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**Australia
and
United States of America**

Agreement between the Government of Australia and the Government of the United States of America on cooperation in science and technology for homeland/domestic security matters (with annex). Washington, 21 December 2005

Entry into force: *16 February 2007 by notification, in accordance with article 20*

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**Australie
et
États-Unis d'Amérique**

Accord entre le Gouvernement de l'Australie et le Gouvernement des États-Unis d'Amérique relatif à la coopération en science et technologie dans les domaines de la sécurité du territoire national et de la sécurité intérieure (avec annexe). Washington, 21 décembre 2005

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE
GOVERNMENT OF THE UNITED STATES OF AMERICA ON COOPERATION IN
SCIENCE AND TECHNOLOGY FOR HOMELAND/DOMESTIC SECURITY MATTERS**

Preamble

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA (hereinafter referred to as the “Parties”):

HAVING a mutual interest in research and development relating to homeland/domestic security matters;

SEEKING to make the best use of their respective research and technology development capacities, *eliminate unnecessary duplication of work and obtain the most efficient and cost effective results through cooperative activities;*

DESIRING to increase the exchanges of information and personnel in areas pertinent to the identification of homeland/domestic security threats and countermeasures and the development of technical standards, operational procedures, and supporting methodologies that govern the use of relevant technologies;

STRESSING that physical and cyber-based critical infrastructures and other homeland/domestic security capabilities, both governmental and private, are essential to the operation and security of the Parties’ respective economies and governments;

NOTING that the Parties’ economies are increasingly interdependent, and that infrastructure protection and homeland/domestic security are of paramount concern to the Parties’ respective governments;

BEING AWARE of research, development, testing, evaluation, development of technical standards and operations in both countries in chemical, biological, radiological, nuclear and explosive countermeasures and in other areas that could enhance homeland/domestic security;

NOTING the important work accomplished under arrangements such as the Agreement between the Government of Australia and the Government of the United States of America concerning Co-operative and Collaborative Research, Development and Engineering done on 21 October 1994 and desiring to avoid duplicating those efforts;

RECOGNISING a common desire to:

- expand the homeland/domestic security technology capabilities of each Party;
- minimise unnecessary duplication of work;
- obtain more efficient and cost-effective results; and
- adapt more flexibly to the dynamic threat environment

through cooperative activities that are mutually beneficial and that relate to the application of state-of-the-art and emerging security technologies, making best use of the Parties’ respective research, development, and testing and evaluation capacities;

AFFIRMING a common interest in enhancing the longstanding collaborative efforts of the Parties’ respective agencies, private sector and governmental organisations, and academic institutions in generating scientific and technological solutions to counter threats, reduce vulnerabilities, and respond to and recover from incidents and emergencies in those areas having the potential for causing significant security, economic, and/or social impacts;

DESIRING to set forth a vehicle for the conduct of cooperative scientific and technological research, development, testing and evaluation in the field of homeland/domestic security;

HAVE AGREED as follows:

ARTICLE 1

Definitions

For purposes of this Agreement between the Government of the United States of America and the Government of Australia on Cooperation in Science and Technology for Homeland/Domestic Security Matters (the “Agreement”), the Parties have adopted the following definitions:

Agreement Director	Has the meaning given to it in Article 5 (Management) of this Agreement.
Business Confidential Information	Has the meaning given to it in Section IV of Annex 1 to this Agreement.
Classified Information	Official information that requires protection for national security, law enforcement, domestic security, commercial or other reasons and is so designated by the application of the appropriate security classification markings in accordance with the national laws, regulations, policies, or directives of either Party. It may be in oral, visual, magnetic, electronic, or documentary form, or in the form of Equipment and Material or technology.
Contract	Any mutually binding legal relationship under the national laws of either Party that obligates a Contractor to furnish supplies or services in relation to a Project Arrangement.
Contracting Agency	Any entity within the government organisation of a Party that has authority to enter into, administer, and/or terminate contracts.
Contractor	Any entity awarded or entering into a Contract on behalf of a Party in relation to a Project Arrangement.
Controlled Unclassified Information	Information that is not Classified Information, but to which access or distribution limitations have been applied in accordance with national laws, regulations, policies, or directives of either Party. Whether the information is provided or generated under this Agreement, it will be marked to identify its sensitive character. This definition includes, but is not limited to, information marked “Sensitive Homeland Security Information,” “Sensitive Security Information,” “For Official Use Only,” “Law Enforcement Sensitive Information,” “Protected Critical

	Infrastructure Information” and “Trusted Information Sharing Network for Critical Infrastructure Protection (TISN) In Confidence.” Controlled Unclassified Information may include Business Confidential Information.
Cooperative Activity	Any form of activity described in Article 7 (Forms of Cooperative Activity) of this Agreement on which the Parties agree to cooperate to achieve the objectives of this Agreement. Such activity will normally take the form of a Project.
Critical Infrastructure	Governmental and/or private activities or sectors that are identified by each Party in its laws, executive orders, directives or policies as “Critical Infrastructure”.
Equipment and Material	Any material, equipment, end item, subsystem, or component generated, acquired or provided for use in any Cooperative Activity.
Intellectual Property	Has the meaning given 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.
Participant	Any non-federal or non-central government person or entity, including but not limited to a private sector organisation, academic institution, or laboratory (or subsidiary thereof) engaged in accordance with Article 9 (Participants).
Project	A specific form of Cooperative Activity described in Article 8 (Projects).
Project Arrangement	The instrument setting out the scope of any Project to be carried out by the Parties described in Article 8 (Projects).
Project Background Information	Any information furnished to a Project regardless of form or type, including that of a scientific, technical, business, or financial nature, and including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, software, source code, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations; whether in magnetic tape, electronic media, computer memory, or any other form and whether or not subject to intellectual property protections.
Project Development	That stage of a Project during which Project Foreground Information arises through the development of technologies, prototype equipment and other activities included in a Project.

Project Foreground Information	Any information created in a Project, regardless of form or type, including that of a scientific, technical, business, or financial nature, and including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, software, source code, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations; whether in magnetic tape, electronic media, computer memory, or any other form and whether or not subject to intellectual property protections.
Research, Development, Testing and Evaluation (RDT&E)	Programs and activities, including basic research, applied research, advanced technology development, proof of principle, verification, validation, and development of technical standards of the Parties and/or Participants that seek to identify, develop, and implement technological and analytical solutions, tools and techniques to address the homeland/domestic security capability needs of each Party.
Sponsorship Arrangement	A written agreement between a Participant and a Party where the Party engages the Participant to carry out work on its behalf relating to Cooperative Activity.
Technology Management Plan	A specific component of the Project Arrangement jointly developed by the Parties in which they agree on how Project Background and Foreground Information will be handled, and which will discuss among other things, the rights of the Parties and their Contractors and Participants concerning Intellectual Property created under this Agreement, including how any royalties shall be shared, where such Intellectual Property shall be protected, and who shall be responsible for obtaining that protection and granting licenses.
Third Party	Any entity or person who is neither a Party to this Agreement nor a Participant in any of its Cooperative Activities.

ARTICLE 2

Objective

The objective of this Agreement is to establish a framework to encourage, develop and facilitate bilateral Cooperative Activity in science and technology that contributes to the homeland/domestic security capabilities of both Parties in:

- a) the prevention and detection of, response to, and forensics and attribution applied to, terrorist or other homeland/domestic security threats and/or indicators;
- b) the protection of Critical Infrastructure; and