

SCIENTIFIC COOPERATION

Marine and Fisheries Science

**Memorandum of Understanding
Between the
UNITED STATES OF AMERICA and
INDONESIA**

Signed at Jakarta September 18, 2007



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

INDONESIA

Scientific Cooperation: Marine and Fisheries Science

*Memorandum of understanding signed at
Jakarta September 18, 2007;
Entered into force September 18, 2007.*

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE OF
THE UNITED STATES OF AMERICA
AND
THE MINISTRY OF MARINE AFFAIRS AND FISHERIES
OF THE REPUBLIC OF INDONESIA
ON
MARINE AND FISHERIES SCIENCE, TECHNOLOGY
AND APPLICATIONS COOPERATION

The National Oceanic and Atmospheric Administration of the U.S. Department of Commerce and the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia and, hereinafter referred to as "Parties";

DESIRING to strengthen the existing friendly relations and promote the expansion of cooperation between the two countries based on the principles of equality mutual benefit and full respect of sovereignty;

CONSIDERING NOAA's strategic goal of protecting, restoring, and managing the use of coastal and ocean resources through an ecosystem approach to management; among other NOAA goals of climate and marine science, service, and stewardship.

CONSIDERING ALSO the MMAF's mission to improve the role of marine and fisheries sector as a source of economic growth; to improve prosperity of coastal, fisheries and marine communities, to maintain and improve the environmental quality of inland water, coastal, small islands and marine ecosystems; among other MMAF missions;

RECOGNIZING the spirit of the United Nations Convention on the Law of the Sea (UNCLOS 1982) and the common concern of the Parties on the conservation, management and sustainable utilization of marine living resources;

REFERRING to the Letter of Intent between MMAF and NOAA on Cooperation in the Field of Ocean and Marine Science and Technology, signed in Bali on September 17th 2005;

REALIZING that marine and fisheries cooperation would lead to common benefits on marine and fisheries, and economic development of the Parties;

PURSUANT to the prevailing laws and regulations of the respective countries; and

HAVE AGREED as follows:

ARTICLE I OBJECTIVE

The objective of this Memorandum of Understanding (hereinafter referred to as the MoU) is to set up a framework for the enhancement of cooperation in the field of marine and fisheries science, technology and applications.

ARTICLE II AREAS OF COOPERATIONS

The areas of cooperation under this MoU may include, but are not limited to:

- a. Ocean and coastal observations (*in-situ* and remote) in support of GEOSS; Indonesia Ocean Global Ocean Observing System, Indian Ocean Global Ocean Observing System; (INAGOOS and IOGOOS)
- b. Research, management, development and conservation of living resources for inland water and marine resources, and result in the reduction of by-catch or non-target, associated and dependent species;
- c. Management and research on coastal and marine resources;
- d. Mitigation of marine and coastal hazards, including continued support to sustain the Indian Ocean Tsunami Warning System (IOTWS) efforts in Indonesia and regionally;
- e. Implementation of ecosystem based approaches for marine and coastal resources management;
- f. Support for the relationships between the US Sea Grant College Program and the Indonesian Sea Partnership Program (*Program Mitra Bahari*);
- g. Regional Marine Protected Area (MPA) projects;
- h. Joint work on ocean-climate research, ocean observations and their socio-economic applications, in particular that contribute to the implementation of the Global Earth Observation System of Systems (GEOSS) priorities in the Western Pacific and Indian Ocean, and that supports ongoing Joint WMO-IOC Technical Commission on Oceanography and Marine Meteorology in situ Observing Platform Support Centre (JCOMMOPS);
- i. Marketing and processing of fish products, including Mutual Recognition Arrangement on food security and safety;
- j. Training, education opportunities and exchanges for both Parties;
- k. Dissemination, distribution and sharing of ocean, fisheries and marine hazards information via RANET;
- l. Responsible fisheries practices;

- m. Capacity building;
- n. Exchange of marine and fisheries data and information; and
- o. Aquaculture Development;

