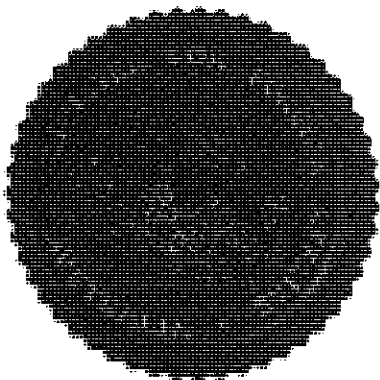


WHEREAS the Government of Australia wishes to sign the *Treaty between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation* (the Treaty);

NOW THEREFORE THESE PRESENTS CERTIFY that the Hon Stephen Francis Smith MP, Minister for Defence, has been duly named, constituted and appointed by the Government of Australia as its plenipotentiary and representative having full power and authority to sign the Treaty;

IN WITNESS WHEREOF, I, Robert John Carr, Minister for Foreign Affairs, have hereunto set my hand and affixed my seal.

DONE at SYDNEY, this 7<sup>th</sup> day of DECEMBER  
two thousand and twelve.



A handwritten signature in black ink, appearing to be 'R. Carr', written in a cursive style.

Minister for Foreign Affairs





## MINISTER FOR FOREIGN AFFAIRS

Departmental No. 113

### Minute Paper for the Executive Council

Executive Council  
Meeting No. ~~24~~.....

#### Subject

*The Constitution*

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

Recommended for the approval of Her Excellency the Governor-General in Council that:

Approved in Council

- (a) The Government of Australia be authorised to sign, for and on behalf of Australia, the attached *Treaty between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation*; and
- (b) the Minister for Foreign Affairs be authorised to draw up, complete and deposit an instrument of full powers for this purpose.

Quentin Bryce

.....  
Governor-General

6 DEC 2012

.....  
Filed in the Records  
of the Council

s 22(1)(a)(ii)

.....  
Secretary to the  
Executive Council

Bob Carr  
Minister for Foreign Affairs

## EXPLANATORY MEMORANDUM

Minute No. 113 of 2012 - Minister for Foreign Affairs

Subject - *The Constitution*

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

Australia's treaty-making power is exercisable by the Governor-General by virtue of Chapter II of the Constitution which provides, among other things, that the executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General.

This Minute recommends signature of the *Treaty between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation* (the Treaty).

There is currently no treaty-level agreement between Australia and the United Kingdom covering defence and security cooperation. The aim of the Treaty is to establish an overarching strategic framework to strengthen and focus the bilateral defence relationship.

The Treaty formalises the extensive defence and security cooperation between Australia and the United Kingdom, and acknowledges both current and emerging security challenges including terrorism, the proliferation of weapons of mass destruction and cyber-warfare. In particular, the Treaty promotes: the mutual prioritisation of cooperation in defence-related matters; the exchange of information and experiences regarding defence and security issues; closer engagement on technology, equipment, and support matters; the achievement of value for money in defence and security areas; and consultation on threats to international peace and stability.

No legislation is required to give effect to Australia's obligations under the Treaty. The rights and obligations contained in the Treaty fall within the scope of existing policy. The National Security Committee of Cabinet has agreed to the text.

Executive Council consideration on 6 December 2012 is vital in order to ensure the Minister for Defence and the United Kingdom Secretary of State for Defence are able to sign the Treaty during the annual Australia and United Kingdom Ministerial Consultations (AUKMIN) to be held in Perth on 18 January 2013.

This Treaty would 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 have been fulfilled.

The Minute recommends that approval be given in the form proposed.

Authority: Chapter II of the Constitution





MINISTER FOR FOREIGN AFFAIRS

Departmental No. 113

Minute Paper for the Executive Council

Executive Council Meeting No. ....

Subject

The Constitution

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

Recommended for the approval of Her Excellency the Governor-General in Council that:

Approved in Council

- (a) The Government of Australia be authorised to sign, for and on behalf of Australia, the attached Treaty between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation; and
(b) the Minister for Foreign Affairs be authorised to draw up, complete and deposit an instrument of full powers for this purpose.

..... Governor-General

..... Filed in the Records of the Council

..... Secretary to the Executive Council

Bob Carr Minister for Foreign Affairs

## EXPLANATORY MEMORANDUM

Minute No. 113 of 2012 - Minister for Foreign Affairs

Subject -        The *Constitution*

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

Australia's treaty-making power is exercisable by the Governor-General by virtue of Chapter II of the Constitution which provides, among other things, that the executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General.

This Minute recommends signature of the *Treaty between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation* (the Treaty).

There is currently no treaty-level agreement between Australia and the United Kingdom covering defence and security cooperation. The aim of the Treaty is to establish an overarching strategic framework to strengthen and focus the bilateral defence relationship.

The Treaty formalises the extensive defence and security cooperation between Australia and the United Kingdom, and acknowledges both current and emerging security challenges including terrorism, the proliferation of weapons of mass destruction and cyber-warfare. In particular, the Treaty promotes: the mutual prioritisation of cooperation in defence-related matters; the exchange of information and experiences regarding defence and security issues; closer engagement on technology, equipment, and support matters; the achievement of value for money in defence and security areas; and consultation on threats to international peace and stability.

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The Minute recommends that approval be given in the form proposed.

Authority: Chapter II of the Constitution



**TREATY BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE  
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND FOR DEFENCE AND SECURITY COOPERATION**

**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.





WHEREAS the Government of Australia wishes to sign the *Agreement between the Government of Australia and the Government of the Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation* (the Agreement);

NOW THEREFORE THESE PRESENTS CERTIFY that Richard Marles MP, the Deputy Prime Minister and Minister for Defence, has been named, constituted and appointed by the Government of Australia as its plenipotentiary and representative having full power and authority to sign the Agreement;

IN WITNESS WHEREOF, I, Penny Wong, have hereunto set my hand and affixed my seal.

DONE at *Canberra*, this *20<sup>th</sup>* day of *March* two thousand and twenty-four.



  
Minister for Foreign Affairs







MINISTER FOR FOREIGN AFFAIRS

Departmental No. 63 of 2024

Minute Paper for the Executive Council

Executive Council Meeting No. 4

Subject

The Constitution

Signature of the Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation.

