

MEMORANDUM OF UNDERSTANDING

FOR CO-OPERATION IN SCIENTIFIC RESEARCH AND TECHNOLOGY

BETWEEN

THE MINISTRY OF EDUCATION, UNIVERSITY AND RESEARCH OF THE
ITALIAN REPUBLIC

AND

THE DEPARTMENT OF INDUSTRY, INNOVATION, CLIMATE CHANGE,
SCIENCE, RESEARCH AND TERTIARY EDUCATION OF AUSTRALIA

THE MINISTRY OF EDUCATION, UNIVERSITY AND RESEARCH OF THE ITALIAN REPUBLIC, AND THE DEPARTMENT OF INDUSTRY, INNOVATION, CLIMATE CHANGE, SCIENCE, RESEARCH AND TERTIARY EDUCATION OF AUSTRALIA (hereinafter called the "Participants"):

HAVING REGARD to the Joint Declaration for Co-operation in Scientific Research and Technology between the Government of the Italian Republic and the Government of Australia, signed in Melbourne on 25 March 2002, which seeks to encourage the development of bilateral relations and to strengthen co-operation in scientific research and technology,

CONSIDERING the state of bilateral scientific and technological co-operation, across a range of important scientific research and technology fields of mutual interest, and

DESIRING to establish a framework for the conduct of "Co-operative Activities" in scientific and technological research by agencies and individuals (hereinafter called "Other Participants") of both Countries which will extend and strengthen co-operation in areas of common interest and encourage the application of the results of the Co-operative Activities to the social, environmental and economic benefit of Italy and Australia,

HAVE REACHED THE FOLLOWING UNDERSTANDINGS:

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 Annex:

"Other Participant" means a person or body participating in a Co-operative Activity under this MOU.

"Other Participants' Agreements" means agreements binding under the domestic law of a nominated jurisdiction between Other 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.

"Co-operative Activity" means an activity carried out under this MOU and undertaken jointly by Other Participants from the Countries of the Participants that is acknowledged in writing by both Participants 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" has 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 Co-operative Activity, either before it commenced or while it is under way, and that is made available by one of the Other Participants for use in the activity on terms that are to be agreed by the Other Participants.

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

PARAGRAPH 2 – OBJECTIVES

This MOU establishes the framework for co-operation in scientific research and technology between the Participants to extend and facilitate co-operation between Italy and Australia in fields of common interest as indicated in Paragraph 4.

PARAGRAPH 3 – PRINCIPLES

Co-operative 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) encouraging the Other Participants to provide effective protection and equitable distribution of any Intellectual Property and other property brought to, created in or resulting from such Co-operative Activities;

(d) full and timely exchange of information relevant to the Co-operative Activities;

(e) shared costs of co-operation, taking into account respective risks and benefits and availability of funds; and

(f) co-operation in the promotion of research and development results with the purpose of maximising economic, environmental and social benefits and the industrial development of both countries.

PARAGRAPH 4 – SCOPE

4.1 Co-operative Activities under this MOU will be restricted to those directed entirely for civil and peaceful purposes.

4.2 All areas of scientific research and technology may be supported under this MOU. The Participants may define, by mutual consent, priority areas for co-operation under this MOU.

4.3 Subject to the domestic laws and regulations of each Country, means for pursuing Co-operative Activities may include the following:

(a) development of scientific and technological joint research programmes, work plans and projects including the provision of research materials and equipment, as considered jointly necessary by the Participants;

(b) exchange of students, scientists, researchers, specialists and scholars;

(c) exchange of scientific and technological information;

(d) organisation of scientific and technological seminars, conferences and workshops in areas of mutual interest; and

(e) other modalities of co-operation on science and technology as mutually determined by the Participants.

4.4 With particular reference to the field of civil space activities, the Participants welcome with satisfaction the ongoing bilateral relations and encourage and support the co-operation between the Italian Space Agency (ASI) and the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education on space matters of common interest.

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

PARAGRAPH 5 - MANAGEMENT

5.1 Each Participant will designate an Executive Officer responsible for the coordination and facilitation of Co-operative 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. The Executive Officers will promote dialogue between the Participants and Other Participants towards encouraging closer science and technology collaboration, and will identify events and occasions that can be used to promote science and technology collaboration between the Participants.

