

Summary of Submission:

My hope is that the Committee will, with the help of expert witnesses, examine two issues:

1. To what extent does the proposed agreement meet the requirements of Australia's Uranium export safeguards policy as developed by the Fraser government? and
2. If these are not fully met, do the advantages conferred by the treaty provide sufficient compensation?

Personal qualifications relevant to the issue:

I was the first head of the Nuclear Safeguards Branch in the Department of Foreign Affairs and Trade when we devised the model nuclear safeguards agreement and negotiated the first 6 bilateral safeguards agreements. My later appointments included leader of the Australian Delegation to the Conference on Disarmament, then Special Disarmament Adviser, then Head of the Division now called International Security Division and ultimately Ambassador and Resident Representative to the International Atomic Energy Agency in Vienna, where I was a member of the Board of Governors and in 1993 its Chairman.

In all this work, I was guided by the aims of Australia's traditional Uranium export safeguards policy, in which I still believe.

Submission:

Australia's Uranium export safeguards policy as developed by the Fraser government had two main aims.

One, on which public and media attention focused, was to assuage Australian concerns that Uranium exported from this country could be used in bombs. I do not know of anyone more qualified than John Carlson to advise on that topic. His submission provides a starting point for the Committee to evaluate the effectiveness of the proposed treaty with India in this respect.

For my part, I add only one point. The proposed agreement with India is bilateral and does not rest on a multilateral instrument. This means that any difficulty in the implementation of the agreement would legally be a matter between Australia and India alone. Part of the network of considerations behind Australia's other nuclear safeguards agreements is that making them conditional on the customer country being a party to the multilateral Nuclear Non-proliferation Treaty (NPT) was that any departure from that treaty would be a breach of obligations against not Australia alone but nearly all other countries as well. This was seen as strengthening both Australia's position and the deterrent effect against any breaches of our treaty.

The second objective of Australia's traditional Uranium export policy is electorally much less prominent but in terms of our national security, far more important. It was central to Malcolm Fraser's conviction that the policy whose development he oversaw was right. This was that the export of Australian uranium and the conditions applied thereto should make a major contribution to the strengthening of the global anti-nuclear proliferation regime: that is the network of treaties, mutual and public expectations and standards of behaviour that restrain the spread of nuclear weapons. In other words, that our Uranium should only be exported under conditions that make the world a safer place and therefore Australia more secure.

The Australian public, politicians and commentators are not accustomed to Australia wielding realpolitik clout on a global scale but control of over a third of the world's known Uranium reserves

gave it to us in the 1970s. 40 years on much in the world has changed but the effectiveness of the global anti proliferation effort remains vital to the security of the planet and to our own.

The National Interest Analysis prepared for the Committee says at the end of Paragraph 5

“... The maintenance of multilateral, regional and bilateral arrangements that operate to counter nuclear proliferation is a matter of high priority for Australia.”

But we are not told how prominently this factor figured in high level conversations leading up to the agreement nor the degree of priority it was given over others.

The NIA goes on to say in Paragraph 9

“...Cooperation under the proposed Agreement will reinforce India’s ongoing support for these commitments. Together with bilateral engagement such as through the Disarmament and Non-proliferation Dialogue, cooperation under the proposed Agreement will help to draw India more closely into the non-proliferation mainstream.”

The Committee will want to form its own judgement as to whether this assertion is well founded. It could start by asking the Indian government if it agrees.

To draw India more closely into the non-proliferation mainstream is of great importance. At the heart of the non-proliferation regime is the Nuclear Non-proliferation Treaty (NPT). That Treaty has been in force so long and so widely complied with that it is close to forming part of the customary laws of mankind and therefore applicable universally, that is to say even to those few countries which seek to defy it.

India’s long standing and virulent opposition to the NPT has been one of the biggest obstacles to the international anti-proliferation effort. It meshes in with India’s frequent hostility towards accepting commitments under multilateral agreements in other fields, from the Comprehensive (nuclear) Test Ban Treaty to the projected Paris agreement on climate change. Encouraging India to be more amenable to accepting multilateral obligations and the concomitant principal of international accountability would be an important gain for the rules-based international order in which might is not the only right, that is so important to Australia.

For what it may be worth, my own view is that the strength of India’s desire to gain access to Australian Uranium provided an opportunity to require India to accept multilateral obligations, if not identical to those accepted by all but 3 nations on earth (Pakistan and Israel are the only other hold outs against the Non Proliferation Treaty), similar in spirit. If the ideas set out in ‘Uranium for India’ I wrote for the Lowy Institute are considered too ambitious, a wide range of other possibilities could have been attempted. The Committee could seek information as to what negotiating objectives were set for the Australian side on this point and the degree to which they were pursued. Crucially if in the end commercial aspirations and other factors were given priority over our national security and interest in the international order, the considerations should be exposed and the judgements examined.