

AGREEMENT BETWEEN JAPAN AND AUSTRALIA CONCERNING
THE FACILITATION OF RECIPROCAL ACCESS AND COOPERATION
BETWEEN THE SELF-DEFENSE FORCES OF JAPAN
AND THE AUSTRALIAN DEFENCE FORCE

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Japan and Australia (hereinafter referred to individually as a "Party" and collectively as the "Parties"),

Recognising their shared interests in regional and global peace and stability;

Noting their mutual commitment to the peaceful settlement of international disputes and to the maintenance of international peace and security;

Desiring to deepen the security and defence relationship between the Parties by establishing a legal framework for facilitating mutually beneficial defence cooperation;

Desiring to define the status of the Visiting Force and the Civilian Component of a Party while in the territory of the other Party; and

Acknowledging their respective obligations under international law,

Have agreed as follows:

Article I

For the purposes of this Agreement:

- (a) "Civilian Component" means, unless otherwise mutually determined by the Parties, the civilian nationals of the Sending State accompanying the Visiting Force, who are employed by or in the service of the Visiting Force and who are neither ordinarily resident in the Receiving State nor contractors engaged by, or on behalf of, the Visiting Force;
- (b) "Force(s)" means in the case of Japan, the Self-Defense Forces, and in the case of Australia, the Australian Defence Force;

- (c) "Visiting Force" means the Force of a Party, which, with the consent of the other Party, is present in the territory of that other Party in connection with cooperative activities as referred to in paragraph 1 of Article IV;
- (d) "member" in relation to the Visiting Force means any person who belongs to the Visiting Force;
- (e) "Official Vehicle" means a motor vehicle (including a motorcycle or an armoured vehicle) owned by or, unless otherwise indicated, on exclusive hire or lease to, the Sending State that is operated by a member of the Visiting Force or the Civilian Component for the purpose of performing official duties;
- (f) "Receiving State" means the Party in whose territory the Visiting Force or the Civilian Component is present, or as the context requires, the territory of that Party; and
- (g) "Sending State" means the Party to which the Visiting Force or the Civilian Component belongs.

Article II

The purpose of this Agreement is to facilitate mutually beneficial defence cooperation between the Parties by establishing a framework for the conduct of such cooperation, and defining the status of the Visiting Force and the Civilian Component.

Article III

It is the duty of the Visiting Force and the Civilian Component and the members thereof to respect the laws and regulations of the Receiving State and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in the Receiving State. It is also the duty of the Sending State to take necessary measures to that end.

Article IV

1. This Agreement shall apply to matters regarding mutually determined cooperative activities conducted by the Forces (hereinafter referred to as "cooperative activities") in the Receiving State. Paragraph 1 of Article XXIII and other provisions related to the settlement of claims under that paragraph shall also apply to cooperative activities conducted in waters and superjacent air space beyond the territory of any State where the presence of the Forces therein is incidental to the conduct of cooperative activities in the Receiving State. Nothing in this Agreement shall be construed as providing a basis for the Force of a Party to conduct activities in the territory of the other Party without its consent.

2. The Parties shall cooperate and, where required, take appropriate measures in accordance with their laws and regulations to ensure that cooperative activities:

- (a) do not adversely impact upon the national interests of the Receiving State, or the readiness or capabilities of the Force of the Receiving State;
- (b) are carried out with due regard for public safety; and
- (c) do not interfere unnecessarily with navigation, aviation, telecommunication, or land travel to, from or within the Receiving State.

3. This Agreement shall not apply to any activities conducted by the Australian Defence Force when acting as the United Nations forces pursuant to the Agreement Regarding the Status of the United Nations Forces in Japan, signed at Tokyo on 19 February, 1954.

4. The provisions of this Agreement shall not limit or prejudice the implementation of any existing bilateral agreements in force between the Parties.

Article V

1. Upon prior notification by the Sending State, the Receiving State shall, where appropriate, expeditiously grant through diplomatic channels clearances to the Sending State for access by the vessels or aircraft of the Visiting Force to ports or airports of the Receiving State.

2. For the purposes of cooperative activities, such vessels and aircraft of the Visiting Force and Official Vehicles as well as the members of the Visiting Force and the Civilian Component shall be accorded access to and movement between facilities and areas that are made available to the Visiting Force and the Civilian Component pursuant to Article VIII.

3. For the purposes of paragraph 2, the Parties shall consult in advance on the routes to be used by the Visiting Force. The Receiving State may prescribe such routes to be used, impose restrictions on movements within the Receiving State and prohibit access to and passage through specified areas, air space and facilities.

