

National Interest Analysis [2013] ATNIA 14

with attachment on consultation

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

(Canberra, 26 June 2013)

[2013] ATNIF 19

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

Agreement on Scientific and Technological Cooperation between the Government of Australia and the Government of the Socialist Republic of Viet Nam (Canberra, 26 June 2013)

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Nature and timing of proposed treaty action

1. The proposed treaty action is to bring into force the *Agreement on Scientific and Technological Cooperation between the Government of the Socialist Republic of Viet Nam and the Government of Australia* (the Agreement), signed on 26 June 2013 by the then Minister for Science and Research, Senator the Hon Don Farrell, and the Vietnamese Minister for Science and Technology, His Excellency Professor Nguyen Quan.
2. 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 for entry into force have been fulfilled. It is proposed to send the Australian note as soon as practicable following consideration by the Joint Standing Committee on Treaties.

Overview and national interest summary

3. The purpose of the Agreement is to lend further support to the science and technology relationship between Australia and the Socialist Republic of Viet Nam (Vietnam). Scientific and technological cooperation between the scientists of both countries contributes to their ability to conduct world leading research and technology development. The outcomes of such research, in turn, lead to important socio-economic benefits for each country.
4. 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.

Reasons for Australia to take the proposed treaty action

5. The purpose of the Agreement is to facilitate more extensive cooperation between the science and technology sectors in Australia and Vietnam, building on cooperation between the countries under 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). It is expected that both Australia and Vietnam will benefit from science and research partnerships with each other, particularly in the medium to longer term.

6. The Agreement will provide a formal framework for Vietnamese researchers to seek Vietnamese Government and other 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 Government funds were not available under the 1992 MoU.

7. The proposal for a treaty-level agreement on scientific and technological cooperation was raised during a visit to Australia by the Vietnamese Prime Minister in 2008. The Agreement will place Australia alongside other major producers of scientific research that have already signed similar agreements with Vietnam. These include the USA, Japan, China, Germany, France, Italy, the Netherlands, Russia, Brazil, India and the Republic of Korea.

8. 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.

9. The Agreement will enhance bilateral ties between Australia and Vietnam, allowing our bilateral scientific and technological cooperation to mature. The Agreement also demonstrates Australia’s commitment to regional cooperation in science and technology.

10. The Agreement presents numerous opportunities for Australia to develop capabilities that are important for engaging with the emerging economies of Asia, including improvements in science and technology; and will help develop trust and cooperation bilaterally with Vietnam, an important country in the Asian region.

Vietnam’s science and technology expansion

11. The Vietnamese Government is actively developing its scientific and technological systems and the capability of its researchers. The Vietnamese Government has set the following targets: by 2020, improvements to Vietnam’s scientific and technological framework will contribute significantly to its economic growth and restructuring, with the value of hi-tech products and hi-tech application products expected to account for 45% of Vietnam’s GDP. The development of scientific and technological and equipment innovation in Vietnam is expected to increase 10-15% per year between 2011 and 2015 and over 20% per year between 2016 and 2020, offering opportunities to Australian goods and services exporters able to service this increasing demand.

12. The Vietnamese Ministry of Science and Technology (MoST) is responsible for implementing activities under this Agreement. MoST plans and manages the development of science and technology and identifies national scientific and technological priorities, which currently include health, medicine and food processing. MoST is seeking to expand collaborative research in these areas with Australia.

Bilateral science and technology engagement

13. 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). ACIAR is one of the most active Australian agencies in Vietnam. ACIAR's medium-term strategy for Vietnam revolves around environmental sustainability and human resource development.

14. Australia is also building scientific and technological relationships with Vietnam outside the aid program. Questacon toured Vietnam in April 2013, showcasing Australia's capacity for innovative, accessible science communication and a memorandum of understanding (MoU) for cooperation in science communication was signed between Questacon, the Australian National University and MoST on 26 June 2013. The Commonwealth Scientific and Industrial Research Organisation (CSIRO) has enjoyed a long history of science cooperation with Vietnam, particularly in agriculture, land management and water resources research. 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 Australian Nuclear Science and Technology Organisation (ANSTO) has also been working with Vietnam through the Forum for Nuclear Cooperation in Asia (FNCA).

15. Australian universities (e.g. the University of Technology Sydney and the University of Adelaide) are beginning to undertake research cooperation with Vietnamese counterparts. Vietnamese universities have sizeable cooperation activities with counterparts in Japan, South Korea and Europe.