Approved in Council

[Signature of David Hurley]

David Hurley Governor-General

14 March 2024

Filed in the Records of the Council

s 22(1)(a)(ii)

Secretary to the Executive Council

Recommended for the approval of His Excellency the Governor-General in Council that:

- (a) an appropriate person nominated by the Minister for Foreign Affairs be authorised to sign for and on behalf of the Government of Australia, the Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation; and
(b) the Minister for Foreign Affairs be authorised to draw up and complete the appropriate instrument of full powers for this purpose.

[Signature of Penny Wong]
Penny Wong
Minister for Foreign Affairs

## EXPLANATORY MEMORANDUM

Minute No. 63 of 2024 – Minister for Foreign Affairs

Subject - *The Constitution*

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

The Minute recommends signature of the *Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation* which would enable closer bilateral defence cooperation, including through a Status of Visiting Forces Agreement and a commitment to consult on contingencies that may affect the parties' sovereignty and regional security interests.

Australia's treaty making power is exercisable by the Governor-General by virtue of Chapter II of the *Constitution* which provides, among other things, that the executive power of the Commonwealth is vested in the King and His heirs and successors and is exercisable by the Governor-General.

The Minute recommends signature of the *Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation* ('the proposed Treaty'). The proposed Treaty would replace the 2014 *Treaty between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation* ('the DSC Treaty').

The purpose of the proposed Treaty would be to reflect the present state of the bilateral Australia-United Kingdom relationship in the current and evolving strategic environment. The proposed Treaty would take into consideration the growth in the United Kingdom's Indo-Pacific engagement and the need to modernise the bilateral defence relationship.

The proposed Treaty would reflect the current scope of cooperative defence activities, in particular by updating 'Areas of Cooperation' to include bilateral aspects of AUKUS partnership initiatives, enhanced information sharing provisions and defence climate security cooperation.

The proposed Treaty would facilitate greater interoperability between the Australian Defence Force and the UK Armed Forces by establishing a framework for the status of visiting forces in Australia and the United Kingdom. This proposed framework, set out in Annex 1 to the proposed Treaty, would set out the rights, responsibilities, privileges and immunities of each Party's military and civilian personnel (and dependants) while present in the receiving Party's territory. This Annex would include articles concerning:

- Respect for local law, disciplinary matters, and criminal jurisdiction;
- Conditions of entry and departure for military and civilian personnel (and dependants);
- Diplomatic clearances, importation and exportation;
- Importation, transportation, storage, use, carriage and export of weapons, ammunition, dangerous and prohibited goods;



- Local purchases and employment;
- Personal taxation;
- Uniforms;
- Security;
- Licensing of trades, medical professionals and vehicles;
- Communications;
- Public health, biosecurity and medical treatment;
- Environmental protection;
- Deceased members; and
- Accident investigation.

Collectively, the purpose of these provisions would be to facilitate the effective deployment and operation of one Party's forces in the territory of the other Party.

The proposed Treaty would set out obligations relating to the exercise of civil and criminal jurisdiction. It would also set out a framework for determining which State would have primary jurisdiction to prosecute criminal or service offences committed by the military or civilian personnel of the visiting force while in the receiving State. In addition to the provisions assigning jurisdiction, the proposed Treaty would also provide ancillary provisions regarding the investigation, prosecution and punishment of any such offences. It would also include provisions that commit each Party to waiving certain claims arising between them for property damage, injury or death.

The proposed Treaty includes provisions that each State will consult each other in the event of a contingency affecting sovereignty and regional security, and consider measures in response. Further, both States would recognise the right to a full and detailed understanding of, and concurrence with, foreign military and intelligence activities that are conducted in, from, or through the territory and assets of the receiving State. The proposed Treaty provides for supporting follow-on written arrangements to be made, through which Australia and the United Kingdom may negotiate consultation mechanisms and processes.

The proposed Treaty would reflect Australia and the United Kingdom's mutual intent to modernise the bilateral defence relationship. The provisions outlined in the proposed Treaty would help facilitate our growing defence cooperation and shared commitment to regional security, including under the AUKUS partnership.

It is not expected that becoming party to the proposed Treaty would require new legislation.

The proposed Treaty would enter into force on the date on which the last Party presents written notification to the other Party through diplomatic channels confirming that it has completed its domestic requirements for the entry into force of this Treaty.

The Prime Minister, the Hon Anthony Albanese MP, Deputy Prime Minister and Minister for Defence, the Hon Richard Marles MP, the Attorney-General, the Hon Mark Dreyfus KC MP and the Treasurer, the Hon Jim Chalmers MP have agreed to Australia becoming party to the proposed Treaty.

The Minute recommends that the approval be given in the form proposed.

Authority: Chapter II of the *Constitution*



**From:** s 22(1)(a)(ii)  
**To:** [Exco](#)  
**Cc:** s 22(1)(a)(ii)  
**Subject:** No 63 of 2024: Signature of the Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland [SEC=OFFICIAL]  
**Date:** Thursday, 29 February 2024 12:32:34 PM  
**Attachments:** [63 of 2024 - Explanatory Memorandum - Signed by Minister.pdf](#)  
[63 of 2024 - Minute - Signed by Minister.pdf](#)  
[AU-UK DSC.T.pdf](#)  
[image001.png](#)

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## OFFICIAL

Dear ExCo colleagues,

Please see **attached** the signed documents for consideration at the 14 March ExCo meeting, in relation to the Signature of the Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland.

- Explanatory Memorandum
- ExCo Minute
- Treaty Text

I would be grateful if you could please confirm receipt and that these documents are all in order for the 14 March meeting.

Kind regards,

s 22(1)(a)(ii)

Director | Climate, Human Rights, Advising and Treaties Section

International Law Branch | Legal Division

Department of Foreign Affairs and Trade

**P** s 22(1)(a)(ii) | **M** s 22(1)(a)(ii)

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© Kim Hill, *Among Women* (2011)

[We acknowledge](#) the Traditional Custodians of Country throughout Australia, and their continuing connection to land, waters and community. We pay our respects to all First Nations peoples, their cultures and to their Elders, past, present and emerging.



MINISTER FOR FOREIGN AFFAIRS

Departmental No. 63 of 2024

Minute Paper for the Executive Council

Executive Council Meeting No. ....

Subject

The Constitution

Signature of the Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation.

Approved in Council

Recommended for the approval of His Excellency the Governor-General in Council that:

David Hurley Governor-General

(a) an appropriate person nominated by the Minister for Foreign Affairs be authorised to sign for and on behalf of the Government of Australia, the Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation; and

Filed in the Records of the Council

(b) the Minister for Foreign Affairs be authorised to draw up and complete the appropriate instrument of full powers for this purpose.

