

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

This Agreement is made on 5 October 2017

between

The Commonwealth of Australia

The State of New South Wales

The State of Victoria

The State of Queensland

The State of Western Australia

The State of South Australia

The State of Tasmania

The Australian Capital Territory, and

The Northern Territory of Australia.

## **1. PREAMBLE**

- 1.1. Following the bombing of the Hilton Hotel in Sydney in 1978 the Standing Advisory Committee on Commonwealth/State Cooperation for Protection Against Violence (SAC-PAV) was established to respond to terrorism. SAC-PAV held its first meeting in 1979 and the National Anti-Terrorist Plan (NATP) was subsequently developed in 1980, based on cooperation between the Commonwealth, States and Territories.
- 1.2. On 5 April 2002, the Prime Minister and State and Territory Leaders agreed that a new national framework was needed to meet the new challenges of combating terrorism. The Leaders also reaffirmed the importance of effective cooperation between the jurisdictions and the need to build on existing arrangements in adding elements that would respond quickly and effectively to these challenges.
- 1.3. The original Intergovernmental Agreement on Australia's National Counter-Terrorism Arrangements (the IGA) entered into force on 24 October 2002.
- 1.4. A Intergovernmental Agreement on Counter-Terrorism Laws (the Laws IGA) was entered into on 25 June 2004. The Laws IGA followed the enactment by the Commonwealth of Part 5.3 of the Commonwealth Criminal Code and the enactment by State Parliaments of legislation referring power to the Commonwealth in accordance with paragraph 51 (xxvii) of the Commonwealth Constitution. The State references ensured the comprehensive national application of provisions contained in Part 5.3 of the Commonwealth Criminal Code. The Laws IGA also sets out a process for obtaining the States' and Territories' agreement on Commonwealth counter-terrorism legislative reform.
- 1.5. The IGA was subsequently amended on 8 September 2012 to include New Zealand within these arrangements to ensure the closest possible coordination and cooperation on counter-terrorism matters. To reflect this change in membership, the National Counter-Terrorism Committee was renamed the Australia-New Zealand Counter-Terrorism Committee (ANZCTC).

- 1.6. The 2017 Triennial Review of Australia's National Counter-Terrorism Arrangements highlighted the need to respond to the rapidly evolving and more complex terrorist threat environment and that counter-terrorism is now a core part of jurisdictions' current policing responsibilities.

## **2. AGREEMENT**

- 2.1 The Commonwealth, State and Territory governments now enter into the following intergovernmental agreement on Australia's national counter-terrorism arrangements to optimise Australia's counter-terrorism efforts, including updated Terms of Reference for the ANZCTC.
- 2.2 The Commonwealth, States and Territories are parties to this agreement.

### ***Purpose***

- 2.3 The Commonwealth, States and Territories agree:
- (a) the Purpose of this agreement is to establish an arrangement to enhance the effectiveness of Australia's counter-terrorism efforts through a cooperative partnership between all jurisdictions, together with communities and the private sector, to protect lives as an absolute priority and deal with terrorist acts through the criminal justice system; and
  - (b) the arrangement will enable nationally consistent approaches to countering terrorism, with an emphasis on interoperability, across the prepare, prevent, respond and recover spectrum, including through:
    - i. a comprehensive and complementary legal regime across all jurisdictions; and
    - ii. effective cooperation, coordination and consultation between all relevant agencies in all jurisdictions.

## **3. ROLES AND RESPONSIBILITIES**

### ***Shared***

- 3.1 The Commonwealth, States and Territories recognise:
- (a) countering terrorism is the responsibility of all governments;
  - (b) their joint responsibility in contributing to the development of nationally consistent approaches to countering terrorism;
  - (c) consistency between jurisdictions to maximise opportunities for mutual support between jurisdictions is a core principle of Australia's approach to counter-terrorism;
  - (d) their joint responsibility in improving Australia's counter-terrorism intelligence capability and developing effective means for sharing intelligence to enhance operational and strategic decision-making;
    - i. to assist in this, applying appropriate standards and arrangements for the protection of national security information; and

- (e) the importance of cooperating fully to ensure that the Purpose is met.

