

**MEMORANDUM OF UNDERSTANDING (MoU) ON
COOPERATION IN STUDENT MOBILITY & WELFARE**

between

THE GOVERNMENT OF THE REPUBLIC OF INDIA

represented by

**THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT AND
THE MINISTRY OF OVERSEAS INDIAN AFFAIRS**

and

THE COMMONWEALTH OF AUSTRALIA

represented by

**THE DEPARTMENT OF INDUSTRY, INNOVATION, SCIENCE,
RESEARCH AND TERTIARY EDUCATION AND THE
DEPARTMENT OF IMMIGRATION AND CITIZENSHIP**

BACKGROUND

The Ministry of Human Resource Development (MHRD) and the Ministry of Overseas Indian Affairs (MOIA) of India and the Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE) and the Department of Immigration and Citizenship (DIAC) of Australia, hereinafter referred to as the 'Parties' have, as a common objective, the development of strong bilateral education relationships, cooperation and the sharing of information on student welfare and a common interest in developing, and monitoring standards and regulations applicable to the operations and activities of Education Agents/ Enrolment Agencies.

Accordingly, the Parties seek to work cooperatively within the limits of each country's laws to jointly carry out measures for protection and welfare of students in the respective countries and the monitoring and sanctioning of the activities and operations of Education Agents/ Enrolment Agencies in the respective countries.

Specifically, the Parties want to increase the exchange of information between them in relation to the operations and activities of Education Agents/ Enrolment Agencies, in particular with regard to registration status, regulatory breaches

and/or conduct that does, or has the potential to, bring into disrepute the provision of education services to international students in the two countries.

Accordingly, the Parties have agreed as follows:

ARTICLE I - OBJECTIVE

This MoU is intended to clarify the roles and responsibilities under which the Parties may cooperate in exchanging information on student welfare matters and also in undertaking regulatory monitoring and compliance of the operations and activities of Education Agents/ Enrolment Agencies in both India and Australia. For this purpose, the Parties may, subject to the availability of appropriated funds, provide the necessary resources, personnel, information and/or related services to cooperate with each other in accordance with any annexes to this MoU which are mutually arranged between the Parties.

ARTICLE II - IMPLEMENTATION

- A. The specific cooperation which the Parties engage in will be determined in annexes to this MoU. Such annexes will not become part of this MoU. When signed by the duly authorised representatives of the Parties, such annexes will be deemed to be auxiliary attachments to this MoU which do not embody any legal obligations and which are not governed by international law. The Parties note that such annexes will describe the cooperation to be performed, the personnel and other resources required to accomplish the tasks, the estimated costs, implementation plans and duration.
- B. The designated office at MHRD for the coordination and management of this MoU is the person occupying the position of:
Joint Secretary (ICC)
Ministry of Human Resource Development
Department of Higher Education
Telephone: +911123381097
Fax: +911123389603
- C. The designated office at DIISRTE for the coordination and management of this MoU is the person occupying the position of:
Head of Division
International Education
Australian Government Department of Industry, Innovation,
Science, Research and Tertiary Education
Telephone: +61 2 6213 6000
Fax: +61 2 6213 7000

