



Australian Government
Department of Health and Ageing
NICNAS



MEMORANDUM OF UNDERSTANDING

Between

**The Environmental Risk Management Authority of New Zealand
(ERMA New Zealand)**

AND

**Commonwealth of Australia as represented by the Director of the National
Industrial Chemicals Notification and Assessment Scheme (NICNAS)
ABN 31 162 998 046**

1. Purpose

- 1.1 This Memorandum of Understanding (MoU) outlines an arrangement between the New Zealand Environmental Risk Management Authority (ERMA New Zealand), a statutory authority established under the *Hazardous Substances and New Organisms Act 1996* (New Zealand) (the HSNO Act), and the Australian National Industrial Chemicals Notification and Assessment Scheme (NICNAS) (the Parties). NICNAS is a statutory scheme established under the *Industrial Chemicals (Notification and Assessment) Act 1989* (Australia) within the portfolio of the Minister for Health and Ageing.
- 1.2 The Parties intend to strengthen their co-operative relationship to enhance the efficient and effective administration of aspects of each Party's regulatory processes of mutual interest, in connection with industrial chemicals, which may also be hazardous substances. This will be progressed through a Work Plan developed by both Parties.

2. Scope

- 2.1 This Memorandum applies to each Party and their successors, if any.
- 2.2 The scope of this co-operative arrangement between the Parties includes, but is not limited to, participation in international activities; exchanging information on each Party's respective regulatory regimes; cooperating on projects of mutual benefit; sharing of assessment and related resources; and adopting, when desirable and where possible, consistent practices and regulatory approaches.
- 2.3 This co-operative arrangement is intended to focus on areas of mutual priority, in particular:

- Exchanges of human health and safety and environmental health information;
 - Exchanges of chemical assessments including information on risk management measures;
 - Sharing of risk reduction, risk communication, risk management tools and assessment approaches;
 - Co-operation in contributions to international fora;
 - Sharing of information on emerging issues and topics of specific interest, such as Structure Activity Relationship ((Q)SAR) analysis, Green Chemistry and Nanomaterials, and
 - Exchange of expertise.
- 2.4 Exchange of information between the Parties will be guided by the confidential business considerations detailed in:
- Appendix 1 - Key Considerations for Confidential Business Information
- 2.5 The Parties will develop under this Memorandum, a Work Plan, to guide work in areas of cooperation which will be updated annually.
- 2.6 At the end of each financial year, the Parties will prepare a joint report on the year's activities under the Work Plan and this Memorandum.

3. Promotion of co-operation

- 3.1 This co-operative arrangement affirms the Parties' joint commitment to continued and strengthened co-operation toward the sound management of chemicals.
- 3.2 The Parties intend to give priority to working together to promote chemical safety between Australia and New Zealand.
- 3.3 The Parties intend to work together to promote international harmonisation of chemical safety assessments through relevant international activities, including the OECD Environmental Health and Safety Program and the Working Party on Manufactured Nanomaterials, the United Nations Environment Program (UNEP), the International Program on Chemical Safety (IPCS) Chemicals Management Program, the Globally Harmonised System for Classification and Labelling of Chemicals, and the APEC Chemicals Dialogue.
- 3.4 The Parties intend to maintain regular contact through personal visits, teleconferences, participation in each other's committees and staff exchanges where possible.
- 3.5 The Parties intend to meet annually either by personal visits or by audio or video conference.

4. Administrative

- 4.1 This Memorandum replaces the Memorandum between the Parties signed on 7 November 2002.
- 4.2 The co-operative arrangements in this MoU will occur without costs or charges being levied between the Parties.
- 4.3 This co-operative arrangement is a statement of mutual understandings, intent and goodwill. It does not create any legal obligation or liability under international law, or in contract, tort or otherwise, or any legal right or benefit, substantive or procedural, enforceable by or against either Party or by or against any third Party.
- 4.4 This co-operative arrangement will be carried out subject to the availability of funds and other resources, and nothing in this co-operative arrangement legally obligates the Parties to expend funds or provide other resources.
- 4.5 Any variation to the provisions of this MoU may be proposed by either Party to this MoU, but must be mutually determined in writing by both Parties prior to the variation coming into effect.
- 4.6 The MoU will come into effect on the day on which it is signed and unless terminated earlier (see para 4.7 below), be reviewed on or before the fifth yearly anniversary of it's signing.
- 4.7 Either Party may terminate this MoU by written notice to the other Party. The MoU will terminate 30 calendar days after the date upon which the other Party receives written notice of the intention to terminate.
- 4.8 The contact person for each Party who is responsible for the administration of this MoU is:

General Manager, Hazardous Substances for ERMA New Zealand,
PO Box 131, Wellington, New Zealand, phone +64 4 916 2426,
facsimile +64 4 914 0433.

Head of Reform Program for NICNAS, Australia, Level 7, 260 Elizabeth St,
Surry Hills, New South Wales, Australia 2010, phone +61 2 8577 8800,
facsimile +61 2 8577 8888.

Signed on this 18th day of October 2010.

Signed Rob Forlong

Mr Rob Forlong
Chief Executive
Environmental Risk Management Authority
New Zealand

Signed Marion J Healy

Dr Marion J. Healy
Director
National Industrial Chemicals
(Notification and Assessment)
Scheme
Australia

Appendix 1 – Key Considerations for Confidential Business Information

There are a number of key considerations that will guide the actions of the Parties concerning the exchange of Confidential Business Information (CBI) under their respective laws. The issue of CBI and how the exchange of information can proceed between the Participants without compromising the safeguards within the two systems is as follows:

- The Parties agree to protect CBI provided by Companies. The Parties agree not to release such information to persons outside the respective work groups, except with the agreement of the owner of the information.
- The Parties agree that CBI submitted by industry in relation to a specific notification will be exchanged between Parties only by international courier, unless the Parties receive permission from the owner of the CBI to use other transmittal methods. Other government information which is not confidential will be shared by phone, fax, email, surface mail or airmail.
- Relevant Australian legislation protecting CBI provided for NICNAS assessment includes the exempt information provisions in Sections 75 – 80 of the *Industrial Chemicals (Notification and Assessment) Act 1989*, as amended.
- Relevant Australian legislation protecting the confidentiality of information provided by another Government is found in section 33 and subsection 45(1) of the *Freedom of Information Act 1982*, as amended.
- Relevant New Zealand legislation protecting the confidentiality of information is found in sections 6 and 9 of the *Official Information Act 1982* and sections 55, 56 and 57 of the *Hazardous Substances and New Organisms Act 1996*, as amended.