

SECTION XVI

SETTLEMENT OF DISPUTES

16.1. Disputes between the Participants arising under or relating to this MOU will be resolved only by consultation between the Participants and will not be referred to a national court, an international tribunal, or to any other person or entity for settlement.

SECTION XVII

LANGUAGE

17.1. The working language for the Project will be the English language.

17.2. All data and information generated under this MOU and its implementing Contracts and provided by one Participant to the other Participant will be furnished in the English language.

SECTION XVIII

AMENDMENT, TERMINATION, ENTRY INTO EFFECT, AND DURATION

18.1. All activities of the Participants under this MOU will be carried out in accordance with their national laws and regulations, including their respective export control laws and regulations. The responsibilities of the Participants will be subject to the availability of funds for such purposes.

18.2. In the event of a conflict between a Section of this MOU and any Annex to this MOU, the Section will control.

18.3. Except as otherwise provided, this MOU may be amended by the mutual written consent of the Participants. Annexes A, C and D of this MOU may be amended by the written approval of the SC.

18.4. This MOU may be terminated at any time upon the written consent of the Participants. In the event both Participants consent to terminate this MOU, the Participants will consult prior to the date of termination to ensure termination on the most economical and equitable provisions.

18.5. Either Participant may terminate this MOU upon 90 days written notification to the other Participant. Such notice will be the subject of immediate consultation by the SC to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

18.5.1. The terminating Participant will continue participation, financial or otherwise, up to the effective date of termination.

18.5.2. Except as to Contracts awarded on behalf of both Participants, each Participant will be responsible for its own Project-related costs associated with termination of the Project. For Contracts awarded on behalf of both Participants, the terminating Participant will pay all Contract modification or termination costs that would not otherwise have been incurred but for the decision to terminate; in no event, however, will a terminating Participant's total financial contribution, including Contract termination costs, exceed that Participant's total Financial Cost share as established in Section V (Financial

Arrangements). Any part of a Participant's financial contribution made available to the other Participant, but not expended, will be returned to the providing Participant.

18.5.3. All Project Information and benefits therein received under the provisions of this MOU prior to the termination will be retained by the Participants, subject to the provisions of this MOU.

18.6. The respective benefits and responsibilities of the Participants regarding Section VII (Project Equipment), Section VIII (Disclosure and Use of Project Information), Section IX (Controlled Unclassified Information), Section XI (Security), Section XII (Third Party Sales and Transfers), Section XIII (Liability and Claims), and Section XVIII (Amendment, Termination, Entry into Effect, and Duration) will continue notwithstanding termination or expiration of this MOU.

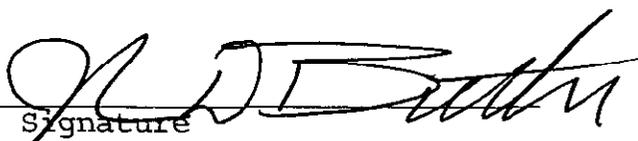
18.7. This MOU, which consists of 18 Sections and four Annexes, will come into effect upon signature by both Participants and will remain in effect for five years. It may be extended by written consent of the Participants.

The foregoing represents the understandings reached between the Department of Defense of the United States of America and the Department of Defence of Australia.

Signed, in duplicate, in the English language by authorized representatives.

FOR THE DEPARTMENT OF
DEFENSE OF THE UNITED
STATES OF AMERICA

FOR THE DEPARTMENT OF
DEFENCE OF AUSTRALIA


Signature

John D. Butler, RDML, USN
Name

Program Executive Officer
Submarines
Title

5 November 2004
Date

Washington, DC, USA
Location


Signature

TREVOR B. RUTTING RADM RAN
Name

HEAD, MARITIME SYSTEMS DIVISION
Title

15 NOVEMBER 2004
Date

CANBERRA ACT AUSTRALIA
Location

ANNEX A

PROJECT MANAGEMENT ORGANIZATION DIAGRAM

STEERING COMMITTEE
(U.S. Representative, Australian Representative)