4. Unless otherwise mutually determined by the Parties, the vessels and aircraft of the Visiting Force shall be under conditions comparable in respect of any tax, toll or similar charges (except those that are charges for services rendered) to those applicable under the laws and regulations of the Receiving State to the vessels and aircraft of the Force of the Receiving State for access to and the use of ports and airports within the Receiving State, in so far as the central government of the Receiving State may set those conditions.

5. Unless otherwise mutually determined by the Parties, Official Vehicles shall be under conditions comparable in respect of any tax, toll, fee or similar charges (except those that are charges for services rendered) to those applicable under the laws and regulations of the Receiving State to the vehicles of the Force of the Receiving State for the use of roads within the Receiving State, in so far as the central government of the Receiving State may set those conditions.

6. The vessels of the Visiting Force shall be subject to compulsory pilotage in accordance with the laws and regulations of the Receiving State, and if a pilot is taken, pilotage shall be paid for by the Sending State at appropriate rates.

7. For the purposes of this Article, the expression "of the Visiting Force" in relation to vessels or aircraft includes vessels and aircraft for the exclusive use or service of the Visiting Force and the Civilian Component.

Article VI

1. The Sending State shall notify the Receiving State in advance of the identity of the persons entering and present in the Receiving State pursuant to this Agreement.

2. Subject to paragraph 1 and compliance with any formalities set by the Receiving State relating to entry and departure, the members of the Visiting Force and the Civilian Component shall be exempt from any requirements to apply for a visa on entering and departing the Receiving State, and shall be exempt from the laws and regulations of the Receiving State on the registration of foreign nationals, but shall not be considered as acquiring any rights of permanent residence or domicile in the Receiving State.

3. Such members of the Visiting Force and the Civilian Component shall be permitted to perform their official duties in the Receiving State, but shall not be considered as acquiring any right to undertake additional work in the Receiving State beyond the requirements of their official duties.

4. Upon entry into or departure from the Receiving State, the members of the Visiting Force shall be in possession of the following documents:

- (a) a valid passport or defence services identity card issued by the Sending State; and
- (b) an individual or collective travel document issued by the Sending State certifying the status of the individual or group as a member or members of the Visiting Force and the travel ordered.

5. Upon entry into or departure from the Receiving State, the members of the Civilian Component shall be in possession of the following documents:

- (a) a valid passport; and
- (b) an individual or collective travel document issued by the Sending State certifying the status of the individual or group as a member or members of the Civilian Component and the travel ordered.

6. For the purposes of their identification while in the Receiving State, the members of the Visiting Force and the Civilian Component shall present to the appropriate authorities of the Receiving State, upon request, their passports or defence services identity cards as well as their individual or collective travel documents.

7. In all instances, entry into the Receiving State of the members of the Visiting Force and the Civilian Component shall be subject to applicable laws and regulations of the Receiving State on biosecurity and quarantine.

8. 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 the Visiting Force or the Civilian Component while in the Receiving State, the Sending State shall:

- (a) promptly notify the Receiving State, giving such reasonable particulars as may be required;
- (b) upon request from the Receiving State, promptly take reasonable steps necessary to effect the departure of that person from the Receiving State; and
- (c) meet any reasonable costs incurred by the Receiving State in removing that person from the Receiving State.

9. If the Receiving State requests the removal from its territory of a member of the Visiting Force or the Civilian Component, other than a national of, or a person otherwise entitled to remain in, the Receiving State, the Sending State shall:

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

10. The Sending State shall inform the Receiving State, giving such reasonable particulars as may be required, of any members of the Visiting Force and the Civilian Component who, after having been admitted to the Receiving State, absent themselves without approved leave for a period in excess of 48 hours.

Article VII

1. For the purposes of this Article, "Duty" or "Duties" 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. Except as provided in this Agreement, the members of the Visiting Force and the Civilian Component shall be subject to the applicable laws and regulations administered by the competent import and export authorities of the Receiving State. In particular, such authorities of the Receiving State shall have the right in accordance with the laws and regulations of the Receiving State, to:

- (a) undertake investigations and related functions;
- (b) search members of the Visiting Force or the Civilian Component;
- (c) examine luggage, cargo and vehicles; and
- (d) seize articles, which may be returned to the Sending State following consultation between the Parties.

