

MEMORANDUM OF UNDERSTANDING FOR CHEMICALS AND PLASTICS REGULATORY REFORM

Council of
Australian
Governments

An agreement made among the following parties:

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
THE NORTHERN TERRITORY OF AUSTRALIA

RECITALS

- A. Chemicals and plastics are primarily regulated in Australia to maintain public, and occupational, health and safety; protect the environment; and maintain national security. The Productivity Commission reported in 2008 that some 38,000 chemicals are listed for use in Australia and the regulatory governance arrangements are complex involving multiple agencies, jurisdictions and all levels of government. At present there is no single forum addressing chemicals and plastics regulation policy and regulation nationally. As a consequence, chemicals and plastics regulation is fragmented and administered by multiple agencies across all levels of government.
- B. On 10 February 2006, the Council of Australian Governments (COAG) recognised chemicals and plastics policy as a regulatory "hotspot" and agreed to establish a Ministerial Taskforce to develop measures to achieve a streamlined and harmonised system of national chemicals and plastics regulation.
- C. The Productivity Commission's research report, *Chemicals and Plastics Regulation* (the Report), was released on 7 August 2008. The Report made 30 recommendations for reform which included a new national governance framework to achieve better coordination of chemicals and plastics regulation. The Report informed the Ministerial Taskforce's advice to COAG.
- D. On 2 October 2008 COAG signed an Inter-Governmental Agreement to establish an effective co-ordinated and collaborative national approach to the management of chemical security that seeks to prevent the use of chemicals for terrorist purposes.
- E. In its response to the Report, COAG, at its meeting on 29 November 2008, agreed to a number of reforms, including the establishment of a new governance framework to oversee chemicals and plastics regulatory reform. This Memorandum establishes the standing committee referred to in that framework, and describes its objectives and intended outcomes as agreed between the Parties.

1. INTERPRETATION

- 1.1. In this Memorandum, unless contrary intention appears:

BRCWG means the COAG Business Regulation and Competition Working Group;

COAG means the Council of Australian Governments;

Committee means the COAG Standing Committee on Chemicals established pursuant to this Memorandum of Understanding;

Commonwealth means Commonwealth of Australia;

Memorandum means this Memorandum of Understanding;

Parties means the Commonwealth, and any of the States and Territories which are signatories to this agreement; and

Report means the Productivity Commission's research report entitled *Chemicals and Plastics Regulation* released on 7 August 2008.

2. OBJECTIVES

- 2.1. The Parties agree to collaborate to achieve a streamlined and harmonised system of national chemicals and plastics regulation.
- 2.2. In entering this Memorandum, the Parties recognise they have a mutual interest in the national regulation of chemicals and plastics, and need to work together to achieve it.

3. DURATION

- 3.1. This Memorandum commences when it is signed by the Commonwealth and at least one other Party. Unless terminated earlier, this memorandum will expire five years after the date of commencement unless extended by agreement of the Parties prior to that date.
- 3.2. At least twelve months prior to the expiration date of the Memorandum, a review of the Committee's efficiency and effectiveness will be conducted by an independent body chosen by the majority agreement of all Parties for the purpose of assisting the Parties to decide whether to extend, amend or alter this Memorandum.

4. COSTS

- 4.1. Each Party will bear the administrative costs of activities associated with the implementation of this Memorandum, including the cost of attendance at meetings, unless another Party agrees in writing to assume all or part of the cost of a particular activity.

5. STANDING COMMITTEE ON CHEMICALS

- 5.1. The Parties agree to establish a committee to be known as the COAG Standing Committee on Chemicals.
- 5.2. The objective of the Committee is to achieve an effective and efficient national system of chemicals and plastics regulation.
- 5.3. The Committee will:
 - a. co-ordinate the implementation of the new governance framework for the regulation of chemicals and plastics;
 - b. monitor the timeliness, effectiveness and consistency of reforms of chemicals and plastics regulation;
 - c. provide advice and make recommendations as appropriate to BRCWG, COAG and relevant ministerial councils on how chemicals and plastics policy initiatives that have cross-portfolio or cross-jurisdictional implications might be best progressed. Ministerial Councils would include:
 - i. the Australian Health Ministers' Conference;
 - ii. the Australian Transport Council;
 - iii. the Environment Protection and Heritage Council;
 - iv. the Primary Industries Ministerial Council;
 - v. the Workplace Relations Ministers' Council; and
 - vi. ministers concerned with the security aspects of chemicals;