16. The Agreement will strengthen existing cooperation and enable an increase in non-aid-based scientific and technological cooperation. Opportunities for new areas of scientific and technological activity and better coordination of activities will become available through interactions and policy exchange covered by the Agreement. An example of this is the recent study tour to Australia by the Vietnamese Centre for Science and Technology Communication, which will open opportunities for cooperation in science communication.

Obligations

Cooperation

17. 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). Parties undertake to encourage and facilitate the development of joint contacts and cooperation between cooperating organisations (Article III). Article III also obliges the Parties to encourage and

facilitate the conclusion of activity-specific implementing arrangements between cooperating organisations to facilitate this cooperation.

18. Article IV states that cooperation under the Agreement may include (but is not limited to) the implementation of joint research and development programs, exchange of scientific and technological information, exchange of scientists and technical experts, organisation of scientific conferences and seminars, and such other activities as may be agreed between the Parties.

19. The Agreement makes it clear that the implementation of these obligations is subject to relevant laws in each country and the availability of funds (Article VI).

Protection of legal and commercial interests

20. The Agreement makes it clear that organisations participating in cooperative activities under the Agreement are solely responsible for protecting their own legal and commercial interests (Article VII). It is also the responsibility of the cooperating organisations to determine how intellectual property rights created and/or used as part of cooperative activities under the Agreement are managed. In this context, the Parties are obliged to “endeavour to facilitate” the conclusion of arrangements between cooperating organisations regarding intellectual property rights and confidential information, in accordance with guidelines set out in Annex I of the Agreement. The Parties also undertake to “endeavour to facilitate” the dissemination of scientific and technological information of a non-proprietary nature derived from activities under the Agreement to any third party in accordance with normal policies and procedures of the cooperating organisations.

Movement of people

21. Article VIII obliges the Parties, subject to their respective domestic laws, to use their best efforts to facilitate the entry and exit of scientific and technological personnel and material involved in cooperative activities under the Agreement.

Joint Committee

22. Article IX obliges the Parties to establish a Joint Australia – Viet Nam Committee on Scientific and Technical Cooperation (the committee) composed of representatives of both Parties, to:

- discuss and review matters related to science and technology and the overall scientific and technological relationship between the two Parties;
- review progress in the areas of cooperation envisaged under the Agreement; and
- make recommendations in regard to the enhancement of such cooperation.

The committee is to meet alternately in Vietnam and Australia every two years or when mutually determined by both Parties.

Settlement of disputes

23. Article XI obliges the Parties to settle any disputes between them arising out of the interpretation or implementation of the Agreement amicably through consultation or negotiation.

Implementation

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

Costs

25. 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. Budget supplementation is not required.

Regulation Impact Statement

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

Future treaty action

27. Article XIII provides that the Agreement may be amended by mutual written agreement of the Parties. Amendments will enter into force when the Parties notify each other through the diplomatic channel that their respective domestic requirements have been fulfilled. Any amendment to the Agreement would be subject to Australia's domestic treaty-making process.

Withdrawal or denunciation

28. Article XIV allows either Party to terminate the Agreement upon six weeks' written notice. Cooperative activities under the Agreement which had commenced as at the date of receipt of a notification to terminate the Agreement would be allowed to be fully executed after the termination has taken effect. Termination by Australia would be subject to our domestic treaty-making process.

Contact Details

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Department of Industry

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CONSULTATION

Federal Consultation

29. Approval for Australia to sign the Agreement on 26 June 2013 was received from the Federal Executive Council. The Attorney-General, Minister for Foreign Affairs and the Minister for Industry approved the text of the Agreement prior to signature.

State/Territory Consultation

30. State and Territory governments have been advised of the Agreement through the Standing Committee on Treaties' biannual schedule of treaty actions under negotiation, consideration and review. The Agreement has been on the list of current and forthcoming negotiations since September 2009. No objections or concerns were raised by the State or Territory governments as a result of this notification.

Science Community Consultation

31. The Department of Industry consulted with the science community including government research agencies, funding agencies and Australian government departments with an interest in science. Consulted agencies included: the Australian Research Council (ARC), the National Health and Medical Research Council (NHMRC), ANSTO, CSIRO and the Vietnamese Association of Scientists and Professionals in Australia (VASPA). All agencies indicated their support for the Agreement.