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WAR GRAVES



Treaty Series No. 63 (1971)

Agreement

between the Governments of the
United Kingdom of Great Britain and Northern Ireland,
Canada, Australia, New Zealand, India and Pakistan
and the Government of the Republic of Indonesia
respecting the War Cemeteries, Graves
and Memorials of the Commonwealth
in Indonesian Territory

Djakarta, 10 September 1962

[The Agreement entered into force on 19 April 1964]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
September 1971*

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**AGREEMENT
BETWEEN THE GOVERNMENTS OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND, CANADA,
AUSTRALIA, NEW ZEALAND, INDIA AND PAKISTAN
AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
RESPECTING THE WAR CEMETERIES, GRAVES AND
MEMORIALS OF THE COMMONWEALTH IN INDONESIAN
TERRITORY**

The Governments of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand, India and Pakistan (hereinafter referred to as "the Commonwealth Countries") and

The Government of the Republic of Indonesia;

Animated by a common desire that the places of burial in Indonesian territory of members of the Armed Forces of the Commonwealth Countries who have fallen in the War of 1939-1945 (hereinafter referred to as "the Commonwealth War Cemeteries" or "Commonwealth War Graves" as the case may be) should be protected from risk of disturbance and assured of respect and care;

Have agreed as follows:

ARTICLE 1

The Commonwealth War Graves Commission, incorporated by Royal Charter on the 21st day of May 1917, (hereinafter referred to as "the Commission") is recognised by the Government of the Republic of Indonesia as the sole official authority entrusted on behalf of the Governments of the Commonwealth Countries with the duties of laying out, constructing and maintaining the Commonwealth War Cemeteries and Graves and with powers of exhumation and reinterment.

ARTICLE 2

(1) The Government of the Republic of Indonesia shall grant to the Commission free of charge and in perpetuity the unrestricted use of the lands required for the Commonwealth War Cemeteries for that specific purpose and for so long as that use of land is continued.

(2) The number of Commonwealth War Cemeteries to be maintained permanently by the Commission shall be reduced to two to be selected by the Commission on behalf of the Commonwealth Countries in agreement with the Government of the Republic of Indonesia. The Commonwealth War Graves at other places in Indonesia shall be transferred to the two cemeteries.

ARTICLE 3

Exhumation of bodies from the Commonwealth War Cemeteries and Graves shall not be permitted unless undertaken or authorised by the Commission in agreement with the Government of the Republic of Indonesia.

ARTICLE 4

(1) The Government of the Republic of Indonesia recognises the right of the Commission to act in Indonesian territory as a properly constituted organisation to ensure the upkeep of the Commonwealth War Cemeteries and Graves.

(2) After providing the necessary notice to and lodgment of plans regarding construction work for agreement with the Government of the Republic of Indonesia, the Commission is authorised to undertake the said plans by enclosing the Commonwealth War Cemeteries, by laying them out, by erecting in them sepulchral monuments or other suitable structures, by making plantations in them, by constructing and maintaining water installations in them, by designating from time to time custodians or persons (who shall be civilians and who may be nationals of the Commonwealth Countries) to take charge of them, and by enacting regulations governing visits to and the internal control of the same.

(3) Whenever it is considered that the land lying outside, but in the immediate vicinity of the Commonwealth War Cemeteries, requires protection from uses which may impair their appearance and tranquillity, the Government of the Republic of Indonesia will use its best endeavours to prevent the land being put to such uses.

ARTICLE 5

The Commission shall be represented in Indonesia in its relations with the Government of the Republic of Indonesia by an official in the service of and designated by the Commission for this purpose. Any question pertaining to the performance of the Commission's functions in Indonesia may be discussed directly between the official so designated by the Commission and the competent Indonesian authority.

ARTICLE 6

(1) The Commission shall be at liberty to import into Indonesia for sole use in discharging its functions, any articles or implements sent by an official in the services of and designated by the Commission in the form of construction materials, equipment, vehicles, machinery, shrubs and plants and other articles or implements necessary for construction, maintenance, embellishment and renovation of the Commonwealth War Cemeteries, free of customs and import dues and other charges as laid down by regulations operating in Indonesia.

(2) For each importation of the articles or implements mentioned above, previous approval of the Government of the Republic of Indonesia shall be obtained.

(3) The Commission shall be exempted from the payment of all taxes, dues or other State or local charges or impositions of whatsoever kind on the lands granted for the two cemeteries and structure therein, and on the Commission's properties, including motor vehicles, the importation of which has been approved by the Government of the Republic of Indonesia free of customs and import dues and other charges under paragraphs (1) and (2) of this Article.