Secretary to the Executive Council

Penny Wong Minister for Foreign Affairs

## EXPLANATORY MEMORANDUM

Minute No. 63 of 2024 – Minister for Foreign Affairs

Subject - *The Constitution*

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

The Minute recommends signature of the *Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation* which would enable closer bilateral defence cooperation, including through a Status of Visiting Forces Agreement and a commitment to consult on contingencies that may affect the parties' sovereignty and regional security interests.

Australia's treaty making power is exercisable by the Governor-General by virtue of Chapter II of the *Constitution* which provides, among other things, that the executive power of the Commonwealth is vested in the King and His heirs and successors and is exercisable by the Governor-General.

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The purpose of the proposed Treaty would be to reflect the present state of the bilateral Australia-United Kingdom relationship in the current and evolving strategic environment. The proposed Treaty would take into consideration the growth in the United Kingdom's Indo-Pacific engagement and the need to modernise the bilateral defence relationship.

The proposed Treaty would reflect the current scope of cooperative defence activities, in particular by updating 'Areas of Cooperation' to include bilateral aspects of AUKUS partnership initiatives, enhanced information sharing provisions and defence climate security cooperation.

The proposed Treaty would facilitate greater interoperability between the Australian Defence Force and the UK Armed Forces by establishing a framework for the status of visiting forces in Australia and the United Kingdom. This proposed framework, set out in Annex 1 to the proposed Treaty, would set out the rights, responsibilities, privileges and immunities of each Party's military and civilian personnel (and dependants) while present in the receiving Party's territory. This Annex would include articles concerning:

- Respect for local law, disciplinary matters, and criminal jurisdiction;
- Conditions of entry and departure for military and civilian personnel (and dependants);
- Diplomatic clearances, importation and exportation;
- Importation, transportation, storage, use, carriage and export of weapons, ammunition, dangerous and prohibited goods;



- Local purchases and employment;
- Personal taxation;
- Uniforms;
- Security;
- Licensing of trades, medical professionals and vehicles;
- Communications;
- Public health, biosecurity and medical treatment;
- Environmental protection;
- Deceased members; and
- Accident investigation.

Collectively, the purpose of these provisions would be to facilitate the effective deployment and operation of one Party's forces in the territory of the other Party.

The proposed Treaty would set out obligations relating to the exercise of civil and criminal jurisdiction. It would also set out a framework for determining which State would have primary jurisdiction to prosecute criminal or service offences committed by the military or civilian personnel of the visiting force while in the receiving State. In addition to the provisions assigning jurisdiction, the proposed Treaty would also provide ancillary provisions regarding the investigation, prosecution and punishment of any such offences. It would also include provisions that commit each Party to waiving certain claims arising between them for property damage, injury or death.

The proposed Treaty includes provisions that each State will consult each other in the event of a contingency affecting sovereignty and regional security, and consider measures in response. Further, both States would recognise the right to a full and detailed understanding of, and concurrence with, foreign military and intelligence activities that are conducted in, from, or through the territory and assets of the receiving State. The proposed Treaty provides for supporting follow-on written arrangements to be made, through which Australia and the United Kingdom may negotiate consultation mechanisms and processes.

The proposed Treaty would reflect Australia and the United Kingdom's mutual intent to modernise the bilateral defence relationship. The provisions outlined in the proposed Treaty would help facilitate our growing defence cooperation and shared commitment to regional security, including under the AUKUS partnership.

It is not expected that becoming party to the proposed Treaty would require new legislation.

The proposed Treaty would enter into force on the date on which the last Party presents written notification to the other Party through diplomatic channels confirming that it has completed its domestic requirements for the entry into force of this Treaty.

The Prime Minister, the Hon Anthony Albanese MP, Deputy Prime Minister and Minister for Defence, the Hon Richard Marles MP, the Attorney-General, the Hon Mark Dreyfus KC MP and the Treasurer, the Hon Jim Chalmers MP have agreed to Australia becoming party to the proposed Treaty.

The Minute recommends that the approval be given in the form proposed.

Authority: Chapter II of the *Constitution*





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

A handwritten signature in black ink, appearing to be 'R. [unclear]', located in the bottom right quadrant of the page.



## PREAMBLE

The Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland, hereinafter referred to collectively as “the Parties” and individually as a “Party”,

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

**SEEKING** to further deepen our close defence and security cooperation, including through multilateral partnerships, to address global challenges faced by both Parties;

**REAFFIRMING** the strong defence relations between the Parties based on a shared commitment to a peaceful and stable Indo-Pacific and common approaches to address the region’s defence and security issues, including non-traditional security challenges, in support of the international rules-based order;

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

**REAFFIRMING** their faith in the purposes and principles of the Charter of the United Nations;

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

**BEARING** in mind the long-standing cooperation between the Parties in areas such as, but not limited to, science and technology, equipment capability and harmonisation, personnel exchange, logistic support, information exchange, quality assurance and joint military exercises;

**RECOGNISING** the Parties’ respective international obligations and commitments; and

**ACKNOWLEDGING** the overarching strategic framework established by the *Defence and Security Cooperation Treaty* (DSC Treaty) between the Parties which entered into force on 30 July 2014 to strengthen and focus the bilateral defence relationship between the Parties, which this Agreement replaces,

Have agreed the following:

## **ARTICLE 1**

### **Definitions**

1. In this *Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland for Defence and Security Cooperation* (the Agreement) and its Annexes:
  - a. “Civilian Component” means the civilian personnel accompanying the Visiting Force who are employed by or in its service having functions relating to defence matters and who are not nationals of, or ordinarily resident in, the Receiving State, but does not include contractors (unless otherwise mutually determined by the Parties);
  - b. “Classified Information” means any information or material in any form that requires protection against unauthorised disclosure or compromise, which has been designated with a security classification level in accordance with the originating Party’s laws and policies;
  - c. “Dependant” means a person who:
    - (i) is not a member of a Visiting Force or its Civilian Component; and
    - (ii) is not a national of or ordinarily resident in the Receiving State; and is accompanying a member of a Visiting Force or its Civilian Component and is:
      - (I) the Spouse of the member;
      - (II) wholly or mainly maintained by the member;
      - (III) in the custody, care or charge of the member; or
      - (IV) a relative of the member ordinarily residing with the member;
    - (iii) and will reside with the member during their stay in the Receiving State;
  - d. “Force” means the personnel belonging to the armed services of a Party;
  - e. “Receiving State” means the State of the Party in whose territory a Visiting Force is located;
  - f. “Sending State” means the State of the Party to which the Visiting Force belongs;
  - g. “Service Law” means any act, statute, order, regulation or instruction of the Sending State governing all or any of the members of a Visiting Force. Where the laws of the Sending State so provide, Service Law shall also apply to members of the Civilian Component;
  - h. “Spouse” means another person who:
    - (i) is married to a member under the law of the Sending State; or
    - (ii) is not married to a member, but has a relationship with a member as a couple living together on a genuine and subsisting domestic basis;
  - i. “Visiting Force” means any individual, body, contingent or detachment of the Force of one Party, who, with the consent of the other Party, is present in the territory of the other Party.

