



PRESIDEN
REPUBLIK INDONESIA

KEPUTUSAN PRESIDEN REPUBLIK INDONESIA

NOMOR 54 TAHUN 1999

TENTANG

PENGESAHAN GENERAL AGREEMENT OF DEVELOPMENT COOPERATION
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE
GOVERNMENT OF AUSTRALIA

PRESIDEN REPUBLIK INDONESIA,

- Menimbang :
- a. bahwa di Jakarta, pada tanggal 9 Juli 1998 Pemerintah Republik Indonesia telah menandatangani General Agreement on Development Cooperation between the Government of the Republic of Indonesia and the Government of Australia, sebagai hasil perundingan antara Delegasi-delegasi Pemerintah Republik Indonesia dan Pemerintah Australia;
 - b. bahwa sehubungan dengan itu, dan sesuai dengan Amanat Presiden Republik Indonesia kepada Ketua Dewan Perwakilan Rakyat Nomor 2826/HK/1960 tanggal 22 Agustus 1960 tentang Pembuatan Perjanjian-perjanjian dengan Negara Lain, dipandang perlu untuk mengesahkan Agreement tersebut dengan Keputusan Presiden;

Mengingat : Pasal 4 ayat (1) dan Pasal 11 Undang-Undang Dasar 1945;

MEMUTUSKAN :

Menetapkan : KEPUTUSAN PRESIDEN TENTANG PENGESAHAN GENERAL AGREEMENT OF DEVELOPMENT COOPERATION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE GOVERNMENT OF AUSTRALIA.



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Pasal 1

Mengesahkan General Agreement on Development Cooperation between the Government of the Republic of Indonesia and the Government of Australia, yang telah ditandatangani Pemerintah Republik Indonesia di Jakarta, pada tanggal 9 Juli 1998 sebagai hasil perundingan antara Delegasi-delegasi Pemerintah Republik Indonesia dan Pemerintah Australia yang salinan naskah aslinya dalam bahasa Inggris sebagaimana terlampir pada Keputusan Presiden ini.

Pasal 2

Keputusan Presiden ini mulai berlaku pada tanggal ditetapkan. Agar setiap orang mengetahuinya, memerintahkan pengundangan Keputusan Presiden ini dengan penempatannya dalam Lembaran Negara Republik Indonesia.

Ditetapkan di Jakarta

pada tanggal 4 Juni 1999

PRESIDEN REPUBLIK INDONESIA

ttd.

BACHARUDDIN JUSUF HABIBIE

Diundangkan di Jakarta

pada tanggal 4 Juni 1999

MENTERI NEGARA SEKRETARIS NEGARA

REPUBLIK INDONESIA

AD INTERIM

ttd.

FEISAL TANJUNG

LEMBARAN NEGARA REPUBLIK INDONESIA TAHUN 1999 NOMOR 104.



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GENERAL AGREEMENT ON DEVELOPMENT COOPERATION
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND
THE GOVERNMENT OF AUSTRALIA

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE
GOVERNMENT OF AUSTRALIA

WISHING to strengthen the existing cordial relation between the two countries and their peoples, and

DESIRING to promote development cooperation between the two countries in conformity with the objectives of economic and social development of the Government of the Republic of Indonesia,

HAVE AGREED as follows.

Article I

Programme of Development Cooperation

The Government of the Republic of Indonesia and the Government of Australia shall under this Agreement promote a programme of development cooperation between their two countries (the Programme). The Programme may include the following :

- (a) the sending of technical, appraisal, evaluation and other missions to the Republic of Indonesia in respect of development Projects;
- (b) the granting of fellowships to nationals of the Republic of Indonesia for studies and professional training in Australia, the Republic of Indonesia or third countries;
- (c) the sending of technical missions of nationals of the Republic of Indonesia to Australia and other countries;
- (d) the assignment of Australian experts, advisers and other specialists to the Republic of Indonesia;



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- (e) the provision of equipment, materials, good and services required for the successful execution of development Projects in the Republic of Indonesia;
- (f) the development and carrying out of studies and Projects designed to contribute to the attainment of the objectives of this Agreement;
- (g) the encouragement and promotion of relations between firms, organisations, institutions and persons of the two countries; and
- (h) any other form of development cooperation which may be mutually agreed upon.