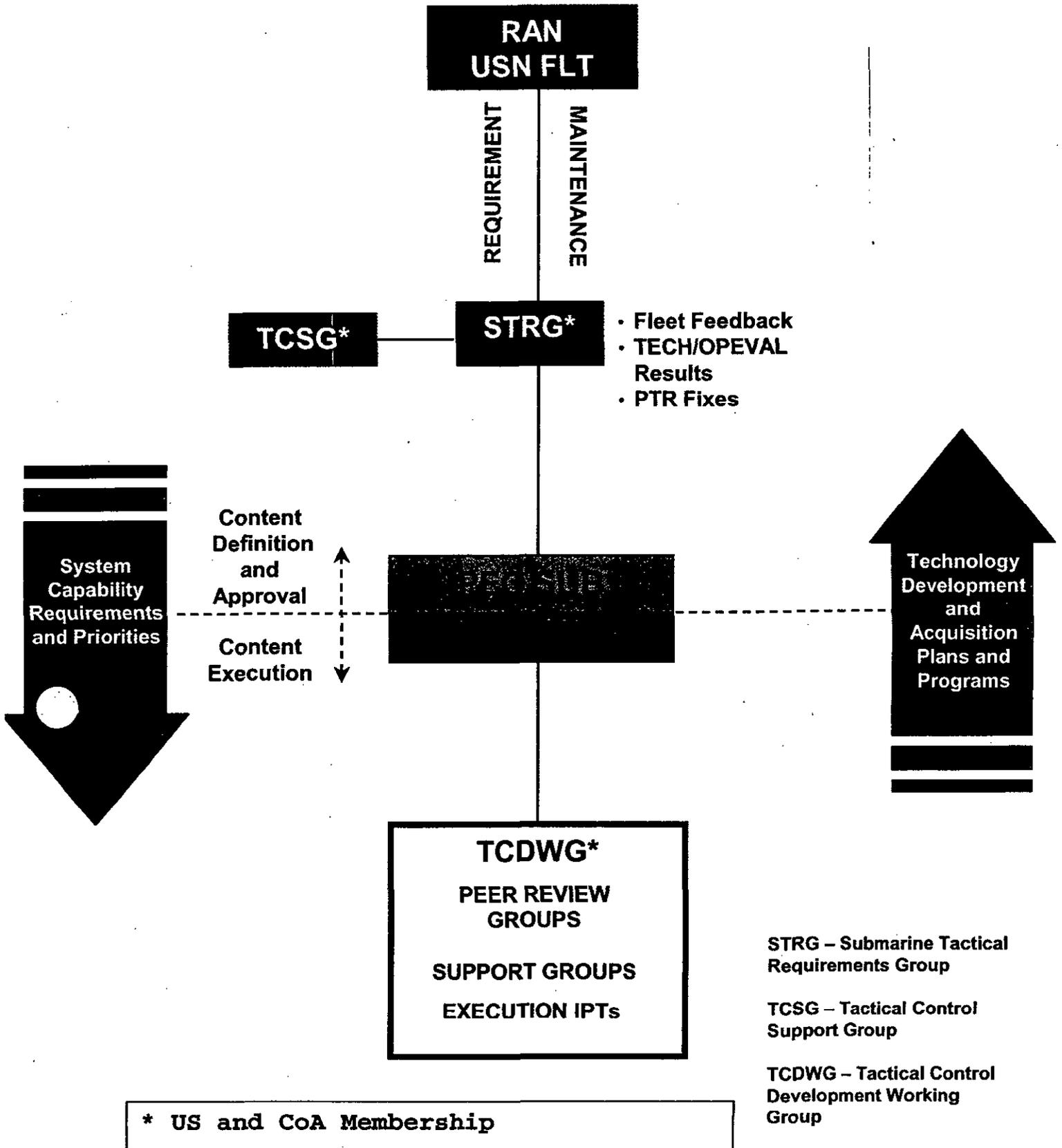
JOINT PROJECT OFFICE
(U.S. Project Manager)

(Australian Deputy Project Manager)

(U.S. Assistant Project Manager)

WORKING GROUPS
(Financial, Logistics, Systems Engineering, etc.)

