

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

**AN AGREEMENT ON AUSTRALIA'S NATIONAL
COUNTER-TERRORISM ARRANGEMENTS**

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 the 24th day of October 2002

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. Following the bombing of the Hilton Hotel in Sydney in 1978 the Standing Advisory Committee on Commonwealth/State Cooperation for Protection Against Violence (SAC-PAV) was established to respond to terrorism. SAC-PAV held its first meeting in 1979 and the National Anti-Terrorist Plan (NATP) was subsequently developed in 1980, based on cooperation between the Commonwealth, States and Territories.
- 1.2. The new security environment, including the attacks in the United States on 11 September 2001 and in Bali on 12 October 2002, indicates that previous assumptions about the nature, potential scale and forms of terrorism may no longer be valid and require ongoing review.
- 1.3. On 5 April 2002, the Prime Minister and State and Territory Leaders agreed that a new national framework was needed to meet the new challenges of combating terrorism. The Leaders also reaffirmed the importance of effective cooperation between the jurisdictions and the need to build on existing arrangements in adding elements that would respond quickly and effectively to these challenges.

2. AGREEMENT

- 2.1 The Commonwealth, State and Territory governments now enter into the following formal agreement to put into effect the outcomes of the Leaders’ Summit in combating terrorism and to establish the basis, including details of governance, for the National Counter-Terrorism Committee (NCTC).

The Commonwealth, States and Territories agree:

Purpose

- 2.2 The Purpose of this Agreement is to establish a framework to enhance Australia's counter-terrorism capability through a cooperative partnership between all jurisdictions. For this to occur, the framework will enable:
- (a) effective nation-wide prevention, response, investigation and consequence management arrangements based on best-practice;
 - (b) a comprehensive and complementary legal regime across all jurisdictions; and
 - (c) effective cooperation, coordination and consultation between all relevant agencies in all jurisdictions.

Roles and Responsibilities

- 2.3 The Commonwealth, States and Territories recognise:
- (a) their joint responsibility in contributing to the development and maintenance of a nation-wide capability to counter terrorism;
 - (b) the Commonwealth has an important national role and coordination responsibility to counter terrorism; and
 - (c) the importance of cooperating fully to ensure that the Purpose is met.

Responsibility for Terrorist Situations

- 2.4 The Commonwealth, States and Territories recognise:
- (a) State and Territory governments and their agencies have primary operational responsibility for dealing with a terrorist situation in their jurisdiction;
 - (b) Commonwealth agencies have a role in a terrorist situation and will support the States and Territories as appropriate;
 - (c) the Commonwealth will consult and seek agreement from the affected States and Territories before any national terrorist situation is declared and States and Territories agree not to withhold unreasonably such agreement;
 - (d) the Commonwealth has responsibility in a declared national terrorist situation for determining policy and broad strategies in close consultation with affected States and Territories;

- (e) a national terrorist situation means those events declared to be a national terrorist situation, to include attacks on Commonwealth targets, multi-jurisdictional attacks, threats against civil aviation and those involving chemical, biological, radiological and nuclear materials; and
- (f) arrangements for a response to a national terrorist situation will recognise the operational integrity of, and will not inhibit effective response or consequence management by, State and Territory governments and their agencies.

Legislative Arrangements

2.5 The Commonwealth, States and Territories will:

- (a) take whatever action is necessary to ensure that terrorists can be prosecuted under relevant criminal law; and
- (b) review their legislation and counter-terrorism arrangements to make sure that they are sufficiently strong in support of the Purpose.

National Coordination and Intelligence

2.6 The Commonwealth, States and Territories will continue to:

- (a) improve Australia’s counter-terrorist intelligence capability and to develop effective means for sharing intelligence; and
- (b) significantly upgrade the central coordination capability so that the operational arms of the Commonwealth, States and Territories can obtain the information and strategic advice necessary to respond rapidly and effectively.

2.7 To assist in this, all jurisdictions will apply appropriate standards and arrangements for the protection of national security information.

3. THE NATIONAL COUNTER-TERRORISM COMMITTEE

3.1 Commonwealth, States and Territories agree that the existing SAC-PAV will be reconstituted as the NCTC with a broader mandate to cover prevention and consequence management issues and with ministerial oversight arrangements.

3.2 The NCTC will be a high-level national body comprising representatives from the Commonwealth, States and Territories.

3.3 The NCTC will implement the framework set out in this Agreement including:

- (a) maintaining the National Counter-Terrorism Plan (NCTP) and associated documentation;
- (b) providing expert strategic and policy advice to heads of government and other relevant ministers;

- (c) coordinating an effective nation-wide counter-terrorist capability;
- (d) maintaining effective arrangements for the sharing of relevant intelligence and information between all relevant agencies in all jurisdictions; and
- (e) providing advice in relation to the administration of the special fund referred to in 5.2 below.

3.4 The terms of reference for the NCTC are at Annex A.

Accountability

- 3.5 The NCTC will report annually to the Prime Minister, Premiers and Chief Ministers to facilitate ministerial oversight of the NCTC by the Council of Australian Governments (COAG).
- 3.6 The appropriateness of continued ministerial oversight of the NCTC by COAG will be reviewed by COAG in 2005.
- 3.7 There will be a review of the national counter-terrorism arrangements every three years.

4. NATIONAL COUNTER-TERRORISM PLAN

- 4.1 The National Counter-Terrorism Plan (NCTP) sets out Australia's high-level strategy in preventing, and dealing with, acts of terrorism in Australia and its territories. It will be the primary document on Australia's national counter-terrorism policy and arrangements. The NCTP will be supported by documentation, including a handbook, that sets out in detail the procedures, structures and coordination arrangements necessary to ensure the prevention, response, investigation and management of the consequences of terrorism on a national basis.