### **Commonwealth**

3.2 The Commonwealth, States and Territories recognise:

- (a) the Commonwealth has an important national role and responsibility to counter-terrorism;
- (b) the Commonwealth will maintain Australian Government counter-terrorism related strategies, policies and legislation;
- (c) the Commonwealth will maintain counter-terrorism capabilities within the Commonwealth agencies; and
- (d) Commonwealth agencies will support the States and Territories as appropriate.

### **States and Territories**

3.3 The Commonwealth, States and Territories recognise:

- (a) State and Territory governments and their agencies have primary operational responsibility for responding to terrorist acts in their jurisdiction;
- (b) counter-terrorism is a core part of policing responsibilities and State and Territory governments have responsibility for maintaining counter-terrorism capabilities; and
- (c) State and Territory governments and their agencies have responsibility for maintaining counter-terrorism related policies, capabilities, legislation and plans within their jurisdictions with a view to promoting national consistency and interoperability.

### **Australia-New Zealand Counter-Terrorism Committee**

3.4 The Commonwealth, States and Territories recognise:

- (a) the ANZCTC is the primary forum for developing and coordinating nationally consistent approaches to countering terrorism, through:
  - i. the provision of timely expert strategic and policy advice to Prime Ministers, Premiers, Chief Ministers and other relevant ministers; and
  - ii. emphasising interoperability of counter-terrorism capability;
- (b) the ANZCTC comprises senior representatives from the Commonwealth, States and Territories and New Zealand;
- (c) the ANZCTC is also responsible for developing and managing national counter-terrorism coordination strategies, plans and other documentation; and
- (d) the terms of reference for the ANZCTC at [Annex A](#).

### **New Zealand**

3.4 The Commonwealth, States and Territories recognise:

- (a) New Zealand as a member of the Committee to encourage closer strategic dialogue on matters of bilateral interest relevant to counter-terrorism;

- (b) New Zealand representatives will report independently to the New Zealand Government;
- (c) unless explicitly stated, all decisions and documents produced by the Committee apply only to Australia's counter-terrorism arrangements; and
- (d) New Zealand will not contribute to, or receive from, the special fund administered by the Commonwealth.

### ***National Terrorist Situation***

3.6 The Commonwealth, States and Territories recognise:

- (a) in the event of a terrorist incident, the Commonwealth and the directly affected State (States) and/or Territory (Territories) may agree the incident constitutes a National Terrorist Situation, reflecting a shared understanding of the benefits of national coordination;
  - i. a National Terrorist Situation could be considered when a terrorist incident(s) impacts Commonwealth interests or has national implications and requires broad policy and strategy coordination by the Commonwealth;
  - ii. a National Terrorist Situation could, for example, involve Commonwealth targets, and/or multi-jurisdictional terrorist act, and/or threats against civil aviation or maritime interests, and those involving chemical, biological, radiological and nuclear materials;
- (b) the Commonwealth will consult and seek agreement from the directly affected State (States) and/or Territory (Territories) before jointly deciding the incident is a National Terrorist Situation;
  - i. States and Territories agree not to withhold unreasonably such agreement; and
- (c) arrangements for a response to a National Terrorist Situation will recognise the operational integrity of, and will not inhibit effective response or consequence management by, State and Territory governments and their agencies.

## **4. LEGISLATIVE ARRANGEMENTS**

4.1 The Commonwealth, States and Territories will:

- (a) take whatever legislative action is necessary to ensure that their legal frameworks allow for terrorist incidents to be prevented, disrupted, investigated, responded to, and/or prosecuted; and
- (b) review their legislative arrangements to ensure they are effective in responding to changes in the national security environment.

4.2 States and Territories will consult each other and the Commonwealth on possible areas of State and Territory counter-terrorism legislative reform. Model principles or legislation will, where possible and appropriate, be developed to support national consistency.