3. For the purposes of paragraph 2, the Visiting Force and the customs authorities of the Receiving State shall assist each other, where necessary, in the conduct of investigations and seizure of articles.

4. Official documents under official seal of the Sending State shall be inviolable. The package of such official documents shall be accompanied by a certificate issued by the Sending State confirming that only official documents are enclosed.

5. The Visiting Force may import into the Receiving State free of Duty all materials, supplies and equipment, including Official Vehicles, for the exclusive and official use of, but at the time of import not intended for sale by, the Visiting Force or the Civilian Component. Where required by the authorities of the Receiving State, the Sending State shall submit to the appropriate authorities of the Receiving State necessary documents confirming that such materials, supplies and equipment are being imported for the exclusive and official use of the Visiting Force or the Civilian Component.

6. A member of the Visiting Force or the Civilian Component may import free of Duty reasonable quantities of personal effects, furniture and household goods (other than motor vehicles, cigarettes, cigars, tobacco and alcoholic beverages) (hereinafter referred to collectively as "personal items"), into the Receiving State, provided that:

- (a) the personal items are imported in compliance with any formalities set by the Receiving State, including where required by the authorities of the Receiving State the submission of necessary documents confirming that the personal items are for private use;
- (b) the personal items are imported at the time of his or her first arrival to take up service in the Receiving State or within six months thereafter; and
- (c) the personal items remain in his or her use, ownership and possession.

7. A member of the Visiting Force or the Civilian Component may import into the Receiving State one motor vehicle free of Duty provided that the same conditions as set out in paragraph 6 are met. There is no obligation under this Article to grant exemption from other taxes payable in respect of such vehicle.

8. Subject to the requirements of paragraph 5, the Visiting Force shall be permitted importation into and exportation from the Receiving State of all fuel, oil and lubricants exclusively for official use in Official Vehicles as well as vessels and aircraft owned by or for the exclusive use or service of the Visiting Force and the Civilian Component, free of Duty.

9. Goods which have been imported free of Duty under paragraphs 5 to 8:

- (a) may be exported free of Duty, provided that the appropriate authorities of the Receiving State may require verification that goods exported have been imported under the conditions of paragraphs 5 to 8 as the case may be; and
- (b) shall not be disposed of in the Receiving State to persons not entitled to import such goods free of Duty unless otherwise authorised by the Receiving State and conducted in compliance with the laws and regulations of the Receiving State, including those concerning liability to pay any Duties payable on the goods so disposed of.

10. The exemptions granted in paragraphs 5 to 8 shall apply only to the importation and exportation of goods, as the case may be, and shall not be interpreted, in the case of purchases of goods in the Receiving State on which Duties have already been collected, as requiring the refund of such Duties.

11. Subject to the other provisions of this Article, the Sending State shall take appropriate measures to ensure that the Visiting Force and the Civilian Component and the members thereof shall pay any Duties and fines due to the Receiving State.

Article VIII

1. The Sending State may submit to the Receiving State requests for access to and use of facilities, areas and related services necessary for the Visiting Force and the Civilian Component for the conduct of cooperative activities in the Receiving State. The Receiving State shall make reasonable efforts to address such requests. The conditions of such access and use shall be determined by the Receiving State through consultation with the Sending State.

2. The Receiving State shall be responsible for the overall control of the facilities and areas made available to the Visiting Force and the Civilian Component.

Article IX

1. With the prior consent of the Receiving State and subject to any arrangements that the Parties mutually determine as necessary, the Visiting Force and the Civilian Component may temporarily use for cooperative activities public utilities and services owned, controlled or regulated by the Receiving State under conditions no less favourable than those applicable to the Force of the Receiving State.

2. The Visiting Force and the Civilian Component may operate, in accordance with arrangements with the appropriate authorities of the Receiving State, telecommunication and information systems for official communications purposes in connection with cooperative activities.

3. The Visiting Force and the Civilian Component may use publicly offered communication services in the Receiving State, subject to the laws and regulations of the Receiving State and the respective terms and conditions set by service providers.

Article X

1. Subject to any minimum age requirement for operating a vehicle in the Receiving State, the Receiving State shall accept as valid, without a driving test or fee, the driving permit or licence or defence services driving permit issued by the competent authorities of the Sending State to a member of the Visiting Force and the Civilian Component for the purpose of driving Official Vehicles.

2. For the purpose of driving vehicles other than Official Vehicles, an appropriate international driving permit, or a driving permit or licence issued by the appropriate authority of the Receiving State, shall be obtained if required by the laws and regulations of the Receiving State.

