

ATU

ACCORDO - SCIENTIFICO  
(FINCATO)

MEMORANDUM OF UNDERSTANDING  
FOR CO-OPERATION IN SCIENTIFIC RESEARCH AND TECHNOLOGY  
BETWEEN  
THE GOVERNMENT OF THE REPUBLIC OF ITALY  
AND  
THE GOVERNMENT OF AUSTRALIA

1993

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE REPUBLIC OF ITALY (hereinafter called the "Parties"):

NOTING the provision of the Cultural Agreement between the Government of the Republic of Italy and the Government of Australia done at Rome on 8 January 1975, which seeks to encourage the development of relations in social, cultural, artistic and scientific fields and the subsequent arrangements for scientific and technological cooperation signed between counterpart agencies of the two countries, and

DESIRING to establish a framework for the conduct of "Cooperative Activities" in scientific and technological research by agencies and individuals (hereinafter called "Participants") of both countries which will extend and strengthen cooperation in areas of common interest and encourage the application of the results of the Cooperative Activities to the social and economic benefit of Australia and Italy,

HAVE COME TO THE FOLLOWING UNDERSTANDING:

#### PARAGRAPH 1 - DEFINITIONS

For the purpose of this Memorandum of Understanding for Co-operation in Scientific Research and Technology (hereinafter called the "MOU") and its Annexes:

"Participant" means a person or body participating in a Cooperative Activity under this MOU.

"Participants' Agreements" means agreements binding under domestic law between Participants in a Co-operative Activity pursuant to Paragraph 5.3 of this MOU and which address the issues contained in Annex 1 to this MOU.

"Cooperative Activity" means an activity carried out under this MOU and undertaken jointly by Participants from the countries of the two Parties that is acknowledged in writing by both Parties to be undertaken under this MOU.

"Confidential Information" means all trade secrets, scientific or technical data, results or methods of research and development, commercial or financial information or other information of whatever description and in whatever form (whether written or oral, visible or invisible) that meets all of the following conditions:

- (a) is of a type customarily held in confidence;
- (b) is not generally known or publicly available from other sources;
- (c) has not been previously made available by the owner to others without an obligation designating its confidentiality; and
- (d) is not already properly and lawfully in the possession of the recipient without an obligation concerning confidentiality.

"Intellectual Property" shall have the meaning provided for in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm 14 July, 1967, and will include all rights relating to plant varieties, Confidential

Information, circuit layouts, unregistered trade marks and service marks.

"Background Intellectual Property" means Intellectual Property that has been developed independently of the Cooperative Activity, either before it commenced or while it is under way, and that is made available by one of the Participants for use in the activity on terms that are to be agreed by the Participants.

"Existing Intellectual Property" means all Intellectual Property that is made known by one Participant to another during the negotiations for a Participant's Agreement.

"Foreground Intellectual Property" means Intellectual Property that is created in or developed as a direct result of undertaking a Cooperative Activity.

#### PARAGRAPH 2 - OBJECTIVES

This MOU establishes the framework for co-operation in scientific research and technology between the Parties to extend and facilitate cooperation between Australia and Italy in fields of common interest as indicated in Paragraph 4.2.

#### PARAGRAPH 3 - PRINCIPLES

Cooperative Activities under this MOU will be conducted on the basis of the following principles:

- (a) conformity with the relevant national laws, rules and regulations;
- (b) mutual benefit;
- (c) encouragement of Participants to provide effective protection and equitable distribution of any Intellectual Property and other property brought to, created in or resulting from such Cooperative Activities;
- (d) full and timely exchange of information relevant to the Cooperative Activities;
- (e) shared costs of cooperation, taking into account respective risks and benefits and availability of funds; and
- (f) cooperation in the promotion of research and development results with the purpose of maximising economic and social benefits and the industrial development of both countries.

