EDUCATION

Memorandum of Understanding
Between the
UNITED STATES OF AMERICA
and INDONESIA

Signed at Jakarta February 16, 2009

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

Education

Memorandum of understanding signed
at Jakarta February 16, 2009;
Entered into force February 16, 2009.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
CONCERNING
THE ESTABLISHMENT OF THE AMERICAN–INDONESIAN EXCHANGE FOUNDATION (AMINEF)

The Government of the Republic of Indonesia and the Government of the United States of America (hereinafter referred to as "the Parties"),

DESIRING to continue as well as expand the programs and activities stipulated in the "Educational and Cultural Agreement between the Government of the Republic of Indonesia and the Government of the United States of America" signed in Jakarta on 15 July 1992 (hereinafter referred to as "the 1992 Agreement"), in order to promote wider contacts and further mutual understanding between the peoples of the United States of America and the Republic of Indonesia through cooperation in the field of education,

CONSIDERING the mutual benefits derived from programs in these fields and the desire of the Parties to cooperate further in the financing and operating of such programs for the further strengthening of cooperative relations between the two countries, and

RECOGNIZING the importance of the principles of sovereignty, equality and mutual benefit,

PURSUANT to the prevailing laws and regulations of their respective countries,

Have agreed as follows:

ARTICLE I: OBJECTIVES

1. The Parties shall encourage and facilitate the further development of contacts and exchanges between the peoples of the two countries, with a view toward deepening knowledge and understanding of each other's history, civilization, institutions, literature and other cultural accomplishments.

2. The Parties shall, therefore, encourage and facilitate the academic exchange of persons, scholars, visual and performing artists and books and other materials in the fields of culture, science, education, literature, arts and music, film, tourism, museums, anthropology, archaeology and other programs of educational cooperation.

3. Each Party shall encourage and facilitate access on the part of scholars, artists and other professionals of the other country to its monuments, collections, archives, libraries, laboratories, cultural facilities and other institutions of learning in accordance with its relevant regulations. Similarly, each Party shall use its best efforts to extend to citizens and nationals of the other country engaged in activities pursuant to this Memorandum of Understanding (MoU) favorable treatment with respect to entry visas and stay permits consistent with its national laws and regulations.

ARTICLE II: ESTABLISHMENT OF AMINEF AS A NEW FOUNDATION

1. The American – Indonesian Exchange Foundation (hereinafter referred to as "the Foundation"), shall be recognized as a bi-national organization created and established by the Parties to administer such program as well as other related educational programs and activities. The new Foundation shall replace the "American-Indonesian Exchange Foundation" established by the Parties through the 1992 Agreement.

2. The Foundation and its programs and activities shall be financed with funds made available to the Foundation by or through the two Governments, and from funds received from other public and private sources which support the purposes of this MoU.

3. The provision related to tax exemptions and other facilities rendered to the Foundation shall be in accordance with the prevailing laws and regulations of the Republic of Indonesia.

4. The Foundation shall enjoy autonomy of management and administration in accordance with the terms of this MoU.

ARTICLE III: FUNDING

1. The American – Indonesian Exchange Foundation (AMINEF) created under the 1992 Agreement shall be dissolved and its funds and other property shall be turned over to the newly created Foundation.

2. The funds made available to the Foundation under this MoU shall be used, in accordance with the provisions of this MoU, by the Foundation for the purposes of:

   a. financing studies, research, instruction and other educational activities of or for citizens and nationals of the Republic of Indonesia in the United States of America, and of or for citizens and nationals of the United States of America in the Republic of Indonesia;

   b. financing other related educational programs and activities; and

   c. financing the administration of the Foundation.

ARTICLE IV: ACTIVITIES

The Foundation may, subject to the provisions of this MoU, exercise all powers necessary to achieve the purposes set forth in Article III and for these purposes may, in particular:

a. plan, adopt and carry out educational exchange programs and related educational programs;

b. develop a comprehensive proposal detailing the scope of Foundation programs for the following fiscal years of the Parties, the academic areas of concentration, the types of grants and similar general guidelines for approval by the respective Parties;

c. prepare each year an announcement of application instructions for a national public competition in the Republic of Indonesia setting forth the details of the programs for a particular year, including procedures for the distribution and submission of applications to the Foundation for the consideration by its Board;

d. recommend to the J. William. Fulbright Foreign Scholarship Board of the United States of America students, research scholars, teachers, instructors, professors, artists, and other professionals, who are citizens or nationals of the Republic of Indonesia, to participate in such programs;

