken.

11 Article VII (1).

12 NIA, para. 27

13 NIA, para. 28.