REQUIREMENTS AND PLANNING



ANNEX B

COOPERATIVE PROJECT PERSONNEL

1.0. Purpose and Scope.

1.1. This Annex establishes the provisions, which will govern the conduct of AN/BYG-1 Cooperative Project Personnel. The Australian DoD will assign military members or civilian employees to the AN/BYG-1 Program Office, to U.S. DoD field activities, or to U.S. Contractor activities in accordance with Section IV (Management (Organization and Responsibility)), Annex A (Project Management Organization Diagram) and this Annex. The U.S. DoD will assign military members or civilian employees to Australian DoD field activities or to Australian Contractor facilities in accordance with Section IV (Management (Organization and Responsibility)), Annex A (Project Management Organization Diagram), and this Annex. AN/BYG-1 Cooperative Project Personnel will be able to perform all the responsibilities for the positions assigned to them under this MOU. Commencement of assignments will be subject to any requirements that may be imposed by the host Participant or its government regarding acceptance of AN/BYG-1 Cooperative Project Personnel, such as, but not limited to, visas and visit request documentation. The U.S. DoD and Australian DoD SC representatives will determine the length of tour for the positions at the time of initial assignment.

1.2. AN/BYG-1 Cooperative Project Personnel will be assigned to the AN/BYG-1 Program Office or U.S. DoD or Australian DoD field or Contractor activities for Project work and will report to their designated supervisor within those organizations regarding that work. The AN/BYG-1 Project Manager will be responsible for the creation of a document describing the duties of each AN/BYG-1 Cooperative Project Personnel position. AN/BYG-1 Cooperative Project Personnel will not act as liaison officers for the parent Participant. However, they may act from time to time on behalf of their SC representative if the latter so authorizes in writing.

1.3. AN/BYG-1 Cooperative Project Personnel will not be assigned to command or other positions that would require them to exercise responsibilities that are reserved by law or regulation to an officer or employee of the host Participant's government.

2.0. Security.

2.1. The U.S. DoD and Australian DoD SC representatives will establish the maximum level of security clearance required to permit AN/BYG-1 Cooperative Project Personnel to have access to Classified Information and facilities in which Classified Information is used in accordance with the Program Security Instruction (PSI) and Classification Guide (CG). Access to Classified Information and facilities in which Classified Information is used will be consistent with, and limited by, Section II (Objectives) and Section III (Scope of Work) of this MOU and the corresponding provisions of this Annex, and will be kept to the minimum required to accomplish the work assignments.

2.2. The parent Participant will file visit requests for the AN/BYG-1 Cooperative Project Personnel through prescribed channels in compliance with the host Participant's procedures. As part of the visit request procedures, the parent Participant will cause security assurances to be filed, through their respective embassies, specifying the security clearances for the AN/BYG-1 Cooperative Project Personnel being assigned.

2.3. The Participants will use their best efforts to ensure that both Australian DoD and U.S. DoD personnel assigned to the AN/BYG-1 Program Office, or field or Contractor activities are aware of, and comply with, applicable laws and regulations pertaining to Controlled Unclassified Information and Classified Information as well as the requirements of Section IX (Controlled Unclassified Information), Section X (Visits to Establishments), Section XI (Security), and paragraph 18.7 of Section XVIII (Amendment, Withdrawal, Termination, Entry into Effect, and Duration) of this MOU and the corresponding provisions of this Annex, and the PSI and CG. Prior to commencing assigned duties, AN/BYG-1 Cooperative Project Personnel will, if required by the host Participant's government laws, regulations, policies, or procedures, sign a certification concerning the conditions and responsibilities of AN/BYG-1 Cooperative Project Personnel.

2.4. AN/BYG-1 Cooperative Project Personnel will at all times be required to comply with the security and export control laws, regulations and procedures of the host Participant's government. Any violation of security procedures by AN/BYG-1 Cooperative Project Personnel during their assignment will be reported to the parent Participant for appropriate action. AN/BYG-1 Cooperative Project Personnel committing significant violations of security or export control laws, regulations, or procedures during their assignments will be withdrawn from the Project with a view

toward appropriate administrative or disciplinary action by their parent Participant.

2.5. All Classified Information made available to AN/BYG-1 Cooperative Project Personnel will be considered as Classified Information furnished to the Australian DoD or U.S. DoD and will be subject to all of the provisions and safeguards provided for in Section XI (Security) of this MOU, this Annex, and the PSI and the CG.

