

# The Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation

## Introduction

- 2.1 This chapter examines the provisions of the *Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation* (the Agreement).
- 2.2 Broadly speaking, the Agreement is designed to provide a framework for cooperation between Australia and Indonesia on traditional and non-traditional security threats. As such, it is the pinnacle of previous formal and informal declarations of the bilateral security relationship.
- 2.3 A number of formal arrangements have been concluded in areas such as policing, defence, immigration and intelligence<sup>1</sup> and informally the 2005 Australia-Indonesia Joint Declaration on Comprehensive Partnership describes a mutual desire to increase 'cooperation in combating other forms of transnational crime and non-traditional

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1 The National Interest Analysis (NIA), at para. 8, provides examples such as the 2002 Memorandum of Understanding (MOU) on Terrorism, the 2002 MOU on Combating Transnational Crime and Developing Police Cooperation, and the 2006 MOU concerning Cooperation on Migration and Border Control Management.

security threats, especially in areas such as people smuggling, narcotics, outbreaks of disease and money laundering.<sup>2</sup>

2.4 Both Australia and Indonesia have been committed to negotiating a security agreement since the 2003 visit to Australia by Dr Susilo Bambang Yudhoyono, who was at the time the Indonesian Coordinating Minister for Political and Security Affairs. Following Dr Yudhoyono's inauguration as Indonesia's President in 2004, Australia and Indonesia commenced discussion, negotiation and drafting of the Agreement.<sup>3</sup>

2.5 The Committee was informed that the Agreement reflects Australia and Indonesia's common commitment to advancing the bilateral relationship in areas important to both countries.

[The Agreement] aims to deepen and expand bilateral cooperation and exchanges on matters affecting our common security. It will provide a strong legal framework for encouraging enhanced intensive dialogue exchanges and implementation of cooperative security activities, and provides a firm basis for conclusion of separate arrangements in specific areas of cooperation.<sup>4</sup>

2.6 The Agreement is intended to function as a framework agreement, drawing together different aspects of the security relationship and providing a basis for the conclusion of separate arrangements in specific areas.

2.7 Article 1 states that the Agreement has two purposes. First, to establish a framework for deepening and expanding bilateral cooperation and exchanges, and to intensify cooperation and consultation between Australia and Indonesia on matters affecting their common security and respective national security. Second, to establish a bilateral consultative mechanism for encouraging intensive dialogues, exchanges and implementation of cooperative activities and to strengthen institutional arrangements.<sup>5</sup>

2.8 The Agreement lists ten areas and forms of cooperation:

- Defence;

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2 For the full text of the Joint Declaration, see the Department of Foreign Affairs and Trade website: [www.dfat.gov.au/geo/indonesia/comprehensive\\_partnership\\_1105.html](http://www.dfat.gov.au/geo/indonesia/comprehensive_partnership_1105.html). See also the NIA, para. 6.

3 NIA, para. 9.

4 Ms Gillian Bird, *Transcript of Evidence*, 26 February 2007, pp. 2-3.

5 NIA, para. 18.

- Law enforcement;
- Counter-terrorism;
- Intelligence;
- Maritime security;
- Aviation safety and security;
- Proliferation of weapons of mass destruction;
- Emergency cooperation;
- Cooperation in international organisations on security related issues; and
- Community understanding and people-to-people cooperation.

2.9 Underlying the Agreement are six key principles which will guide Australia and Indonesia's relationship. First, Indonesia and Australia's relationship is guided by 'equality, mutual benefit and recognition of enduring interests each Party has in the stability, security and prosperity of the other.'<sup>6</sup>

2.10 Second, 'mutual respect and support for the sovereignty, territorial integrity, national unity and political independence of each other, and also non-interference in the internal affairs of one another.'<sup>7</sup>

2.11 The third principle of the Agreement has attracted significant interest and is extracted here in full:

The Parties, consistent with their respective domestic laws and international obligations, shall not in any manner support or participate in activities by any person or entity which constitutes a threat to the stability, sovereignty or territorial integrity of the other Party, including by those who seek to use its territory for encouraging or committing such activities, including separatism, in the territory of the other Party.

2.12 The fourth principle entails the peaceful settlement of any disputes that might arise between Australia and Indonesia so that international peace, security and justice are not endangered.

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6 Article 2(1) of the Agreement.

7 Article 2(2) of the Agreement.

- 2.13 Fifth, Australia and Indonesia will refrain from the threat or use of force against the integrity or political independence of the other.
- 2.14 Finally, the sixth principle states that nothing in the Agreement shall affect in any way the existing rights and obligations of either Australia or Indonesia under international law.

## Language

- 2.15 The English language and Indonesian language version of the Agreement are equally authentic but the Agreement itself states that in the case of divergence, the English text will prevail.<sup>8</sup>

## Entry into force and withdrawal

- 2.16 In accordance with Article 10(1) of the Agreement, the Agreement will enter into force on the date of receipt of the last notification by which the Parties notify each other that their internal requirements for entry into force have been fulfilled.<sup>9</sup>
- 2.17 Indonesia's domestic processes for entry into force will involve Commission I, the defence, foreign affairs, communication and information committee of the Indonesian Parliament, considering the Agreement.
- 2.18 Under Article 10(2), six months written notice is required to terminate the Agreement, at which point, the Agreement will terminate six months after receipt of the notice of termination.
- 2.19 Withdrawal or denunciation by Australia would be subject to Australia's domestic treaty process, including tabling and consideration by JSCOT.

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8 This was confirmed by the Department of Foreign Affairs and Trade, *Transcript of Evidence*, 30 April 2007, p. 48.

9 NIA, para. 2.

## Implementation

2.20 The Committee was informed that no legislation is required to implement the provisions of the Agreement.<sup>10</sup>

## Consultation

2.21 States and Territories were being consulted on aspects of the Agreement which relate to their areas of responsibility through the Commonwealth-State and Territories Standing Committee on Treaties. No other consultation was undertaken prior to the Committee's inquiry.<sup>11</sup>

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<sup>10</sup> NIA, para. 36; see also Ms Gillian Bird, *Transcript of Evidence*, 30 April 2007, p. 47.

<sup>11</sup> NIA, Consultation, paras 1 & 2.