## ARTICLE 2

### Scope and Purpose

1. This Agreement is intended to promote:
  - a. the mutual prioritisation of cooperation between the Parties in defence-related matters;
  - b. the conduct of visits and exchanges, operations, exercises or other activities, such as cooperation in humanitarian assistance and disaster relief support, between the Parties;
  - c. the efficiency and effectiveness of sending personnel from the Sending State to the Receiving State through defining of the status of a Visiting Force and its Civilian Component;
  - d. the exchange of information and experiences regarding strategic defence and security issues, including information and experiences related to exercises, operations, military equipment and international peacekeeping operations;
  - e. reciprocal access and use of facilities and areas in the territory of a Party by the Visiting Force and Civilian Component of the other Party;
  - f. activities to enhance and broaden engagement in relation to defence related advanced capabilities and conventionally-armed nuclear-powered submarines;
  - g. closer engagement on science and technology, equipment, and support matters;
  - h. the achievement of value for money in defence and security areas; and
  - i. consultation on threats to international peace and security.

## ARTICLE 3

### Areas of Cooperation

1. The Parties shall facilitate defence relations by undertaking 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 or in other coalition or bilateral frameworks;
  - b. the participation in multilateral security mechanisms including, but not limited to, the FPDA and the Air and Space Interoperability Council, including periodic review of such mechanisms to ensure their continued relevance;
  - c. cooperation and exchange of information related to the trilateral security partnership between the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America (AUKUS), including but not limited to leading-edge defence capabilities such as conventionally-armed nuclear-powered

- submarines, advanced cyber, artificial intelligence, electronic warfare, undersea warfare, hypersonic and counter-hypersonic technology, and quantum technologies;
- d. 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;
  - e. the exchange of strategic documents and participation in close and candid dialogue on key strategic issues of mutual interest;
  - f. continuing and developing cooperative activities and exchanges of information on cyber security issues including through working together in multilateral fora where the opportunities exist;
  - g. continuing and developing cooperative activities and exchanges of information on space programmes, domain awareness and activities including through working together in multilateral fora where the opportunities exist;
  - h. continuing to cooperate on the provision of quality assurance;
  - i. continuing to cooperate on the exchange of codification data and services;
  - j. expanding and deepening practical cooperation and further enhancing interoperability through joint and multilateral exercises and operations, and other training activities;
  - k. continuing to cooperate in areas of force development including but not limited to strategic foresight, doctrine, concepts, experimentation activity, interoperability, professional development and military education;
  - l. supporting and cooperating in humanitarian assistance and disaster relief efforts, where applicable;
  - m. continuing and developing cooperative activities and exchanges of information on climate security cooperation;
  - n. consideration of each Party's requirements and mutual interest in cooperation on third party capacity building as mutually determined;
  - o. continuing to support and share information on defence related workforce activities, including education and training, including joint collective training, and other personnel development activities, to enhance integration and interoperability between the Parties;
  - p. promoting and facilitating the short and long term exchanges of military and civilian personnel between the Parties to improve training, education, and interoperability;
  - q. the exchange of materiel and information relating to defence and procurement reforms;
  - r. continuing and reinforcing the work on industrial and materiel cooperation, including the testing and evaluation of defence capabilities, platforms and equipment;
  - s. continued cooperation and collaboration in defence science and technology;
  - t. mutual use of facilities including maintenance, asset protection, and promoting the sale or loan of materials, equipment and services between the Parties;

- u. continuing and developing cooperation in mutually beneficial logistics activities;
- v. continuing and developing new cooperative activities and exchanges of information on maritime issues including working together in multilateral fora where the opportunities exist; and
- w. cooperation in any other emerging defence or security fields that may be of mutual interest and strategic benefit to the Parties.

## **ARTICLE 4**

### **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.
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 the status of that arrangement from that of a non-legally binding instrument.
4. Annex 1 to this Agreement forms an integral part of this Agreement. The terms and conditions set out in Annex 1 shall apply to cooperation undertaken pursuant to this Agreement.

## **ARTICLE 5**

### **Consultation**

1. The Parties shall consult each other on contingencies that may affect their sovereignty and regional security interests, and consider measures in response.
2. With full respect for the sovereignty of each of the Parties, they recognise the Receiving State's right to know, understand and agree to foreign military and intelligence activities conducted in, from, or through its territory and through the use of its assets. Concurrence for the presence of a capability, function or activity is to be based on a full and detailed understanding of that capability, function or activity.

## **ARTICLE 6**

### **Access to Facilities, Areas, 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, areas, 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, areas, equipment and support functions.
3. In paragraphs 1 and 2 of this Article the provision of support functions includes any necessary personnel.

## **ARTICLE 7**

### **Transfer, Access to the Market and Export Licensing**

1. Subject to 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, technology 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 8**

### **Costs**

Unless otherwise mutually determined by the Parties, each Party shall bear its own costs of participation in cooperative activities pursuant to this Agreement.

## **ARTICLE 9**

### **Exchange and Protection of Information**

1. Subject to paragraph 4 of this Article, where not already covered by other international agreements or arrangements, and where an agreement or arrangement is necessary for the exchange of information, this Agreement enables the Parties to exchange information related to cooperative efforts described in Article 3 (Areas of Cooperation) of this Agreement for information and evaluation purposes only, unless otherwise mutually determined in writing.
2. 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 *Arrangement between the Department of Defence of Australia and the Ministry of Defence of the United Kingdom of Great Britain and Northern Ireland Concerning the Protection of Defence Classified Information*, which came into effect on 9 November 2018 (Security Arrangement), or any other applicable or successor arrangement or agreement.
3. International visits between the Parties, during which access is required to Classified Information, shall be coordinated in accordance with the relevant sections of the Security Arrangement or any other applicable or successor arrangement or agreement.
4. 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.