ARTICLE III

IMPLEMENTING ARRANGEMENT

1. The Parties plan to determine in detail the cooperation schemes and ways for the implementation of the areas of cooperation as mentioned in Article 2 which will likely be embodied in separate subsidiary agreements in accordance with the provisions of this MoU;
2. Each Party plans to designate a point of contact to carry out the preparation and implementation of the contents under this MoU, and may establish a Joint Working Group (JWG) which consists of representatives designated by the Parties. The JWG may convene meetings, as it deems necessary, alternately in Indonesia and the USA;
3. The Parties through the JWG [or the designated point of contact] shall discuss and determine in details, the schemes and ways for the implementation of the mentioned areas of cooperation under Article II which shall be embodied in separate subsidiary Implementing Arrangements in accordance with the provisions of this MoU;
4. The Parties specifically acknowledge that this MoU does not constitute an obligation of funds. Nothing in this MoU shall be construed as superseding or interfering in any way with other agreements or contracts entered into between the Parties, or any component thereof, either prior to or subsequent to the signing of this MoU;
5. Support and specific responsibilities of the parties for the cooperative activities agreed upon hereafter pursuant to this MoU will be provided in accordance with the relevant policies, laws and regulations applicable to each Party, within the limits of competence and available financial resources; and
6. Reimbursable financial arrangements will be executed when deemed appropriate to carry out specific projects. Determination for the necessity of future implementing arrangements will be decided by mutual agreement on a case-by-case basis.

ARTICLE IV

INTELLECTUAL PROPERTY RIGHTS

1. The treatment of intellectual property created or furnished in the course of cooperative activities under this MoU is provided for in Annex I.
2. Annex I & II shall be an integral part of this MoU.

ARTICLE V
SETTLEMENT OF DISPUTES

Any dispute of difference that may arise between the Parties relating to any matter under this MoU will be settled amicably through consultations and negotiation between the Parties.

ARTICLE VI
AMENDMENT

This MoU may be amended by mutual consent and through notification in writing by the Parties.

ARTICLE VII
ENTRY INTO FORCE, DURATIONS AND TERMINATION

1. This MoU shall enter into force on the date of its signature and shall be valid for 5 (five) years. It may be renewed by mutual consent in writing. The Parties will review this MOU at least once every three years to determine whether it should be revised or terminated.
2. Either Party may at any terminate this MoU by giving, in advance, 6 (six) month written notification to the other party.

In case of this MoU is terminated, any ongoing programs shall consume be terminated unless otherwise agreed by both Parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments concerned, have signed this MoU.

DONE at Jakarta on 18th September 2007 in two originals copies in the English languages, all texts being equally authentic.

**FOR THE NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERECE
OF THE UNITED STATES OF AMERICA**

**FOR THE MINISTRY OF
MARINE AFFAIRS AND FISHERIES OF
THE REPUBLIC OF INDONESIA**



Richard Spinrad
Assistant Administrator of
The National Oceanic and Atmospheric
Administration



Widi Agoes Pratikto
Secretary General of
The Ministry of Marine Affairs and
Fisheries

ANNEX I

Intellectual Property Rights

I. General Obligation

The Parties shall ensure adequate and effective protection of intellectual property created or furnished under this MOU and relevant Implementing Arrangements. Rights to such intellectual property shall be allocated as provided in this Annex.

II. Scope

A. This Annex is applicable to all cooperative activities undertaken pursuant to this MOU, except as otherwise specifically agreed by the Parties or their designees.

B. For purposes of this MOU, "intellectual property" means the subject matter listed in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm, July 14, 1967, and may include other subject matter as agreed by the Parties.

C. Each Party will assist, through contracts or other legal means with its own participants, if necessary, that the other Party can obtain the rights to intellectual property allocated in accordance with this Annex. This Annex does not otherwise alter or prejudice the allocation between a Party and its nationals, which shall be determined by that Party's laws and practices.

