MEMORANDUM OF UNDERSTANDING
IN BIOTECHNOLOGY

BETWEEN

THE AUSTRALIAN DEPARTMENT OF EDUCATION, SCIENCE AND TRAINING
OF THE GOVERNMENT OF AUSTRALIA

AND

THE DEPARTMENT OF BIOTECHNOLOGY
OF THE GOVERNMENT OF INDIA

Background

The Australian Department of Education, Science and Training (DEST) and the Indian Department of Biotechnology (DBT), (hereinafter called "the Parties"),

NOTING the desire of the Government of Australia and the Government of the Republic of India to foster cooperation in science and technology in accordance with the Agreement between the Government of Australia and the Government of the Republic of India on Cooperation in the Fields of Science and Technology done at Canberra on 15 October 1986 ("the Agreement"); and

IN ACCORDANCE with provisions of the Agreement, which envisage the reaching of separate understandings between Cooperating Agencies, require the two Governments to endeavour to arrange funding of Cooperative Activities under the Agreement, and anticipate periodic meetings of scientific representatives of the Governments to facilitate the implementation of the Agreement;

HAVE come to the following understandings:

1. Funding

Each party will put in place funding mechanisms with a degree of flexibility sufficient to permit their use for the support of joint scientific and strategic research and development projects in biotechnology of interest to both Parties.

Each Party will independently evaluate and support its own side of joint proposals in accordance with its own programme cycle and regulations. Applicants and applications will be required to meet selection criteria for the relevant programme.

To support activities eligible in the programme of cooperation, Australian citizens or permanent residents may apply for funding from Australian sources; Indian citizens or permanent residents may apply for funding from Indian sources.

Projects will be carried out jointly by Australian and Indian partners. Project results will be equally available and may subsequently be used in Australia and India. When the Parties mutually consent, they may be made available to or in a third country.
2. Coordination

The Parties will establish a Joint Biotechnology Committee, hereafter called the JBC. The JBC will supervise the programme of co-operation. In particular, the JBC will discuss and review:

a) guidelines and principles for management of the programme of cooperation in light of relevant science and technology policy and developments in Australia and India;
b) priority areas with high probability for the development of successful collaborative projects; and
c) progress of ongoing projects and funding of new project proposals.

The JBC will consist of representatives of both parties and other experts as mutually agreed.

The JBC will meet alternately in Australia and India every two (2) years or as mutually determined by the Parties.

3. Protection of Intellectual Property

For the purposes of this Understanding "Intellectual Property" will have the meaning provided for in Article 2 of the Convention Establishing the World Intellectual Property Organization, done at Stockholm on 14 July 1967, as amended on 28 September 1979.

The Parties will promote and facilitate cooperation between their respective organisations, enterprises and institutions with a view to concluding, if necessary, appropriate protocols or contracts to protect intellectual property rights (IPRs).

The allocation of IPRs will occur on the basis of a project management plan developed for each project by its proponents. Protocols or contracts to protect IPRs will be signed in accordance with laws and regulations prevailing in Australia and India and will provide for:

a) adequate and effective protection and equitable distribution of any benefits from IPRs created in or resulting directly from cooperative activities (foreground IPRs),
b) ownership of foreground IPRs to be allocated on the basis of respective contribution and equitable interests,
c) terms and conditions for the commercialisation and other forms of dissemination of the foreground IPRs, and
d) adequate and effective protection of IPRs provided by the organisations, enterprises and institutions prior to or in the course of such cooperative activities, for example the licensing or utilisation of such IPRs on equitable terms (background IPRs).

4. Date of Effect and Termination

This Understanding will take effect from the date of signing and will remain in effect for a period of five years. The term of this Understanding can be extended for a further five years by mutual written consent of the Parties prior to the expiry of the first five year term.

This Understanding may be terminated by either Party giving six (6) months notice in writing to the other party, before its expiry. It may be amended at any time by mutual written consent of the Parties.
Signed at New Delhi, in duplicate, this day of two thousand and six, in English and Hindi. In the case of differences in interpretation, the English text will prevail.

FOR THE GOVERNMENT OF AUSTRALIA

Mr John McCarthy
High Commissioner to India

FOR THE GOVERNMENT OF THE REPUBLIC OF INDIA

Dr. M. K. Bhan
Secretary,
Department of Biotechnology
Ministry of Science and Technology