4.3 The Commonwealth will also consult States and Territories on possible areas of Commonwealth counter-terrorism legislative reform.

## 5. ACCOUNTABILITY

5.1 ANZCTC members are to provide regular and timely reports to their ministers on the ANZCTC's priorities and activities.

5.2 The ANZCTC will report directly to the Prime Minister, Premiers and Chief Ministers through the Council of Australian Governments by way of an annual report and through additional advice when necessary.

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

## 6. FINANCIAL ARRANGEMENTS

6.1 Australia's counter-terrorism capability is developed through use of the:

- (a) policing, emergency management and policy capability funded by the States and Territories; and
- (b) operational and policy capability of relevant Commonwealth agencies funded by the Commonwealth.

6.2 The Commonwealth also provides and administers a special fund to support a program of training, development and counter terrorism exercises, the purchase of specialist counter terrorism equipment, and forums, workshops and meetings which support the development of national policy and capabilities. The Capability Steering Group (CSG), reporting to the ANZCTC, guides the development of Australia's counter-terrorism capability.

- (a) Annual appropriations from the Commonwealth to the special fund may be earmarked for specific purposes consistent with the fund's objective.
- (b) ANZCTC, potentially on the advice of the CSG, can allocate non-earmarked funding towards identified priorities consistent with the fund's objective.

## 7. INTERPRETATION

### *Definitions*

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

**Agreement** means this document and includes all Schedules, and Annexes;

**Annex** means an annex to this Agreement;

**ANZCTC** means the Australia-New Zealand Counter-Terrorism Committee;

**Jurisdiction** means the jurisdiction of any of the Parties;

**Party** means any of the Commonwealth of Australia, states or territories that is a party to this Agreement;

**Purpose** means the Purpose set out in Clause 2.3;

**Terrorist act** means an act, or a threat to act, that meets the criteria as set out in Part 5.3 of the *Criminal Code Act 1995*;

**Terrorist incident** means a terrorist act as defined in the *Criminal Code Act 1995*; and includes preventative investigative activities; response to incidents; investigation of incidents; recovery from incidents; and the preparations to support these activities.

## **8. CONSTRUCTION**

8.1 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 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;
  - (ii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation; and
  - (iii) a reference to a clause is a reference to a clause of this Agreement.

## **9. COMMENCEMENT**

9.1 This Agreement commences to operate immediately upon its execution by the Parties.

## **10. VARIATION OF AGREEMENT**

10.1 This Agreement may be varied from time to time by the unanimous agreement of the Parties.

10.2 A variation pursuant to this clause will be in writing, signed by all Parties to this Agreement, and notice thereof will immediately following such signature be given to all the Parties.

## **11. WITHDRAWAL FROM AGREEMENT**

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

## **12. TERMINATION**

12.1 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:**

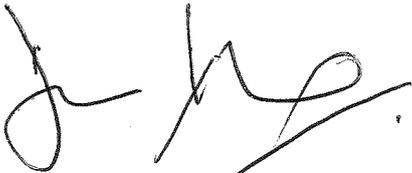
The Honourable Malcolm Turnbull MP  
Prime Minister of the Commonwealth of Australia

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The Honourable Gladys Berejiklian MP  
Premier of New South Wales

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The Honourable Daniel Andrews MP  
Premier of Victoria

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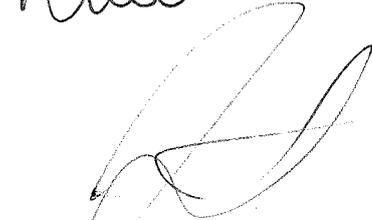
The Honourable Anastacia Palaszczuk MP  
Premier of Queensland

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The Honourable Mark McGowan MLA  
Premier of Western Australia

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The Honourable Jay Weatherill MP  
Premier of South Australia

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The Honourable Will Hodgman MP  
Premier of Tasmania

