

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE
CANBERRA

**Treaty between the Government of Australia and the
Government of the Kingdom of Great Britain and Northern Ireland
for Defence and Security Cooperation**

(Perth, 18 January 2013)

Not yet in force

[2013] ATNIF 3

PREAMBLE

The Government of Australia and
the Government of the United Kingdom of Great Britain and Northern Ireland,
hereinafter referred to as "the Parties"

MINDFUL of the strong, cooperative and enduring defence partnership that has always existed between the Parties;

DESIRING to declare publicly and formally their unity in the face of threats to national security, so that it is clear both Parties stand united in respect of shared security challenges and for the preservation of peace and security;

RECALLING that their national defence policies are based on common interests, values and responsibilities;

REAFFIRMING their faith in the purposes and principles of the Charter of the United Nations, and their belief that greater bilateral defence cooperation will strengthen the global, rules-based security order;

MINDFUL of the exchange of notes under the Five Power Defence Arrangements (FPDA);

ACKNOWLEDGING that current and emerging security challenges, including terrorism, the proliferation of weapons of mass destruction and cyber-warfare have global implications and affect the vital interests of the Parties;

SEEKING to build upon the effectiveness and interoperability of their armed forces;

RECOGNISING that the management of their respective national defence budgets is critical to sustaining the effectiveness of security institutions, and that both Parties can benefit from sharing experience and insight on defence efficiencies and reforms;

BEARING in mind the existing cooperation between the Parties in areas such as science and technology, equipment capability and harmonisation, personnel exchange, logistic support, information exchange, quality assurance and joint military exercises; and

DESIRING to establish an overarching strategic framework to strengthen and focus the bilateral defence relationship between the Parties,

Have agreed the following:

ARTICLE 1

Scope and purpose

1. This Agreement, to the extent compatible with each Party's national laws, regulations, and other applicable international obligations, is intended to promote:

- a. the mutual prioritisation of cooperation between the Parties in defence-related matters;
- b. the exchange of information and experiences regarding strategic defence and security issues, including those acquired in the field of operations, from use of military equipment and in connection with international peacekeeping operations;
- c. closer engagement on technology, equipment, and support matters;
- d. the achievement of value for money in defence and security areas; and
- e. consultation on threats to international peace and security.

ARTICLE 2

Areas of cooperation

1. The Parties shall facilitate defence relations by undertaking such cooperative activities between them pursuant to this Agreement as they mutually determine in accordance with applicable international law and their respective national laws, regulations and policies.

2. In particular the Parties shall cooperate to build a long-term mutually beneficial partnership in defence and security that will include, where possible:

- a. sustaining their capacity to deploy and operate as partners in peacekeeping and military operations in which both Parties have agreed to be engaged, whether conducted under the auspices of the United Nations, the North Atlantic Treaty Organization, the European Union's Common Security and Defence Policy or in other coalition or bilateral frameworks;
- b. the participation in multilateral security mechanisms including but not limited to the FPDA such as the American, British, Canadian, Australian Armies program and the Air and Space Interoperability Council, including periodic review of such mechanisms to ensure their continued relevance;
- c. the exchange of information relating to defence capabilities and operations, subject to the national security laws and regulations of the Parties and commitments under the 'Five Eyes' intelligence community;
- d. the exchange of strategic documents and participation in close and candid dialogue on key strategic issues of mutual interest as provided for under the Strategic Policy Partnership signed by both Parties on 18 January 2011 or any successor arrangement;

- e. continuing and developing cooperative activities and exchanges of information on space and cyber security issues including working together in multilateral fora where the opportunities exist;
 - f. continuing to cooperate on the provision of quality assurance;
 - g. continuing to cooperate on the exchange of codification data and services;
 - h. promoting the exchange of military and civilian personnel between the Parties to improve training and interoperability between the Parties;
 - i. commitment to the Exchange Programme LONG LOOK, or any successor arrangement, to promote interoperability between the participating nations;
 - j. the exchange of personnel, material and information relating to defence and procurement reforms;
 - k. continuing and reinforcing the work on industrial and materiel cooperation as provided for under, but not limited to, the Memorandum of Understanding (MoU) Concerning Military Capability Harmonization and Equipment Cooperation, which came into effect on 29 June 2006, or any successor arrangement;
 - l. cooperation and collaboration in defence science and technology through the exchange of information; joint research; conduct of joint trials and experiments including the use of facilities; secondments of personnel and the loan or exchange of materials and/or equipment as provided for under, but not limited to, the MoU Concerning Cooperative Defence Science and Technology which came into effect on 16 May 2005, or any successor arrangement;
 - m. promoting the sale or loan of materials, equipment and services between the Parties;
 - n. continuing and developing cooperation in mutually beneficial logistics activities; and
 - o. cooperation in any other emerging defence or security fields that may be of mutual interest to the Parties.
3. For the avoidance of doubt, any reference in this Agreement to an existing or future arrangement, between the Parties, or action taken by reference to such an arrangement is not intended to alter its status from that of a non-legally binding instrument.