3. Official Vehicles, excluding vehicles hired or leased 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.

4. Privately owned vehicles belonging to the members of the Visiting Force and the Civilian Component shall be registered and carry the number plates issued by the appropriate authorities of the Receiving State under the same conditions as those applicable to the nationals of the Receiving State.

Article XI

1. Subject to paragraph 2, the members of the Visiting Force and the 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 a licence or otherwise) to perform such official duties as a member of the Visiting Force or the Civilian Component.

2. Medical professionals, who are members of the Visiting Force or the 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 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 XII

The members of the Visiting Force may possess and carry weapons and ammunition when they are authorised to do so by orders issued by the Sending State and in circumstances approved by the Receiving State for the conduct of cooperative activities.

Article XIII

The members of the Visiting Force shall be permitted to wear their uniform and defence services insignia while performing their official duties.

Article XIV

1. Subject to the provisions of this Article, the Visiting Force may transport, store and handle weapons, ammunition, explosives and dangerous goods, for the conduct of cooperative activities in the Receiving State.

2. Such weapons, ammunition, explosives and dangerous goods shall be transported, stored and handled by the Visiting Force under the responsibility of the Sending State, in accordance with the procedures and requirements determined by the Receiving State.

3. The Sending State shall notify the Receiving State in advance of the types, quantities and transportation schedule of any such weapons, ammunition, explosives and dangerous goods to be imported for the purposes of cooperative activities in the Receiving State.

Article XV

1. The Receiving State shall take appropriate measures to protect the personal information of the members of the Visiting Force and the Civilian Component in accordance with the laws and regulations of the Receiving State.

2. All classified information transmitted between the Parties pursuant to this Agreement shall be subject to and protected in accordance with applicable security of information agreements and arrangements between the Parties.

Article XVI

1. The Sending State shall ensure that the members of the Visiting Force and the Civilian Component are medically and dentally fit to conduct cooperative activities upon entry into the Receiving State.

2. Unless otherwise mutually determined by the Parties, any medical or dental treatment or medical evacuation provided or arranged by the Receiving State for members of the Visiting Force or the Civilian Component shall be on a full cost-recovery basis.

Article XVII

1. The Visiting Force and the Civilian Component may acquire or use materials, supplies, equipment and services in the Receiving State, for their own consumption or for the exclusive and official use of the Visiting Force or the Civilian Component, under conditions comparable in respect of any taxes, duties or similar charges on acquisition or the use of such materials, supplies, equipment and services to those applicable to the Force of the Receiving State.

2. Such materials, supplies and equipment subject to exemption from taxes, duties or similar charges under paragraph 1 shall not be disposed of in the Receiving State to persons not entitled to acquire or use such materials, supplies and equipment exempt from taxes, duties or similar charges, unless otherwise authorised by the Receiving State.

3. Neither members of the Visiting Force nor of the Civilian Component shall, by reason of this Article, enjoy any exemption from taxes, duties or similar charges on personal acquisitions or use of materials, supplies, equipment and services in the Receiving State.

4. When the Visiting Force or the Civilian Component engages local labour in the Receiving State, the conditions of employment and work, the conditions for the protection of workers, and the rights of workers concerning labour relations shall comply with the laws and regulations of the Receiving State.

Article XVIII

1. Unless otherwise mutually determined by the Parties, each Party shall, within the limits of its available resources, be responsible for its own costs of participation in the cooperative activities.

2. Where the Parties decide to share any costs of participation associated with the implementation of this Agreement or with the conduct of cooperative activities, such costs shall be shared on an equitable basis, taking into account the principle of proportionality, unless otherwise mutually determined by the Parties.

Article XIX

1. The members of the Visiting Force and the Civilian Component shall be subject to the laws and regulations of the Receiving State on foreign exchange, and, where applicable, to those of the Sending State.

2. The liability for taxes and duties, other than those for which other provisions are made under this Agreement, of a member of the Visiting Force or the Civilian Component shall be governed by the applicable laws and regulations of the Parties, as well as any agreement between the Parties in relation to such taxes or duties, including any agreement between the Parties for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Article XX

1. The Parties shall implement this Agreement in a manner consistent with the protection of the environment, cultural heritage and human health and safety.

2. Upon request from either Party, the Parties shall consult and exchange appropriate information regarding issues that could affect the environment, cultural heritage or 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 or human health and safety, having regard to the laws and regulations of the Receiving State and following consultation between the Parties through the Joint Committee established under Article XXVII.

