

Agreement on Scientific and Technological Cooperation between the Government of Australia and the Government of the Socialist Republic of Viet Nam

Introduction

- 5.1 On 20 January 2014, the *Agreement on Scientific and Technological Cooperation between the Government of Australia and the Government of the Socialist Republic of Viet Nam* ('the Agreement') was presented to the President of the Senate.¹ The Agreement will further Australia's international research engagement.² At present Australia is party to 22 science and technology treaties.³ The current treaty action builds on the 1992 Memorandum of Understanding between the Government of Australia and the Government of the Socialist Republic of Viet Nam on Scientific and Technological Cooperation (the 1992 MoU).⁴
- 5.2 The Agreement will provide a formal framework for Vietnamese researchers to seek Vietnamese Government funding for collaborative research with Australian partners. Vietnamese Government policy requires that a treaty-level agreement be in place before government funds for collaborative research can be released. Accordingly, Vietnamese

1 National Interest Analysis [2013] ATNIA 14 *Agreement on Scientific and Technological Cooperation between the Government of Australia and the Government of the Socialist Republic of Viet Nam*, done at Canberra, 26 June 2013, [2013] ATNIF 19 (hereafter referred to as the 'NIA'), para 1.

2 Ms Lisa Scholfield, General Manager, Research Collaboration and International Engagement Branch, Science, Research and Innovation Division, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 1.

3 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 1.

4 NIA, para 5.

Government funds were not available under the 1992 MoU.⁵ The Agreement provides a formal framework to govern cooperative scientific and technological activities.⁶

5.3 According to the National Interest Assessment (NIA), the Agreement aims to promote cooperation between the Parties for the development of science and technology in their respective countries for peaceful purposes and mutual advantage (Article II (1)(2)).⁷

5.4 Article III states that the Parties shall facilitate the development of joint contracts and cooperation between organisations. The Committee asked the Department of Industry (the Department) to confirm that the Agreement does not override Australia's obligations under the *Defence Trade Controls Act 2012*. The Department stated:

... this treaty does not override the controls, obligations and rules under the Defence Trade Controls Act, so those requirements would be in force for any research conducted under the broad auspices of this agreement, much as it would any other research activities that were taking place.⁸

5.5 Articles II and VIII back up this interpretation, stating that activities carried out under the treaty are required to be '[I]n conformity with the laws and regulations of their respective countries' and 'consistent with its applicable laws and regulations'.⁹ The Department further explained:

... the general rule of law regarding treaty making in Australia states that treaties entered into by the Australian Government do not form part of Australia's domestic law unless and until they are incorporated by legislation, and cannot give rise to rights and obligations unless they are so enacted into law.¹⁰

5.6 Article IV sets out the scope of the Agreement:

Scientific and technological cooperation under this Agreement may include, but is not limited to, the following:

(a) Formulation and implementation of joint research and development programs and projects;

5 NIA, para 6.

6 NIA, para 4.

7 *Agreement on Scientific and Technological Cooperation between the Government of Australia and the Government of the Socialist Republic of Viet Nam* (herein after referred to as the Agreement), done at Canberra, 26 June 2013, [2013] ATNIF 19, Article II (1)(2).

8 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 4.

9 The Agreement, Article II and VIII.

10 Department of Industry, *Submission no 1*.

- (b) Exchange of scientific and technological information, including through making information available to third parties, in accordance with Article VII of this Agreement;
- (c) Exchange of scientists and technical experts participating in cooperative programs and projects as well as other activities under this Agreement;
- (d) Organisation of scientific conferences, seminars and workshops on topics of mutual interest; and
- (e) Other forms of cooperation as may be agreed upon by the Parties.¹¹

5.7 Article XII of the Agreement provides that it will enter into force when the Parties notify each other through diplomatic channels that their domestic requirements have been fulfilled.¹²

Overview and national interest summary

5.8 The Department told the Committee that although Australia is one of the highest per capita producers of world science, global partnerships are still necessary to remain competitive:

We must continue to make our international research relationships a priority in order to continue to have a world-class innovation system that drives productivity.¹³

5.9 The Agreement will strengthen and encourage bilateral cooperation by providing a formal framework that allows for the negotiation and conclusion of implementing arrangements to govern cooperative scientific and technological activities.¹⁴

Reasons for Australia to take the proposed treaty action

5.10 The Agreement formalises the existing 1992 MoU and will allow the Vietnamese Government to provide funds for joint projects. As the Department confirmed:

11 The Agreement, Article IV.

12 NIA, para 2.

13 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 1.

14 NIA, para 4.

The 1992 MOU sets out very similar statements around cooperation, but the Vietnamese government needs a treaty-level agreement in order to allow funds to be released.¹⁵

5.11 The Agreement will provide a broad framework for enhanced scientific and technological cooperation between Australia and Vietnam. It does not include specific commitments to fund cooperative activities. Rather, cooperative activities will be carried out by 'cooperating organisations' (including government agencies, universities, research centres or other relevant institutions or enterprises) and will be governed by activity-specific 'implementing arrangements', to be negotiated between the relevant organisations.¹⁶

5.12 Australia's scientific and technological relationship with Vietnam is still developing. Much of Australian scientific and technological cooperation with Vietnam is focused on aid-based projects in health and agriculture, predominantly managed by the Department of Foreign Affairs and Trade and the Australian Centre for International Agricultural Research (ACIAR).¹⁷ Projects currently underway were outlined by the Department:

The three areas that ACIAR focuses on at the moment with Vietnam is work on climate change adaptation and mitigation in rice systems in the Mekong Delta. They do some work on the south central coast around sustainable crop cultivation and livestock production systems and sustainable marine culture systems for high-value species. They also do some work in the north-western highlands around high-value temperate fruits and vegetables, sustainable production of cash crops, livestock and forestry products.¹⁸

5.13 Australia is currently building a scientific and technological relationships with Vietnam outside the aid program, for example:

- Questacon toured Vietnam in April 2013, showcasing Australia's capacity for innovative, accessible science communication and an MoU for cooperation in science communication was signed;
- CSIRO has a long history of science cooperation with Vietnam, particularly in agriculture, land management and water resources research;

15 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 2.