Article II

Definitions

In this Agreement :

- (1) "Activity" means any discrete unit of development cooperation which may include any one or more of the forms of development cooperation described in Article I;
- (b) "Australian Project Personnel" means Australian nationals or permanent residents or other persons who are not nationals or permanent residents of Indonesia who are working in Indonesia on an Activity under this Agreement and whose salaries or other costs are funded from the contribution of the Government of Australia to the Activity;
- (c) "Australian firm" means Australian or other non-Indonesian firms, organisations, institutions, or executing agencies engaged in an Activity;
- (d) "Australian project supplies" means equipment, material, and other goods supplied for the execution of development Activities under this Agreement, the cost of which is funded from the contribution of the Government of Australia to the Activity;
- (e) "Dependant" means a spouse of a member of the Australian Project personnel and the child of a member of the Australian Project personnel who is :
 - (i) under twenty-one years of age, or
 - (ii) twenty-one years of age or older and dependant on the member of the Australian personnel for support by reason of mental or physical incapability.

The dependant referred to above shall be certified as such by the Australian Embassy in the Republic of Indonesia;



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- (f) "Intellectual Property" shall have the meaning provided for in Article 2 of the Convention establishing the World Intellectual Property Organization, done at Stockholm, 14 July 1967, and shall include all rights relating to plant varieties, Confidential information urcoitlayouts and semi-conductor chip products unregistered trade marks and service marks;
- (g) "Background Intellectual Property" means Intellectual Property that has been developed independently of an Activity and that is made available by one of the Participants for use in an Activity.
- (h) "Foreground Intellectual Property" means intellectual Property created in, or as a direct result of, an activity;
- (i) "Implementing Arrangement" means the special arrangements for Intellectual Property concluded in accordance with Article VII of this Agreement;
- (j) "Participant" means any natural person or legal entity participating in an Activity, including the Government of Australia and the Government of the Republic of Indonesia;
- (k) "Personal and Household effects" means equipment and other goods imported by members of the Australian personnel for the personal use of Australian personnel or their Dependants; and
- (l) "Project" means a self-contained Activity based on a mutually approved design and involving the provision of Australian and Indonesian service and supplies.

Article III

Coordinating Authorities

1. Both Governments shall, in accordance with their respective laws and regulations, nominate their Coordinating Authorities for the implementation of this Agreement.
2. Subject to the overall responsibility of the Government of the Republic of Indonesia for implementation and coordination of Activities under this Agreement, the two Coordinating Authorities shall be responsible for the planning and coordination of the Programme which function shall include but not be limited to :



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- (a) establishing priorities under the Programme;
- (b) choosing Activities for implementation under the Programme;
- (c) monitoring, reviewing and reporting on progress in the Programme to the two Governments, and
- (d) recommending to the two Government any appropriate changes to the Programme including budget and future development.

Article IV

Subsidiary Arrangements

1. In support of the objectives of this Agreement, the Government of the Republic of Indonesia and the Government of Australia may conclude a subsidiary arrangement in respect of an Activity.
2. Unless stated otherwise, a subsidiary arrangement shall be considered as an administrative arrangement.
3. A subsidiary arrangement shall make specific reference to this Agreement and the terms of this Agreement shall, unless stated otherwise, apply to such a subsidiary arrangement.
4. Whenever possible a subsidiary arrangement shall set out;
 - (a) the name and duration of the Activity;
 - (b) the Activity locations;
 - (c) a description and statement of objectives of the Activity;
 - (d) the nominated implementing agencies in both countries;
 - (e) the Activity organisation;
 - (f) details of the contributions to the Activity by the two Governments including :
 - (i) financial contributions;
 - (ii) materials, services and equipment to be supplied;
 - (iii) the number and areas of expertise of Australian and other personnel to be engaged;
 - (iv) counterpart staff of the Government of the Republic of Indonesia; and
 - (v) estimated annual budgets;



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- (g) timetable for implementation; and
- (f) monitoring, review, evaluation and reporting arrangements.