ARTICLE 3

Related Arrangements

1. The Parties may decide to enter into written arrangements as deemed appropriate to implement specific aspects of their cooperation under this Agreement.

2. The Parties may terminate existing applicable arrangements by mutual, written consent, where such arrangements have become obsolete or no longer support the aims and objectives of this Agreement. This right is in addition to any right to terminate specified in that or any applicable arrangement.

ARTICLE 4

Management of Cooperation

1. The Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland and the Minister for Defence of Australia shall consider the progress of cooperation under this Agreement and provide guidance at the Australia-United Kingdom Ministerial (AUKMIN) consultations which shall be held as decided between the Parties.

2. Activities occurring under the provisions of this Agreement shall be overseen by:

For Australia:

Deputy Secretary Strategy

Russell Offices

PO Box 7519

Canberra BC ACT 2610

For the United Kingdom of Great Britain and Northern Ireland:

Director General Security Policy

Ministry of Defence Main Building,

Whitehall, London,

SW1A 2HB

3. The representatives referred to in paragraph 2 of this Article, or their designated representatives as may be advised between the Parties from time to time, shall make decisions about co-operation under this Agreement by consensus, and shall be responsible for:

- a. determining the long-term aims, priorities and benefits of the cooperation entered into under this Agreement;
- b. exercising oversight of all cooperation including the security aspects entered into under this Agreement;
- c. identifying new areas for cooperation under this Agreement to be proposed to the AUKMIN consultations referred to in paragraph 1 of this Article;
- d. considering and, if possible, resolving any dispute which may arise under this Agreement, including disputes relating to the implementation of

co-operation under the Agreement. If the dispute cannot be resolved, it may be referred for resolution in accordance with Article 11; and

e. recommending any proposed amendments to this Agreement in accordance with Article 12.

ARTICLE 5

Access to Facilities, Equipment or Support

1. In connection with this Agreement or any arrangement made pursuant to this Agreement, the Parties shall inform each other of available facilities, equipment and support functions and where possible provide access to these resources when needed.
2. The Parties may enter into written arrangements to define the terms of access to such facilities, equipment and support functions.
3. In paragraphs 1 and 2 of this Article the provision of support functions includes any necessary personnel.

ARTICLE 6

Transfer, Access to the Market and Export Licensing

Consistent with their respective applicable international obligations and commitments and national laws, regulations and licensing procedures, the Parties agree:

- a. to facilitate to the greatest extent possible the transfer of defence equipment and services between the Parties, and
- b. not to hinder legitimate access to their markets and to their Government contracts in the field of defence.

ARTICLE 7

Costs

The proportion of costs to be borne by each Party as a result of the cooperative activities pursued under this Agreement shall be detailed in arrangements which have been entered into pursuant to Article 3, paragraph 1 of this Agreement.

ARTICLE 8

Protection of Information

1. Classified information exchanged or communicated between the Parties in cooperative activities pursuant to this Agreement shall be protected in

accordance with the terms of the General Security Arrangement between the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland and the Minister for Defence of Australia Concerning the Reciprocal Protection of Classified Information of Defence Interest, which came into effect on 5 November 1996 (General Security Arrangement), or any other applicable or successor arrangement or agreement.

2. International visits between the Parties, during which access is required to classified information, shall be coordinated in accordance with the relevant sections of the General Security Arrangement or any other applicable or successor arrangement or agreement.

3. Nothing in this Agreement authorises or governs the release, use, exchange or disclosure of information, whether classified or not, in which intellectual property rights exist, until the specific written authorisation of the owner of those rights has been obtained, whether the owner is a Party to this Agreement or a third party.