#### PARAGRAPH 4 - SCOPE

4.1 Cooperative Activities under this MOU will be restricted to those directed to peaceful purposes.

4.2 Fields in which such Cooperative Activities may occur include but are not limited to the following:

- (a) Agriculture and Marine Science
- (b) Advanced Manufacturing Technologies
- (c) Astronomy and Astrophysics
- (d) Biotechnology and Molecular Biology

- (e) Medical Research
- (f) New Materials and Processes
- (g) Pure Sciences, including Chemistry, Physics and Mathematics
- (h) Science and Technology of the Environment and Habitat
- (i) Telecommunications and Information Technologies

4.3 An indicative list of potential Participants is at Annex-2 of this MOU.

4.4 Means for pursuing Cooperative Activities may include the following:

- (a) exchange of publications, documentation and technical and other information relevant to cooperation under this MOU;
- (b) participation of research institutions, bodies (corporate or otherwise) and other persons engaging in joint research projects conducted by Participants from Australia or from Italy;
- (c) shared use of research facilities in pursuit of cooperation on research projects; and
- (d) visits and exchange of scientists, engineers and other appropriate personnel for the purposes of participating in seminars, symposia, workshops, and research projects.

#### PARAGRAPH 5 - MANAGEMENT

5.1 Each Party will designate an Executive Officer responsible for the coordination and facilitation of Cooperative Activities under this MOU.

5.2 The Executive Officers will discuss and review, from time to time, the implementation of this MOU and related policy issues.

5.3 In the case of Cooperative Activities in which the Parties are directly involved through provision of funding and/or personnel, they will use their best endeavours to ensure that Participants enter into Participants' Agreements which:

- (a) specify the objectives of the Cooperative Activity;
- (b) identify the contributions to be made by each Participant;
- (c) establish and schedule the proposed work program, including specifying the interdependencies between Participants in the proposed work program;
- (d) provide for the management of the Cooperative Activities and variation of the Participants' Agreement consistent with the principles set down in Paragraph 3 of this MOU;
- (e) have regard to the guidelines for the management of Intellectual Property provided in Annex-1 to this MOU;
- (f) have regard to such terms and conditions as may be required by the Parties, or agents acting on behalf of the Parties, pursuant to the provision of funding or other contracted

support, including, for example, indemnities for injury, illness, etc.

- (g) require that a report be submitted in accordance with the requirements of the funding agency and a summary be provided to the Executive Officers; and
- (h) include such other matters as may be deemed relevant.

#### PARAGRAPH 6 - DISSEMINATION AND USE OF INFORMATION BY THE PARTIES

- 6.1 The dissemination and use of information and the management, allocation and exercise of Intellectual Property rights resulting from Cooperative Activities under this MOU will be subject to the principles set out in Paragraph 3 above and the provisions set out in Annex 1.
- 6.2 The Parties will use their best endeavours to ensure that they, their servants and agents keep as confidential all Confidential Information related to Cooperative Activities.
- 6.3 Information which is not Confidential Information may be published or otherwise disseminated by the Parties in reports of activities under this MOU or for such other purposes as they deem appropriate.

#### PARAGRAPH 7 - FUNDING

- 7.1 Support for Cooperative Activities under this MOU will be subject to the availability of funds and the applicable policies, laws and regulations of each country.
- 7.2 Support for Cooperative Activities under this MOU will be provided by the Parties as defined in Annex 3.

#### PARAGRAPH 8 - ENTRY OF PERSONNEL AND EQUIPMENT

Each Party will use its best efforts to facilitate entry to and exit from its territory of personnel, material and equipment associated with activities under this MOU, in accordance with its laws and regulations.

#### PARAGRAPH 9 - RESOLUTIONS OF DISPUTES

The Parties will endeavour to resolve any dispute between them connected with this MOU by prompt and friendly consultations and negotiations, initially between the Executive Officers.

#### PARAGRAPH 10 - REVIEW

- 10.1 This MOU will be reviewed during the fourth year following the anniversary of the date on which it came into effect.
- 10.2 Annex 2 will be reviewed during the second year following the anniversary of the date on which the MOU came into effect, or sooner if requested in writing by either Party.

#### PARAGRAPH 11 - ENTRY INTO FORCE AND TERMINATION


- 11.1 This MOU will become effective on the date of signature and will remain effective for five years.

11.2 This MOU may be amended or extended at any time by mutual determination of the Parties in writing through the diplomatic channel.

11.3 This MOU may be terminated at any time by either Party upon six months prior written notice through the diplomatic channel. The expiration or termination of this MOU will not affect the validity or duration of any agreement or arrangement made under it.

Signed at Canberra on the thirteenth day of December, 1993, in the English language.