5.3 In the case of Co-operative Activities in which the Participants are directly involved through provision of funding and/or personnel, they will use their best

endeavours to ensure that Other Participants enter into Other Participants' Agreements which:

- (a) specify the objectives of the Co-operative Activity;
- (b) identify the contributions to be made by each Other Participant;
- (c) establish and schedule the proposed work program, including specifying the interdependencies between Other Participants in the proposed work program;
- (d) provide for the management of the Co-operative Activities and variation of the Other 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 Participants, or agents acting on behalf of the Participants, 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 PARTICIPANTS

6.1 The dissemination and use of information and the management, allocation and exercise of Intellectual Property rights resulting from Co-operative 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 Participants will use their best endeavours to ensure that they keep as confidential all Confidential Information related to Co-operative Activities.

6.3 Information which is not Confidential Information may be published or otherwise disseminated by the Participants in reports of activities under this MOU or for such other purposes as they deem appropriate.

PARAGRAPH 7 - FUNDING

7.1 Support for Co-operative Activities under this MOU will be subject to each Participant's availability of funds and the applicable policies, laws and regulations of each Country.

PARAGRAPH 8 - ENTRY OF PERSONNEL AND EQUIPMENT

8.1 Each Participant 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

9.1 The Participants will endeavour to resolve any dispute between them connected with this MOU by prompt and friendly consultations and negotiations, initially between the Executive Officers. Disputes will not be referred to any third party or tribunal for adjudication or arbitration.

PARAGRAPH 10 – REVIEW

10.1 This MOU will be reviewed during the fourth year after the date on which it came into effect.

PARAGRAPH 11 - ENTRY INTO EFFECT AND TERMINATION

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

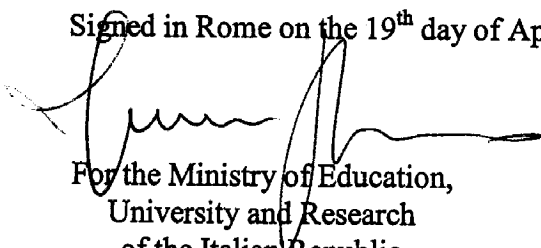
11.2 This MOU may be amended or extended at any time by mutual determination of the Participants in writing.

11.3 This MOU may be terminated at any time by either Participant upon six months prior written notice through diplomatic channels. The expiration or termination of this MOU will not affect the validity or duration of any Other Participants' Agreement made pursuant to it.

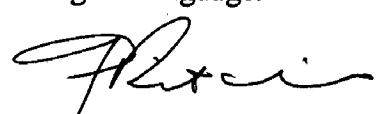
PARAGRAPH 12 - STATUS OF THIS MOU

12.1 This MOU embodies the understanding of the Participants and does not create legally binding rights or obligations.

Signed in Rome on the 19th day of April, 2013, in the English language.



For the Ministry of Education,
University and Research
of the Italian Republic



For the Department of Industry,
Innovation, Climate Change, Science,
Research and Tertiary Education
of Australia

ANNEX - 1

PROTECTION, OWNERSHIP AND ALLOCATION OF INTELLECTUAL PROPERTY RIGHTS BY OTHER PARTICIPANTS IN CO-OPERATIVE 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 Ministry of Education, University and Research of the Italian Republic and the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education of Australia.
2. This Annex provides guidelines specifying the Intellectual Property issues that should be addressed by Other Participants when they negotiate Other Participants' Agreements, binding under domestic law, for the development and performance of Co-operative Activities under this MOU. By giving appropriate consideration to these issues, Other 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 Other 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, Foreground Intellectual Property and Confidential Information.
4. The Other Participants' Agreements should take into account:
 - (a) the aims and nature of the mutually decided arrangements for the advancement of the Co-operative Activity;
 - (b) the relative contributions of the Other 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. Other Participants' Agreements should contain clauses that:
 - (a) specify appropriate procedures for checking, prior to the Co-operative Activity, and as appropriate during the Co-operative Activity, for the existence of third party Intellectual Property that might:
 - (i) be infringed by the Other Participants while carrying out Co-operative Activities; or
 - (ii) infringe Foreground Intellectual Property created pursuant to the Co-operative Activity;
 - (b) identify each Other 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 the Other 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 an Other Participant to use another Other 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 will be granted;
- (g) specify appropriate procedures for prior approval by all the Other Participants to the public disclosure of Confidential Information related to or resulting from the Co-operative Activity;
- (h) specify the rights and obligations of visiting researchers involved in the Co-operative Activity and particularly in relation to Foreground Intellectual Property created by them during their work in the Co-operative Activity;
- (i) nominate the governing law of the Other Participants' Agreement; and
- (j) specify appropriate procedures for the resolution of disputes.