



**ANNEX TO THE MEMORANDUM OF UNDERSTANDING ON
COOPERATION IN THE TRANSPORT SECTOR BETWEEN
THE REPUBLIC OF INDONESIA AND THE
COMMONWEALTH OF AUSTRALIA IN THE MATTER OF
TRANSPORT SAFETY INVESTIGATIONS INVOLVING THE
AVIATION, MARINE AND RAILWAY TRANSPORT
INDUSTRIES.**



1. This Annex expresses the specific understanding of the Indonesian Department of Communications and the Australian Department of Transport and Regional Services, pursuant to the Memorandum of Understanding on Cooperation in the Transport Sector between the Government of the Republic of Indonesia and the Government of Australia (“the parties”) signed at Canberra 7th December 2000, concerning no-blame investigations for safety purposes of accidents and serious incidents involving air, marine and rail transport vehicles.

2. Implementation

- 2.1. The Indonesian Department of Communications nominates the National Transportation Safety Committee (NTSC) and the Australian Department of Transport and Regional Services nominates the Australian Transport Safety Bureau (ATSB) to be the “implementing authorities”, unless otherwise specified, for matters set out in this Annex.
- 2.2. Unless otherwise specified, the responsibility for implementation of matters in this Annex, including the use of resources, is limited to the implementing authorities.

3. Applicable Laws, Conventions and Instruments

- 3.1. It is recognised that the implementing authorities will be governed by their respective domestic laws affecting transport safety investigations in the aviation, marine and rail modes of transport. Where in force from time to time the implementing authorities will also adhere to the conventions and have regard to other international instruments detailed in paragraphs 3.1.1 and 3.2.2 of this Annex.
 - 3.1.1. In aviation the parties are contracting States to the Convention on International Civil Aviation (done at Chicago on 7 December, 1944 ‘Chicago Convention’), and the implementing authorities under this Annex will, therefore, subject to any filed differences, adhere to the Standards and Recommended Practices set out in Annex 13 to that Convention.

- 3.1.2. In marine the parties are contracting States to the Convention establishing the Inter-Governmental Maritime Consultative Organization, (done at Geneva on 6 March 1948 ‘IMO Convention’) and the implementing authorities under this Annex will, therefore, have regard to the IMO Assembly Resolution A.849 (20) on the Code for the Investigation of Marine Casualties and Incidents and IMO Assembly Resolution A.884 (21) on Amendments to the Code for the Investigation of Marine Casualties and Incidents Resolution A.849 (20). These Resolutions should be read in integration with the Casualty Investigation Provisions of international conventions to which the parties are contracting States, being:
- (a) Chapter 1, Regulation 21 of the Annex to the International Convention for the Safety of Life at Sea (done at London on 1 November 1974).
 - (b) Article 23 of the International Convention on Load Lines (done at London on 5 April 1966).
 - (c) Article 94(7) of the United Nations Convention on the Law of the Sea (done at Montego Bay on 10 December 1982).
- 3.1.3. In rail the implementing authorities under this Annex will seek to be guided by the best practice principles for transport safety investigations expressed in the conventions and resolutions listed in paragraphs 3.1.1. and 3.1.2. of this Annex where they are applicable to rail.

4. Cooperation

- 4.1. The implementing authorities understand that the areas of cooperation may involve, but are not limited to, the following:
- (a) Participation in assistance in Investigations conducted by either implementing authority.
 - (b) Provision of training in specific areas of expertise including training of aviation, marine and rail accident/incident safety investigation.
 - (c) Strengthening liaison between the implementing authorities. For example, through orientation visits, staff exchanges and expertise exchange etc.
 - (d) Where the facilities exist, assistance in the readout of electronic or other vehicle data collected in the course of a safety investigation, including Flight Data Recorders, Cockpit Voice Recorders, Voyage Data Recorders and rail vehicle recorders.
 - (e) Develop transportation safety investigation methods and techniques in line with recognised international standards.