ARTICLE 7

This Agreement shall enter into force one month after the date of receipt by the Government of Australia, representing the Commonwealth Countries, of a Note of Acceptance from the Government of the Republic of Indonesia.⁽¹⁾

In Witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed the present Agreement.

Done in duplicate at Djakarta on the 10th day of September 1962 in the English and Indonesian languages, both texts being equally authoritative. One copy shall be retained by the Government of the Republic of Indonesia, the other shall be deposited with the Government of Australia by whom certified copies shall be transmitted to other Commonwealth Governments signatory to the present Agreement.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:
LESLIE FRY

For the Government of the Republic
of Indonesia:
SUBANDRIO

For the Government of Canada:
JOHN P. SIGVALDASON

For the Government of Australia:
PATRICK SHAW

For the Government of New Zealand:
DUNCAN M. RAE

For the Government of India:
APA B. PANT

For the Government of Pakistan:
S. AHMAD

(1) The Agreement entered into force on 19 April, 1964.

PERSETUDJUAN
ANTARA PEMERINTAH-PEMERINTAH KERADJAAN INGGERIS
RAYA DAN IRLANDIA UTARA, KANADA, AUSTRALIA,
SELANDIA BARU, INDIA DAN PAKISTAN DAN PEMERINTAH
REPUBLIK INDONESIA MENGENAI PERMAKAMAN-
PERMAKAMAN PERANG, MAKAM-MAKAM DAN
BANGUNAN-BANGUNAN PERINGATAN MILIK
PERSEMAKMURAN DIWILAJAH INDONESIA

Pemerintah-Pemerintah Keradjaan Inggervis Raya dan Irlandia Utara, Kanada, Australia, Selandia Baru, India dan Pakistan (disini selandjutnja disebut "Negara-Negara Persemakmuran") dan

Pemerintah Republik Indonesia;

Terdorong oleh keinginan jang sama agar tempat-tempat pemakaman anggauta-anggauta bersendjata Negara-Negara Persemakmuran jang telah gugur dalam peperangan tahun 1939-1945 (disini selandjutnja disebut "Permakaman-Permakaman Perang Persemakmuran" atau "Makam-Makam Perang Persemakmuran" dalam hal jang bersangkutan) selajaknja mendapat perlindungan terhadap kemungkinan adanja gangguan dan mendapat penghormatan serta pemeliharaan;

Telah menjetudjui sebagai berikut:

PASAL 1

Panitya Makam-Makam Perang Persemakmuran jang berdasarkan Piagam Keradjaan tertanggal 21 Mei 1917 telah mendjadi satu badan hukum (disini selandjutnja disebut "Panitya") diakui oleh Pemerintah Republik Indonesia sebagai satu-satunja badan resmi jang kepadanya atas nama Pemerintah-Pemerintah Negara-Negara Persemakmuran dipertjajakan kewadajiban-kewadajiban merentjanakan, membangun dan memelihara Permakaman-Permakaman serta Makam-Makam Perang Persemakmuran dan kekuasaan penggalan serta penguburan kembali.

PASAL 2

(1) Pemerintah Republik Indonesia akan memberikan kepada Panitya dengan tjuma-tjuma dan untuk selama-lamanja penggunaan setjara tidak terbatas atas tanah-tanah jang dibutuhkan bagi Permakaman-Permakaman Perang Persemakmuran khusus guna keperluan tersebut dan selama penggunaan tanah tersebut berlangsung.

(2) Djumlah Permakaman-Permakaman Perang Persemakmuran jang akan dipelihara setjara tetap oleh Panitya akan dikurangi mendjadi dua buah jang dapat dipilih oleh Panitya atas nama Negara-Negara Persemakmuran dengan persetudjuan Pemerintah Republik Indonesia. Makam-Makam Perang Persemakmuran pada tempat-tempat lain di-Indonesia akan dipindahkan ke-kedua permakaman tersebut.

PASAL 3

Penggalian djenazah-djenazah dari Permakaman atau Makam-Makam Perang Persemakmuran tidak akan di-izinkan, ketjuali jang dilaksanakan atau jang dikuasakan oleh Panitia dengan persetujuan Pemerintah Republik Indonesia.

PASAL 4

(1) Pemerintah Republik Indonesia mengakui wewenang Panitia bekerdja diwilajah Indonesia sebagai suatu organisasi jang sah guna mendjamin pemeliharaan Permakaman-Permakaman dan Makam-Makam Perang Persemakmuran.

