

Joint Standing Committee on Treaties

Agreement among the Government of Australia, the Government of the United Kingdom of Great Britain and Northern Ireland, and the Government of the United States of America for Cooperation Related to Naval Nuclear Propulsion

Written questions on notice provided by Senator Cox

22 October 2024

1. What do you make of the part of the Agreement that indemnifies the UK and US against “any liability, loss, costs, damage, or injury arising out of, related to, or resulting from nuclear risks” associated with the AUKUS project?

Answer: This reflects that the acquisition of nuclear-powered submarines carries with it unique risks that would not be associated with the acquisition and operation of conventionally-powered diesel-electric submarines. The risks could be characterised as those associated with the technology, and Australia’s lack of experience in dealing with the technology. Given that the environmental and human costs associated with an incident involving an AUKUS submarine could be significant, it is not surprising that the UK and US have sought this indemnity.

2. If nuclear powered submarines do not pose a significant “nuclear risk”, as some have claimed, why would this clause be necessary? Why do you think this part was added to the Agreement?

Answer: See my answer above.

3. This agreement allows for the US to provide one year’s notice and walk away from the deal if it thinks it would be detrimental to their military to provide Australia with nuclear submarines. Why do you think the Government signed up to an agreement that will allow the US to walk away at any moment?

Answer: The US government and the US military have a more global perspective on their defence and strategic needs than Australia, which is more focused on the Indo-Pacific where the AUKUS submarines would operate. Given the volatility of international geopolitics, and that the 2024 Agreement is anticipated to operate until 2075, it is unsurprising that the US as ‘supplier’ to Australia would seek this level of flexibility. Australia, as the recipient of AUKUS level technology and submarines, has little option other than to accept that the US as the major power in the relationship has sought this level of flexibility.

4. As far as you can tell, if the US did walk away, would Australia have any clawback mechanism to get the billions of dollars we have already given to the US?

Answer: That would be subject to terms and conditions agreed to by the parties under Article IV.

5. What do you think this Agreement will mean for Australia's relationship with the International Atomic Energy Agency?

Answer: Australia already has an established relationship with the IAEA via Australia's network of nuclear cooperation agreements <https://www.dfat.gov.au/international-relations/security/non-proliferation-disarmament-arms-control/policies-agreements-treaties/nuclear-cooperation-agreements/australias-network-of-nuclear-cooperation-agreements> which relate to Australian nuclear material and NPT safeguards. As a party to the NPT, Australia will need to enter into additional safeguard agreements with the IAEA to possess certain nuclear technology, and to operate AUKUS submarines. This is contemplated under the 2024 Agreement in Article VII. Australia is subject to a series of obligations under the 2024 Agreement to ensure that it is meeting IAEA Safeguards Agreements prior to the UK and US transferring material to Australia. The obligations Australia is expected to meet under relevant IAEA standards, are further reinforced in the 'Understanding' attached to the Agreement. The outcome will be that Australia will be more deeply engaged with the IAEA and subject to greater levels of IAEA oversight.

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24 October 2024