

**Supplementary Submission
by Friends of the Earth, Australia
on the
Agreement between Australia and Russia on Cooperation
in the Use of Nuclear Energy for Peaceful Purposes**

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1. INTRODUCTION

Friends of the Earth welcomes the opportunity to make a supplementary submission to the Joint Standing Committee on Treaties (JSCT) and requests the opportunity to appear before a hearing of the Committee on the issue of the proposed Australia-Russia Nuclear Cooperation Agreement (hereafter the Australia-Russia Agreement or the Agreement).

2. FURTHER QUESTIONS FOR ASNO/DFAT

1. Can ASNO/DFAT provide details of IAEA safeguards inspections in Russia since 1985.
2. Are DFAT/ASNO aware that the IAEA carried out no safeguards inspections in Russia from 2002-07, and if so, why was the JSCT not informed of that fact?

3. Does ASNO/DFAT have any reason to believe that the prevailing pattern of the IAEA not carrying out inspections in Russia will change in the foreseeable future?

4. When asked by Mr Simpkins from the JSCT to "clarify" that "nothing has gone missing in recent times" by way of nuclear theft from Russian facilities, ASNO's Mr Carlson said "Yes." Can ASNO provide evidence to justify that claim? Can ASNO/DFAT also provide data from relevant databases - e.g. IAEA, Stanford, US Department of Homeland Security - on the incidence of nuclear theft/smuggling in Russia over the past 5-10 years?

5. Are ASNO/DFAT aware that the US Department of Homeland Security said in December 2007 that reported incidents of trafficking and mishandling of nuclear material worldwide doubled between 2000 and 2005?

6. Are ASNO/DFAT aware of the 2007 SKI/ Atombesopastnos report which found gaping holes in nuclear security in Russia?

7. Can ASNO/DFAT provide evidence on Russia's compliance/non-compliance with international treaties including the European Convention for the Protection of Human Rights and Fundamental Freedoms?

8. In relation to the Australia-China Agreement, ASNO stated: "China accords the highest priority to the issue of social and political stability." Does ASNO have similar confidence in political stability in Russia?

9. ASNO/DFAT ought to have assessed Russia's treaty compliance during the course of the Australia-Russia negotiations. Has ASNO/DFAT made such an assessment? If not, why not? If so, can ASNO/DFAT provide the findings to the JSCT?

10. Can ASNO explain its statement: "This agreement stops at the point where Russia has spent fuel through using Australian uranium in reactors."

11. In relation to the unsafeguarded enrichment plant/s that Russia proposes to use to enrich Australian-obligated depleted uranium tails, why is it that Russia will not allow these to be subject to IAEA safeguards?

3. THE IAEA HAS NOT INSPECTED FACILITIES IN RUSSIA FOR MANY YEARS.

There is no 'safeguarding' of nuclear facilities in Russia.

No IAEA inspections have been conducted in the Russian Federation for many years. Annual IAEA Safeguards Statements from 2002-07 (copied below) state that no facilities in Russia were inspected. The statements from 2000 and 2001 do not state whether or not any facilities in Russia were inspected, and pre-2000 statements appear not to be available on the IAEA website.

ASNO/DFAT argue that the number of facilities *subject to* IAEA safeguards may increase as a result of the Australia-Russia Agreement. But as the prevailing situation in Russia illustrates, it is one thing to have facilities *subject to* safeguards and quite another for the IAEA to actually safeguard them.

Russia's voluntary IAEA safeguards agreement entered into force in 1985. The JSCT may like ASNO/DFAT to advise:

* details of any IAEA safeguards inspections in Russia since 1985 (ASNO's John Carlson told the JSCT on 16/6/08 that the "IAEA has inspected facilities in Russia from time to time ...")

* why the IAEA conducted no safeguards inspections in Russia from 2002-07

* if ASNO/DFAT have any reason to believe that the prevailing pattern of non-existent safeguards in Russia will change in the foreseeable future.

Excerpts from IAEA Safeguards Statements 2002-07

"Safeguards activities in the Russian Federation were limited to the evaluation of accounting reports on the export and import of nuclear material since no facilities were selected in 2007 from Russia's list of eligible facilities."

IAEA Safeguards Statement for 2007 and Background to the Safeguards Statement
<http://www.iaea.org/OurWork/SV/Safeguards/es2007.html>

"Safeguards activities in the Russian Federation were limited to the evaluation of accounting reports on the export and import of nuclear material since no facilities were selected in 2006 from Russia's list of eligible facilities."