Article XXI

1. The members of the Visiting Force and the Civilian Component shall remain at all times under the national command and overall control of the Sending State in accordance with its laws and regulations.

2. Subject to the provisions of this Article:

- (a) the authorities of the Sending State shall have the right to exercise within the Receiving State all criminal jurisdiction conferred on them by the law of the Sending State and shall have exclusive competence regarding disciplinary jurisdiction, over the members of the Visiting Force and the Civilian Component; and

- (b) the authorities of the Receiving State shall have criminal jurisdiction over the members of the Visiting Force and the Civilian Component with respect to offences committed within the Receiving State and punishable by the law of the Receiving State.
- 3.
 - (a) The authorities of the Sending State shall have the right to exercise exclusive jurisdiction over the members of the Visiting Force and the Civilian Component with respect to offences, including offences relating to the security of the Sending State, punishable by the law of the Sending State but not by the law of the Receiving State.
 - (b) The authorities of the Receiving State shall have the right to exercise exclusive jurisdiction over the members of the Visiting Force and the Civilian Component with respect to offences, including offences relating to the security of the Receiving State, punishable by the law of the Receiving State but not by the law of the Sending State.
 - (c) For the purposes of this paragraph and paragraph 4, a security offence against a Party shall include:
 - (i) treason against that Party; and
 - (ii) sabotage, espionage or violation of any law relating to official secrets of that Party, or secrets relating to the national defence of that Party.
- 4. In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply:
 - (a) the authorities of the Sending State shall have the primary right to exercise jurisdiction over the members of the Visiting Force and the Civilian Component 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 the Visiting Force or the Civilian Component; or
 - (ii) offences arising out of any act or omission done in the performance of official duties;

- (b) in the case of any other offence, the authorities of the Receiving State shall have the primary right to exercise jurisdiction;
 - (c) if the Party having the primary right to exercise jurisdiction decides not to exercise jurisdiction, it shall notify the authorities of the other Party as soon as practicable; and
 - (d) the authorities of the Party having the primary right to exercise jurisdiction shall give sympathetic consideration to a request from the authorities of the other Party for a waiver of its right in cases where that other Party considers such waiver to be of particular importance.
5. (a) Unless otherwise mutually determined by the Parties, the authorities of the Parties shall assist each other in the arrest of members of the Visiting Force or the Civilian Component in the Receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with paragraphs 2 to 4.
- (b) With regard to subparagraph (a), if a Party seeks to refuse such assistance, that Party shall immediately consult with the other Party to consider whether such assistance can be provided.
- (c) The authorities of the Receiving State shall promptly notify the authorities of the Sending State of the arrest of any member of the Visiting Force or the Civilian Component.
6. (a) The authorities of the Parties shall assist each other, to the extent possible, in the carrying out of all necessary investigations into offences allegedly committed by a member of the Visiting Force or the Civilian Component, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.
- (b) With regard to subparagraph (a), if a Party seeks to refuse such assistance, that Party shall immediately consult with the other Party to consider whether such assistance can be provided.

- (c) The authorities of the Parties shall notify each other of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7. Where an accused has been tried in accordance with the provisions of this Article by the authorities of a Party and has been acquitted, or has been convicted and is serving, or has served, his or her sentence or has been pardoned, he or she may not be tried again for the same offence by the authorities of the other Party. Nothing in this paragraph shall prevent the authorities of the Sending State from trying a member of the Visiting Force or the Civilian Component for any violation of rules of discipline arising from an act or omission which constituted an offence for which he or she was tried by the authorities of the Receiving State.

8. Whenever a member of the Visiting Force or the Civilian Component is prosecuted under the jurisdiction of the Receiving State, the person shall be entitled:

- (a) to a prompt and speedy trial;
- (b) to be informed in advance of the trial of the specific charge or charges made against the person in order to have reasonable time to prepare a defence;
- (c) to be confronted with the witnesses against the person;
- (d) to present evidence in his or her own defence and to have a compulsory process for obtaining witnesses if the witnesses 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 under the conditions prevailing in the Receiving State;
- (f) to communicate with a representative of the Sending State and, when the rules of the court permit, to have such a representative present at his or her trial;

- (g) to be present at his or her trial, which shall be public. However, without prejudice to the minimum standards listed in this paragraph, any other person may be excluded if the court so decides for reasons of public order, security or morality;
- (h) to bail, subject to the laws and regulations of the Receiving State;
- (i) not to be compelled to testify against himself or herself; and
- (j) not to be held guilty of a criminal offence on account of any act or omission which did not constitute a criminal offence under the law of the Receiving State at the time it was committed.

