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BY: *[Signature]*

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Dr Andrew Southcott MP
Committee Chair
Joint Standing Committee on Treaties
Parliament House
Canberra ACT 2600

Dear Dr Southcott

Please find below a summary for the Treaty Committee of concerns regarding the Agreement between Australia and The Republic of Indonesia on the Framework for Security Cooperation Matram, Lombok:13 November 2006 by Indonesian Solidarity.

We are critically concerned with some articles in the agreement such as Article 2 **Principles**, Article 3 **Areas and Forms of Cooperation** in particular **Defence Cooperation** and **Law Enforcement Cooperation, Intelligence Cooperation, Proliferation of Weapons of Mass Destruction**, especially item 17 and **Emergency Cooperation**.

Article 2 Item 2 refers to ... *and also non-interference in the internal affairs of one another*. We would like to identify that human rights and democracy should not be regarded as internal affairs. These are global issues for the international community beyond nation, race, and religion. It is the obligation each nation, particularly those who are members of UN, to hold and spread the value of human rights and democracy. We are of the opinion that there should be outlined in the Agreement a commitment by both countries to the upholding of human rights in their respective countries, in harmony with the Universal Declaration of Human Rights.

The label of 'separatists' has been used by Indonesian authorities to persecute people who criticise the government for its human rights abuses. Also during the conflict in Aceh province, some people who were humanitarian and non- partisan were persecuted as separatists. There is strong concern that the government is still persecuting people in the West Papua province as separatists when they are singularly protesting human rights abuses not alternative political structure. This is not achieving the right for a country's citizens to object when Government is not fulfilling its obligations under the Universal Declaration of Human Rights.

In article 3, under **Defence Cooperation**, the Treaty states that *the long term mutual benefit of the closest professional cooperation between their Defence Forces*. However Indonesian Solidarity, international rights groups and some scholars on Indonesia have strong doubts regarding the professionalism of Indonesia National Army (TNI, Tentara Nasional Indonesia). According to Indonesian law number 23 of year 2004 about TNI, there is guarantee that the professional army should be an *army with good training, educated, well equipped, no political practice, no business activity and their welfare should be guaranteed, follow the political policy of state based on the principle of democracy, civil supremacy, human rights, national law and international law which has been ratified*. However the inherent military structure of the TNI from village level to the central government has become an obstacle to the professionalism of the TNI. This military structure command has created human rights abuses, both legal and illegal business activities and involvement in local political activity. The Army

Chief Lieutenant General Djoko Santoso proposed to expand the territorial command with 3 Military Regiment Commands (Korem) and 19 Military District Commands to the Commission 1 in Parliament on 22nd March 2005. This proposal received strong criticism from human rights groups in Indonesia. In relation to the law requiring the TNI to withdraw from business by 2009, the government has not yet adopted regulations spelling out how it will take over such military businesses. There is indication that the Indonesian government is not seriously committed to implementing the decision that the TNI become a professional army.

It is our opinion that the Australian government not sign the Treaty unless it contains the condition that Law number 23 of year 2004 is implemented and that Indonesia provides to Australia updates on how it is being implemented and that these updates be public documents.

In article 3, under **Law Enforcement Cooperation** it needs to be added that any parties in the agreement must not use capital punishment to persecute any individual or groups who have committed unlawful activity according to this agreement. This is in harmony with the Indonesian constitution.

It is very unfortunate that there is no parallel reference to the upholding of human rights in the Australian constitution. This makes it very difficult to appeal to Indonesia to uphold human rights as outlined in its constitution when we cannot refer to it or commit ourselves also to the upholding of human rights in our own country.

In article 3 under **Intelligence Cooperation** it needs to clear in which area. In the past and present the Indonesian authorities have used their security intelligence agency to monitor activity of human rights and democracy activists. In addition in relation to the murder of prominent Indonesian human rights lawyer, Munir on the board of Garuda in September 2004 by poison, the Independent Team found strong evidence that the Indonesia Intelligence Body (BIN) was involved.

Under Article 3 **Proliferation of Weapons of Mass Destruction** comments need to be made concerning Item 17 *Strengthening bilateral nuclear cooperation for peaceful purposes*, where the Indonesian government has been struggling to find some solution regarding its energy crisis. Nuclear energy is seen as one of solutions. Indonesian Solidarity has concerns regarding nuclear energy development in Indonesia. Because of the geographic location of Indonesia, earthquake and mountain eruption are common. Safety guarantees are critically important in any cooperation between the parties regarding using nuclear energy for peaceful purposes. Safety in the use of nuclear energy in Indonesia will be very difficult to be implemented on a daily basis with corruption being so widespread.

Under Article 3, **Emergency Cooperation** should not only deal with natural disaster but also during times of political and social conflict. It is critically important that government, international and non government humanitarian agencies all have free access to conflict areas where there is community need for humanitarian aid.

In conclusion, Indonesian Solidarity proposes that it is important in the Agreement that an independent body with members from government, members of parliament and civil society should be instituted to monitor the implementation of this agreement according to values of transparency and with respect for human rights according to the principles of UN Declaration on Human Rights.

Thank you for your consideration of this serious matter.

Yours Faithfully

Ekd Waluyo

The Coordinator

Indonesian Solidarity