Article V

Project Coordinating Committees

1. In respect of a Project a Joint Project Coordinating Committee shall normally be established to :
 - (a) monitor, review and report on progress to the two Governments;
 - (b) recommend to the Governments any appropriate changes in the Project including budget and future development; and
 - (c) undertake such other functions as may be set out in arrangements between the Coordinating Authorities.
2. The Chairperson of each Joint Project Coordinating Committee shall be appointed by the Government of the Republic of Indonesia. The Committee shall include members appointed by the two Governments.

Article VI

Responsibilities

Unless otherwise indicated in a subsidiary arrangement, the Government of Australia shall assume the responsibilities described in Annex "A" and the Government of the Republic of Indonesia shall assume the responsibilities described in Annex "B" in respect of an Activity.

Article VII

Intellectual Property

1. Unless the two Governments otherwise decide, Activities shall be conducted in accordance with Implementing Arrangements and/or subsidiary arrangements, which address the matters in this Article and in Annex C.



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2. Implementing Arrangements and/or subsidiary arrangements shall provide for the protection of Background Intellectual Property and Foreground Intellectual Property.
3. The Government of Indonesia and the Government of Australia shall use their best endeavours to ensure that the Participants shall be entitled to any Foreground Intellectual Property in accordance with the provisions specified in the Implementing Arrangement and/or subsidiary arrangement which shall be developed taking into account :
 - (a) the intellectual contributions of each Participant;
 - (b) the financial contributions of each Participant;
 - (c) the contributions of Background Intellectual Property, materials, research effort and preparatory work of each Participant;
 - (d) the facilities provided by each Participant;
 - (e) legal considerations;
 - (f) objects of study and research activities; and
 - (g) such other relevant considerations as the Participants may agree upon.
4. Implementing Arrangement and/or subsidiary arrangements shall include provision for checking for and protection against infringement of Intellectual Property rights of third parties.
5. Unless the Government of Indonesia and the Government of Australia otherwise decide, Implementing Arrangements shall be legally binding documents.
6. The government of Indonesia and the Government of Australia shall use their best endeavours to ensure that prospective Participants in a Project enter into a confidentially deed with each other before they exchange information about their Intellectual Property.

Article VIII

Public Charges

The Government of the Republic of Indonesia shall ensure that Australian development cooperation funds are not used to pay any taxes, customs duties or any other levies imposed by the Government of the Republic of Indonesia, on any goods, materials,



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equipment, vehicles and services purchased or acquired for, or related to, the execution of an Activity being carried out in the Republic of Indonesia.

Article IX

Claims

The Government of the Republic of Indonesia shall be responsible for dealing with any claims which may be brought by third parties against the Government of Australia, Australian personnel or Australian firms and shall hold harmless the Government of Australia, Australian personnel and Australian firms in case of any claims or liabilities resulting from this Agreement. This provision will not relieve any person or entity from liability from a criminal act, gross negligence, or wilful misconduct on the part of that person or entity.

Article X

Claims arising from short term attachments in Australia

1. The Government of Australia undertakes to assume full responsibility for claims arising from the conduct of Government of Indonesia Personnel while they are in Australia on short term attachments under this Agreement.
2. In return for the Government of Australia's undertaking in paragraph (1), the Government of Indonesia undertakes to indemnify the Government of Australia against reasonable payments made and all costs, damages and expenses incurred by it as a result of any claims which may be brought against such Government of Indonesia personnel or the Government of Australia, its officers or servants by any third party arising from the conduct of such Government of Indonesia personnel in Australia pursuant to this Agreement.
3. Paragraphs (1) and (2) shall not apply where the liability results from a criminal act, gross negligence or wilful misconduct on the part of that person.