e. receive recommendations from the J. William Fulbright Foreign Scholarship Board of the United States of America concerning students, research scholars, teachers, instructors, professors, artists, and other professionals, who are citizens or nationals of the United States of America, to participate in the recommended programs;

f. recommend to the J. William Fulbright Foreign Scholarship Board of the United States of America and the relevant organizations for the selection of participants in the program as the Foundation may deem necessary for achieving the purposes of Article III;

g. authorize the making of grants and the disbursement and advancement of funds necessary for the carrying out of programs authorized under Article III, including payment for transportation, tuition, maintenance and other expenses incident thereto;

h. engage an Executive Director, who shall be in charge of the administrative work of the Foundation and such other administrative and clerical staff as may be necessary; fix and pay the salaries and wages thereof; and incur such other expenses as may be necessary for the administration of the Foundation;

i. acquire, hold and dispose of property in the name of the Foundation as it may consider necessary or desirable, provided, however, that the acquisition and disposal of real property shall be subject to the prior approval of the Parties;

j. seek and receive donations from public and private sources for projects and activities for the purposes of the Foundation as established in this MoU. United States and Indonesian officials shall abide by the laws, regulations and procedures of their respective Governments with regard to their participation in the solicitation and/or acceptance of donations; and

k. administer or assist in administering or otherwise facilitate the carrying out of other, related educational exchange programs that contribute to achieving the purposes set forth in Article III but not financed by funds made available under this MoU, provided that no objection is interposed by either Party to the Foundation's role or special reports referred to in Article VIII paragraph 1.

ARTICLE V: GOVERNANCE

1. The Foundation shall be governed by a Board that consists of fourteen members, seven of whom shall be nationals of the Republic of Indonesia and seven of whom shall be nationals of the United States of America.

2. The organization of the Board shall consist of Honorary Co-Chairs, Trustees, Supervisors, and Managers. Each position shall be represented equally by both nationalities.

3. The Minister of National Education of the Republic of Indonesia and the chief of the diplomatic mission of the United States of America to the Republic of Indonesia shall be Honorary Co-Chairs of the Foundation.

4. A Chairperson shall be elected by the Board from the Supervisors for a period of service of one year, provided that the Chair shall be assumed alternately by a citizen of the Republic of Indonesia and a citizen of the United States of America.

5. Each member of the Board shall have one vote. Decisions of the Board shall be made a majority of the votes cast. The Chairperson shall cast a second and deciding vote in the event of a tie vote by the Board.

6. The American members of the Board shall be appointed and may be removed by the chief of the diplomatic mission of the United States of America to the Republic of Indonesia. Three of the American members shall be officers of the diplomatic mission of the United States of America to the Republic of Indonesia. The Indonesian members of the Board shall be appointed and may be removed by the Minister of National Education of the Republic of Indonesia. Three of the Indonesian members shall be representatives of the Government of Indonesia including The Ministry of Culture and Tourism. The remaining members of the Board shall be drawn from the educational, cultural, corporate and professional communities in the two countries.

7. The terms of office for the Trustees, Supervisors, and Managers are as follows: The term of Office of Trustees should not be determined. The Managers shall be appointed by the Trustees in a meeting of the Trustees, for a term of 5 (five) years and may be reappointed. The Supervisors shall be appointed by the Trustees in a meeting of the Trustees, for a period of 5 (five) years and may be reappointed.

8. The Foundation shall have a treasurer and an alternate treasurer. The treasurer shall be the Cultural Affairs Officer of the diplomatic mission of the United States of America to the Republic of Indonesia, and the alternate treasurer shall be an Indonesian selected by the Board of Managers for a period of service of three years.

9. The members of the Board shall serve without compensation, but the Foundation may defray the necessary expenses, of the members in attending the meetings of the Foundation and in performing other official duties arranged by the Foundation.

10. Members of the AMINEF Board shall be given first consideration as appointments are made to the Board of the new Foundation.

ARTICLE VI: BY-LAWS AND COMMITTEES

The Board may adopt such by-laws and appoint such committees as it may deem necessary for the conduct of the affairs of the Foundation.

ARTICLE VII: LOCATION OF MEETINGS

The office of the Foundation shall be in Jakarta. However, meetings of the Board and any of its committees may be held in such other places as the Board may determine. The activities of any of the Foundation's Board members, officers or staff may be carried on at such places as may be approved by the Board.