5. Procedural Arrangements

- 5.1. Following an accident or serious incident (as defined at Attachment D to Annex 13 to the Chicago Convention) involving civil aircraft of the other Party, the implementing authority of the country of occurrence will, in accordance with the requirements of Chapter 4 of Annex 13 to the Chicago Convention, advise the other Party without delay. The executing authority of the country of occurrence will also invite an accredited representative (in accordance with Annex 13 of the Chicago Convention) from the other country to participate in the subsequent investigation. Following communication by either implementing authority of the country of occurrence, the other implementing authority will communicate, with a minimum of delay, details of the persons they are responsible for who will participate in the investigation.
- 5.2. Following a marine casualty or incident (as defined in IMO Resolution A.849 (20) on the Code for the Investigation of Marine Casualties and Incidents) involving a ship flying the flag of the other Party, the implementing authority of the country of occurrence will advise the other Party without delay. Both implementing authorities will cooperate to the maximum extent possible. The Lead Investigating Authority will have regard to the responsibilities set out in point 7 of the Code for the Investigation of Marine Casualties and Incidents annexed to IMO Resolution A.849 (20).
- 5.3. Should one implementing authority be unable to attend an investigation, then the other implementing authority will provide a copy of the draft report on the investigation prior to the completion of the investigation. The implementing authority who was unable to attend the investigation will then be given 21 days since the receiving date by the designated authority in which to comment.
- 5.4. The implementing authority originating the report, being the implementing authority of the country in which an accident/incident occurred, has final control over the public release of any findings of the investigations.

6. Provision of Assistance

- 6.1. The implementing authorities will endeavour, so far as is practicable, to offer assistance and the use of facilities to the other implementing authority, as deemed appropriate by the nature of the occurrence. This assistance should include expertise in the areas of investigation management and specialist accident investigators. The Commitment of Personnel and other Resources will be in accordance with clause 8 of this Annex.

7. Training

- 7.1. The implementing authorities undertake to promote mutual training opportunities in the various specialist areas of transport safety investigation.
- 7.2. The ATSB will endeavour, where practicable, to invite Indonesian investigators to attend investigation courses conducted by the ATSB.
- 7.3. The commitment of Personnel and other Resources will be in accordance with clause 8 of this Annex.

8. Commitment of Personnel and other Resources

- 8.1. It is understood that the implementation of matters in this Annex will be subject to the available personnel and resources of the implementing authorities and the need to comply with Government directions or advice.
- 8.2. Where an implementing authority is invited to attend an investigation or course of the other implementing authority the invited authority will meet their own costs unless otherwise agreed.
- 8.3(a) Where the ATSB requests that NTSC personnel participate in an ATSB investigation and NTSC's participation will be solely for the purpose of the ATSB investigation, the ATSB will cover the reasonable costs of the NTSC's participation.
- 8.3(b) Where the NTSC requests that the ATSB personnel participate in a NTSC investigation and the ATSB's participation will be solely for the purpose of the NTSC investigation, the NTSC will cover the reasonable costs of ATSB's participation.
- 8.4. Subject to the preceding paragraphs, assistance from and the use of facilities from the other implementing authority will be at no cost to the implementing authority conducting the investigation.

9. Consultation, Amendment and Other Matters

- 9.1 The implementing authorities will communicate on an annual basis on matters relating to this Annex, including consideration of any additions or amendments or relevant developments in air, marine, and rail safety investigation, and will seek to foster, as appropriate, a range of opportunities for a more frequent exchange of information and communications to facilitate consultative processes and increased cooperation.

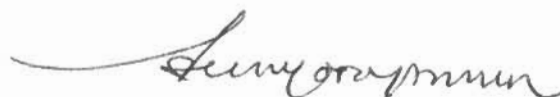
- 9.2. Attachment A to this Annex contains the contact details within the implementing authorities for implementation and communication. The details in the attachment may be updated as necessary by the responsible implementing authority after giving notice to the other implementing authority.
- 9.3. The Indonesian Department of Communications and the Australian Department of Transport and Regional Services authorise their respective implementing authorities to amend this Annex at any time by mutual consent of the implementing authorities.
- 9.4. This Annex will come into effect on the date of final signing and will remain in effect unless terminated. On coming into effect this Annex revokes all prior Annexes to the MoU dealing with investigations between the implementing authorities. The Indonesian Department of Communications and the Australian Department of Transport and Regional Services authorise their respective implementing authorities to terminate the Annex by either implementing authority giving the other implementing authority three months written notice of its intention to terminate.

Signed at Canberra, on
4 April 2005



Mike Mrdak
Deputy Secretary
Department of Transport and
Regional Services for the
Commonwealth Government of
Australia

Signed at Canberra, on
4 April 2005



Cucuk Suryo Suprojo
Director-General of Civil Aviation
for the Government of the
Republic of Indonesia

Attachment A - Contacts

The contact person(s) in the NTSC for the implementation of this MOU is/are:

The contact persons in ATSB for the implementation of this MOU are:

For aviation:

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