



MAPW

Health professionals promoting peace

18th November 2016

MAPW submission to the Senate Foreign Affairs, Defence and Trade legislation Committee Inquiry into the Civil Nuclear Transfers to India Bill 2016

Thank you for the opportunity to make a submission.

The recommendations of the JSCOT Committee regarding civil nuclear transfers to India have not been met.

In summary our concerns are:

- There are major nuclear proliferation issues given India is not a signatory to the Comprehensive Test Ban Treaty (CTBT) nor any fissile material cut-off treaty.
- The Indian Nuclear industry has inadequate safety and regulatory standards.
- The terms proposed appear to waive “standard provisions” relating to nuclear safeguards in similar agreements with Japan, the US and South Korea, and have omitted other items.
- The proposed legislation is in breach of Australia’s existing treaty obligations

Our recommendation is that the committee reject the legislation in its current form.

We value the committee examining these issues, and would be happy to present to the committee if that would be useful.

Yours sincerely,

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The recommendations of the JSCOT Committee have not been met.

1. India has not signed the Comprehensive Test Ban Treaty (CTBT) and has not negotiated a fissile material cut-off treaty.

The first two JSCOT recommendations relate to India becoming a signatory to the Comprehensive Test Ban Treaty (CTBT) and negotiating a fissile material cut-off treaty, which includes a nuclear arms limitation treaty for the Indian subcontinent region.

India has failed to sign the nuclear test ban treaty, and has the capacity to unilaterally recommence nuclear weapons testing. The JSCOT report notes that India is unlikely to change this stance.

Both India and Pakistan continue to produce fissile material to make nuclear weapons, and there is no evidence to suggest this will cease in the short or medium term. India is in the process of launching its first nuclear submarine, with two more in the pipeline. These will each carry up to 12 missiles with nuclear warheads

Exporting uranium to India would further undermine the Nuclear Non-Proliferation Treaty (NPT), an important brake on widespread nuclear weapons proliferation. Selling to India would not only endorse and entrench India's nuclear weapons build up, but also sends a strong signal to NPT signatories that the treaty has no future value. With the proposed legislation Australia is signalling that commercial interests outweigh the international safeguards provided by the NPT.

Selling uranium to India will have international knock-on effects in terms of non proliferation and eventual nuclear disarmament. Australia needs to take active leadership on this issue, and support the current UN processes working towards nuclear disarmament.

In 2009 the Joint Standing Committee on Treaties expressed bipartisan support to reinvigorate efforts against weapons proliferation, and take a leadership role in working towards disarmament with a Nuclear Weapons Convention. (1) There is clear popular support by the Australian population for nuclear disarmament. In 2009, a Lowy poll found 75% of Australians agreed that nuclear disarmament should be a top priority for the Australian Government (2). In 2014 a Nielsen poll, which asked the question: "Should the Australian government support or oppose the current efforts for a global treaty banning nuclear weapons?" found 84% of Australians in favour of government efforts for a treaty to ban nuclear weapons (3)

India has at least two large reactors that are "apparently run as military plutonium producers". Given that India does not have enough domestic uranium for both weapons and power generation, any imported uranium frees up domestic uranium for weapons production. Indeed, in 2005, former head of India's global strategic development task force K. Subramaniam wrote in the Times of India:

"Given India's uranium ore crunch and the need to build up our minimum credible deterrent as fast as possible, it is to India's advantage to categorise as many power reactors as possible as civilian ones to be refuelled by imported uranium and conserve our native uranium fuel for weapon-grade plutonium production." (4, 5)

In addition, it is worth examining the safeguards applied by the International Atomic Energy Agency (IAEA), which are supposed to prevent the diversion of nuclear material from reactors to weapons development.

The 1977 Fox Report (6) which emerged from the Ranger Uranium Environmental Inquiry is the foundation for current policy on uranium mining in Australia. After analysing the international safeguard system and the actual control Australia has over uranium that has left our shores, the Fox Report admitted that safeguards offer only "the illusion of protection".

There are a number of reasons for this.

Firstly, safeguards rely on a state disclosing information to the IAEA and providing access to facilities. They are directed primarily to declared facilities.

Nuclear weapon states are not obliged to open up their facilities but can do so on a voluntary basis only. Special inspections undertaken to resolve ambiguities must usually first gain cooperation of the inspected state. States also have the right to reject particular inspectors designated for their country by the IAEA. Inspection schedules are normally set for the convenience of the operator.

So in reality any "safeguards" to prevent Australian uranium being used for military purposes are meaningless.

2. There is clear need for demonstrably improved safety standards before any uranium sales go ahead.

The JSCOT committee's third recommendation discussed the issues of safety and the effectiveness of safeguards in the Indian nuclear industry. The committee argued that measures to improve safety standards were necessary and needed to be shown to work in practice before any uranium sales went ahead.

There is significant risk of severe accident in Indian nuclear facilities, given most nuclear facilities there have experienced small or large accidents at some point. It is of concern that the latest reactor to be commissioned, Koodankulam-I, a Russian designed light water reactor, has had a patchy operating record since started operating. Safety concerns have been at the heart of intense local opposition in various parts of India to nuclear power plants.

The JSCOT report also highlighted the lack of an independent nuclear industry regulator. This is despite both the Indian parliamentary Public Accounts Committee and the Auditor General recommending that the government ensure a truly independent regulator be established. So far this has not been done.