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Article XI
Income Tax

The income tax liability of Australian firms and Australian personnel shall be borne by the Government of the Republic of Indonesia.

Article XII
Personnel

The Government of the Republic of Indonesia shall, in accordance with Law Number 7 of 1983 on Income Tax (as amended by Law Number 10 of 1994), Government Regulation Number 19 of 1955 and their implementing regulations each as at the date of entry into force of this Agreement :

- (a) exempt Australian firms and Australian personnel from, or bear the costs of, import duties and other taxes imposed by the Government of the Republic of Indonesia on taxable goods and services or import of taxable goods for, or related to, the execution of Activities; and
- (b) exempt Australian personnel from the payment of custom duties, excise duties and other taxes in respect of bona fide Personal and Household effects brought into the Republic of Indonesia within six months of his or her first arrival in the Republic of Indonesia for their own use or the use of their dependants.

In the event of theft, fire or other destruction, the exemptions under this paragraph may be re-exercised at any time during the assignment of the Australian personnel. Australian personnel may purchase duty free items provided that such purchases shall be made from duty free stores.



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Article XIII

Motor Vehicles for Personal Use

1. The Government of the Republic of Indonesia shall, in accordance with Government Regulation Number 19 of 1955 and its implementing regulations each as at the date of entry into force of this Agreement, exempt from, or bear the cost of, customs duties, and other taxes in respect of one locally assembled motor vehicle purchased for an Australian person's personal use provided that.
 - (a) the Australian personnel is assigned in Indonesia for at least twelve (12) months consecutively;
 - (b) such motor vehicle is purchased locally within the period of six (6) months from the date of his/her first arrival in the Republic of Indonesia; and
 - (c) upon completion of his/her assignment, the motor vehicle is disposed of in Indonesia either to a person who has the same privileges or to the agent authorised by the Government of the Republic of Indonesia.
2. In the event of fire, theft, damage or destruction, the exemptions under this Article may be re-exercised provided the remaining assignment of the Australian personnel is for at least eight (8) months.

Article XIV

Transparency of Law

The Government of the Republic of Indonesia shall, upon request, inform Australian firms and Australian personnel of local laws and regulations which may concern them in the performance of their duties. The Government of the Republic of Indonesia shall notify the Government of Australia of any changes in its law and regulations and shall inform the Government of Australia of the application of such changes. If either Government considers it appropriate, the two Governments shall consult to find a mutually acceptable solution concerning such changes.



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Article XV

Equality of Treatment

Australian firms, Australian personnel and their Dependants shall be accorded no lesser benefits, privileges and exemptions than those accorded to other non-Indonesian firms or nationals under any other bilateral arrangement for development cooperation.

Article XVI

Security

The Government of the Republic of Indonesia shall arrange for protective services necessary to ensure the safety of:

- (a) the Australian personnel, their Dependants, their property, and
- (b) Australian project supplies.

Article XVII

Consultations

1. The Government of Australia and the Government of the Republic of Indonesia shall consult each other in respect of any matter that may from time to time arise from or in connection with this Agreement.
2. There shall be an annual meeting of senior officials from the two Governments to consider:
 - (a) the direction, composition and contribution of Australian development cooperation to the development of Indonesia and to the promotion of mutual economic links;
 - (b) the effectiveness of the administration of development cooperation; and
 - (c) future development cooperation between the two countries.
3. Representative of the Coordinating Authorities of both countries may attend the meeting.



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Article XVIII

Settlement of Differences

Differences which may arise relating to the interpretation or application of the provisions of this Agreement or of any subsidiary arrangement shall be settled by means of negotiations between the Government of the Republic of Indonesia and the Government of Australia or in any other manner mutually agreed upon.

Article XIX

Entry Into Force and Duration

This Agreement shall take effect from the date of an exchange of notes by which the two Governments notify each other of the completion of the procedure required by their national laws for giving effect to this Agreement, and shall remain in effect until termination by either Government on six (6) months notice in writing to the other Government.