IAEA Safeguards Statement for 2006 and Background to the Safeguards Statement
<http://www.iaea.org/OurWork/SV/Safeguards/es2006.html>

"Safeguards activities in the Russian Federation were limited to the evaluation of accounting reports on the export and import of nuclear material since no facilities were selected in 2005 from Russia's list of designated facilities."

IAEA Safeguards Statement for 2005, Background to Safeguards Statement and Executive Summary of the Safeguards Implementation Report for 2005

<http://www.iaea.org/OurWork/SV/Safeguards/es2005.html>

"Safeguards activities in the Russian Federation were limited to the evaluation of accounting reports on the export and import of nuclear material as no facilities were selected in 2004 for inspection from the State's list of eligible facilities."

Safeguards Statement for 2004, Background to Safeguards Statement and Executive Summary of the Safeguards Implementation Report for 2004

<http://www.iaea.org/OurWork/SV/Safeguards/es2004.html>

"No facilities in the Russian Federation were selected in 2003 for the application of safeguards."

Safeguards Statement for 2003, Background to Safeguards Statement and Executive Summary of the Safeguards Implementation Report for 2003

<http://www.iaea.org/OurWork/SV/Safeguards/es2003.html>

"In the Russian Federation, no inspections were performed in 2002 as no facilities were designated for inspection."

Safeguards Statement for 2002, Background to Safeguards Statement and Executive Summary of the Safeguards Implementation Report for 2002

<http://www.iaea.org/OurWork/SV/Safeguards/es2002.html>

4. ADDITIONAL PROTOCOL

ASNO's Regulation Impact Statement and National Interest Analysis both fail to note that Russia's Additional Protocol (AP) entered into force on 16/10/07, and the first Friends of the Earth submission incorrectly states that the AP had not been ratified or entered into force. While the ratification and entry into force of an AP is welcome, the comments in the first Friends of the Earth submission are still relevant: even with an AP in place, IAEA safeguards as applied to Russia will still be partial and limited - and quite possibly non-existent - and will certainly fall far short of justifying the routine ASNO/DFAT/industry fiction that safeguards "ensure" that diversion will not occur.

And the following recommendation from the first Friends of the Earth submission remains relevant:

Additional Protocols vary considerably in their scope so the JSCT may wish to consider refusing to endorse the proposed Agreement until such time as Russia has ratified an Additional Protocol and the Committee has had an opportunity to review the scope of the Additional Protocol.

Russia's AP is posted at:

<www.iaea.org/Publications/Documents/Infcircs/2008/infcirc327a1.pdf>

It remains a concern that government policy is (or appears to be) to allow uranium sales to nuclear weapons states which do not have an AP in force - i.e. the USA. This contradicts Labor's binding policy platform which states: "Labor will work towards ... universalising of the IAEA additional protocol making it mandatory for all states and members of the Nuclear Suppliers Group to make adherence to the additional protocol a condition of supply to all their transfers."

The Australian Uranium Association's submission to the JSCT asserts that implementation of an AP enables the IAEA "... to ensure not only non-diversion of nuclear material to military programs ... but that a state has no undeclared nuclear material or activities in the countries concerned." However, Russia's AP does not ensure anything at all - it does not even ensure that the prevailing pattern of the IAEA not inspecting facilities in Russia will be broken. Further, Russia's AP has little or no relevance to undeclared facilities, of which there are many in Russia.

5. COMMENTS ON ASNO'S STATEMENTS AT THE FIRST HEARING (16/6/08)

Inadequate nuclear security

Asked if he disputes the idea that Russia has not effectively secured its fissile material and radioactive wastes, Mr Carlson said: "I do not believe that proposition represents the current state of affairs."

When asked by Mr Simpkins from the JSCT to "clarify" that "nothing has gone missing in recent times", Mr Carlson said "Yes." Mr Carlson should be asked to justify that claim - it is almost certainly not true.

Mr Carlson went on to say: "There have been incidents of material being stolen in the past – and, I might say, recovered – and these incidents date back to the early nineties. When the material first went missing goes back to that period on the whole. The number of incidents is small. Obviously they are a cause for concern, but those who have been working with the Russians in this area – that is, the UK, the EU, Canada, Japan and the US – are all of the view that the problems that existed in the past have now been addressed satisfactorily."

Mr Carlson based his assurances on his account of discussions he has purportedly had with unnamed people from unspecified organisations in a few countries. The JSCT might like to ask ASNO for some solid, verifiable evidence.

The JSCT may like to ask ASNO to provide relevant data from the various databases on nuclear theft/smuggling e.g. IAEA, Stanford, US Department of Homeland Security.

