

## **REGULATION IMPACT STATEMENT**

**for**

### **AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION ON COOPERATION IN THE USE OF NUCLEAR ENERGY FOR PEACEFUL PURPOSES**

#### **BACKGROUND**

Australia and the then Union of the Soviet Socialist Republics concluded a safeguards agreement in 1990. This agreement is still in force as between Australia and the Russian Federation. Compared to Australia's other bilateral safeguards agreements, this agreement is narrow in scope – it does not allow for use of Australian uranium in Russian nuclear power plants – permitting only processing (e.g. converting uranium ore concentrates to uranium hexafluoride, or enrichment) on behalf of third countries in Australia's bilateral safeguards network.

In 2006 Australia's major uranium producers expressed an interest in being able to export uranium to Russia for use in its nuclear power plants. In parallel, the Russian Government approached the Australian Government seeking an amendment to the agreement to provide for such use. Also, Russia requested provision for technical nuclear cooperation be included in a new agreement. Upon entry into force of the new agreement, Australia and Russia's nuclear cooperation relationship would be brought into line with Australia's other bilateral nuclear agreements. The new nuclear cooperation agreement was signed by the then Minister for Foreign Affairs, Mr Alexander Downer MP, and the Head of the Russian Federal Atomic Energy Agency, Mr Sergey Kiriyenko, on 7 September 2007.

Under long-standing Australian Government policy, Australian uranium and nuclear material derived from it (termed Australian Obligated Nuclear Material) can only be exported to countries with which Australia has concluded a nuclear safeguards agreement. These agreements establish strict safeguards and control measures to ensure that exported uranium, nuclear equipment, or technology, are used solely for peaceful, non-military purposes. Currently Australia has 22 nuclear safeguards agreements in force covering 39 countries, plus Taiwan.

A mandate to negotiate a nuclear safeguards agreement with Russia was approved by the Australian Government in April 2007. As required, the lead agency, the Australian Safeguards and Non-Proliferation Office (ASNO), completed an analysis of the business cost and compliance cost to the Australian uranium producers, and found these costs to be negligible. The regulatory impact statement (RIS) was assessed by the Office of Best Practice Regulation (OBPR) as having "an adequate level of analysis and [is] suitable for

the entry into negotiations stage” (RIS ID 9011). Formal negotiations were held between Australian and Russian officials in April and May 2007.

## **1. PROBLEM**

Russia is seeking secure, long-term sources of energy to fuel its economic growth, and currently is the third largest energy consumer behind China and the United States. Meeting its expanding energy demand with non-fossil fuel technologies, such as nuclear power, will have positive environmental benefits. Russia is planning to expand its nuclear power industry substantially over the next 10-20 years and beyond. For Russia’s current nuclear power industry, most uranium needs are met through domestic supplies, although it is seeking to diversify supply through concluding agreements with a number of uranium supplier countries, including Australia. Russia’s planned total nuclear electricity capacity by 2015 will require an annual supply of about 6,500 tonnes of uranium – equivalent to a little less than Australia’s total annual uranium exports over recent years.

With Australia holding 27% of the world’s medium-cost uranium reserves, the inclusion of Russia in Australia’s bilateral nuclear safeguards partners could increase the demand for Australian uranium. Australia’s major uranium producers are keen to have Russia as an export market, but are currently excluded from this market due to the limited scope of the existing safeguards agreement with Russia. This led Australian uranium mining companies to approach the Government in 2006 to express their interest in access to Russia as an export market.

## **2. OBJECTIVES**

The Australian Government policy that determines to which countries, and under what conditions, uranium can be exported is the uranium export policy adopted in 1977. Practical implementation of this policy is primarily the responsibility of ASNO. Details of the implementation of the policy are published each year in ASNO’s Annual Report.

The primary objective of the proposed new Australia-Russia nuclear safeguards agreement is to allow Australian uranium producers to supply Russia’s nuclear power industry under strict safeguards conditions. These conditions are designed to ensure that any nuclear material transferred between Australia and Russia will be used solely for peaceful, non-military purposes. Providing for such exports is consistent with the expanding trade relationship between Australia and Russia and has the benefit of consolidating Australia’s position as a secure energy supplier.

## **3. OPTIONS**

Given that long-standing Government policy requires that uranium only be exported to countries with which Australia has concluded a bilateral safeguards agreement, the options were to either negotiate a new agreement to allow for use of Australian uranium in Russian nuclear power plants, or maintain the *status quo* (using the existing agreement) whereby uranium can only be processed in Russia on behalf of eligible third countries.

#### 4. IMPACT ANALYSIS

Concluding an agreement that allows for export and use of Australian uranium to Russia will likely benefit Australian uranium producers. There will be no compliance costs on producers above those already in place for exporting uranium to countries within the existing bilateral safeguards network. An assessment of the impact is contained in the Trade Impact Statement below. Furthermore, there is a positive environmental impact in assisting Russia to reduce greenhouse gas emissions through use of nuclear power.

