

AN AGREEMENT ON SURFACE TRANSPORT SECURITY

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

THIS AGREEMENT is made on the third day of June 2005.

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.

1. BACKGROUND

1.1 This Agreement is intended to complement and should be considered alongside the *Intergovernmental Agreement on Australia's Counter-Terrorism Arrangements* which sets out a high-level strategy to prevent and deal with acts of terrorism in Australia.

1.2 Recent world events have heightened awareness of security issues. They have also focussed attention on the need to better secure the community and nationally-important surface transport systems from the significant economic and social damage that could occur following a terrorist attack or other forms of unlawful interference with surface transport.

1.3 The bombing of trains in suburban Madrid on 11 March 2004 highlighted the capability and intent of terrorists to attack surface-based passenger transport systems.

1.4 The Council of Australian Governments endorsed the development of this Agreement following recommendations from the Australian Transport Council and the National Counter-Terrorism Committee.

1.5 The Agreement is necessary because achieving sound surface transport security outcomes requires whole-of-government cooperation within jurisdictions, national coordination across jurisdictions, and the support and cooperation of surface transport operators and the community.

1.6 Governments play a significant role in surface transport security, including as:

- (a) planners and developers of surface transport systems;
- (b) investors in the surface transport sector; and
- (c) regulators of the surface transport sector.

Transport Ministers in conjunction with First Ministers and other responsible Ministers are accountable for surface transport security outcomes.

- 1.7 Some surface transport assets or systems have been identified as nationally or state significant critical infrastructure. As a result, this Agreement takes into account the *National Guidelines for Protecting Critical Infrastructure from Terrorism*.

2. OBJECTIVES

2.1 Acknowledging that:

- (a) the surface transport system is a potential target for terrorist activities or other unlawful acts because:-
- (i) large numbers of people are often concentrated in a predictable manner,
 - (ii) vehicles can be used as weapons or to transport weapons,
 - (iii) goods or materials that could potentially cause widespread damage and therefore may be sought for terrorist purposes are carried by the surface transport system; and
- (b) a terrorist attack on the surface transport system may result in considerable injury and death as well as significant economic and social impact on Australian society and Australian interests.

2.2 This Agreement aims to put in place arrangements to protect the community and the surface transport system by:

- (a) reducing the likelihood that the surface transport system will be a target for terrorism and other security threats;
- (b) increasing the implementation of nationally-consistent protective security planning and preventative measures in the surface transport system; and
- (c) helping the surface transport sector across Australia to consistently and more effectively move to higher levels of alert when required.

3. AGREEMENT

The parties agree to the following:

Purpose

- 3.1 The purpose of this Agreement is to formalise cooperation between Australian governments on preventative surface transport security and to provide a mechanism to:
- (a) enable a nationally-consistent approach to surface transport security to reduce the possibility of terrorist acts on surface transport in Australia;

- (b) minimise the possibility that a terrorist act will be displaced from one jurisdiction to another jurisdiction with a lower level of security preparedness;
- (c) enable effective use of materials, expertise and information across Australia;
- (d) allow a common framework to be presented to surface transport operators across Australia;
- (e) ensure there is minimal disruption to trade and passenger movement resulting from different security requirements across different modes and between different jurisdictions;
- (f) ensure that public and operator confidence in nationally-consistent surface transport security systems is maximised; and
- (g) help retain investor confidence in the security of surface transport systems.

Roles and Responsibilities

3.2 Acknowledging that primary responsibility for surface transport security lies with the states and territories, the parties recognise the following roles and responsibilities:

Commonwealth

3.2.1 The Commonwealth will:

- (a) provide strategic leadership, guidelines and coordination in agreement with states and territories to develop a national approach to preventative surface transport security;
- (b) develop, with state and territory governments and private surface transport operators, guidance and other material to help implement nationally-consistent preventative security measures for surface transport;
- (c) engage with national transport industry bodies to ensure that national transport security arrangements are developed with national industry perspectives in mind and receive due attention by industry decision-makers;
- (d) support, in consultation with state and territory government officials, transport sector fora established under critical infrastructure protection arrangements to allow for the sharing of information between transport owners and operators;
- (e) in relation to surface transport services owned by the Commonwealth, ensure that, consistent with the National Guidelines for Protecting Critical Infrastructure from Terrorism, the following activities are undertaken:-

- (i) security risk assessments are conducted in accordance with the accredited risk management standard set by Standards Australia,
 - (ii) security plans are developed incorporating measures that correspond to the four levels of National Counter-Terrorism Alert (Low; Medium; High; and Extreme), and
 - (iii) appropriate preventative security measures are implemented and are tested, reviewed and updated on a regular basis;
- (f) in relation to intelligence and related information:-
- (i) communicate relevant intelligence including strategic threat assessments and other surface transport security information to the states and territories, and
 - (ii) work cooperatively with state and territory officials to communicate strategic threat assessment material and its policy and planning implications to the surface transport industry;
- (g) advise state and territory governments on information related to incidents and suspicious activity that would help the development of surface transport security intelligence; and
- (h) ensure that the Commonwealth's response arrangements are in place in accordance with the *National Counter-Terrorism Plan* and conduct or participate in exercises involving surface transport security scenarios on an ongoing basis.