- d. provide an ongoing forum for assessing the consistency of chemicals-specific policy settings across the relevant policy areas, including:
 - i. public health;
 - ii. workplace health and safety;
 - iii. transport safety;
 - iv. environment protection; and
 - v. national security;
- e. oversee a coordinated national approach to regulatory reform of chemicals and plastics and the consistent application of chemical hazard and risk-assessment methodologies and international standards such as the Globally Harmonised System of Classification and Labelling of Chemicals; and
- f. support the coordinated development of regulatory proposals that have cross-portfolio or cross-jurisdictional implications, including input into regulatory impact assessments.

5.4. The Committee will comprise:

- a. a Commonwealth official nominated by the Prime Minister, or the Prime Minister's nominated delegate, to Chair the Committee;
- b. one official, nominated by the States and Territories, to represent each of the following ministerial councils:
 - i. the Australian Health Ministers' Conference;
 - ii. the Australian Transport Council;
 - iii. the Environment Protection and Heritage Council;
 - iv. the Primary Industries Ministerial Council; and
 - v. the Workplace Relations Ministers' Council; and
- c. one official from each of the following Commonwealth Government departments or their successor organisations:
 - i. the Department of Agriculture, Fisheries and Forestry;
 - ii. the Department of Education, Employment and Workplace Relations;
 - iii. the Department of Environment, Water, Heritage and the Arts;
 - iv. the Department of Health and Ageing;
 - v. the Department of Infrastructure, Transport, Regional Development and Local Government; and
 - vi. the Department of Innovation, Industry, Science and Research.

5.5. The Committee will be responsible to COAG and will report to COAG through the Business Regulation and Competition Working Group and/or COAG senior officials and, if necessary, through a working group on, among other things, the effectiveness and efficiency of chemicals regulation.

- 5.6. Committee members representing Ministerial Councils should ensure the Committee is aware of relevant Ministerial Council reforms related to chemicals and plastics regulation, and assist in ensuring Ministerial Councils have regard to any advice and recommendations of the Committee relating to those reforms prior to a final decision being made by a Ministerial Council.

6. **SECRETARIAT**

- 6.1. The Commonwealth will provide secretariat services, and other support, for the Committee through an executive unit to be located within the Commonwealth agency responsible for industry policy.
- 6.2. The Commonwealth agency with responsibility for industry policy will determine the composition, management and administration of the secretariat.
- 6.3. The role of the secretariat will include:
- a. taking and keeping minutes of Committee meetings;
 - b. giving notice of, and holding meetings, and preparing and distributing agenda papers; and
 - c. undertaking such other responsibilities and tasks in support of the Committee's functions as requested by the Committee and agreed to by the Chair of the Committee.

7. **CHEMICALS WORKING GROUP**

- 7.1. To assist it in fulfilling its role, the Committee may establish a Chemicals Working Group or other working groups, and determine their terms of reference.

8. **RESPONSIBILITIES OF PARTIES**

- 8.1. Each Party shall have general responsibility for providing appropriate support to facilitate, within its jurisdiction, the work of the Committee, including:
- a. liaison and cooperation with the Committee secretariat; and
 - b. timely advice and consultation on:
 - i. the implications of proposals or recommendations of the Committee which affect, or are affected by, legislation in that Party's jurisdiction;
 - ii. the formulation and implementation of key policies, legislative proposals and significant programs or projects of that Party that may impact on the operations, resources or jurisdiction of another Party; and
 - iii. other matters as reasonably requested by the Committee; and
 - c. timely implementation of Committee recommendations that have been agreed to by COAG or relevant Ministerial Councils including, but not limited to, Early Harvest Reforms and Ministerial Council Implementation Plans.