ARTICLE VIII: REPORTS

1. The Foundation shall report annually on its activities to the Parties. Such annual reports shall be made in such form and cover such content, as may be required by the Parties. Special reports may be made at the discretion of the Foundation or at the request of either Party.

2. Annual audits of the accounts of the Foundation, to be made by an auditor selected jointly by the Parties, shall be submitted to the Parties; if so requested by the Parties, the Foundation will also permit other auditing of its accounts by representatives of either or both Parties.

3. In the budgeting and accounting of funds, financial transfer, financial and program reporting to the Government of the Republic of Indonesia, the Foundation shall follow existing Indonesian regulations. In the case of the budgeting and accounting of funds and financial and program reporting to the Government of the United States of America, the Foundation shall follow regulations as stipulated by the Department of State's Bureau of Educational and Cultural Affairs Manual for Bilateral Commissions and Foundations.

ARTICLE IX: ANNUAL BUDGET

1. The Foundation shall propose its annual budget to the Parties.

2. The Parties, after having examined the annual budget proposal of the Foundation and having consulted with each other, shall approve jointly the annual budget of the Foundation, for which the Parties shall, within the limit of their respective budgetary appropriations for this purpose, assume the obligation of contributing funds to the Foundation.

3. All commitments, obligations and expenditures to be authorized by the Foundation shall be made in accordance with the annual budget of the Foundation approved by the Parties.

ARTICLE X: EXECUTIVE AGENCY

On behalf of the Government of the Republic of Indonesia, the executive agency for the cooperation in the field of education shall be the Ministry of National Education; on behalf of the Government of the United States of America, the executive agency for this MoU shall be the U.S. Department of State. The executive agencies may communicate with one another to review and assist in the implementation of this MoU and may meet periodically as they may agree.

ARTICLE XI: OBLIGATIONS

1. The Parties shall make every effort to facilitate the carrying out of the activities covered by this MoU and to resolve problems that may arise in its implementation.

2. The obligations of the Parties and the activities carried out under this MoU shall be subject to the laws and regulations of each country as applicable, and to the availability of funds.

ARTICLE XII: PRIVILEGES AND IMMUNITIES

Without any prejudice to any applicable privileges and immunities, all persons engaged in activities related to this MoU shall respect the law, regulations, political independence, sovereignty and territorial integrity of the host country, shall have duty not to interfere in the internal affairs of the host country, and will avoid any activities inconsistent with the purposes of this MoU.

ARTICLE XIII: INTELLECTUAL PROPERTY RIGHTS

1. Each Party shall protect within its territory the Intellectual Property Rights of the other Party in accordance with their prevailing national laws, regulations and international agreements;

2. The Parties shall seek to ensure adequate and effective protection of intellectual property created or furnished under this MoU and relevant implementing arrangements in accordance with their prevailing national laws, regulations and international agreements.

ARTICLE XIV: SETTLEMENT OF DIFFERENCES

Any differences between the Parties arising from the interpretation or implementation of this MoU shall be settled amicably by consultation or negotiation.

ARTICLE XV: ENTRY INTO FORCE

This MoU shall enter into force upon signature by the Parties and shall remain in force for five years. It may be extended for additional five-year period pursuant to written consent between the Parties.

ARTICLE XVI: AMENDMENTS

1. This MoU may be amended by written consent of the Parties.

2. Either Party may give written notice to the other Party of its intention to terminate this MoU, in which case this MoU shall terminate thirty days after the end of the first calendar year that begins following the date of such notice.

3. Upon termination of this MoU, funds and property of the Foundation shall be divided between the Parties in proportion to their respective contribution to the Foundation, and become property of the respective Parties, subject to such conditions, limitations and liabilities as may have been imposed thereon prior to the termination of this MoU.

ARTICLE XVII: TERMINATION

1. Upon the entry into force of this MoU, the 1992 Agreement is therefore terminated.

2. In respect of the programs and the projects made prior to the date of signing of this MoU, the provisions of the 1992 Agreement shall remain in force until the completion of such programs and projects, unless the Parties decide otherwise.

3. The termination of this MoU will not prejudice the completion of any ongoing projects or activities under this MoU, unless the Parties decide otherwise.

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

DONE in duplicate at Jakarta this 16 of February, 2009, in English, both texts are being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Cameron R. Hume
Ambassador
Embassy of the United States of America

FOR THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

Fasli Jalal
Director General Higher of Education
Ministry of National Education