For the Government of  
the Republic of Italy:



For the Government of  
Australia:



## ANNEX - 1

PROTECTION, OWNERSHIP AND ALLOCATION OF  
INTELLECTUAL PROPERTY RIGHTS BY PARTICIPANTS IN  
ACTIVITIES UNDER THIS MEMORANDUM OF UNDERSTANDING (MOU)

1. This Annex forms an integral part of this Memorandum of Understanding for Scientific Research and Technology between the Government of Australia and the Government of the Republic of Italy.
2. This Annex provides guidelines specifying the Intellectual Property issues that should be addressed by Participants when they negotiate Agreements, binding under domestic law, for the development and performance of Cooperative Activities under this MOU. By giving appropriate consideration to these issues, Participants will help to safeguard their interests, consistent with the objectives of this MOU.
3. Notwithstanding anything stated or implied in this MOU, it is the sole responsibility of prospective and actual Participants to take all necessary steps, including obtaining expert professional advice, to ensure that their legal and commercial positions are adequately protected and to ensure adequate legal and physical protection for Background Intellectual Property, Existing Intellectual Property, Foreground Intellectual Property and Confidential Information.
4. The Participants' Agreements should take into account:
  - (a) the aims and nature of the mutually decided arrangements for the advancement of the Cooperative Activity;
  - (b) the relative contributions of the Participants in intellectual, financial, management, and other relevant terms;
  - (c) the relevant competition laws of the two countries; and
  - (d) all other factors deemed to be appropriate.
5. Participants' Agreements should contain clauses that:
  - (a) specify appropriate procedures for checking, prior to the Cooperative Activity, and as appropriate during the Cooperative Activity, for the existence of third party Intellectual Property that might:
    - (i) be infringed by the Participants while carrying out Cooperative Activities; or
    - (ii) infringe Foreground Intellectual Property created pursuant to the Cooperative Activity;
  - (b) identify each Participant's Background Intellectual Property (including Confidential Information) and:
    - (i) the nature of the protection that has been, or needs to be, accorded to the Background Intellectual Property; and
    - (ii) the nature of any third party rights restricting the use of Background Intellectual Property;

- (c) specify for Foreground Intellectual Property appropriate procedures to identify, determine ownership of and protect that property;
- (d) specify appropriate procedures for approving the conditions on which participants may be licensed to use Foreground Intellectual Property for its own non commercial purposes (which purposes exclude sub-licensing and commercial purposes) and for commercial purposes;
- (e) allow a Participant to use another Participant's Background Intellectual Property when it is necessary for the commercial use of Foreground Intellectual Property;
- (f) specify appropriate procedures for licensing third parties to use Foreground Intellectual Property, including where such use requires access to another Participant's Background Intellectual Property and the conditions upon which a licence to the Background Intellectual Property shall be granted;
- (g) specify appropriate procedures for prior approval by all the Participants to the public disclosure of Confidential Information related to or resulting from the Cooperative Activity;
- (h) specify the rights and obligations of visiting researchers involved in the Cooperative Activity and particularly in relation to Foreground Intellectual Property created by them during their work in the Cooperative Activity;
- (i) nominate the governing law of the participants' Agreement; and
- (j) specify appropriate procedures for the resolution of disputes.



## ANNEX - 2

LIST OF PARTICIPANTS INVOLVED IN SCIENTIFIC AND TECHNOLOGICAL  
COLLABORATION BETWEEN AUSTRALIA AND ITALY

The following is an indicative list of Participants who are or may wish to become involved in Cooperative Activities under this MOU:

## ITALY

Scientific area of Trieste  
(note below)

National Institute of Nuclear  
Physics (INFN)

National Research Council (CNR)

Organisation for New  
Technologies, Energy and  
Environment (ENEA)

Centre "Ettore Majorana" of  
Erice

Cini Foundation of Venice

International Centre for  
Genetic Engineering and  
Biotechnology (ICGEB) and  
Italian Universities

CNR, ENEA, INFN

Agenzia Spaziale Italiana  
Telecommunications, Earth  
observation, Scientific  
Programmes

Universita degli Studi di Padova  
Hydraulics, Technology,  
Environmental Engineering

Universita degli Studi di Perugia  
Institute of Medical Pathology  
Research on Diabetes

Universita degli Studi di  
Firenze  
Faculty of Architecture  
Architectural Design,  
Technology, Town Planning

## AUSTRALIA

Australian Science and Technology  
Parks

Australian Nuclear Science and  
Technology Organisation (ANSTO)  
and other Australian counterparts  
in the field of nuclear and  
sub-nuclear physics

Commonwealth Scientific and  
Industrial Research Organisation  
(CSIRO)

Australian scientific institutions  
in the fields of rational use of  
energy, environmental protection  
and technological innovation.