5. Use of rights in intellectual property provided by either Party for any cooperative activity entered into pursuant to this Agreement shall be detailed in writing or in an applicable arrangement enabling such cooperative activity.

## **ARTICLE 10**

### **Claims and Liability**

1. Subject to paragraph 3 of this Article, unless another applicable international agreement or arrangement governing claims and liability exists between the Parties, 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 of this Article, 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. The Sending State shall waive any immunity from the civil jurisdiction of the courts of the Receiving State in respect of any act or omission by a member of the Visiting Force or Civilian Component or a Dependant in the Receiving State.
6. Paragraph 2 of this Article shall not apply to claims arising:
  - a. out of the use of official vehicles of the Sending State which are covered by insurance policies taken out in accordance with the laws of the Receiving State;
  - b. out of the tortious acts or omissions of members of the Visiting Force or Civilian Component not done in the performance of official duty, as such claims shall be settled or adjudicated in accordance with the laws of the Receiving State;

- c. out of the tortious acts or omissions of Dependants, as such claims shall be settled or adjudicated in accordance with the laws of the Receiving State.
7. 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 relevant party/parties to the contract.
8. Nothing in this Article prevents the Parties from entering into another international agreement or arrangement, pursuant to this Agreement or otherwise, concerning claims and liabilities regarding cooperative activities which require specific apportionment of liability, as required.

## **ARTICLE 11**

### **General Provisions**

1. 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.
2. Any reference to a law, regulation or international instrument in this Agreement shall be construed as a reference to that law, regulation and international instrument as in force at the time of the entry into force of this Agreement and as amended or replaced from time to time.

## **ARTICLE 12**

### **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 13**

### **Amendments**

1. 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 14(1) of this Agreement.
2. The Parties shall undertake a review of the operation of the status of forces arrangements under this Agreement within five (5) years from entry into force.

## ARTICLE 14

### Entry into Force, Duration, and Termination

1. This Agreement replaces the 2014 DSC Treaty, and 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 domestic procedures for entry into force of this Agreement have been fulfilled.
2. This Agreement may be terminated by either Party giving twelve (12) months' written notice to the other Party of its intention to terminate 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, jurisdiction, claims and liabilities, and disputes.
4. Arrangements currently in effect or which have been established pursuant to Article 4 or Article 6(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 [location], this [xx] day of [Month] 20[xx].

For the Government  
of Australia

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

## **ANNEX 1 STATUS OF FORCES**

### **Article 1 Respect for Local Law**

Subject to Articles 2 and 3 below, members of a Visiting Force and its Civilian Component and Dependants shall respect the laws and regulations of the Receiving State.

### **Article 2 Disciplinary Matters**

(1) The Sending State shall have the right to exercise administrative and disciplinary authority over members of a Visiting Force and its Civilian Component in accordance with its laws and regulations. Each Party shall, upon request from the other Party, convey to the requesting Party their respective defence force disciplinary laws and regulations.

(2) In the case of behaviour that is liable to disciplinary action in the territory of the Receiving State (where practicable), the Sending State shall inform the Receiving State of the nature of the possible disciplinary punishment before carrying it out.

(3) The Receiving State may request that any member of the Visiting Force or its Civilian Component be repatriated to the Sending State for the carrying out of the given disciplinary punishment.

### **Article 3 Criminal Jurisdiction**

(1) Subject to the provisions of this Article:

(a) the Receiving State shall have criminal jurisdiction over the members of a Visiting Force and its Civilian Component and Dependants with respect to offences committed within the territory of the Receiving State and punishable by the laws of the Receiving State; and

(b) the Sending State shall have the right to exercise within the Receiving State all criminal jurisdiction conferred on it by its laws over members of a Visiting Force and its Civilian Component and Dependants.

(2) Subject to the provisions of this Article:

(a) the Receiving State shall have the right to exercise exclusive jurisdiction over members of a Visiting Force and its Civilian Component and Dependants with respect to offences punishable by the laws of the Receiving State but not by the laws of the Sending State; and

(b) the Sending State shall have the right to exercise exclusive jurisdiction over members of a Visiting Force and its Civilian Component and Dependants with respect to offences punishable by the laws of the Sending State but not by the laws of the Receiving State.

(3) In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply:

(a) the Sending State shall have the primary right to exercise jurisdiction over members of a Visiting Force and its Civilian Component who are subject to the laws of the Sending State in relation to:

- (i) offences solely against the property or security of the Sending State, or offences solely against the person or property of another member of a Visiting Force or its Civilian Component or Dependants; and
- (ii) offences arising out of an act or omission done in the performance of official duty.

(b) in the case of any other offence, the Receiving State shall have the primary right to exercise jurisdiction.

(c) if a Party with the primary right to exercise jurisdiction elects not to do so, the Party shall notify the other Party as soon as it is practicable.

(d) a Party may request the other Party to waive its primary right to exercise jurisdiction.

(e) either Party with the primary right to exercise jurisdiction shall give sympathetic consideration to a request for waiver from the other Party. Such a decision may be given on conditions, which may include that proceedings be commenced by the requesting Party.

(f) the Parties shall notify each other as soon as practicable of the disposition of all cases where the right to exercise jurisdiction is concurrent.

(4) Within the scope of their legal competence, the Parties shall cooperate in the arrest of members of a Visiting Force or its Civilian Component or a Dependiant in the territory of the Receiving State accused of an offence and in handing them over to the authorities of the Party that is to exercise jurisdiction in accordance with this Article.

(5) The Sending State shall give prompt notification to the Receiving State of the arrest or detention of any member of a Visiting Force or its Civilian Component or a Dependiant where that person is subject to the primary jurisdiction of the Receiving State.

(6) The Receiving State shall promptly notify the Sending State of the filing of any complaint against, or the arrest or detention of, any member of a Visiting Force or its Civilian Component or Dependants.

(7) Within the scope of its legal competence, where the Receiving State is to exercise jurisdiction over a member of a Visiting Force or its Civilian Component or a Dependiant, it shall give sympathetic consideration to a request from the Sending State that the Sending State be entrusted with that person's custody pending conclusion of all judicial proceedings. Upon request, within the scope of its legal competence, the Sending State shall make available, for the purposes of investigation or trial, any such person who is in its custody over whom the Receiving State is to exercise jurisdiction.