Article XX

Completion of Activities

The responsibilities of the Government of the Republic of Indonesia and of the Government of Australia with regard to Activities begun prior to the receipt of the termination notice referred to above shall continue until completion of such Activities as if this Agreement remained in force in respect of and for the whole duration of such Activities.

Article XXI

Amendments

This Agreement may be amended and supplemented by agreement in writing between the two Government.

Article XXII



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Annexures

Annexures to this Agreement shall form an integral part of it.

IN WITNESS WHEREOF, the undersigned, duly authorised by their respective Governments, have signed this Agreement.

DONE in duplicate, at Jakarta, on the ninth day of July 1998, in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA

FOR THE GOVERNMENT OF
AUSTRALIA

Signed

Signed



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ANNEX "A"

RESPONSIBILITIES OF THE GOVERNMENT OF AUSTRALIA

I. Unless otherwise indicated in a subsidiary arrangement, the contribution of the Government of Australia shall include but not be limited to the following :

(A) Expenditures related to Indonesian fellowship holders and members of technical missions :

- (1) registration and tuition fees, books, supplies or materials required.
- (2) a living allowance
- (3) medical and hospital expenses.
- (4) economy-class fares for travel by air or any other approved means of transportation, in compliance with the requirements of the Programme but excluding any departure taxes or fees imposed by the Republic of Indonesia;
- (5) other expenditures as appropriate.

(B) Expenditures related to Australian personnel :

- (1) their salaries, fees, allowances and other benefits;
- (2) their travel expenses and those of their Dependants between their normal place of residence and their place of assignment in the Republic of Indonesia;
- (3) the cost of shipping, between their normal place of residence and their place of assignment in the Republic of Indonesia, their Personal and Household effects, those of their Dependants and the professional and technical materials required by the said personnel for the execution of their duties;
- (4) the costs of accommodation;
- (5) other expenditures as appropriate.

(C) Expenditures normally related to Projects:

- (1) the cost of professional services, technical services and other services required for the execution of Projects;
- (2) the cost of providing equipment, materials, supplies and other goods and of the transportation of the same from their point of departure to the port of entry nearest to the Project site as agreed on a case by case basis;
- (3) other expenditures as appropriate.



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II. The Government of Australia shall provide the Government of the Republic of Indonesia in a timely manner with the names of the Australian firms and the Australian personnel and their Dependants entitled to the right, exemptions and privileges set forth in this Agreement who are engaged in a Project.

III. Contracts for the purchase of goods or commissioning of services financed by the Government of Australia and required for the execution of Projects shall be signed by the Government of Australia or one of its agencies.

However, it may be provided in any subsidiary arrangement that such contracts may be signed by the Government of the Republic of Indonesia or one of its agencies in accordance with the terms and conditions specified in such subsidiary arrangement.

IV. Australian Project Supplies will be available only for the unrestricted use of the Project and will not be withdrawn from such use without the consent of an Australian team leader appointed by the Government of Australia.

The Australian team leader will exercise administrative control over such supplies for the duration of the Project or such other time as mutually arranged between the Governments.

V. The provision by the Government of Australia of the Australian contribution to the Programme and to the Activities within the Programme is conditional upon annual Australian Parliamentary approval of appropriations.

VI Programme or Activity financial disbursement estimates shall be indicative planning figures and not financial commitments.

ANNEX "B"
RESPONSIBILITIES OF THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA

I. Unless otherwise indicated in a subsidiary arrangement, the contributions of the Government of the Republic of Indonesia shall include, but not be limited to, the following:



