

5 September 2006

To: The Treaties Committee of the Federal Parliament

Dear Committee Members,

A recent advertisement in the Australian press entitled 'About the House' invited views, comments and questions from the public about the recently-negotiated Agreement between Australia and China.

In view of the potential for strong growth in Australia's uranium sales to China, and the possibility that this could either enhance China's nuclear weapons-making capacity, or degrade the international nuclear non-proliferation regime, I have a number of questions for the Committee.

My starting point are the principles laid down for the export of Australian uranium by the Fraser government on 24 May 1977. These included:

- prior conclusion of a safeguards agreement before the negotiation of commercial contracts, plus a clause in every commercial contract noting that commercial transactions are subject to the prior negotiated safeguards;
- no transfer, enrichment beyond 20% U-235, or reprocessing of any Australian uranium without express prior consent of the Australian authorities. The expectation was that this would be done on a case-by-case basis;
- all safeguards applying to AONM to be policed and enforced by the IAEA and by other means;
- regular consultations between designated authorities in supplier and receiving countries on the implementation and effectiveness of bilateral safeguards.

My questions to the Committee are as follows:

Were any Australian uranium mining concerns or their agents or representatives permitted to negotiate, or begin to negotiate, contracts with Chinese users prior to the conclusion of negotiations for the bilateral safeguards agreement?

In addition to IAEA inspections, what Australian inspections will be carried out of Chinese nuclear facilities? On what basis and how regularly will these be undertaken?

In the Preamble to the Agreement is a re-affirmation by both signatories 'for the objectives and provisions of the Treaty (ie, the NPT) and their desire to promote universal adherence to the Treaty'. How can Prime Minister Howard or members of his government agree to this clause when his own declared preference is to join President George W. Bush's Global Nuclear Energy Partnership, which radically departs from, and indeed undermines, NPT principles?

Article III (b) of the Safeguards Agreement introduces the doctrine of equivalence in relation to AONM supplied to China. Does this not degrade the original Australian principles governing the export of Australian uranium, in that it complicates immeasurably the capacity to trace Australian uranium, the form it has been converted to, and the uses to which it is being put? For example, would it not allow the Chinese to transfer Australian uranium directly to their weapons program simply by substituting it for an equivalent quantity of other fissionable material held by China less conveniently placed or in a less convenient form for weapons use?

Article III (c) introduces the contingency that AONM can be irradiated together with 'other nuclear material', and that in such an event the doctrine of equivalence will again apply. But the clause does not specify the safeguards applicable to this 'other' material. How are combined quantities of fissile material, some subject to Australian safeguards, some not, to be safeguarded? How will AONM in this situation be differentiated from the 'other' material, especially if this 'other' is subject to laxer, or no, safeguards at all? Will Australian safeguards attach to the combined quantity? If so, where is the clause specifying this?

The fifth paragraph of Annex C allows China to reprocess Australian uranium on a programmatic, or routine, rather than a case-by-case basis. This modification to the Fraser government's original conditions, introduced as a result of commercial pressure from Australian miners and political pressures from consumer governments, is a feature of bilateral agreements between Australia and other countries. But given the lack of transparency on the part of the China Atomic Energy Authority in its nuclear dealings, how have Australian officials satisfied themselves (and the Australian government), that plutonium derived from re-processed AONM will not end up in Chinese nuclear weapons, or indeed in those of other countries?

I should be happy to appear before the Committee to discuss my concerns further, and could come to Canberra to do so if required.

Signed: Richard Broinowski