India's Public Accounts Committee said in a report last year that the country's nuclear safety regime is "fraught with grave risks" and that the nuclear regulator is weak and under-resourced (7). A separate report in 2012 by the Comptroller and Auditor General of India (8) was critical of the Atomic Energy Regulatory Board (AERB) for its lack of independence and lax oversight, and urged the

government to create a nuclear regulator that is “empowered and independent” to avoid an accident like the Fukushima Daiichi nuclear disaster in Japan in March 2011.

The report found the legal status of the AERB is “one of a subordinate office executing delegated functions of the Central Government and not that of a regulator”. It has no power to make rules, enforce compliance or impose penalties. Despite being the regulator of nuclear power generation, the AERB has no direct role in radiological surveillance of nuclear power plants to ensure the safety of workers, or in emergency-preparedness exercises carried out by plant operators. None of the country’s nuclear power plants or research reactors, according to the report, has decommissioning plans in place, and the AERB has no role in decommissioning besides prescribing relevant guides and safety manuals.

The Auditor-General found that 60 per cent of safety inspections for operating nuclear power plants were either delayed or not undertaken at all, and many smaller research facilities were operating without licenses (8,9). On some occasions, fines for nuclear safety transgressions were negligible (less than A\$10). The auditor concluded that “it is evident that AERB is on a very tenuous ground if it has to be judged in terms of benchmarks of what is expected of an independent regulator”.

3) The terms in this agreement substantially lower the previous safeguards and standards usual in uranium sale agreements.

The proposed agreement to sell uranium to India differs substantially from past nuclear deals and risks weakening safeguards.

John Carlson, the former head of the Australian Safeguards and Non-Proliferation Office, was reported as initially in favour of selling uranium to India. But he expressed major reservation about the agreement last October, noting the deal appeared to waive “standard provisions” relating to nuclear safeguards in similar agreements with Japan, the US and South Korea, and omitted a number of other items.

“Article six of the treaty grants India unprecedented open-ended “reprocessing consent”, which could leave Australia without a say in how the nuclear material it shipped to India was used.”

Weapons-grade plutonium can be recovered as a by-product of electricity generation, and reprocessed to create more energy or to produce nuclear weapons. The proposed agreement has no requirement for Australia to approve the downstream reprocessing facilities where such plutonium could be used.

The proposed agreement permits India to reprocess Australian uranium provided it does so in a US-approved facility. However the US deal with India does not specify how the resulting plutonium should be managed.

Less stringent International Atomic Energy Agency requirements would apply to the Indian nuclear program, which would prevent plutonium being used in a nuclear weapon, but not from being employed in weapons-related research or transferred to a third country. The secrecy around the frequency of IAEA inspections in India is also of considerable concern.

Mr Carlson noted that the confidential “administrative agreement” would be crucial. In every past deal such an agreement has allowed Australia to track the uranium it supplies, as well as any by-products, including plutonium, generated in its production. If Australia does not require India to track the material, then the agreement itself is ineffective. It is impossible for the SFADTL committee to evaluate this important aspect of the treaty unless the administrative agreement is also examined.

4. The sale of uranium to India provides very limited economic benefit to Australia.

In 2008 the Bush administration negotiated a US-India civil nuclear agreement. As a result, India began sourcing uranium from the Uranium Suppliers Group. This has already damaged the NPT. It also means that Australian uranium sales are likely to be minimal, as India is likely to merely diversify sources to ensure reliable supply.

According to the World Nuclear Association (10), India’s uranium demand in 2015 amounted to just 913 tonnes – just 1.4 per cent of world demand. Uranium mining and exploration account for just 1700 (0.015% of total) jobs in Australia.

Uranium mining in Australia has significant local impacts. In September 2011, following the Fukushima accident, UN Secretary General Ban Ki Moon called on Australia to conduct ‘an in-depth assessment of the net cost impact of the impacts of mining fissionable material on local communities and ecosystems’. To date this has not been done.

India currently has nuclear energy agreements with 11 countries and imports uranium from France, Russia and Kazakhstan. If Australia supplies 20 per cent of India’s uranium demand, uranium export revenue will increase by 3 per cent. This is a very poor return given the potential for Australian uranium to increase Indian weapons production (and possible weapons proliferation) and the further damage this agreement will do to the NPT.

5 This legislation is not in keeping with Australia’s international treaty obligations.

Australia is a signatory to the South Pacific Nuclear Weapons Free Zone Treaty (Treaty of Rarotonga). The JSCOT committee called for a public response from the government about the conflict between the SPNWFZ treaty and the proposed sale of uranium to India, and for open disclosure of any legal advice the government has received, or on related concerns regarding non-compliance of the Safeguards Act. This has not been done.

CONCLUSION

We value the role of the Senate Committee in examining this legislation. The concerns expressed by the JSCOT have clearly not been adequately addressed.

Selling uranium to India will have international knock-on effects in terms of non-proliferation and eventual nuclear disarmament. Exporting uranium to India will have many damaging impacts, including increased risk of weapons proliferation, nuclear weapons use and nuclear accident. Such exports would have very limited financial benefit to Australia.

It is in Australia's national interest (and the global interest) for Australia to show leadership on non-proliferation, and to genuinely support nuclear disarmament. Australia has a responsibility to actively work against further spread and eventual use of these ultimate weapons of mass destruction.

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