ARTICLE III – SCOPE OF COOPERATION

- A. The cooperation activities and exchanges between the Parties may include, but are not limited to, the following:
1. Sharing information on international student welfare issues relating to the two countries where feasible and appropriate, including any regulatory or legislative changes made in relation to international student welfare, on policy and procedural developments relating to international student welfare, and on specific international student welfare matters relating to specific students;
 2. Sharing technical and managerial expertise where feasible and appropriate on developing, maintaining and monitoring regulatory provisions relating to the activities and operations of the Education Agents/Enrolment Agencies and Education Providers;
 3. Keeping each other informed on the changes being proposed and/or enacted in relation to the regulatory regime governing the activities and operations of the Education Agents/Enrolment Agencies and Education Providers in the respective countries;
 4. Providing training for personnel in Australia and in India in respect of the implementation of regulatory frameworks governing the operation and activities of Education Agents/Enrolment Agencies in the two countries;
 5. Harmonising, to the extent possible within the constraints of the operating environment and legal framework of each jurisdiction, and developing compatible standards and sharing data on best practices in the regulation of Education Agents/Enrolment Agencies;
 6. Sharing information where feasible and appropriate regarding the activities of Education Agents/Enrolment Agencies and Education Providers, including but not limited to:
 - i. Registration status;
 - ii. Corporate structure of the Education Agent/Enrolment Agency organisations, if known;
 - iii. Sanctions in force, if already applied;
 - iv. Complaints and nature of complaints against Education Agents/Enrolment Agencies and Education Providers, including complainant details subject to the agreement of complainant, which, if provided, shall be treated by the Parties as Sensitive Information;

- v. Legal action *by either Party* against Education Agents/Enrolment Agencies and Education Providers already underway, pending or being considered;
 - vi. Information on whether an Education Agent/Enrolment Agency has been suspended by DIAC from using the student eVisa system, due to high levels of fraud.
- B. Cooperation in these and other areas, as mutually arranged by the Parties, may be accomplished by appropriate short-term and long-term in-country assignments, or by assistance provided by the Parties.

ARTICLE IV – DEFINITIONS

In this MoU the following terms will have the following meanings:

‘Education Agent’ or ‘Enrolment Agency’ means (1) a person or a body (whether within or outside either one of the two countries) who represents or acts on behalf of the provider, or purports to do so, in dealing with overseas students or intending overseas students, and/or (2) who also may represent students for the purpose of assisting them with information and arrangements for study overseas.

‘Education Provider’ means an institution or other body or person in Australia or India that provides or seeks to provide courses to overseas students.

‘Sensitive Information’ means information to which access or distribution limitations have been applied in accordance with the national laws, regulations, policies, or directives of either Party, and which is marked or designated on the relevant document in order to identify its sensitive character.

ARTICLE V – JOINT WORKING GROUP

The Parties shall implement this MoU through a Joint Working Group. The Joint Working Group shall be chaired, on behalf of the Government of India by a representative of Ministry of Human Resource Development and on behalf of the Commonwealth of Australia by a representative of the DIISRTE along with representatives of the other agencies of the Parties. The meetings may be held as mutually decided at least once in a year at alternative locations. The meetings can be replaced, if needed, by consultations through diplomatic channels.

ARTICLE VI – SUPPORT

Support by the Parties necessary to accomplish the cooperation and exchanges carried out pursuant to this MoU will be in accordance with the respective Party's laws, regulations, policies and procedures (as they exist from time to time). The Parties may provide the resources and support set out in annexes to this MoU.

ARTICLE VII – FINANCIAL PROVISIONS

- A. Each Party will bear the costs associated with the participation of its own personnel in work performed under any annexes to this MoU. The Parties will also bear their respective travel expenses necessary to carry out the cooperative program outlined in this MoU or any annex to this MoU. The Parties accept that all activities conducted pursuant to this MoU are subject to the availability of appropriated funds and personnel.
- B. One of the Parties' intentions in engaging in cooperation is to avoid needless duplication of effort. For a given activity done pursuant to this MoU, the Parties may jointly contribute resources to reduce duplication, as allowed by any annex to this MoU governing that activity.
- C. Where an exchange of funds becomes necessary to carry out activities engaged pursuant to this MoU the Parties will mutually arrange between themselves to provide in an annex to this MoU the means for such funding.