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The Honourable Michael Gunner MLA  
Chief Minister of the Northern Territory

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) 

Andrew Barr MLA  
Chief Minister of the Australian Capital Territory

)  
) 

Date

## ANNEX A

### AUSTRALIA-NEW ZEALAND COUNTER-TERRORISM COMMITTEE TERMS OF REFERENCE

#### MISSION

1. The Australia-New Zealand Counter-Terrorism Committee (ANZCTC) is to contribute to the security of both countries:
  - a) through the coordination of a cooperative arrangement to counter-terrorism and its consequences;
  - b) by promoting nationally consistent approaches to countering terrorism, with an emphasis on interoperability, across the prepare, prevent, respond and recover spectrum; and
  - c) by enhancing the existing relationship between Australia and New Zealand specifically in relation to counter-terrorism.

#### OBJECTIVES

2. The ANZCTC will:
  - a) provide a forum for strategic dialogue on matters of bilateral interest relevant to counter-terrorism between Australia and New Zealand; and
  - b) provide timely expert strategic and policy counter-terrorism advice to Prime Ministers, Premiers, Chief Ministers and other relevant ministers.

#### ROLES AND RESPONSIBILITIES

3. To meet these objectives, the ANZCTC will:
  - a) enable effective counter-terrorism coordination through inter-jurisdictional and inter-agency cooperation;
  - b) review current and emerging domestic and international trends in terrorism;
  - c) identify risks and appropriate mitigation activities;
  - d) review, monitor and advise on the adequacy of Australia's counter-terrorism legislation and recommend legislative changes where required; and
  - e) develop strategic and policy advice on Australia's counter-terrorism efforts.
4. In regard to Australia's counter-terrorism arrangements, the Commonwealth of Australia, States and Territories will pursue nationally consistent approaches to countering terrorism through emphasising interoperability of counter-terrorism capability. This will be done by:
  - a) developing strong cooperative relationships between all parties;
  - b) maximising opportunities for mutual support between jurisdictions;
  - c) pursuing effective arrangements for the sharing of intelligence;

- d) providing advice on the administration of the Special Fund, and prioritising funding for:
  - i. the ANZCTC's highest priorities and strategies;
  - ii. activities that support shared doctrine, consistent training, shared exercising and effective information-sharing; and
  - iii. technologies and equipment that are outside jurisdictions' respective core counter-terrorism policing responsibilities; and
  - iv. developing evaluation and reporting methodologies where required.
- 5. The ANZCTC will develop and manage national counter-terrorism strategies, plans and other documentation to coordinate Australia's counter-terrorism efforts, including:
  - a) Australia's Counter-Terrorism Strategy;
  - b) Australia's National Counter-Terrorism Plan;
  - c) the National Counter-Terrorism Handbook; and
  - d) guidelines, manuals and other documents created by the ANZCTC.
- 6. The ANZCTC will maintain its counter-terrorism documentation to ensure currency and consistency, and that appropriate legal protections are maintained.

## **ACCOUNTABILITY**

- 7. ANZCTC members are to provide regular and timely reports to their ministers on the ANZCTC's priorities and activities.
- 8. The ANZCTC will report directly to the Prime Minister, Premiers and Chief Ministers through the Council of Australian Governments by way of an annual report and through additional advice when necessary.

## **MEMBERSHIP**

- 9. The ANZCTC comprises senior representatives from the Commonwealth, States and Territories and New Zealand.
- 10. Members will have at least a SECRET Australian national security clearance or the New Zealand equivalent.
- 11. The Commonwealth will co-chair the ANZCTC with a representative of the States and Territories on a rotational basis. The Commonwealth co-chair will chair the Committee for matters requiring urgent and/or out-of-session consideration.

## **GOVERNANCE AND PROCEDURAL ARRANGEMENTS**

- 12. The ANZCTC is to develop any procedural and governance arrangements that it deems appropriate to fulfil its mission and objectives.
- 13. The Commonwealth will provide secretariat support.