(2) Setelah menjampaikan pemberitahuan jang diperlukan dan tempat mengenai rentjana-rentjana pekerdjaan pembangunan guna memperoleh persetujuan Pemerintah Republik Indonesia, maka Panitia di-izinkan melaksanakan rentjana-rentjana tersebut dengan djalan memagari Permakaman-Permakaman Perang Persemakmuran, mengaturnja, mendirikan tanda-tanda peringatan makam atau bangunan-bangunan lain jang sesuai didalamnja, membuat taman-taman didalamnja, membangun serta memelihara instalasi-instalasi air didalamnja, mengangkat selama djangka-waktu tertentu pendjaga-pendjaga atau orang-orang (jang akan terdiri dari orang-orang sipil dan dapat berstatus warganegara Negara-Negara Persemakmuran) jang diberi tugas memelihara dan mengadakan peraturan-peraturan mengenai waktu berkundjung serta pengawasannja.

(3) Apabila dianggap bahwa tanah jang terletak diluar Permakaman Perang Persemakmuran, tetapi langsung berdekatan, membutuhkan perlindungan daripada penggunaan jang dapat mengurangi bentuk serta ketenteramannja, maka Pemerintah Republik Indonesia akan berusaha sebaik-baiknja guna mentjegah penggunaan demikian atas tanah tersebut.

PASAL 5

Panitia akan diwakili di-Indonesia dalam hubungannja dengan Pemerintah Republik Indonesia oleh seorang petugas atau seorang jang ditundjuk oleh Panitia guna keperluan tersebut. Tiap masalah mengenai pelaksanaan tugas Panitia di-Indonesia dapat dirundingkan setjara langsung antara petugas jang telah ditundjuk oleh Panitia dan pembesar Indonesia jang berwenang.

PASAL 6

(1) Panitia akan memperoleh kebebasan memasukkan ke-Indonesia guna keperluan tugasnja semata-mata, barang-barang atau perkakas jang dikirim oleh seorang petugas Panitia dalam bentuk bahan-bahan pembangunan, tumbuh-tumbuhan serta tanaman-tanaman dan barang-barang atau perkakas lain jang diperlukan guna membangun, memelihara, menghias dan memperbaharui Permakaman-Permakaman Perang Persemakmuran, bebas daripada bea/tjuakai dan lain-lain bea sebagaimana telah ditetapkan dengan peraturan-peraturan jang berlaku di-Indonesia.

(2) Untuk pemasukan barang-barang atau perkakas tersebut diatas terlebih dahulu diwadjibkan memperoleh pengesahan dari fihak Pemerintah Republik Indonesia.

(3) Panitya akan dibebaskan daripada pembajaran semua padjak, bea atau kewadajiban-kewadajiban lain, baik kewadajiban-kewadajiban terhadap Negara maupun terhadap Daerah, atau lain padjak dalam bentuk apa-pun atas tanah-tanah jang telah diberikan kepada kedua permakaman tersebut beserta bangunan-bangunannya dan atas harta-milik Panitya, termasuk kendaraan-kendaraan bermotor jang pemasukannya telah disahkan oleh Pemerintah Republik Indonesia bebas daripada bea/tjukai serta bea pemasukan dan kewadajiban-kewadajiban lain termaktub dalam ajat (1) dan (2) Pasal ini.

PASAL 7

Persetudjuan ini akan mulai berlaku sebulan setelah tanggal diterimanja Nota Penerimaan dari pihak Pemerintah Republik Indonesia oleh Pemerintah Australia jang mewakili Negara-Negara Persemakmuran.

Sebagai Bukti, maka para penanda tangan dibawah ini jang benar-benar telah dikuasakan oleh Pemerintah-nja masing-masing, telah menanda tangani Persetudjuan ini.

Dibuat dalam rangkap dua di-Djakarta pada hari ke-10 bulan September 1962 dalam bahasa Inggeris dan Indonesia jang keduannya mempunjai kekuatan jang sama. Sehelai akan disimpan oleh Pemerintah Republik Indonesia dan sehelai lainnja akan disimpan oleh Pemerintah Australia jang akan menjampaikan turunan-turunan jang telah disahkannya kepada Pemerintah Negara-Negara Persemakmuran lainnja selaku penanda tangan—peserta Persetudjuan ini.

Untuk Pemerintah Inggeris Raya dan Irlandia Utara:

LESLIE FRY

Untuk Pemerintah Republik Indonesia:
SUBANDRIO

Untuk Pemerintah Kanada:

JOHN P. SIGVALDASON

Untuk Pemerintah Australia:

PATRICK SHAW

Untuk Pemerintah Selandia Baru:

DUNCAN M. RAE

Untuk Pemerintah India:

APA B. PANT

Untuk Pemerintah Pakistan:

S. AHMAD

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