

**AN AGREEMENT ON AUSTRALIA'S NATIONAL
ARRANGEMENTS FOR THE MANAGEMENT OF SECURITY RISKS
ASSOCIATED WITH CHEMICALS**

between

THE COMMONWEALTH OF AUSTRALIA

and

THE STATE OF NEW SOUTH WALES

and

THE STATE OF VICTORIA

and

THE STATE OF QUEENSLAND

and

THE STATE OF WESTERN AUSTRALIA

and

THE STATE OF SOUTH AUSTRALIA

and

THE STATE OF TASMANIA

and

THE AUSTRALIAN CAPITAL TERRITORY

and

THE NORTHERN TERRITORY OF AUSTRALIA

THIS AGREEMENT is made on 2 October 2008

BETWEEN

The Commonwealth of Australia (“Commonwealth”); and

The State of New South Wales (“New South Wales”); and

The State of Victoria (“Victoria”); and

The State of Queensland (“Queensland”); and

The State of Western Australia (“Western Australia”); and

The State of South Australia (“South Australia”); and

The State of Tasmania (“Tasmania”); and

The Australian Capital Territory (“Australian Capital Territory”); and

The Northern Territory of Australia (“Northern Territory”).

1. BACKGROUND

- 1.1. In December 2002, the Council of Australian Governments (COAG) agreed to a national review of the regulation, reporting and security surrounding the storage, sale and handling of hazardous materials. The aim of the review was to assist counter-terrorism efforts by limiting opportunities for, and enhancing the detection of, the illegal/unauthorised use of hazardous materials. The work was divided into four parts: ammonium nitrate; radiological sources; harmful biological materials; and hazardous chemicals (chemicals of security concern).
- 1.2. On 26 March 2008, COAG agreed to the recommendations of the Report on the Control of Chemicals of Security Concern. In so doing COAG agreed to the establishment of a Chemical Security Management Framework (“the Framework” in Schedule 1) that outlines the agreed approach of Australian governments to preventing the use of chemicals for terrorist purposes.
- 1.3. The aim of the Framework is to provide a structured process for the development and implementation of measures to enhance the security of chemicals on an ongoing basis, that are proportionate to the assessed risk. The measures are intended to assist security and law enforcement agencies in preventing terrorist acts involving chemicals while not impeding the legitimate use of chemicals.

2. OBJECTIVE

- 2.1 To establish an effective, coordinated and collaborative national approach to the management of chemical security that seeks to prevent the use of chemicals for terrorist purposes.

3. AGREEMENT

- 3.1 The Parties agree to the following:

Purpose

- 3.2 The purpose of this Agreement is to establish the roles, responsibilities and mechanisms by which the Parties will implement the Framework.

Governance and Coordination Arrangements

- 3.3 All of the Parties will implement the Framework in their jurisdiction in a timely and effective manner in order to meet their responsibilities under this Agreement.
- 3.4 Commonwealth, State and Territory agencies with existing responsibilities for national security and the regulation of chemicals will retain those responsibilities. While the Framework promotes the principle of national consistency, this Agreement does not limit the capacity of the Parties to implement appropriate measures, initiatives and consultative arrangements relating to chemicals in accordance with their existing responsibilities.

Roles and Responsibilities

Responsible Ministers

- 3.5 The responsible Ministers for the Framework are the Commonwealth Attorney-General and a Minister from each State and Territory, nominated by their respective Premier/Chief Minister.
- 3.6 The responsible Ministers will oversee the coordination and implementation of the Framework, within their jurisdiction.
- 3.7 The responsible Ministers will agree to a proposed annual work program for:
- (a) the prioritisation of risk assessments for chemicals, groups of chemicals or components of the chemical supply chain of potential security concern; and
 - (b) the development of national capability building measures that can be implemented in parallel with the conduct of risk assessments.

- 3.8 Decisions to be made or capability building measures and control measures to be implemented under the Framework, including responsibility for their implementation require the agreement of all responsible Ministers.
- 3.9 While the responsible Ministers will endeavour to support a nationally consistent approach, jurisdictions will not promote control and capability building measures as being implemented under the Framework unless there is consensus agreement on those measures.

