

No. 50514

**Spain
and
Australia**

Agreement between the Kingdom of Spain and the Government of Australia for the mutual protection of classified information of defence interest (with annexes). Madrid, 17 November 2011

Entry into force: *3 December 2012 by notification, in accordance with article 16*

Authentic texts: *English and Spanish*

Registration with the Secretariat of the United Nations: *Spain, 20 February 2013*

**Espagne
et
Australie**

Accord entre le Royaume d'Espagne et le Gouvernement de l'Australie relatif à la protection mutuelle d'informations classifiées concernant la défense (avec annexes). Madrid, 17 novembre 2011

Entrée en vigueur : *3 décembre 2012 par notification, conformément à l'article 16*

Textes authentiques : *anglais et espagnol*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Espagne, 20 février 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN THE KINGDOM OF SPAIN
AND THE GOVERNMENT OF AUSTRALIA
FOR THE MUTUAL PROTECTION
OF CLASSIFIED INFORMATION OF DEFENCE INTEREST**

THE KINGDOM OF SPAIN AND THE GOVERNMENT OF AUSTRALIA
(hereinafter referred to as “the Parties”)

NOTING the close co-operation between them in Defence matters;

RECOGNISING the benefits to be achieved through the exchange of information,
including Classified Information; and

HAVING a mutual interest in the protection of Classified Information which is
Defence-related and which is exchanged between them;

HAVE AGREED as follows:

**ARTICLE 1
DEFINITIONS**

For the purposes of this Agreement, the following definitions shall apply:

1. **“Classified Contract”** means any contract or subcontract between the Parties or with or between Contractors or potential Contractors, which contains, or the performance of which requires, access to Classified Information of either Party;
2. **“Classified Information”** means all information and material of Defence interest which requires protection in the interests of national security and which is subject to a national security classification of the Originating Party. The information may be in oral, visual, electronic, or documentary form, or in the form of material including equipment or technology;
3. **“Contractor”** means an individual, organisation or other entity, with the legal capacity to conclude contracts, including a Sub-Contractor that has entered into a Classified Contract with either of the Parties or each other;

4. **“Facility Security Clearance”** means a certification provided by a National Security Authority or an authority recognised by a National Security Authority which indicates that the facility is security cleared to a specified level and also has safeguards in place at a specified level to safeguard Classified Information;
5. **“National Security Authority”** means the authority designated by a Party as being responsible for the implementation and supervision of this Agreement;
6. **“Need-to-Know”** means a determination made by an authorised holder of Classified Information that a prospective recipient requires access to specific Classified Information in order to perform their official duties;
7. **“Originating Party”** means that Party which provides the Classified Information and accords it a national security classification, and which transmits Classified Information to the other Party;
8. **“Personnel Security Clearance”** means a certification provided by a National Security Authority or an authority recognised by the National Security Authority concerning the level of personnel security clearance held by a citizen of the certifying Party’s country;
9. **“Pre-contractual Arrangement”** includes requests for tender, proposals, quotations or any other pre-contractual documentation relating to a potential Classified Contract;
10. **“Recipient Party”** means that Party which receives Transferred Classified Information from the Originating Party;
11. **“Third Party”** means any person or entity whose government is not a Party to this Agreement (including any third country government or international organisation, any citizen of a third country, and any Contractor); and
12. **“Transferred Classified Information”** means Classified Information which is passed between the Parties regardless of whether it is passed orally, visually, electronically, in writing, through the handing over of material or in any other form or manner.

ARTICLE 2

SCOPE

1. This Agreement sets out security procedures and practices for the exchange of Classified Information of Defence interest between the Parties and for the protection of such Transferred Classified Information. Each Party shall implement its obligations under this Agreement in accordance with its laws and regulations. Provisions relating to visit requirements and industrial operations are an integral part of this Agreement and are set out in Annexes A and B.
2. This Agreement shall not cover the exchange of classified information related to terrorism and intelligence. Such exchanges will require the negotiation of specific arrangements undertaken on the basis of this Agreement between the responsible authorities.

ARTICLE 3

1. The National Security Authorities of the Parties shall be responsible for the implementation and supervision of this Agreement. Unless otherwise advised in writing, the National Security Authorities shall be:

For the Kingdom of Spain:

Secretary of State, Director of the National Intelligence Centre
National Security Office
Avda. del Padre Huidobro, s/n
28023 Madrid
SPAIN

For the Government of Australia:

Head Defence Security Authority
Department of Defence
Campbell Park Offices
Canberra ACT 2600
AUSTRALIA

2. The official channel of communication between the Parties for all matters relating to this Agreement shall be through the National Security Authorities.

ARTICLE 4

NATIONAL SECURITY CLASSIFICATIONS

1. Before transmission to the Recipient Party, the Originating Party shall assign all Classified Information with one of the following equivalent national security classifications:

In Spain	In Australia
RESERVADO	SECRET
CONFIDENCIAL	CONFIDENTIAL
DIFUSIÓN LIMITADA	RESTRICTED

2. The Recipient Party shall then assign the Transferred Classified Information with a national security classification no lower than the corresponding national security classification assigned by the Originating Party. Translations and reproductions shall be marked with the same national security classification as the originals, unless advised otherwise in writing by the Originating Party.
3. Anything produced by one Party that contains Transferred Classified Information provided by the other Party shall be marked SPAIN/AUSTRALIA or AUSTRALIA/SPAIN followed by the appropriate national security classification.
4. For Classified Information where a marking is not physically possible, the Originating Party shall inform the Recipient Party of the national security classification.

ARTICLE 5

DETAILS OF SECURITY STANDARDS

In order to achieve and maintain comparable standards of security the Parties shall on request provide each other with information about their national security standards, practices and procedures for the safeguarding of Classified Information, including those standards, practices and procedures which relate to its industrial operations. Each Party shall inform the other Party in writing of any changes to those security standards, practices and procedures which have an effect on the manner in which Transferred Classified Information is protected.