16 NIA, para 8.

17 NIA, para 13.

18 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, pp. 2-3.

- in 2013 over \$2.3 million of Australian Research Council (ARC) funding was tied to 17 new and ongoing research projects in collaboration with Vietnam;
- the Vietnamese Centre for Science and Technology Communication recently toured Australia;
- the Australian Nuclear Science and Technology Organisation (ANSTO) has been working with Vietnam through the Forum for Nuclear Cooperation in Asia (FNCA); and
- Australian universities are beginning to undertake research cooperation with Vietnamese counterparts.¹⁹

5.14 The Vietnamese Government is keen to progress its scientific capacity and is aiming to have hi-tech products and applications accounting for 45 per cent of GDP by 2020. The development of scientific and technological and equipment innovation in Vietnam is expected to increase 10-15 per cent per year between 2011 and 2015 and over 20 per cent per year between 2016 and 2020, offering opportunities to Australian goods and services exporters to service this increasing demand.²⁰ According to the Department:

The Vietnamese government has launched efforts to increase the country's capacity in cutting-edge science and innovation. Their economy is also growing rapidly under policies of internationalisation and reform. Recognising this potential, most leading scientific producers, including the US, France, Germany, Japan and China, already have science cooperation treaties with Vietnam.²¹

5.15 The Committee questioned the Department about how the Agreement would progress Australia's trade interests. The Department responded that:

[t]here are no specific obligations in the treaty that talk about trade provisions. However, what we have seen from other arrangements that we have in place is that export and trade opportunities tend to flow following the build-up of strategic science research, innovation and collaboration.²²

19 NIA, paras 14-15.

20 NIA, para 11.

21 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 2.

22 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 2.

- 5.16 According to the Department, to date the relationship between the Parties has been characterised by Australia providing assistance to Vietnam.²³ However, the Department stressed that the development of science and technology sectors has been rapid in many emerging economies:
- What we have seen is that some of those countries are getting ahead of us now in some of those fields. So for us to be in from the beginning is important, and we would see that there would be advantages on both sides as we go forward.²⁴
- 5.17 There are no specific obligations in the treaty that cover trade provisions. However, the NIA indicates that export and trade opportunities tend to flow following the development of strategic science research, innovation and collaboration.²⁵

Obligations

- 5.18 The Agreement imposes a general obligation on the Parties to promote cooperation in science and technology between their respective countries, including between relevant organisations in each country, for peaceful purposes (Article II). For example, parties will use their best efforts to facilitate the entry and exit of scientific personnel and material involved in cooperative activities under the Agreement.²⁶
- 5.19 The Agreement is explicit that the implementation of the various obligations is subject to the relevant laws of each country and the availability of funds (Article VI).²⁷ Furthermore, organisations participating in cooperative activities under the Agreement are solely responsible for protecting their own legal and commercial interests (Article VII).²⁸ The Department stated that:
- The intellectual property provisions in this treaty are the same as they are in most of the other treaties that we have signed. We have found that that has not caused any issues or concerns and we would expect that this would be the same.²⁹

23 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 3.

24 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 3.

25 NIA, para 11.

26 NIA, para 21.

27 NIA, para 19.

28 NIA, para 20.

29 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 3.

- 5.20 Article IX obliges the Parties to establish a Joint Australia – Viet Nam Committee on Scientific and Technical Cooperation (the Joint Committee) composed of representatives of both Parties. The Joint Committee is to meet alternately in Vietnam and Australia every two years or when mutually determined by both Parties.³⁰ The Department was unable to provide the Committee with details on the composition of the Joint Committee, as these will be negotiated once the treaty is signed.³¹
- 5.21 Disputes arising from the Agreement are to be settled ‘amicably’ through consultation or negotiation.³²

Implementation

- 5.22 No new domestic legislation or amendments to existing legislation are required to allow Australia to meet its obligations under the Agreement.³³

Costs

- 5.23 The Agreement does not commit Australia to any financial outlays or to participation in specific programs. It is the responsibility of the cooperating organisations to meet the costs of cooperative activities from their own resources, sponsorship or government grants. While there will be some costs associated with implementation and management of the Agreement (scientific delegation visits, providing policy advice and hosting Joint Committee meetings) these costs will be absorbed by the Department of Industry.³⁴ Budget supplementation is not required.³⁵

Conclusion

- 5.24 The Committee endorses the Australian Government’s commitment to fostering international research relationships. The proposed Agreement

30 NIA, para 21.

31 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 2.

32 NIA, para 23.

33 NIA, para 24.

34 Ms Scholfield, Department of Industry, *Committee Hansard*, Canberra, 3 March 2014, p. 3.

35 NIA, para 25.

formalises the 1992 MoU and will allow the Vietnamese Government to provide funds for joint projects.

- 5.25 The Committee supports Australia's ratification of the proposed Agreement and recommends that binding treaty action be taken.

Recommendation 4

- 5.26 **The Committee supports the *Agreement on Scientific and Technological Cooperation between the Government of Australia and the Government of the Socialist Republic of Viet Nam* and recommends that binding treaty action be taken.**