9. A member of the Visiting Force or the Civilian Component taken into custody, detained or otherwise confined in the Receiving State shall have the right to consular visits subject to the laws and regulations of the Receiving State.

10. The provisions of this Article shall not apply to any offences committed before the entry into force of this Agreement.

Article XXII

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 facilities and areas made available to the Visiting Force and the Civilian Component and of their property, official records and information.

2. Subject to paragraph 3, the Sending State shall have the right to maintain military police within the Visiting Force.

3. The military police of the Sending State shall be employed only subject to arrangements with the authorities of the Receiving State and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the Visiting Force and, if empowered by the law of the Sending State to do so, the Civilian Component.

Article XXIII

1. Each Party shall waive all its claims against the other Party:

- (a) for damage including loss of use (hereinafter referred to in this Article as "damage") to property owned by a Party and used by its Force or civilian personnel, or for injury or death suffered by a member of its Force or civilian personnel while engaged in the performance of official duties, provided that such damage or such injury or death:
 - (i) was caused by a member of the Force or civilian personnel of the other Party while engaged in the performance of official duties in connection with cooperative activities pursuant to this Agreement; or
 - (ii) arose from the use of any vehicle, vessel or aircraft owned by the other Party and being used by its Force or civilian personnel for the performance of official duties in connection with cooperative activities pursuant to this Agreement,except where such damage or such injury or death is mutually determined by the Parties to have resulted solely from gross negligence or wilful misconduct of a member of the Force or civilian personnel of that other Party; and
- (b) for maritime salvage, provided that the vessel or cargo salvaged was owned by a Party and being used by its Force for official purposes in connection with cooperative activities pursuant to this Agreement.

2. Where for the purposes of paragraph 1(a) the Parties mutually determine that a claim for damage, injury or death resulted solely from the gross negligence or wilful misconduct of a member of the Force or civilian personnel of either Party, such determination shall be conclusive of that fact and the Party to which that member of the Force or civilian personnel belongs shall be solely responsible for the costs of any liability for that claim. The Parties shall consult on the final amount payable by the responsible Party in satisfaction of the claim.

3. The Parties shall consult on the settlement of any other claims by a Party against the other Party for damage caused or arising as stated in paragraph 1(a) to other property owned by the former Party. The cost incurred in satisfying such claims shall be distributed between the Parties in accordance with paragraph 5(e).

4. For the purposes of paragraphs 1 and 3, the expression "owned by a Party":

- (a) in the case of a vessel, includes a vessel on bare boat charter to that Party or requisitioned by it on bare boat terms; or
- (b) in the case of a vehicle or aircraft, includes a vehicle or aircraft on exclusive hire or lease or charter to that Party,

except to the extent that the risk of loss or liability is borne by some person other than such Party.

5. Claims arising out of acts or omissions of members of the Visiting Force or the Civilian Component done in the performance of official duties, or out of any other act, omission or occurrence for which the Visiting Force is legally responsible, and causing damage to property and/or injury or death in the Receiving State to third parties shall be dealt with by the Receiving State in accordance with the following provisions:

- (a) all claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the Receiving State applicable to claims arising from the activities of its own Force. The Receiving State shall settle the claims in consultation with the Sending State, except when the claims are to be adjudicated;
- (b) payment of the amount agreed upon by the Receiving State with the claimant or determined by adjudication shall be made by the Receiving State in its currency within the shortest possible time;

- (c) the Receiving State shall notify the Sending State of the particulars of all claims and shall keep the Sending State informed of its dealings with the claim. The Receiving State shall take into consideration the reasonable instructions of the Sending State as to the defence or settlement of the claim;
- (d) every claim paid by the Receiving State under this paragraph shall be communicated to the Sending State, together with full particulars and a proposed distribution in conformity with subparagraph (e) below. In default of a reply from the Sending State within two months, the proposed distribution shall be regarded as having been accepted by the Sending State;
- (e) unless otherwise mutually determined by the Parties, the cost incurred in satisfying claims, including the reasonable cost borne by the Receiving State in dealing with the claim pursuant to the preceding subparagraphs, shall be distributed between the Parties as follows:
 - (i) where either Party is solely responsible for the damage, injury or death, that Party alone shall meet the cost of the claim in full;
 - (ii) where both Parties are responsible for the damage, injury or death and can mutually determine the degree of respective responsibility, each Party shall meet the portion of the amount agreed upon for the settlement or determined by adjudication corresponding to the degree of its responsibility; and
 - (iii) where both Parties are responsible for the damage, injury or death and cannot mutually determine the degree of respective responsibility, or where the damage, injury or death was caused by both Parties and it is not possible to attribute responsibility for the damage, injury or death specifically to either Party, the amount agreed upon for the settlement or determined by adjudication shall be distributed equally between them;