Commonwealth

- 3.10 The Commonwealth Government will:

Governance and coordination arrangements

- (a) establish a chemical security coordination unit to coordinate the national implementation of the Framework;
- (b) establish and chair a national government advisory group comprising officials from the Commonwealth, State and Territory governments, including appropriate representation from jurisdictional police;
- (c) establish and chair a national industry reference group comprising representatives from relevant industry sectors;
- (d) work with State and Territory governments to develop and advance the agreed work program;
- (e) monitor the effectiveness of the implementation of control and capability building measures within its jurisdiction and where necessary, seek the agreement of the national government advisory group to proposed adjustments;
- (f) consult with the national government advisory group on proposed consultation with industry;

Risk assessments and implementation of control measures

- (g) work with State and Territory governments to develop risk assessment methodology based on the Australian and New Zealand Standard AS/NZS 4360 (and its successor standards);
- (h) work with State and Territory governments and industry to conduct the assessments of the risks posed by the use of chemicals, groups of chemicals or components of the chemical supply chain of potential security concern:-
 - (i) risk assessments (including assessment of the adequacy of existing control measures) being conducted by government experts with experience in areas including chemical regulation, security and law enforcement in accordance with the agreed methodology, and

- (ii) the development and finalisation of the risk assessments will be independent of the coordination of the development of control measures by the chemical security coordination unit;
- (i) implement control measures agreed by the responsible Ministers that are their responsibility;

Capability building

- (j) consult with State and Territory governments, industry and the community to develop and implement a national community awareness program;
- (k) work with State and Territory governments and industry to develop and coordinate industry capability building measures to increase the security of chemicals;
- (l) work with State and Territory governments to develop security guidance materials for government that can be tailored to meet jurisdictional needs;
- (m) work with State and Territory governments and industry to develop security guidance and training materials for industry that can be tailored to meet jurisdictional needs; and
- (n) inform State and Territory governments of the arrangements and measures used by other nations to reduce the risk posed by the use of chemicals for terrorist purposes.

States and Territories

3.11 The State and Territory governments will:

Governance and coordination arrangements

- (a) provide representative/s for the national government advisory group that will represent the whole of government views for each of their jurisdictions on the annual work program and the proposed control measures, prior to ministerial consideration, and on other matters as required;
- (b) participate in meetings of the national industry reference group as required;
- (c) provide representatives for national working groups established to support the Framework;
- (d) work with the Commonwealth Government to develop and advance the agreed work program;
- (e) monitor the effectiveness of the implementation of control and capability building measures within each of their jurisdictions and where necessary,

seek the agreement of the national government advisory group to proposed adjustments;

Risk assessments and implementation of control measures

- (f) work with the Commonwealth to develop an agreed risk assessment methodology;
- (g) through the national government advisory group, engage appropriate authorities within each of their jurisdictions to participate in the conduct of risk assessments, identification of control measures and implementation of agreed control measures;
- (h) implement control measures agreed by the responsible Ministers that are their responsibility;

Capability building

- (i) work with the Commonwealth and industry to develop a national community awareness program;
- (j) work with the Commonwealth and industry to develop and deliver industry capability building measures to increase the security of chemicals;
- (k) work with the Commonwealth and industry to develop security guidance and training materials for industry that can be tailored to meet jurisdictional needs; and
- (l) work with the Commonwealth to develop security guidance and training materials for government that can be tailored to meet jurisdictional needs.

Reporting to the National Counter-Terrorism Committee

- 3.12 The national government advisory group will provide the National Counter-Terrorism Committee with progress reports on the implementation of the Framework.

Information Sharing

- 3.13 As part of the work program, the national government advisory group will prioritise requirements for reviewing relevant legislation and policies that control the sharing of related information and data between government agencies with a view to facilitating the exchange of information necessary to implement the Framework.
- 3.14 Consistent with the National Counter-Terrorism Plan, the Parties agree to maintain or establish arrangements for the sharing of information between security and law enforcement agencies, government policy and regulatory

agencies, industry and the community as required to implement the Framework.

4. FINANCIAL ARRANGEMENTS

- 4.1 The Parties agree that unless otherwise mutually agreed by the relevant Parties:
- (a) the Commonwealth will meet the cost of its activities associated with the implementation of the provisions of this Agreement and the Framework; and
 - (b) the States and Territories will meet the cost of their activities associated with the implementation of the provisions of this Agreement and the Framework.