States and the Australian Capital Territory

3.2.2 The states and the Australian Capital Territory will:

- (a) provide leadership and whole-of-government coordination to develop and implement a nationally-consistent approach to preventative surface transport security within their jurisdictions;
- (b) determine security-identified surface transport operations within their jurisdictions taking into consideration intelligence from Commonwealth and state and territory government authorities and relevant risk assessments;
- (c) ensure that appropriate action is undertaken by security-identified surface transport operators within their jurisdiction such as:-
 - (i) a security risk assessment conducted in accordance with the accredited risk management model set by Standards Australia,
 - (ii) a security plan developed that incorporates measures that correspond to the four levels of National Counter-Terrorism Alert (Low; Medium; High and Extreme), and

- (iii) appropriate preventative security measures implemented and reviewed on a regular basis;
- (d) ensure appropriate arrangements are in place to assess and audit the security plans of security-identified surface transport operations;
- (e) provide guidance and educational material on security to surface transport operators;
- (f) provide surface transport operators with access to guidance material to help implement consistent preventative security measures for surface transport;
- (g) communicate relevant intelligence and surface transport security information to surface transport operators within their jurisdiction;
- (h) ensure that appropriate incident and suspicious activity reporting arrangements are in place; and
- (i) ensure that response arrangements of state and territory governments are in place in accordance with the *National Counter-Terrorism Plan* and conduct or participate in exercises involving surface transport security scenarios on an ongoing basis.

National Co-ordination and Accountability

- 3.3.1 Responsible Ministers will notify each other bi-annually or as necessary on developments within their respective fora that relate to surface transport security.
- 3.3.2 Transport Ministers, through the Australian Transport Council, will:
 - (a) maintain the *National Transport Security Strategy* and an annual work program for surface transport security; and
 - (b) in the context of the Council's annual reporting to the Council of Australian Governments under the *Broad Protocols for the Operation of Ministerial Councils*, report progress against the work program.
- 3.3.3 In relation to the work program, initial priorities include security of urban mass passenger surface transport and transportation of dangerous goods.

Cross-jurisdictional surface transport operations

- 3.4.1 The parties will cooperatively develop and implement a strategy to address the security arrangements for security-identified surface transport operations which cross jurisdictional borders.
- 3.4.2 The strategy will include the agreed approach to determining security-identified surface transport operations which cross jurisdictional borders.

Legal Arrangements

- 3.5 The parties will review their legislative arrangements to make sure that they are sufficiently strong in support of the purpose.

Financial Arrangements

- 3.6 The parties agree that, notwithstanding the role of governments in the protection of surface transport systems, it is a matter of responsibility and good corporate governance that surface transport operators address the security of their assets and continuity of their businesses, as informed by their security risk assessments.

4. INTERPRETATION

Definitions

Australian Transport Council: the forum comprised of Commonwealth, state, territory and New Zealand government Ministers responsible for transport, roads and marine and ports issues and chaired by the Commonwealth Minister responsible for transport;

Commonwealth: the Commonwealth of Australia;

critical infrastructure: those physical facilities, supply chains, information technologies and communication networks which, if destroyed, degraded or rendered unavailable for an extended period, would significantly impact on the social or economic well-being of the nation, or affect Australia's ability to conduct national defence and ensure national security;

security-identified surface transport operation: a surface transport operation determined as having a high risk of being the target of terrorist activities;

surface transport: any activity or system associated with or relating to the movement of people or goods by rail, road, or waterborne vessels not regulated under the *Maritime Transport Security Act 2003*;

parties: collectively the Commonwealth, 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, and the Australian Capital Territory;

states: collectively the State of New South Wales, the State of Victoria, the State of Queensland, the State of Western Australia, the State of South Australia and the State of Tasmania.

5. CONSTRUCTION

- 5.1 In this Agreement, unless expressed to the contrary:

(a) words importing the singular include the plural and vice versa;

(b) if a word or phrase is defined cognate words and phrases have corresponding definitions; and

(c) a reference to:-

(i) a person includes a firm, unincorporated association, corporation and a government or statutory body or authority,

(ii) a person includes its legal personal representatives, successors and assigns,

(iii) a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and

(iv) a reference to a clause is a reference to a clause of this Agreement.

6. *COMMENCEMENT*

6.1 This Agreement commences to operate immediately upon its execution by the parties.

7. *VARIATION OF AGREEMENT*

7.1 This Agreement may be varied by the unanimous agreement of the parties.

8. *TERMINATION*

8.1 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 Beattie MP)
Premier of Queensland)

The Honourable Dr Geoff Ian Gallop MLA)
Premier of Western Australia)

The Honourable Michael Rann MP)
Premier of South Australia)

The Honourable Paul Lennon MHA)
Premier of Tasmania)

Jonathon Donald Stanhope MLA)
Chief Minister of the Australian Capital Territory)