Russia (and the former Soviet Union) have for many years been central to the global problem of nuclear theft and smuggling. Efforts have been made to improve nuclear security in Russia but the problem is far from solved.

Globally, the number of reported incidents of trafficking has been increasing through some combination of increased trafficking and better detection. For example, the US Department of Homeland Security said in December 2007 that reported incidents of trafficking and mishandling of nuclear material worldwide doubled between 2000 and 2005. The department received 215 reports of nuclear trafficking and related criminal activity worldwide in 2005, compared to 100 incidents in 2000. The incidents included illegal diversion, purchase, sale, transport or storage of nuclear material.

Nuclear trafficking reports double, The Age, 27/12/06,

www.theage.com.au/news/world/nuclear-trafficking-reports-double/2006/12/27/1166895332456.html

As discussed in Friends of the Earth's first submission, *New Scientist* summarised a 2007 SKI/ Atombesopastnos report which found gaping holes in nuclear security in Russia:

"According to the report by [Swedish Nuclear Power Inspectorate] SKI and Atombesopastnost – a subsidiary of Russia's Federal Atomic Energy Agency, Rosatom – a large number of nuclear facilities have "insufficient" security measures. Measures for preventing thefts are "small" and cooperation among authorities is "inadequate". "The illicit trafficking problem is for real," the report concludes.

Study of nuclear security in Russia reveals lapses, New Scientist, 1/12/07,

www.robbedwards.com/2007/11/study-of-nuclea.html

Treaty compliance

Mr Carlson said that: "... we are talking about Russia's preparedness to comply with treaty commitments, where in fact Russia has a sound record."

That view is contested by, among others, international human rights lawyer Robert Amsterdam, who asserts on his website that he doesn't "... have enough bandwidth here to go through the whole list of international agreements solemnly signed and then insolently ignored by Russia. I'll just mention one example - The European Convention for the Protection of Human Rights and Fundamental Freedoms, which has been flouted at every turn ..."

ASNO/DFAT ought to have assessed Russia's treaty compliance during the course of the Australia-Russia negotiations. Has ASNO/DFAT made such an assessment? If not, why not? If so, can ASNO/DFAT provide the findings to the JSCT?

NPT compliance

When asked if Russia complies with its NPT disarmament obligations at the 16/6/08 hearing, Mr Carlson said: "It certainly is." But he went on to state that: "On its disarmament obligations, these obligations under the NPT are expressed in very general terms, so it is difficult to quantify what those obligations mean."

How can Mr Carlson be certain when the obligations are expressed "in very general terms" and are "difficult to quantify"?

Russia is clearly in breach of the spirit of the NPT - the bargain whereby weapon states agree to disarm and non-weapons states agree not to proliferate - and Russia is arguably in breach of the letter of its NPT commitments.

When asked about concerns with the sale of uranium to weapons states, Mr Carlson said: "... I find those sorts of concerns very difficult to understand."

The concerns are as follows:

- * The weapons states are violating their NPT commitments.
- * None of the weapons states has any intention of disarming.
- * That recalcitrance encourages horizontal proliferation (another simple argument that Mr Carlson cannot understand).
- * Withholding civil nuclear trade to weapons states is one appropriate response; indeed withholding civil nuclear trade to non-NPT-compliant states is a fundamental premise of the NPT and of Australia's uranium export policy.

Other issues

Mr Carlson asserted that: "This agreement stops at the point where Russia has spent fuel through using Australian uranium in reactors." The JSCT might like to ask ASNO for clarification of that statement. Spent fuel contains Australian-Obligated Nuclear Materials including Australian-obligated plutonium.

Mr Carlson told the JSCT that: "The 2007 [Australia-Russia Nuclear Cooperation Agreement] incorporates all of the Australia's safeguards requirements." However, as discussed in section 6.7 of Friends of the Earth's first submission, the Agreement does not meet the requirements of the ALP Government as spelt out in the binding ALP policy platform.

Mr Carlson told the JSCT that the Agreement proposes that Australian-obligated depleted uranium tails will be enriched in facilities that are not currently eligible for IAEA safeguards. He says this is "necessary for operational reasons". However it is certainly not "necessary" for Australia to agree to Russia's request. Mr Carlson should be asked why Russia is unwilling to subject the relevant plant/s to IAEA safeguards. The reason Russia wants to avoid using the Angarsk facility is explained - avoiding U-236 contamination - but there is no explanation as to why, in Mr Carlson's words, "there are no plans on Rosatom's part" to allow safeguards on the other enrichment plant/s.

Mr Carlson told the JSCT that: "Russia is now committed to placing all its civil facilities under its agreement with the IAEA ..." Does that include the relevant unsafeguarded enrichment plant/s?