2.6. AN/BYG-1 Cooperative Project Personnel will not have personal custody of Classified Information or Controlled Unclassified Information, unless approved by the host Participant and as authorized by the parent Participant. They will be granted access to such Information in accordance with Section IX (Controlled Unclassified Information) and Section XI (Security) of this MOU and the provisions of the PSI during normal duty hours at their assigned facility when access is necessary to perform Project work.

2.7. AN/BYG-1 Cooperative Project Personnel will not serve as a conduit between the U.S. DoD and Australian DoD for requests for and/or transmission of Classified Information or Controlled Unclassified Information unless specifically authorized by the PSI.

3.0. Technical and Administrative Matters.

3.1. Consistent with host Participant's government laws and regulations, AN/BYG-1 Cooperative Project Personnel will be subject to the same restrictions, conditions, and privileges as host Participant personnel of comparable rank and in comparable assignments. Further, to the extent authorized by the host Participant's government laws and regulations, AN/BYG-1 Cooperative Project Personnel and their authorized dependents will be accorded:

3.1.1. Exemption from any host Participant tax upon income received from the parent Participant.

3.1.2. Exemption from any host Participant's government customs and import duties or similar charges levied on items entering the country for their official or personal use, including their baggage, household effects, and private motor vehicles.

3.2. Upon or shortly after arrival, AN/BYG-1 Cooperative Project Personnel will be provided briefings arranged by the AN/BYG-1 Program Office or host Participant field or

Contractor activities about applicable laws, orders, regulations, and customs and the need to comply with them. AN/BYG-1 Cooperative Project Personnel will also be provided briefings arranged by the AN/BYG-1 Program Office or host Participant field or Contractor activities regarding applicable entitlements, privileges, and responsibilities such as:

3.2.1. Any medical and dental care that may be provided to AN/BYG-1 Cooperative Project Personnel and their dependents at the host Participant's medical facilities, subject to applicable laws and regulations, including reimbursement requirements.

3.2.2 Purchasing and patronage privileges at military commissaries, exchanges, theaters and clubs for AN/BYG-1 Cooperative Project Personnel and their dependents, subject to applicable laws and regulations.

3.2.3. The host Participant will provide, if available, housing and messing facilities for AN/BYG-1 Cooperative Project Personnel and their dependents on the same basis and priority as for its own personnel. AN/BYG-1 Cooperative Project Personnel will pay messing and housing charges to the same extent as host Participant personnel. At locations where facilities are not provided by the host Participant or facilities are not available for its own personnel, the parent Participant will make suitable arrangements for its AN/BYG-1 Cooperative Project Personnel.

3.2.4. Responsibility of AN/BYG-1 Cooperative Project Personnel and those dependents accompanying them to obtain motor vehicle liability insurance coverage in accordance with laws and regulations applicable in the area where they are residing. In case of claims involving the use of private motor vehicles by AN/BYG-1 Cooperative Project Personnel and their dependents, the recourse will be against such insurance.

3.3. The AN/BYG-1 Program Manager, through the AN/BYG-1 Program Office and host Participant field or Contractor activities, will establish standard operating procedures for AN/BYG-1 Cooperative Project Personnel in the following areas:

3.3.1. Working hours, including holiday schedules.

3.3.2. Leave authorization, consistent to the extent possible with the military or civilian personnel regulations and practices of both Participants.

3.3.3. Dress regulations, consistent to the extent possible with the military or civilian personnel regulations and practices of both Participants.

3.3.4. Performance evaluations, recognizing that such evaluations will be rendered in accordance with the parent Participant's military or civilian personnel regulations and practices.

3.4. AN/BYG-1 Cooperative Project Personnel committing an offense under the laws of the government of either Participant may be withdrawn from this Project with a view toward further administrative or disciplinary action by the parent Participant. Disciplinary action, however, will not be taken by the host Participant against AN/BYG-1 Cooperative Project Personnel, nor will AN/BYG-1 Cooperative Project Personnel exercise disciplinary authority over host Participant personnel. In accordance with the host Participant's government laws, regulations, and procedures, the host Participant will assist the parent Participant in carrying out investigations of offenses involving AN/BYG-1 Cooperative Project Personnel.