4. Use of rights in intellectual property provided by either Party for any cooperative activity entered into pursuant to Article 3(1) of this Agreement shall be detailed in the applicable arrangement enabling such cooperative activity.

ARTICLE 9

Claims and Liability

1. Subject to paragraph 3 of this Article, each Party shall waive all claims against the other Party for any damage to or loss of its property, or for any injury to, or death of any of its personnel caused by the acts or omissions of the other Party's personnel, servants or agents, not including contractors, in the performance of their official duties in connection with this Agreement or arrangements made pursuant to this Agreement.

2. Subject to paragraph 3 of this Article, the liability for third party claims (other than contractual claims) for any damage to, or loss of property, or for any injury or death or any other loss which arises out of any act or omission of either of the Parties, in connection with this Agreement or arrangements made pursuant to this Agreement, shall be apportioned as follows:

a. Where both Parties agree that responsibility for damage, loss, injury or death can be attributed to one Party, the cost of handling and settling the claim shall be the sole responsibility of that Party.

b. Where it is agreed that both Parties are responsible for the damage, loss, injury or death, the Parties shall enter into consultation to resolve the handling and settling of the claim, with each Party paying an apportioned share based on their degree of responsibility for the damage, loss, injury or death.

c. Where it is not possible to attribute responsibility for damage, loss, injury or death, or where the Parties cannot reach agreement on the responsibility for such damage, loss, injury or death, the costs of handling and settling the claim shall be apportioned equally between the Parties.

3. In relation to paragraphs 1 and 2, if the Parties agree that the damage, injury, loss, or death is caused by reckless acts, reckless omission, wilful misconduct or negligence, the costs arising from such damage, injury, loss, or death shall be borne entirely by the Party of the culpable person.

4. In the event that one Party receives notice of any claims referred to in paragraph 2 of this Article, that Party against whom the claim is made shall inform the other Party as soon as practicable. The Parties shall assist each other in the procurement of evidence related to such claims.

5. Claims arising under a contract made in connection with this Agreement or any arrangements made pursuant to this Agreement shall be resolved in accordance with the terms of the relevant contract. Unless otherwise agreed by the Parties, the costs of claims arising as a consequence of a contract awarded in order to provide logistic support shall be the sole responsibility of the parties to the contract. The Parties acknowledge that the United Kingdom cannot indemnify contractors against third party liability claims.

6. Where any provision of this Article conflicts with any applicable arrangement, the relevant provision in the applicable arrangement will prevail.

ARTICLE 10

Other Defence and Security Agreements

The provisions of this Agreement shall not affect the rights and obligations or commitments of each Party under other defence and/or security agreements to which it is a party or under arrangements in which it is participating.

ARTICLE 11

Disputes

Any dispute regarding the interpretation or application of the provisions of this Agreement shall be resolved by consultation and negotiation between the Parties; if a dispute cannot be resolved by consultation and negotiation, the Parties may decide to refer the dispute for settlement to a dispute settlement mechanism as agreed between the Parties.

ARTICLE 12

Amendments

This Agreement may be amended at any time, in writing, with the agreement of both Parties. Any agreed amendments shall enter into force in accordance with the procedure set out in Article 13(1) of this Agreement.

ARTICLE 13

Entry into Force, Duration, Withdrawal and Termination

1. This Agreement shall enter into force on the date of receipt of the last notification by which the Parties notify each other in writing that their respective internal procedures for entry into force of this Agreement have been fulfilled.
2. This Agreement may be terminated by either Party giving twelve months written notice to the other Party of its intention to withdraw from the Agreement, or by mutual written consent of the Parties.
3. The termination of this Agreement shall not release either Party from the implementation of its obligations under this Agreement concerning the protection of information including classified information, intellectual property rights, claims and liabilities, and disputes.
4. Arrangements currently in effect or which have been established pursuant to Article 3 or Article 5(2) of this Agreement shall remain fully applicable after termination of this Agreement in accordance with the provisions of the specific arrangement.

IN WITNESS WHEREOF, the undersigned, duly authorised by their respective Governments, have signed this Agreement.

Done in two originals at Perth, this 18th day of January 2013.

For the Government
of Australia

For the Government
of the United Kingdom of Great Britain
and Northern Ireland

The Hon Stephen Smith MP
Minister for Defence

The Rt Hon Philip Hammond MP
Secretary of State for Defence