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- (1) furnished premises and office service in compliance with the standards of the Government of the Republic of Indonesia, including adequate facilities and materials, support staff, professional and technical material, telephone, mail and any other service which the Australian personnel need in order to carry out their official duties;
- (2) the recruitment, selection, and secondment of suitable counterpart personnel when required for a Project;
- (3) any official assistance which may be required for the purpose of facilitating the travel of Australian personnel and the transportation of professional and technical material required in the performance of their official duties in the Republic of Indonesia;
- (4) any official assistance which may be required for the purpose of expediting the clearance through customs of equipment, products, materials, supplies and other goods required for the execution of Projects and the Personal and Household effects of Australian personnel or their Dependants;
- (5) demurrage, storage and payment of any related charges for articles mentioned in paragraph (4) above during the period when they are held at the port of entry after a thirty day period;
- (6) any measures required to protect article mentioned in paragraph (4) against natural elements, loss, fire and any other danger;
- (7) all permits, and other documents including costs related thereto, if any, for equipment, materials, supplies or goods required for the execution of Projects and to enable Australian firms and Australian personnel to carry aout their functions in the Republic of Indonesia;
- (8) all necessary visas, exit permits, and all import or export permits, as the case may be, for the Australian personnel and their Dependants and for the Personal and Household effects of such Australian personnel and their Dependants;
- (9) Facilities for prompt inland transportaton of all equipment, products, materials, supplies and other imported goods required for the execution of Projects, to the project site, as the case may be required, including where necessary, the obtaining of priority by the Indonesian forwarding and transportation agents;



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- (10) assistance in obtaining permission from the relevant Ministry or Ministries to use all means of communication, depending on the need of a Project;
- (11) reports, records, maps, statistics and other information related to a Project and likely to assist Australian personnel in carrying out their duties, provided that they are not classified and have no relation to national security;
- (12) permission for Australian personnel to open personal external bank accounts and for Australian executing agencies to open Project external bank accounts; and permission to repatriate free from foreign currency exchange restrictions revenues transferred from abroad; and
- (13) other measures within its jurisdiction which may facilitate the execution of a Project.

ANNEX "C"

Protection, Ownership and Allocation of Intellectual Property by Participants in Activities under this Agreement

1. This Annex provides an indication of the Intellectual Property issues that should be addressed by Participants in the Implementing Arrangement and/or the subsidiary arrangement.
2. Notwithstanding anything stated or implied in this Annex, it is the sole responsibility of prospective and actual Participants to take all necessary steps, including obtaining expert professional advice, to ensure that their legal and commercial positions are adequately protected and to ensure adequate legal and physical protection for Background Intellectual Property and Foreground Intellectual Property.
3. Implementing Arrangements and/or subsidiary arrangements should contain clauses that:
 - (a) specify appropriate procedures for checking-
 - (i) prior to the commencement of the Activity; and
 - (ii) as appropriate during the Activity;for third party Intellectual Property that might:



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- be infringed by the Participants while carrying out Activities; or
 - infringe Intellectual Property created under the Implementing arrangement or the subsidiary arrangement;
- (b) identify each Participant's Background Intellectual Property and:
- (i) the nature of the protection that has been or needs to be, accorded to that Background Intellectual Property; and
 - (ii) the nature of any third party rights restricting the use of Background Intellectual Property;
- (c) specify appropriate procedures for:
- (i) identifying;
 - (ii) determining ownership of; and
 - (iii) protecting;
- Foreground Intellectual Property;
- (d) specify appropriate procedures for approving the conditions on which each Participant may be licensed to use Foreground Intellectual Property for its own non-commercial purposes (which purposes exclude sub-licensing and commercial purpose such as manufacturing and having manufactured) and for commercial purposes;
- (e) specify appropriate clauses allowing a Participant to be licensed to use another Participant's Background Intellectual Property when it is reasonably necessary for the commercial use of Foregrounds Intellectual Property;
- (f) specify appropriate procedures for licensing third parties to use Foreground Intellectual Property, including where such use requires access to another Participant's Background Intellectual property and the conditions upon which a licence to the Background Intellectual Property shall be granted;
- (g) specify appropriate procedure for approval by all the Participants, prior to disclosure, of the public disclosure of information through publications, seminars or any other means;
- (h) specify the rights and obligations of visiting researchers involved in the Activity and particularly in relation to Intellectual Property created by them during their work in the Activity;



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- (i) nominate the governing law of the implementing Arrangement; and
- (j) specify appropriate procedures for the resolution of disputes, including international commercial arbitration.