3.5. During their assignment, AN/BYG-1 Cooperative Project Personnel will not be placed in the following duty status or environments unless it is consented to by the Parent Participant:

3.5.1. Areas of political sensitivity where their presence may jeopardize the interests of either the host Participant or parent Participant, or where, in the normal course of their duty, they may become involved in activities which may embarrass either Participant.

3.5.2. Deployments in non-direct hostility situations, such as UN peacekeeping or multinational operations, or third countries.

3.5.3. Duty assignments in which direct hostilities are likely. Should the AN/BYG-1 Program Office or the field or Contractor activity of either Participant to which AN/BYG-1 Cooperative Project Personnel are assigned become involved in hostilities unexpectedly, AN/BYG-1 Cooperative Project Personnel assigned there will not be

involved in the hostilities. Any such AN/BYG-1 Cooperative Project Personnel approved by the Parent Participant for involvement in hostilities will be given specific guidance as to the conditions under which the assignment will be carried out by the appropriate authorities of the host Participant and parent Participant.

ANNEX C

PLANNED PROCUREMENT (ORDER) QUANTITIES AND ESTIMATED FUNDING
SCHEDULE
AN/BYG-1 UPGRADES

Table Annex-1: ESTIMATED PROCUREMENT QUANTITIES

Note: S = Shipset, TI = Tech Insert

	CY05	CY06	CY07	CY08	CY09	Total
USN	6 TI	5 TI	6 TI	9 TI	5 TI	31 TI
RAN	4 S	5 TI				4 S 5 TI

ESTIMATED SCHEDULE FOR DELIVERY TO AUSTRALIA*

	CY05	CY06	CY07	CY08	CY09	Total
S/TI	4	1	7	2	0	14

- Includes five (5) shipsets procured under Foreign Military Sales Case AT-P-LBR.

ESTIMATED SHARED FINANCIAL CONTRIBUTION SCHEDULE - DEVELOPMENT PHASE

	CY05	CY06	CY07	CY08	CY09	Total
USN	15.068	19.126	20.022	21.865	17.130	93.211
RAN	1.821	3.352	3.444	3.801	4.031	16.449

ESTIMATED UNIQUE FINANCIAL CONTRIBUTION SCHEDULE - DEVELOPMENT PHASE

	CY05	CY06	CY07	CY08	CY09	Total
USN	35.868	21.502	31.444	30.925	22.916	142.655
RAN	6.287	3.649	2.598	0	0	12.534

ESTIMATED SHARED FINANCIAL CONTRIBUTION SCHEDULE - PRODUCTION PHASE

	CY05	CY06	CY07	CY08	CY09	<u>Total</u>
USN	.218	.181	.184	.187	.142	.912
RAN	.031	.032	.032	.033	.033	.161

ESTIMATED UNIQUE FINANCIAL CONTRIBUTION SCHEDULE - PRODUCTION PHASE

	CY05	CY06	CY07	CY08	CY09	<u>Total</u>
USN	181.400	125.550	99.750	109.825	75.675	592.200
RAN	12.740	2.407	2.084	0	0	17.231

ESTIMATED SHARED FINANCIAL CONTRIBUTION SCHEDULE - SUPPORT PHASE

	CY05	CY06	CY07	CY08	CY09	<u>Total</u>
USN	.923	3.455	4.895	5.446	5.103	19.822
RAN	.031	.527	.858	.881	1.201	3.498

ESTIMATED UNIQUE FINANCIAL CONTRIBUTION SCHEDULE - SUPPORT PHASE

	CY05	CY06	CY07	CY08	CY09	<u>Total</u>
USN	6.131	1.957	.699	1.184	.695	10.666
RAN	8.198	4.477	2.893	2.026	1.703	19.297

** Reference for shared contributions and RAN unique contributions is RAN SEA 1439 Master Cost Model.

ANNEX D

PROJECT OVERVIEW

1.0. BACKGROUND

1.1 This MOU is built upon a long-term initiative to periodically modernize the AN/BYG-1 under a U.S. DoD/Australian DoD partnership. This project is essential to further strengthen the ability of both Participants to meet current and future undersea and surface threats. The Australian DoD has previously initiated a procurement activity to establish the AN/BYG-1 baseline on the COLLINS Class Submarines. This procurement involves the establishment of infrastructure to support the initial and future evolution of the system. This procurement activity initiated by the Australian DoD will be continued and supported under this MOU. The USN has a well-established process for improving, maintaining, and upgrading submarine combat control systems, including the AN/BYG-1 and associated support and training infrastructures. This MOU will bring the Australian DoD into this process, including the consideration of Australian and U.S. DoD operational and capability requirements, decision making, and resource allocation to support the Project.