##### ***Trade Impact Assessment***

In 2007, Australia exported approximately 8,600 tonnes of uranium valued at \$660 million. With the rapid increase in the spot price of uranium over recent years, the Australian Bureau of Agricultural and Resource Economics (ABARE) forecasted recently that the value of uranium exports will increase to about \$884 million in 2008.

Australia is the world's second-largest uranium producer after Canada, accounting for about 23% of new mine uranium production. Australian uranium production is exported under the oversight of the Department of Resources, Energy and Tourism and ASNO.

Australia's main uranium customers currently are the United States, France, Japan and the Republic of Korea. These countries are expected to continue to be Australia's main uranium export markets in the short to medium term, given that all intend to maintain or expand their nuclear power industries. However, with the recently concluded safeguards agreements with China, that country has the potential to become a significant export market for Australian uranium in the future.

With respect to the proposed new Australia-Russia nuclear safeguards agreement, the stakeholders are Australia's uranium producers: BHP-Billiton (Olympic Dam mine), Energy Resources Australia (Ranger mine), Heathgate Resources (Beverley mine), and any other mines given approval to operate.

Russia currently meets most of its own uranium needs but is increasingly pursuing access to external sources of uranium. This will likely increase over the medium term if Russia is to meet its expanding nuclear energy requirements. Already, Russia is actively exploring opportunities to import substantial quantities of uranium from Namibia and Kazakhstan. With Australia holding about 27% of the world's medium-cost uranium reserves, it is well placed to take advantage of Russia's increasing demand for uranium.

The impact of the introduction of Russia into Australia's network of bilateral safeguards partners is a possible increase in demand for Australian uranium over the medium term. However, quantifying this impact would be speculative. Whether this demand results in expanded mine production will be based on commercial decisions by mining companies and approvals by relevant State, Territory and Federal governments – noting that BHP-Billiton is developing plans to expand the Olympic Dam mine to triple uranium production by 2013. Furthermore, Australia currently has no energy exports to Russia, therefore, the proposed amendment could assist in developing this new export sector.

## **5. CONSULTATION**

The primary non-Government stakeholder organisations with respect to the proposed amendment to the Australia-Russia nuclear safeguards agreement are Australian uranium producers. Australian Government officials have consulted with Australia's major uranium producers on this proposed new agreement. Key Australian Government agencies: Department of Prime Minister and Cabinet, Attorney-General's Department; Department of Industry, Tourism and Resources (now the Department of Resources, Energy and Tourism); Department of Education, Science and Training (now the Department of Industry, Innovation, Science and Research); and the Department of Defence were consulted in seeking a negotiating mandate in April, and in the subsequent negotiations.

The State and Territory governments were advised formally in August 2007 through the Commonwealth-State-Territory Standing Committee on Treaties (SCOT), for discussion at the SCOT meeting on 24 September 2007. This SCOT meeting was the first available following the Government's announcement on 27 April 2007 of its intention to negotiate this agreement.

## **6. CONCLUSION AND RECOMMENDED OPTION**

The benefit to Australia of concluding a new nuclear safeguards agreement with Russia is expanding the market for Australia's uranium exports (in 2007 worth \$660M) while also consolidating Australia's position as a secure supplier of energy resources. This is consistent with the expanding trade relationship between Australia and Russia, and could assist in the development of a broader energy export sector with Russia. Further, Australian uranium exports will contribute to Russia's diversification from fossil fuels with associated environmental benefits.

## **7. IMPLEMENTATION AND REVIEW**

No new legislation or regulations would be required to give effect to the proposed agreement. However, it would be necessary to amend regulations pursuant to the *Nuclear Non-Proliferation (Safeguards) Act 1987* (the "Safeguards Act") to add the agreement to the list of "prescribed agreements" under the Act. Similar action would be required under the *Australian Radiation Protection and Nuclear Safety Act 1998*. No legislative or regulatory changes would be required to the existing roles of the Commonwealth or the States and Territories.

The regulated parties with respect to the proposed amended agreement are the three operating uranium producers. These companies have long-term mineral export permits issued by the Minister for Resources and Energy (or the Minister's delegate) pursuant to the *Customs (Prohibited Exports) Regulations 1958*. This is administered by the Uranium Industry Section of the Department of Resources, Energy and Tourism (DRET). Furthermore, these companies each have Permits for Possession of Nuclear Material

issued pursuant to the Safeguards Act, and administered by ASNO. No modification of these Permits for Possession of Nuclear Material would be required should Australia and Russia conclude the new agreement.

Under the Permits for Possession of Nuclear Material (administered by ASNO) and the Mineral Export Permits (administered by DRET) there are various administrative and reporting requirements that must be fulfilled by uranium mining companies. It is unlikely that these requirements would differ significantly from what is currently required for exports to other countries within Australia's bilateral safeguards network.

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