ARTICLE VIII – CONFIDENTIALITY

- A. Cooperative activities undertaken pursuant to this MoU may include the use and exchange of Sensitive Information.
- B. Each Party will handle and protect Sensitive Information received from the other Party against unauthorised disclosure in accordance with the terms set out in this MoU and the Parties' respective laws and regulations (as they exist from time to time), as well as in accordance with previous arrangements between the Parties or their governments.
- C. The Party receiving confidential information will afford Sensitive Information a degree of protection at least equivalent to that applied by the Party providing the information.
- D. The Party receiving Sensitive Information will not use or disclose any of that information to any person, firm, institution, organisation, or any other entity that does not form a part of the Government of India or the Government of Australia without the prior written approval of the Party providing the information, except as required by the Parties' respective laws and regulations (as they exist from time to time), in which case the receiving Party will promptly notify the providing Party of the disclosure.
- E. Each Party will ensure that access to the Sensitive Information will be granted only to those individuals whose official duties require such access and who, where needed, have been granted the requisite personnel security clearance in accordance with the prescribed standards of the Parties.

- F. The Party providing the information may request additional limitations on the use, disclosure, release and access to particular Sensitive Information as a condition of its being provided to the receiving Party. If the receiving Party consents, it will comply with such limitations.
- G. The Party providing Sensitive Information will be informed immediately of all losses or compromises, as well as possible losses or compromises, of Sensitive Information that is provided under this MoU, and the recipient Party shall initiate an investigation to determine the circumstances of such losses or compromises or possible losses or compromises. The results of the investigation and information regarding measures taken to prevent recurrence will be forwarded to the Party providing the confidential information.
- H. On request, each Party will provide the other Party with information about its security standards, procedures and practices for safeguarding Sensitive Information.
- I. Each Party will promptly notify the other Party of any changes to its laws and regulations that would affect the protection of Sensitive Information shared under this MoU. In such cases, the Parties will consult in order to consider possible amendments to the MoU. In the interim, such information will be protected as described herein, unless other arrangements are approved in writing by the Party providing the confidential information in question.

ARTICLE IX – AMENDMENTS

This MoU, and its annexes, may be amended by mutual consent of the Parties. The details of any such amendment shall be recorded in a written agreement signed by both Parties.

ARTICLE X – RESOLUTION OF DISAGREEMENTS

Any disagreement regarding the interpretation or application of the MoU or any of its annexes, will be resolved by consultations between the Parties and shall not be referred to any international tribunal or third party for settlement.

ARTICLE XI – COMMENCEMENT AND TERMINATION

- A. This MoU will take effect on the date of its last signature and will remain in effect until the date of its termination.
- B. Subject to the following paragraphs this MoU, or any annex of it, may be terminated at any time by either Party providing sixty days notice in writing to the other Party.

- C. Each Party shall have one hundred and twenty days to close out its activities following the date of termination of this MoU or any of its annexes (as the case may be).
- D. Termination of this MoU also shall terminate all annexes concluded by the Parties pursuant to this MoU.
- E. Termination of this MoU, or of any annex to it, shall not affect the obligations of the Parties under Articles VIII, X and XI which will remain in effect.
- F. Following the termination or suspension of this MoU any confidential information exchanged or provided under this MoU:
- will be protected by the Parties;
 - will not be published; and
 - will not be released to any government officials who are not required to know that information in order either to advance the objective of this MOU or to carry out any activity described in Article I in the context of the cooperation envisaged under this MoU.

Any dispute over the interpretation or application of this article will be subject to Article X as if that Article were applicable between the Parties.

ARTICLE XII – AUTHORITY

MHRD and DIISRTE will carry out the provisions of this MoU on behalf of the respective Parties as indicated by the signature of their duly authorised representatives.

FOR THE GOVERNMENT OF INDIA

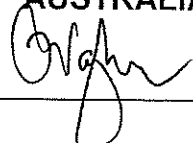
BY: 

Shri Ashok Thakur

TITLE: *Secretary, MHRD*

DATED: *17 October 2012*

FOR THE GOVERNMENT OF AUSTRALIA

BY: 

HE Peter N. Varghese AO

TITLE: *High Commissioner for Australia*

DATED: *17 October 2012*