(8) Within the scope of their legal competence, the Parties shall cooperate in the investigation of offences, including the collection and production of evidence to the Party that is to exercise jurisdiction in accordance with the above provisions. The provision of evidence may be made subject to the condition of its return within any reasonable time specified by the Party delivering it.

(9) Any person that has been convicted or acquitted for an offence by one Party in accordance with this Article may not be tried again by the other Party for an offence that is substantially the same.

(10) Whenever a member of a Visiting Force or its Civilian Component or a Dependant is taken into custody, detained or prosecuted by the Receiving State, he or she shall be accorded all generally accepted procedural safeguards pursuant to the international law obligations of the Receiving State and no less than those provided to the nationals of the Receiving State. At a minimum, he or she shall be accorded the following procedural safeguards:

- (a) to a prompt and speedy trial;
- (b) to be informed in advance of the trial of the specific charge or charges made against him or her and to have reasonable time to prepare a defence;
- (c) to be confronted with the witnesses against him or her and to cross examine such witnesses;
- (d) to present evidence in his or her defence and to have compulsory process for the calling of witnesses if they are within the jurisdiction of the Receiving State;
- (e) to have legal representation of his or her own choice for his or her defence or to have free or assisted legal representation in accordance with conditions prevailing in the Receiving State;
- (f) to have the services of a competent interpreter;
- (g) to communicate with a representative of his or her Government and, when the rules of the court permit, to have a representative of that Government present at his or her trial;
- (h) to be present at his or her trial, which shall be public (unless otherwise specified under the law of the Receiving State);
- (i) to seek a writ of habeas corpus;
- (j) to have the right to bail, subject to the pertinent laws and regulations of the Receiving State;
- (k) to have the right not to be compelled to testify against himself or herself; and
- (l) not to be held guilty for a criminal offence on account of any act or omission which did not constitute a criminal offence under either the law of the Receiving State or international law at the time it was committed.

(11) Where the Receiving State is to exercise jurisdiction over members of a Visiting Force or its Civilian Component or Dependents, proceedings shall only be commenced in the courts of ordinary jurisdiction of the Receiving State and members of a Visiting Force or its Civilian Component or Dependents shall not be subject to the jurisdiction of the military of the Receiving State.

#### **Article 4** **Conditions of Entry and Departure**

(1) The authorities of the Receiving State shall facilitate the entry of the Visiting Force, its Civilian Component and Dependents into and their departure from the Receiving State for the purposes of cooperative activities. Unless otherwise mutually determined by the Parties, the Sending State shall communicate as far as practicable in advance to the authorities of the Receiving State the estimated date of arrival and identity of such persons entering the Receiving State pursuant to this Agreement.

(2) Subject to compliance with the requirement of the Receiving State relating to entry and departure, members of a Visiting Force shall be exempt from any requirement to apply for a visa on entering and departing the Receiving State.

(3) The authorities of the Receiving State shall permit members of the Visiting Force to enter into or depart from the Receiving State with:

- (a) a valid passport or military identification card;
- (b) an individual or collective travel document issued by the authorities of the Sending State identifying the individual or group as a member or members of a Visiting Force, and authorising the travel; and
- (c) if applicable, such documents as may be issued by the authorities of the Sending State in satisfaction of the national health and quarantine requirements of the Receiving State.

(4) The authorities of the Receiving State shall permit members of a Civilian Component or Dependants to enter into or depart from the Receiving State with:

- (a) a valid passport and any necessary visa; and
- (b) shall be so described in their passports, including any applicable certificate issued by the authorities of the Sending State certifying that the holder is a member of a Civilian Component or a Dependant.

(5) The Receiving State may oblige members of the Visiting Force and its Civilian Component and Dependants to produce a document in satisfaction of its national health, biosecurity and quarantine laws and regulations. The Receiving State shall provide reasonable prior notice of any requirements in this regard.

(6) Nothing in this Article shall confer upon a member of a Visiting Force or its Civilian Component or a Dependant any right to permanent residence or domicile in the Receiving State.

(7) If any person, other than a national of, or a person otherwise entitled to remain in, the Receiving State ceases to be a member of a Visiting Force or its Civilian Component or a Dependant, the Sending State shall:

- (a) promptly inform the Receiving State, giving such reasonable particulars as they may require; and
- (b) promptly take appropriate steps to effect the departure of that person from the territory of the Receiving State, unless the Receiving State allows the person to remain in its territory.

(8) If the removal from the Receiving State of a member of a Visiting Force or its Civilian Component or a Dependant is reasonably requested by the Receiving State or required by the law of the Receiving State, the Sending State shall:

- (a) promptly take reasonable steps to effect the departure of that person from the territory of the Receiving State; and
- (b) meet any reasonable costs incurred by the Receiving State in removing that person from the territory of the Receiving State.

## **Article 5**

### **Diplomatic Clearances, Movements, Harbour and Airport Charges and Fees**

- (1) The Receiving State shall provide the appropriate permanent or occasional flight or ship diplomatic clearances, for State and military aircraft and vessels, to the Sending State by diplomatic channels.
- (2) Aircraft and vessels operated by or for the Visiting Forces and its Civilian Component may enter the Receiving State upon approval by the authorities of the Receiving State in connection with activities mutually approved by the Parties.
- (3) Subject to rights of passage and general rights and duties of coastal states under international law, the authorities of the Receiving State retain the right to prescribe the routes to be used and may impose restrictions on movements within the Receiving State and prohibit access to and passage through specified areas, airspace or facilities.
- (4) Vessels belonging to the Visiting Force or its Civilian Component may, with the consent of the Authorities of the Receiving State, visit ports of the Receiving State for the purpose of training, exercises or other activities mutually approved by the Parties upon reasonable notification and in accordance with normal international practice.
- (5) The Authorities of the Receiving State shall, subject to Article 1 of this Annex, allow individual members of the Visiting Force and the Civilian Component freedom of movement in the territory of the Receiving State for the purpose of lawful activities.
- (6) The Visiting Force shall be subject to the same conditions in respect of harbour and airport charges and fees, as vessels and aircraft of the Receiving State's Force.
- (7) Official vehicles of the Visiting Force shall be subject to the same conditions in respect of any tax or fee for the use of roads as the Receiving State's Force.