5. INTERPRETATION

Definitions

- 5.1 In this Agreement, unless a contrary intention is apparent:
- “Agreement” means this document and includes all Schedules, and Annexes;
- “Framework” means the Chemical Security Management Framework at Schedule 1;
- “Jurisdiction” means the jurisdiction of any of the Parties;
- “Party” means any of the Commonwealth of Australia, the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia, the State of South Australia, the State of Tasmania, the Australian Capital Territory and the Northern Territory of Australia;
- “Purpose” means the Purpose set out in Clause 3.2; and
- “Responsible Ministers” means the Commonwealth Attorney-General and a Minister from each State and Territory, nominated by their respective Premier/Chief Minister.

6. CONSTRUCTION

- 6.1 In this Agreement, unless expressed to the contrary:
- (a) words importing the singular include the plural and vice versa;
 - (b) if a word or phrase is defined cognate words and phrases have corresponding definitions; and

- (c) a reference to:
- (i) a person includes a firm, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes its legal personal representatives, successors and assigns;
 - (iii) a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (iv) a right includes a benefit, remedy, discretion, authority or power;
 - (v) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation; and
 - (vi) a reference to a clause is a reference to a clause of this Agreement.

7. COMMENCEMENT

- 7.1 This Agreement commences to operate immediately upon its execution by the Parties.

8. REVIEW

- 8.1 This Agreement will be reviewed five years after its commencement or as agreed to by the Parties. This review will be conducted by a body agreed by the Parties.

9. VARIATION OF AGREEMENT

- 9.1 This Agreement may be varied from time to time by the unanimous agreement of the Parties.
- 9.2 A variation pursuant to this clause will be in writing, signed by all Parties to this Agreement, and notice thereof will immediately following such signature be given to all the Parties.

10. DISPUTE SETTLEMENT

- 10.1 Where a dispute arises under or in relation to this Agreement:

- (a) the responsible Ministers will negotiate to resolve the dispute; and

(b) if negotiations fail, the responsible Ministers will refer the dispute to the Parties of this Agreement to seek a resolution.

10.2 Pending the settlement of a dispute, the Parties must continue to perform all their obligations under this Agreement without prejudice.

11. WITHDRAWAL FROM AGREEMENT

11.1 A Party to this Agreement may, by written notice to all other Parties, withdraw from this Agreement by giving not less than three months notice. If a Party withdraws from this Agreement, this Agreement will remain in force in relation to the remaining Parties.

12. TERMINATION

12.1 This Agreement may be terminated at any time by agreement in writing by all the Parties and under any terms and conditions as agreed by all the Parties.

**SIGNED FOR AND ON BEHALF OF EACH OF THE PARTIES
BY:**

The Honourable Kevin Rudd MP)
Prime Minister of the Commonwealth of Australia)

The Honourable Nathan Rees MP)
Premier of New South Wales)

The Honourable John Brumby MP)
Premier of Victoria)

The Honourable Anna Bligh MP)
Premier of Queensland)

The Honourable Colin Barnett MLA)
Premier of Western Australia)

The Honourable Michael Rann MP)
Premier of South Australia)

The Honourable David Bartlett MP)
Premier of Tasmania)

Chief Minister of the Australian Capital Territory)

The Honourable Paul Henderson MLA)
Chief Minister of the Northern Territory)

SCHEDULE 1

CHEMICAL SECURITY MANAGEMENT FRAMEWORK

Introduction

The Chemical Security Management Framework guides the national approach for the security of chemicals of security concern. The Framework was developed in response to the *COAG Review of Hazardous Materials*.

The Framework comprises:

- (a) coordination and consultation arrangements between and within governments and industry;
- (b) a process for ongoing assessment and management of security risks associated with the use of chemicals for terrorist purposes; and
- (c) the development of capability building measures for the community, industry, and governments.

Framework Objective

The objective of this Framework is to:

limit opportunities for the use of chemicals by terrorists through improvements in Australia's capability, monitoring and control mechanisms.

Security Outcomes

The measures developed are intended to achieve the following outcomes:

Targeted Security Outcome 1

Community—an informed and vigilant community that is able to assist jurisdictional police and security agencies in deterring, and/or detecting the use of chemicals for terrorist purposes.

Targeted Security Outcome 2

Industry—an informed and vigilant industry that understands the security risks associated with the use of chemicals for terrorist purposes and has appropriate measures in place to prevent, detect and deter such use.

Targeted Security Outcome 3

Government agencies—informed agencies that act, in partnership with industry and the community, in a coordinated manner to manage the security risks from use of chemicals for terrorist purposes.

Targeted Security Outcome 4

Chemicals—appropriate security around priority chemicals of security concern.