On the topic of nuclear cooperation, Mr Carlson told the JSCT that Russia supplied the cold neutron source for the OPAL reactor at Lucas Heights. However, that obviously predated the 2007 Australia-Russia Agreement. Likewise, Mr Carlson mentions possible collaboration on Synroc, which could undoubtedly proceed in the absence of the 2007 Agreement - just as it has in the past.

Mr Carlson told the JSCT: "I would like to first comment on the lack of redress and your question of whether it is a case of closing the stable door after the horse has bolted. The agreement sets a framework for very long term uranium supply, which Russia needs. The leverage we have of being able to suspend supply is actually very powerful." However, Australia has form on this issue, as Russia would be well aware. For example, when it came to light that a large amount of weapons-related experimentation had been secretly conducted in South Korea over a long period of time, uranium exports were not terminated or even suspended pending the outcome of IAEA investigations. Moreover,

ASNO's claim that South Korea's weapons research used only indigenous nuclear materials is contested. In short, ASNO showed little apparent interest in seriously investigating the possible use of Australian-Obligated Nuclear Materials in weapons research in South Korea, no interest in suspending uranium exports while investigations were ongoing, and Russia would expect the same sort of response in the event of possible misuse of Australian-Obligated Nuclear Materials there.

Mr Carlson told the JSCT: "Uranium is a major energy resource, and Australia's proportion of the world's uranium puts us on a par with Saudi Arabia, to draw a parallel." Saudi Arabia's revenue from energy exports outstrips Australia's uranium export revenue by many orders of magnitude - the comparison is absurd.

Mr Carlson told the JSCT: "Our terms and conditions are tougher. We are very well known internationally for having particularly rigorous safeguards requirements. For instance, it was a requirement of ours that facilities using Australian uranium be subject to the Russia [IAEA] agreement. This is not a requirement, for instance, of the Russia-US agreement. The other condition that we have, which is quite a rigorous one, is that the facilities that deal with Australian uranium are to be mutually determined with Australia so that we get to say yes or no to the facilities that will be handling our material. Neither the US nor Canada have that requirement." Mr Carlson went on to say that Australia's safeguards requirements represent "a sort of gold standard".

If only the reality lived up to the hype. Some relevant facts are as follows:

- * Australia provides open-ended consent to reprocess, i.e. to separate and stockpile weapons-useable plutonium, and has never once refused a request to reprocess.
- * The IAEA has not inspected any facilities in Russia for many years.
- * The statement that "it was a requirement of ours that facilities using Australian uranium be subject to the Russia [IAEA] agreement" is false - the Australia-Russia Agreement provides for Australian uranium to be converted and enriched in unsafeguarded plant/s.
- * Australia has no independent capacity to monitor compliance and relies on the limited and underfunded safeguards system of the IAEA even though the IAEA has not inspected facilities in Russia for many years.

6. COMMENTS ON THE AUSTRALIAN URANIUM ASSOCIATION'S SUBMISSION

The Australian Uranium Association submission states: "The record shows that, since the implementation of this policy, all exported Australian uranium has remained in peaceful use."

However, the AUA could not possibly know whether or not all exported Australian uranium has remained in peaceful use since the relevant information is not on the public record. What is known is that:

- * expected amounts of Australian-Obligated Nuclear Material (AONM) often differ from actual measurements – the difference is known as Material Unaccounted For (MUF).

- * ASNO claims it cannot release MUF data because of commercial-in-confidence provisions although it is difficult to see why the release of such information would have any bearing on commercial issues. In particular, providing aggregate, non-country-specific information could not possibly impinge on any commercial matters.

- * ASNO says that it has accepted each and every reason given to explain accounting discrepancies involving Australian-Obligated Nuclear Materials. But what reasons have been given, what independent assessments occur if any, why is the process shrouded in secrecy, and how much weight should be given to ASNO's assurances given ASNO's track record (as detailed in submission #18 to this inquiry)?

The Australian Uranium Association submission states: "There is no evidence that Australian uranium exported under bi-lateral treaties of the kind that is being made with Russia have allowed leakage from civil to military applications." However, there is no evidence that such leakage has NOT occurred.

The AUA notes that under Australian safeguards policy: "The IAEA is to ensure compliance in accordance with Russia's safeguards requirements (Article VII)."

The IAEA has not inspected facilities in Russia for many years so it cannot be claimed that the IAEA is ensuring compliance.

The AUA submission makes optimistic predictions of uranium export revenue by 2030. It fails to note that uranium now accounts for about one-third of one percent of Australia's export revenue.