D. Except as otherwise provided in this MOU, disputes concerning intellectual property arising under this MOU will be resolved through discussions between the concerned participating institutions, or, if necessary, the Parties or their designees. Upon mutual agreement of the Parties, a dispute shall be submitted to an arbitral tribunal for binding arbitration in accordance with the applicable rules of international law. Unless the Parties or their designees agree otherwise in writing, the arbitration rules of United Nations Commission on International Trade Law (UNCITRAL) shall govern.

E. Termination or expiration of this MOU shall not affect rights or obligations under this Annex.

III. Allocation of Rights

A. Each Party shall be entitled to a non-exclusive, irrevocable, royalty-free license in all countries to translate, reproduce, and publicly distribute scientific and technical journal articles, reports, and books directly arising from cooperation under this MOU. All publicly distributed copies of a copyrighted work prepared under this provision shall indicate the names of the authors of the work unless an author explicitly declines to be named.

B. Rights to all forms of intellectual property, other than those rights described in paragraph III.A above, shall be allocated as follows:

(1) Visiting researchers shall receive rights, awards, bonuses and royalties in accordance with the policies of the host institution.

(2) (a) Any intellectual property created by persons employed or sponsored by one Party under cooperative activities other than those covered by paragraph III.B(1) shall be owned by that Party. Intellectual property created by persons employed or sponsored by both Parties shall be jointly owned by the Parties. In addition, each creator shall be entitled to awards, bonuses and royalties in accordance with the policies of the institution employing or sponsoring that person.

(b) Unless otherwise agreed in an implementing or other arrangement, each Party shall have within its territory all rights to exploit or license intellectual property created in the course of the cooperative activities.

(c) The rights of a Party outside its territory shall be determined by mutual agreement considering the relative contributions of the Parties and their participants to the cooperative activities, the degree of commitment in obtaining legal protection and licensing of the intellectual property and such other factors deemed appropriate.

(d) Notwithstanding paragraphs III.B(2)(a) and (b) above, if a particular project has led to the creation of intellectual property protected by the laws of one Party but not the other, the Party whose laws provide for this type of protection shall be entitled to all rights to exploit or license intellectual property worldwide although creators of intellectual property shall nonetheless be entitled to awards, bonuses and royalties as provided in paragraph III.B(2)(a).

(e) For each invention made under any cooperative activity, the Party employing or sponsoring the inventor(s) shall disclose the invention promptly to the other Party together with any documentation and information necessary to enable the other Party to establish any rights to which it may be entitled. Either Party may ask the other Party in writing to delay publication or public disclosure of such documentation or information for the purpose of protecting its rights in

the invention. Unless otherwise agreed in writing, the delay shall not exceed a period of six months from the date of disclosure by the inventing Party to the other Party.

IV. Business Confidential Information

In the event that information identified in a timely fashion as business-confidential is furnished or created under this MOU, each Party and its participants shall protect such information in accordance with applicable laws, regulations, and administrative practices.

ANNEX II

Security Obligations

I. Protection of Sensitive Technology

Both Parties agree that no information or equipment requiring protection in the interest of national defense or foreign relations and classified in accordance with its applicable national laws and regulations shall be provided under this MOU. In the event that information or equipment which is known or believed to require such protection is identified in the course of cooperative activities pursuant to this MOU, it shall be brought immediately to the attention of the appropriate officials and the Parties shall consult to identify appropriate security measures to be agreed upon by the Parties in writing and applied to this information and equipment and shall, if appropriate, amend this MOU to incorporate such measures.

II. Technology Transfer

The transfer of unclassified export-controlled information or equipment between the Parties shall be in accordance with the relevant laws and regulations of each Party. If either Party deems it necessary, detailed provisions for the prevention of unauthorized transfer or retransfer of such information or equipment shall be incorporated into the contracts or implementing arrangements. Export controlled information shall be marked to identify it as export controlled and identify any restrictions on further use or transfer.