- (f) every half-year, a statement of the sums paid by the Receiving State in the course of the preceding half-yearly period in respect of every claim dealt with under this paragraph, regarding which the proposed distribution on a percentage basis under subparagraph (e) has been accepted under subparagraph (d), shall be sent to the Sending State, together with a request for reimbursement and payment details. Such reimbursement shall be made, in the currency of the Receiving State, within the shortest possible time, and at least within two months from the date of the receipt of the statement by the Sending State; and
- (g) payment of an amount in satisfaction of a claim by the Receiving State, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the Receiving State shall be considered as a full discharge from liability for the claim, without prejudice to subparagraphs (d) to (f). Such payment, or the final adjudication by such a tribunal denying payments, shall be binding and conclusive upon the Parties.

6. Paragraph 5 shall not apply to:

- (a) claims arising out of the use of Official Vehicles which are covered by any private insurance and to the extent covered thereby;
- (b) contractual claims. Claims arising under any contract shall be dealt with in accordance with the terms of the relevant contract. Neither Party will indemnify contractors of the other Party for third party liability claims against such contractors; and
- (c) except in so far as paragraph 5(e) applies to claims covered by paragraph 3, claims for damage to property arising out of or in connection with the navigation or operation of a ship or the loading, carriage, or discharge of cargo, other than claims for maritime matters as mutually determined by the Parties.

7. Unless otherwise settled by the parties concerned, the Parties shall consult on claims in connection with cooperative activities pursuant to this Agreement not otherwise covered by this Article, including those arising out of acts or omissions of members of the Visiting Force or the Civilian Component not done in the performance of official duties and causing injury or death and/or damage to property in the territory of the Receiving State.

8. Except to the extent that it is determined in the course of a claim being adjudicated by a competent tribunal of the Receiving State, the Parties shall consult and mutually determine whether a claim arose out of acts or omissions done in the performance of official duties or outside official duties.

9. In the event that a Party receives notice of any claim under this Article, that Party shall inform the other Party as soon as practicable.

10. The Parties shall, to the extent permitted by their laws and regulations, cooperate in the provision of relevant information and the collection and production of evidence for a fair hearing and disposal of claims under this Article.

11. The Sending State shall, at the request of the Receiving State, assist the Receiving State to take possession of any private moveable property which is subject to compulsory execution under the laws and regulations of the Receiving State and which is within an area in use by the Visiting Force or the Civilian Component.

12. (a) The Sending State shall not claim immunity from the civil jurisdiction of the courts of the Receiving State for a member of the Visiting Force or the Civilian Component.

(b) For the avoidance of doubt, subparagraph (a) shall not be construed as waiving any immunities relating to enforcement proceedings as may be provided under the laws and regulations of the Receiving State.

13. The provisions of this Article shall not apply to any claims which arose before the entry into force of this Agreement.

14. For the purposes of this Article:

- (a) "civilian personnel" means for the Sending State the members of the Civilian Component and for the Receiving State the civilian officials of the Receiving State who are employed by or in the service of the Force of the Receiving State, but does not include contractors engaged by, or on behalf of, that Force; and
- (b) "gross negligence" refers to a serious disregard of an obvious risk.

Article XXIV

1. In the event that a Party receives notice of any accidents or incidents, that Party shall inform the other Party as soon as practicable. The accidents or incidents to be notified shall be mutually determined in advance by the Parties.

2. The Parties shall establish procedures, consistent with their respective domestic requirements, for the conduct of necessary administrative investigations in cooperation with each other, relating to any accident or incident in the Receiving State involving Official Vehicles, or vessels or aircraft owned by or for the exclusive use or service of the Sending State.

Article XXV

1. Each Party shall notify without delay the other Party of the death of any member of the Visiting Force or the Civilian Component in the Receiving State. The Receiving State shall endeavour to ensure that the identity of the deceased is not publicly disclosed without providing reasonable prior notification to the Sending State.