5. FINANCIAL ARRANGEMENTS

- 5.1 The nation-wide counter-terrorism capability is developed through utilisation of the:
 - (a) policing and emergency management capability funded by the States and Territories; and
 - (b) operational and policy capacity of relevant Commonwealth agencies funded by the Commonwealth.
- 5.2 This is supplemented by a special fund to maintain and develop the nation-wide counter-terrorism capability, provided and administered by the Commonwealth on the basis of advice of the NCTC.

6. INTERPRETATION

Definitions

6.1 In this Agreement, unless a contrary intention is apparent:

“Agreement” means this document and includes all Schedules, and Annexes;

“Annex” means an annex to this Agreement;

“NCTC” means the National Counter-Terrorism Committee;

“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; and

“Purpose” means the Purpose set out in Clause 2.2.

7. CONSTRUCTION

7.1 In this Agreement, unless expressed to the contrary:

- (a) words importing:
 - (i) the singular include the plural and vice versa; and
 - (ii) any gender includes the other genders;
- (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.

8. COMMENCEMENT

- 8.1 This Agreement commences to operate immediately upon its execution 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. WITHDRAWAL FROM AGREEMENT

- 10.1 A Party to this Agreement may, by written notice to all other Parties, withdraw from this Agreement and such notice will take effect six months from the date of that notice.

11. TERMINATION

- 11.1 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 John Winston Howard MP)
Prime Minister of the Commonwealth of Australia)

The Honourable Robert John Carr MP)
Premier of New South Wales)

The Honourable Stephen Phillip Bracks MP)
Premier of Victoria)

The Honourable Peter Douglas Beattie MP)
Premier of Queensland)

The block contains four handwritten signatures in black ink, each corresponding to one of the parties listed to its left. The signatures are: John Howard, Robert Carr, Stephen Bracks, and Peter Beattie. The signature of Peter Beattie is underlined.

The Honourable Dr Geoff Gallop MLA Premier of Western Australia)	
The Honourable Michael David Rann MP Premier of South Australia)	
James Alexander Bacon MHA Premier of Tasmania)	
Jonathon Donald Stanhope MLA Chief Minister of the Australian Capital Territory)	
The Honourable Clare Martin MLA Chief Minister of the Northern Territory)	

ANNEX A**NATIONAL COUNTER-TERRORISM COMMITTEE****TERMS OF REFERENCE****MISSION**

The mission of the National Counter-Terrorism Committee (NCTC) is to contribute to the security of the Australian community through the coordination of a nation-wide cooperative framework to counter terrorism and its consequences.

OBJECTIVES

The objectives of the NCTC are to contribute to the security of the Australian community through:

- (a) providing expert strategic and policy advice to heads of government and other relevant ministers. This will be achieved by:
 - (i) effective counter-terrorism coordination through inter-jurisdictional and inter-agency cooperation;
 - (ii) development of evaluation and reporting methodologies to facilitate the annual reporting process;
 - (iii) reviewing current and emerging trends in terrorism;
 - (iv) reviewing, monitoring and advising on the adequacy of Australia's counter-terrorism legislation;
 - (v) reviewing, monitoring and advising on the adequacy of Australia's counter-terrorism strategies and policies to ensure best practice; and
 - (vi) providing advice on the administration of the special fund;
- (b) ensuring an effective nation-wide counter-terrorism capability is maintained by:
 - (i) developing strong cooperative relationships between all parties;
 - (ii) a standardised jurisdictional and cross-jurisdictional response capacity;
 - (iii) effective arrangements for the sharing of intelligence;
 - (iv) monitoring national standards in all training disciplines to achieve best practice;
 - (v) effective command, control and coordination strategies;
 - (vi) consequence management plans to effectively counter terrorism; and
 - (vii) availability of appropriate systems and equipment; and

- (c) reporting annually to the Prime Minister, Premiers and Chief Ministers on Australia’s counter-terrorism preparedness and capability.

METHOD OF OPERATION

Membership

The NCTC will be a high-level national body comprising representatives from the Commonwealth, States and Territories. While the members of the NCTC represent their respective governments, the NCTC itself will be responsible to all participating governments.

New Zealand will be invited in an observer capacity.

The Commonwealth will provide secretariat and executive support.

Meetings

Meetings will be held in the States and Territories in rotation and be chaired by a representative of the host government. The Commonwealth will co-chair meetings of the NCTC and a senior Commonwealth representative will act on behalf of the NCTC for matters requiring urgent out-of-session consideration.

Persons attending meetings of the NCTC will have a minimum SECRET national security clearance.

Review

There will be a review of the national counter-terrorism arrangements every three years.

Constitution

The NCTC will adopt a constitution governing its operation.

- (c) reporting annually to the Prime Minister, Premiers and Chief Ministers on Australia's counter-terrorism preparedness and capability.

METHOD OF OPERATION

Membership

The NCTC will be a high-level national body comprising representatives from the Commonwealth, States and Territories. While the members of the NCTC represent their respective governments, the NCTC itself will be responsible to all participating governments.

New Zealand will be invited in an observer capacity.

The Commonwealth will provide secretariat and executive support.

Meetings

Meetings will be held in the States and Territories in rotation and be chaired by a representative of the host government. The Commonwealth will co-chair meetings of the NCTC and a senior Commonwealth representative will act on behalf of the NCTC for matters requiring urgent out-of-session consideration.

Persons attending meetings of the NCTC will have a minimum SECRET national security clearance.

Review

There will be a review of the national counter-terrorism arrangements every three years.

Constitution

The NCTC will adopt a constitution governing its operation.