## **Article 6**

### **Importation and Exportation**

- (1) In this Article, "duty" means any duty, tax, fee, charge or levy, including sales tax, customs duty, excise duty and goods and services tax, payable on importation or exportation except those that are no more than charges for services rendered.
- (2) Official documents under official seal of the Sending State shall not be subject to customs inspection. A certificate stating that the package contains solely official documents shall accompany the package. Samples of the official seals shall be lodged with the authorities of the Receiving State.
- (3) A Visiting Force may import free of duty its motor vehicles, equipment, supplies, including weapons, ammunition and other explosive devices, materials and other goods such as but not limited to medical instruments and machinery, and pharmaceutical products including drugs, blood and blood products, for the exclusive and official use of, but at the time of import not intended for sale by, the Visiting Force or a member of its Civilian Component. Where required by the Receiving State, the Sending State shall present to the relevant Receiving State customs documents relevant to such items which both Parties have mutually determined to provide, and



a certificate, the form of which has been accepted by both Parties, signed by the person authorised by the Sending State. The Receiving State may request that the name of the person authorised to sign certificates including samples of his or her signature and seals used are communicated to them in advance.

(4) A member of a Visiting Force or its Civilian Component or a Dependant may import free of duty reasonable quantities of personal effects, furniture and household goods, other than motor vehicles, cigarettes, cigars, tobacco and spirituous liquors, provided that:

(a) they are imported at the time of first arrival of the member of a Visiting Force or its Civilian Component or Dependant in the Receiving State, or within six (6) months thereafter; and

(b) they remain in the use, ownership and possession of, or are consumed by that person.

(5) A member of a Visiting Force or its Civilian Component may import into the Receiving State for personal use one motor vehicle free of duty and taxes in accordance with the legislation of the Receiving State.

(6) Items which have been imported free of duty under paragraphs 3, 4 or 5 of this Article:

(a) may be exported free of duty or any restriction, provided that the appropriate Government authorities of the Receiving State may require verification that goods exported have been imported under the conditions of paragraphs 3, 4 or 5 of this Article as the case may be; and

(b) may not be transferred to another person, operated, sold, traded, exchanged, hired out, donated or otherwise disposed of for financial gain in the Receiving State without the express approval of the Government of the Receiving State and in compliance with the laws of the Receiving State, especially if weaponry, arms and ammunition are concerned.

(7) If the express approval of the appropriate Government authorities of the Receiving State is obtained, items which have been imported free of duty under paragraph 3 of this Article may, if they are owned by the Sending State and in the use of a Visiting Force or its Civilian Component, be disposed of in the Receiving State by public sale, auction, tender or private treaty, provided that:

(a) before doing so the Sending State shall first offer them for sale to the Government of the Receiving State at a reasonable price having regard to their condition and other relevant circumstances, unless the latter shall have indicated that it is not interested in their acquisition; and

(b) in so disposing of stores or goods the Sending State shall be liable to pay any duty which would be payable on items so disposed of in accordance with the law of the Receiving State.

(8) The arrangements in paragraph 7 of this Article shall cover only the sale or disposal of unforeseen surpluses or damaged items of official stores and equipment. Any such sale or disposal shall not be made in a manner or with such frequency as seriously to compete with or adversely affect legitimate trade or industry in the territory of the Receiving State. The Government of the Receiving State and the Government of the Sending State shall at the

request of the other Government be ready at any time to enter into discussions for this purpose should it appear necessary to that other Government.

(9) The Receiving State may require a member of a Visiting Force or its Civilian Component to provide security or undertakings for, or verification of, compliance with the provisions of paragraphs 4, 5 and 6 of this Article.

(10) The Sending State shall be permitted to import into and export from the Receiving State, free of duty, all fuel, oil and lubricants intended for exclusive use in official vehicles, aircraft and vessels used in connection with cooperative activities.

(11) Subject to the preceding provisions, the Sending State shall take appropriate measures to ensure that the Visiting Force, its Civilian Component and Dependants shall pay any duty and fines due to the Receiving State.

(12) The benefits provided under paragraphs 3, 4, 5, 6(a) and 10 of this Article and paragraph 1 of Article 8 shall apply to the extent permitted by the laws and regulations of the Receiving State.

#### **Article 7**

#### **Importation, Transportation, Storage, Use and Carriage of Weapons, Ammunition and Dangerous Goods**

(1) Members of the Visiting Force may possess and carry weapons when authorised to do so by orders issued by the Sending State and in circumstances previously approved by the Receiving State.

(2) Weapons, ammunition and dangerous goods of the Visiting Force shall be imported, transported, stored and used in accordance with the laws, regulations and policies of the Receiving State.

(3) The Receiving State shall specify, in consultation with the Sending State, the quantity and type of weapons, ammunition and dangerous goods which may be imported, transported, stored and used in the Receiving State.

#### **Article 8**

#### **Local Purchases and Employment**

(1) The Sending State and its contractors shall endeavour to purchase local goods and services required for the purpose of conducting cooperative activities while in the Receiving State to the greatest extent practicable provided they are available at a price no less favourable than and subject to the same terms in respect of any tax or fee as the Receiving State's Force and are of the standard required.

(2) The Sending State and its contractors may engage local labour while in the Receiving State. The conditions of employment and work shall comply with the minimum standards laid down by local laws and regulations of the Receiving State.

(3) Local civilian workers engaged by the Visiting Force or Civilian Component or a Dependant shall not be regarded as being members of a Visiting Force or its Civilian Component under this Agreement, unless otherwise mutually determined.

### **Article 9 Personal Taxation**

Other than for taxes and duties for which provision is made under this Agreement, the liability for taxes and duties of a member of a Visiting Force or its Civilian Component or a Dependant shall be governed by any applicable agreement in force between the Parties in relation to such taxes or duties that has been implemented under the laws of both Parties.

### **Article 10 Uniforms**

Members of a Visiting Force may wear the uniform and military insignia of their Force while performing their official duties.

### **Article 11 Security**

(1) The Parties shall cooperate and take appropriate measures in accordance with the laws and regulations of the Receiving State to ensure the security of the installations and areas made available to the Visiting Force, and of their property, official records and information.

(2) The Sending State shall have the right to maintain military police for the maintenance of good order and discipline within the Visiting Force.

(3) The Receiving State shall be responsible for security outside the installations and areas made available to the Visiting Force.