Guiding Principles

The development of strategies to achieve the security outcomes will be based on the following guiding principles:

- (a) control measures should be *proportionate to the assessed risk* of the use of chemicals for terrorist purposes;
- (b) the development of strategies for control measures should be *nationally coordinated* and agreed outcomes *nationally consistent*;
- (c) control measures should, where possible, be *built on existing industry and/or government arrangements*;
- (d) proposed control measures should be *cost effective* and subject to a cost benefit analysis;
- (e) control measures should be *developed in partnership between government and industry* so that appropriate knowledge and needs can be effectively and efficiently integrated; and
- (f) Australia should *take account of arrangements applied in other countries* that do not restrict industry competitiveness and the trade of chemicals.

Coordination and Consultation Arrangements

The chemical security coordination unit (the unit) will coordinate the Framework at the national level. The unit will be accountable to the Commonwealth Attorney-General. The unit will work with government agencies, industry sectors and experts relevant to the activities being undertaken as part of the Framework. A national government advisory group and a national industry reference group will facilitate this. Both groups will be chaired by the Commonwealth Government.

National Government Advisory Group

The national government advisory group will comprise representative/s from the Commonwealth and all State and Territory governments. Each jurisdiction will have a lead representative. Members will be able to invite an additional representative/s from their jurisdiction to participate in meetings of the group as required. The national government advisory group will include representation from jurisdictional police. The national government advisory group will:

- (a) consider the annual work program of risk assessments. The work program will be informed by factors such as trends in the security environment, advice from security agencies and efficiencies of grouping chemicals or components of the supply chain;

- (b) consider proposed recommendations to be put forward to the responsible Ministers for agreement;
- (c) review the progress of risk assessments undertaken as part of the work program;
- (d) will meet on an as needs basis but at least annually;
- (e) engage and identify relevant experts to participate in the risk assessment process and other relevant activities identified in the work program;
- (f) establish sub groups as required for the purpose of providing advice to the national government advisory group on elements of the agreed work program; and
- (g) provide progress reports to the National Counter-Terrorism Committee.

Members of the national government advisory group will communicate the progress of the work program and delivery of the Framework components to agencies within their jurisdiction.

National Industry Reference Group

The national industry reference group will provide industry advice and assistance to governments through the national government advisory group to achieve the security objective. The national industry reference group will assist governments:

- (a) to identify relevant industry representatives who will contribute to the conduct of risk assessments, identification of control measures and implementation of agreed control measures;
- (b) to develop a national community awareness program;
- (c) to develop security guidance materials for industry;
- (d) to develop and implement industry capability building measures;
- (e) by providing feedback on proposed measures; and
- (f) by providing feedback on the implementation of capability building and control measures, including progress of industry initiatives and possible areas for improvement.

The national industry reference group will meet at least annually. It may comprise representatives from peak bodies for the agricultural and veterinary chemicals sector, industrial chemicals sector, manufacturers and distributors, transport sector, retailers, research bodies and universities.

Risk Assessment and Development of Measures

Some national capability building measures will be performed in parallel with the conduct of risk assessments. The assessment of the risks posed by the use of chemicals for terrorist purposes will inform the development of other capability building and control measures.

Any Commonwealth, State or Territory government agency can request that priority consideration be given to a chemical, group of chemicals or component of the chemical supply chain.

Risk assessments will be conducted by government experts with relevant experience in areas including chemical regulation, security and law enforcement. They will be performed in accordance with the agreed work program and the methodology agreed by the national government advisory group. The methodology will be based on the Australian and New Zealand Standard AS/NZS 4360 and its successor standards. The risk assessment process should engage jurisdictional police at the earliest stages.

The national government advisory group will consider the outcomes of the risk assessments and agree recommendations for the development of measures to decrease the assessed risks. Once the recommendations are agreed by the Commonwealth Attorney-General and nominated State and Territory Ministers, governments will implement agreed control and capability building measures to decrease the assessed risks. In performing this work, governments will consult with the national industry reference group and relevant stakeholders. Where possible, appropriate existing arrangements will be utilised. The capability building and control measures may comprise:

- (a) community awareness raising;
- (b) industry capability building and control measures:-
 - i. targeted awareness programs,
 - ii. training and guidance materials, and
 - iii. protective security and measures to limit access to chemicals for terrorist purposes; and
- (c) government capability building and control measures:-
 - i. education and training, and
 - ii. regulation.