2.0. PROJECT SUMMARY DESCRIPTION

2.1. The U.S. DoD and the Australian DoD will join in a partnership for the cooperative development, production, and through-life support of the AN/BYG-1. The project will consist of three concurrent phases over a five-year period: Development; Production; and Support. The initial baseline establishment, spiral development and modernization of the AN/BYG-1 will result in a combat control system with enhanced surveillance, command and control, target detection and localization, and target acquisition capabilities. The cooperative partnership will maximize the mutual benefits of interoperability and the synergy of equipment production and logistics support.

3.0. DEVELOPMENT PHASE

3.1. During Development, U.S. DoD and Australian DoD personnel will jointly develop AN/BYG-1 upgrades primarily through the Advanced Processing Build (APB) Process and specific planned Technical Insertions (TI) and other recognized temporary installation processes. Development or testing efforts in support of the Project which may take place outside

of the APB Process or associated working groups identified in this MOU will be strictly conducted so as to not modify or interfere with agreed to configuration baselines, or agreed to ongoing APB efforts, and will be considered unique efforts under this MOU and funded and managed by the respective Participant accordingly.

3.2. The goal of the APB Process is to produce hardware independent software builds that create or improve functionality and incorporate them into naval combat systems. To ensure that the most capable functionality is transitioned, the APB Process is open to all members of industry who can provide the appropriate technology. The APB Process introduces software enhancements via a four-step evolutionary process designed to promote a balance between innovation and utility while rapidly maturing and transitioning science and technology into operationally useful systems. The process is designed to provide annual capability deliveries while ensuring operator input is incorporated throughout the entire development and test cycle.

3.3. The goal of TIs is to modernize existing system hardware and replace obsolete equipment while providing more processing power to accommodate the greater demands brought about by software changes through the APB Process.

3.4. The Development Phase will include the development required to make approved software from the APB Process acceptable for shipboard use. This includes integrating accepted changes brought about by both the APB Process and TIs into the configurations needed to meet the unique requirements of equipment space on the different submarines classes.

4.0. PRODUCTION PHASE

4.1. The Production Phase will consist of procuring and installing the AN/BYG-1 Tactical Subsystem on six COLLINS Class Submarines as well as all the remaining submarines in the USN submarine fleet not yet configured in order to attain AN/BYG-1 core commonality among both Participants' submarine classes. Timing of the production and installation of APB upgrades and TI upgrades will be in accordance with the Participants' unique requirements. The Production Phase will also include installation of software upgrades developed through the yearly APB Process and procurement and installation of hardware from scheduled TIs planned to occur every two years.

5.0. SUPPORT PHASE

5.1. The Joint Project Office will accommodate both Australian DoD and U.S. DoD supply and support plans, schedules and budgets - full life cycle management, logistic support and budget planning to the fullest extent possible.

5.2. The Support phase will begin upon MOU signature with the procurement for the Australian DoD of the required support, training, spares, and other materials to support the transition of the current Combat Control System to the AN/BYG-1 Tactical Subsystem. This will include the provision, support and future upgrades of shore based training and integration facilities to facilitate the development by both Participants of candidate products for consideration in the APB process, and to deliver training necessary for the operation of the AN/BYG-1 Tactical System. This MOU provides for the reciprocal use of the Participants' training facilities. This support phase effort is required to begin immediately in order to support the Australian DoD Replacement Combat System (RCS) Project SEA 1439 schedule where installation of the first AN/BYG-1 Tactical Subsystem in the first COLLINS Class Submarine is scheduled to be completed by June 2006. Certain efforts included in the Support Phase derive from RAN-unique requirements. The financial costs of these, and similar unique efforts on the part of both Participants in all phases are estimated in Annex C (Planned Procurement (Order) Quantities and Estimated Funding Schedule). The U.S. DoD and Australian DoD will jointly perform configuration management services, parts management, safety management, logistics support analysis, updates of technical data, training, manpower development, and computing during this phase.