(4) Subject to paragraph 3 of this Article, members of the Visiting Force may, with the consent of and in liaison with the Receiving State, be employed outside the installations and areas used by a Visiting Force, in so far as such employment is consistent with the law of the Receiving State and is necessary to protect the security of the installations and areas made available to the Visiting Force or to maintain good order and discipline among the members of a Visiting Force.

### **Article 12 Driving Licences and Official Vehicles**

(1) The Parties shall mutually determine applicability of exemptions to the Sending State's Visiting Force and its Civilian Component from registration and licensing laws for the possession or operation of vehicles, aircraft, vessels and other equipment necessary for the purposes of cooperative activities.

(2) The Receiving State shall accept as valid, without a driving test or fee, the driving permit or licence issued by the Sending State to a member of a Visiting Force for the purpose of driving official vehicles in the course of his or her official duty. Permits and licences will have a translation of the official language of the Receiving State.

(3) Official vehicles, excluding vehicles hired in the Receiving State, shall carry, in addition to the registration number issued by the Sending State, a distinctive nationality mark, but shall not be required to be registered by the Receiving State.

### **Article 13**

#### **Licensing and Qualification of Trades and Medical Professionals**

(1) Subject to paragraph 2 of this Article, members of the Visiting Force and Civilian Component with current and valid professional, technical or trade licences and qualifications issued by the Sending State shall be allowed to perform their relevant official duties within the Receiving State and shall not be required by the Receiving State to obtain any permission (whether in the form of registration, licence or otherwise) to conduct such official duties as a member of the Visiting Force or Civilian Component.

(2) Medical professionals, who are members of the Visiting Force or Civilian Component, shall be allowed to provide medical treatment, prescribe and dispense medicinal drugs, and use medical products or devices in the Receiving State for the benefit of the members of the Visiting Force and the Civilian Component. Such medical professionals who are members of the Visiting Force or Civilian Component shall not provide medical treatment, prescribe or dispense medicinal drugs, or use medical products or devices for the benefit of the general public in the Receiving State without the prior consent of the Receiving State.

### **Article 14**

#### **Communications**

(1) Any installation of the Visiting Force's telecommunication system is subject to authorisation from the Receiving State. Requests for such installation shall be given fair and expedient consideration by the Receiving State. The construction, maintenance and operation of such communication systems shall be carried out as mutually determined by the Parties.

(2) The Visiting Force shall only use the frequencies allocated to it by the Receiving State. The procedure for allocation, change, withdrawal or return of frequencies shall be mutually determined by the Receiving State and the Sending State. The Visiting Force may operate communication and information systems for official communications in accordance with arrangements mutually determined with the Receiving State.

(3) The Visiting Force shall take reasonable measures to avoid interference with communication networks in the Receiving State by their own communications or other electrical installations. The Receiving State shall take reasonable measures to avoid interference with the communications facilities of Visiting Forces by communications or other electrical installations operated in the Receiving State.

### **Article 15**

#### **Public Health, Biosecurity and Medical Treatment**

(1) Members of a Visiting Force shall be medically and dentally fit to conduct any cooperative activity upon entry into the Receiving State.

(2) Unless otherwise mutually determined by the Parties, any medical or dental treatment provided in the facilities of the Receiving State, or by personnel of the Receiving State on request, shall be provided on a full cost recovery basis, including aeromedical evacuation.

(3) The Sending State shall ensure that members of its Visiting Force, Civilian Component and Dependants when entering and present in the Receiving State comply with all biosecurity laws and regulations. Unless otherwise agreed between the Parties, all costs in relation to meeting the Receiving States biosecurity requirements shall be met by the Sending State.

## **Article 16**

### **Environmental Protection**

(1) Both Parties shall implement this Agreement in a manner consistent with the protection of the environment, cultural heritage and human health and safety in the Receiving State.

(2) Upon request, the Parties shall consult and exchange appropriate information regarding issues that could affect the environment, cultural heritage, and human health and safety in the Receiving State.

(3) The Sending State shall, in cooperation with the Receiving State, promptly take appropriate measures to address any damage or potential damage to the environment, cultural heritage, and human health and safety, having regard to the laws and regulations of the Receiving State and upon consultation between the Parties.

## **Article 17**

### **Deceased Members**

(1) The death of a member of the Visiting Force or its Civilian Component or a Dependant, in the Receiving State, hereinafter referred to as “the Deceased”, shall be declared to the Receiving State. The death of the Deceased shall be certified by a doctor appointed by the Receiving State who shall issue a certificate.

(2) If the Receiving State orders an autopsy of the Deceased, the Sending State may nominate a representative to attend the autopsy. Subject to the laws and regulations of the Receiving State, and in so far as practicable the Sending State will be consulted in respect to the conduct of autopsies.

(3) If permitted pursuant to the laws and regulations of the Receiving State, the Sending State shall have the right to take and retain charge of and make arrangements for the disposition of the remains of the Deceased upon notification from the Receiving State. If requested and where circumstances permit, the Receiving State shall assist with arrangements for the return of the Deceased’s remains to the Sending State.

(4) If a member of the Visiting Force or its Civilian Component is believed to be dead but his or her remains have not been recovered, the Receiving State shall permit the Sending State to be involved in the search for and recovery of those remains, subject to the Receiving State’s laws and regulations.

(5) If the remains of the Deceased are to be disposed of in the Receiving State instead of being repatriated, the Receiving State shall have regard to any requests made by the Sending State in

relation to the method of such disposal. Costs of disposal in the Receiving State shall be borne by the Sending State.

### **Article 18 Accident Investigation**

(1) Subject to international law and the law and regulations of the Receiving State, the Parties shall assist each other in carrying out all necessary investigations related to any accident or incident in the Receiving State involving only official aircraft, vessels or vehicles of the Sending State or involving official aircraft, vessels or vehicles of the Sending State and any aircraft, vessels, vehicles or personnel of the Receiving State or a third party in any way.

(2) Subject to international law and the law and regulations of the Receiving State, members of the Visiting Force and its Civilian Component shall, at the request of the authorities of the Receiving State, assist, wherever possible, the Receiving State to secure the site and take custody of all wreckage resulting from all accidents or incidents involving official aircraft, vessels or vehicles of the Sending State in the Receiving State.

(3) Any death related to the accident or incident should be treated in accordance with Article 17 of Annex 1 of this Agreement.