Respective Australian  
institution(s).

Respective Australian  
institution(s).

CSIRO and Australian Universities  
(in the field of genetic  
engineering and molecular biology)

Australian counterparts (in the  
field of robotics and laser  
techniques)

Australian Space Office

University of Western Australia

Australian National University  
John Curtin School of Medical  
Research

Royal Melbourne Institute of  
Technology

Universita degli Studi di  
Bologna  
Exchange of Lecturers,  
Research, Seminars

Universita di Siena  
Geology and Biology

Universita di Padova  
Exchange of Students and  
Researchers

Italian Ministry of  
Agriculture, Italian Institutes  
of Research and Agricultural  
Experimentation and the  
University of Perugia  
Citriculture, Floriculture,  
Genetic improvement, Cermoplasms  
collection, Biotechnologies  
applied to fruit trees,  
Microbiology and biomass of arid  
lands

Italian National Olympic  
Committee  
Sport  
Research into Medicine of Sport,  
Research into sport facilities,  
infrastructure and technical  
solutions,

and such other institutions, universities and centres of research in  
each country as may mutually benefit from undertaking Cooperative  
Activities.

Note:

The Italian Party will promote every suitable initiative which  
facilitates Australia's participation in the scientific activities of  
the Trieste centres, including the New International Centre for  
Science (ICS), the International Centre for Genetic Engineering and  
Biotechnology (ICGEB) as well as the International Centre for  
Theoretical Physics (ICTP).

In this regard, the Italian Party expresses the hope that Australia  
feels inclined to become a signatory of the founding treaty of ICGEB.

Universities of Sydney, Western  
Australia, Queensland and Flinders

University of Tasmania

Universities of Melbourne, New  
South Wales and Western Australia

CSIRO  
Universities of  
Western Australia,  
Sydney and  
Queensland

Australian Institute of Sport  
- Canberra  
Australian Olympic Committee

## ANNEX - 3

OFFER OF FUNDING SUPPORT FOR COOPERATIVE SCIENCE AND TECHNOLOGY  
ACTIVITIES BY THE PARTIES

This Annex sets out the basis of funding support for Cooperative Activities under this MOU.

## RESEARCH EXPENDITURES

Where the Participant is a research institution, research expenses incurred in pursuing a Cooperative Activity will be borne by that research institution. Research institutions will bear the costs of research undertaken at that institution. The cost of bearing such research expenses may be supported by either Government under such arrangements as are established at the time.

## TRAVEL AND ACCOMMODATION EXPENDITURES ASSOCIATED WITH VISITS

Where a Participant from one country wishes to visit the other country for the purposes of advancing a Cooperative Activity, the Participant will meet all costs associated with that visit.

Subject to the prior approval by the Ministry of Foreign Affairs of a proposal for a Cooperative Activity, the Italian Government will meet international travel costs incurred by Italian Participants in visiting Australia for the purpose of advancing that Cooperative Activity.

For the purposes of this MOU, the Italian Government offers to fund under the preceding clause up to fifteen visits in any two-year period.

Any funding provided by the Italian Government will be conditional on an assurance from the Participant that a final report of the proceedings and outcomes of the visit will be provided to the Ministry of Foreign Affairs within a set time following the visit. A portion of the allowance may be withheld pending receipt of the report.

Where a proposal for a Cooperative Activity has been submitted by an Australian Participant to an Australian funding agency and approved by that agency, the agency, acting for the Australian Government, will assist that Participant in meeting travel, accommodation and other relevant eligible costs incurred by the Participant in visiting Italy for the purpose of advancing that Cooperative Activity.

For the purposes of this MOU the relevant Australian funding agency will provide support consistent with the operating guidelines of that agency.