2. The Parties shall establish procedures for all other mortuary affairs matters including, but not limited to, the identification, processing, repatriation and disposal of the remains of a deceased member of the Visiting Force or of the Civilian Component and of his or her associated personal effects.

Article XXVI

The Parties shall cooperate in preventing any abuse or misuse of the privileges granted in favour of, and in ensuring proper discharge of the obligations imposed in this Agreement on, the members of the Visiting Force and the Civilian Component.

Article XXVII

1. A Joint Committee shall be established as a means for consultation between the Parties on all matters requiring mutual consultation regarding the implementation of this Agreement.
2. The Joint Committee shall determine its own procedures. It may establish working groups to deal with specific issues.
3. The Joint Committee shall meet at any time at the request of either Party.
4. The Joint Committee shall be co-chaired by a representative of each Party.
5. If it is not possible for the Joint Committee to resolve a matter, it shall refer that matter to the Governments of the respective Parties for further consideration through appropriate channels.
6. The Parties may make arrangements following consultation between the Parties through the Joint Committee to implement this Agreement.

Article XXVIII

Unless otherwise mutually determined by the Parties, any dispute regarding the interpretation or the implementation of this Agreement shall be resolved solely by consultation and negotiation between the Parties.

Article XXIX

1. This Agreement shall enter into force on the fifth day after the date on which the Parties exchange diplomatic notes informing each other that their respective internal procedures necessary to give effect to this Agreement have been completed.
2. This Agreement may be amended by written agreement between the Parties. Any amendment shall be approved by the Parties in accordance with their respective internal procedures and shall enter into force on the date to be agreed on by the Parties.
3. (a) Each Party may terminate this Agreement at any time by giving six months' prior written notice to the other Party.

- (b) Notwithstanding the termination of this Agreement, any outstanding obligations with respect to costs, jurisdiction or claims shall remain binding until satisfied unless otherwise mutually determined by the Parties.
- (c) Notwithstanding the termination of this Agreement, any obligations with respect to security of information shall remain binding.

4. The Annex to this Agreement shall form an integral part of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE, in duplicate at Tokyo and Canberra, on this sixth day of January, 2022 in the Japanese and English languages, both texts equally authentic.

For Japan:

岸田文雄

For Australia:

S. Morrison

Annex
relating to Article XXI

1. In implementing paragraphs 5(a) and 6(a) of Article XXI, the Sending State shall not obstruct the lawful exercise of the territorial jurisdiction of the Receiving State in accordance with this Agreement.
2. With regard to paragraph 5(a) of Article XXI, the Parties mutually determine that the authorities of a Party shall not be obliged to provide such assistance in cases where that Party considers that such assistance would be inconsistent with its obligations under applicable international agreements existing at the time of entry into force of this Agreement.
3. In all cases other than those noted in paragraph 2 above, with regard to paragraph 5(a) of Article XXI, a Party shall give sympathetic consideration to a request from the other Party to allow the latter not to provide such assistance.
4. With regard to paragraph 2 above, if the authorities of a Party do not provide such assistance, that Party shall immediately consult with the other Party.
5. With regard to paragraph 5(a) of Article XXI, if the authorities of a Party do not provide assistance in handing over the person sought to the other Party, the Party that does not provide the assistance shall, to the extent permitted under its law, submit the case to its authorities for the purpose of prosecution, at the request of the other Party.
6. While the Parties have the obligation to assist each other in accordance with paragraphs 5(a) and 6(a) of Article XXI, when the authorities of a Party do not provide assistance to the extent permitted by those paragraphs, such non-assistance shall not be construed as obstruction referred to in paragraph 1 above.
7. A member of the Visiting Force or the Civilian Component who is arrested, detained, charged or prosecuted under the jurisdiction of the Receiving State shall have, in addition to those set out in paragraph 8 of Article XXI, the following procedural safeguards:
 - (a) he or she shall not be arrested or detained without being at once informed of the charge against him or her nor without the immediate privilege of counsel; nor shall he or she be detained without adequate cause;

- (b) no cruel punishments shall be imposed upon him or her, consistent with the law of the Receiving State;
- (c) he or she shall have the right to challenge the legality of pre-trial detention;
- (d) he or she shall be entitled to cross-examine the witnesses against him or her; and
- (e) he or she shall, if he or she considers it necessary, have the services of a competent interpreter, consistent with the law of the Receiving State.

8. The Sending State shall have the right upon request to have access at any time to a member of the Visiting Force or the Civilian Component who is confined or detained by the Receiving State.