9. **ANNUAL WORK PROGRAM**

- 9.1. Once the Committee is established, at the end of each financial year the Committee will develop and agree on a work program which sets out the activities, consistent with the functions of the Committee, to be carried out in the next financial year.

10. MEETINGS

- 10.1. Meetings (including teleconferences) of the Committee shall be called from time to time as determined by the Chair. The Chair will use best endeavours to have the Committee meet at least three times in each 12 month period. The initial 12 month period will begin upon the commencement of this Memorandum.

11. COMMITTEE PROCEDURES

- 11.1. Subject to this Memorandum, the Committee may determine its own procedures, including rules relating to notice of meetings and the conduct of business at meetings, and may from time to time alter such rules, provided that if any proposed alteration is inconsistent with this Memorandum, the provisions of this Memorandum prevail to the extent of the inconsistency.

12. OTHER ATTENDEES

- 12.1. From time to time the Chair may co-opt to Committee meetings representatives from other ministerial councils.
- 12.2. The Chair may appoint other advisers to provide advice to the Committee as the need arises.
- 12.3. The Chair may permit observers to attend a meeting, or portion of a meeting, of the Committee.

13. DISPUTE

- 13.1. Any Party may give notice of a dispute under this Memorandum.
- 13.2. If the dispute cannot be resolved by the Committee, it may be escalated to COAG for consideration.

14. WITHDRAWAL, AMENDMENT AND TERMINATION

Withdrawal from Memorandum

- 14.1. A Party to this Memorandum may, by written notice to all other Parties, withdraw from this Memorandum by giving not less than 30 days notice. If a Party withdraws from this Memorandum, the Memorandum will remain in force in relation to the remaining Parties.

Amendment

- 14.2. The Memorandum may be amended at any time by agreement in writing by all the Parties.

Termination

- 14.3. This Memorandum may be terminated at any time by agreement in writing by all Parties and under any terms and conditions as agreed by all Parties. The termination will take effect on a date stipulated by the Parties.

The Parties have confirmed their commitment to this agreement as follows:

Signed for and on behalf of the Commonwealth of Australia by



The Honourable Kevin Rudd MP
Prime Minister of the Commonwealth of Australia
7 December 2009

Signed for and on behalf of the State of New South Wales by



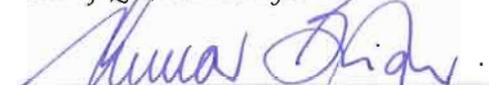
The Honourable Kristina Keneally MP
Premier of the State of New South Wales
7 December 2009

Signed for and on behalf of the State of Victoria by



The Honourable John Brumby MP
Premier of the State of Victoria
7 December 2009

Signed for and on behalf of the State of Queensland by



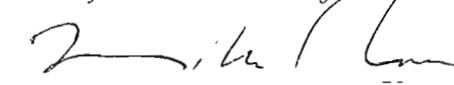
The Honourable Anna Bligh MP
Premier of the State of Queensland
7 December 2009

Signed for and on behalf of the State of Western Australia by



The Honourable Colin Barnett MLA
Premier of the State of Western Australia
7 December 2009

Signed for and on behalf of the State of South Australia by



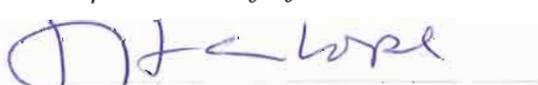
The Honourable Mike Rann MP
Premier of the State of South Australia
7 December 2009

Signed for and on behalf of the State of Tasmania by



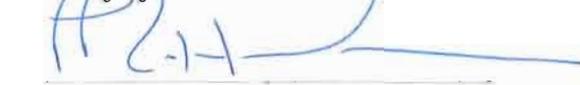
The Honourable David Bartlett MP
Premier of the State of Tasmania
7 December 2009

Signed for and on behalf of the Australian Capital Territory by



Jon Stanhope MLA
Chief Minister of the Australian Capital Territory
7 December 2009

Signed for and on behalf of the Northern Territory by



The Honourable Paul Henderson MLA
Chief Minister of the Northern Territory of Australia
7 December 2009