

**Exchange of Notes constituting an Agreement between the Government of
Australia and the Government of Japan to replace the Delineated and
Recorded Japanese Nuclear Fuel Cycle Program**

Documents tabled on 8 August 2006:

National Interest Analysis [2006] ATNIA 28

with consultation attachment

Text of proposed treaty action

(Exchange of Notes

Delineated and Recorded Japanese Nuclear Fuel Cycle Program)

Background Information:

Country political brief and Fact Sheet

List of other treaties with Japan

List of treaties of the same type with other countries

NATIONAL INTEREST ANALYSIS: CATEGORY 2 TREATY

SUMMARY PAGE

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Nature and timing of proposed treaty action

1. It is proposed to undertake a treaty-level Exchange of Notes to replace the Delineated and Recorded Japanese Nuclear Fuel Cycle Program (the ‘Capsule’), as attached to a treaty-level Implementing Arrangement between the Government of Australia and the Government of Japan (the ‘Implementing Arrangement’), with an amended and consolidated version which includes two additional fuel fabrication facilities. The Implementing Arrangement was entered into as part of the Agreement between the Government of Australia and the Government of Japan for Cooperation in the Peaceful Uses of Nuclear Energy (the ‘Australia-Japan Nuclear Safeguards Agreement’), done at Canberra on 5 March 1982 ([1982] ATS 22).
2. The proposed replacement Capsule would enter into force on the date on which the Government of Australia advises the Government of Japan through the diplomatic channel that Australia’s constitutional and domestic requirements for entry into force have been satisfied. Subject to recommendations contained in the Joint Standing Committee on Treaties’ (JSCOT) report, it is anticipated that Australia would provide this advice as soon as practicable after JSCOT has issued its report on this matter.

Overview and national interest summary

3. Pursuant to long-standing Australian Government policy, exported Australian uranium, and nuclear material derived from it (known as Australian Obligated Nuclear Material (AONM)) may only be exported to countries which are a party to the Treaty on the Non-Proliferation of Nuclear Weapons (‘NPT’) and with which Australia has concluded a nuclear safeguards agreement. These agreements, such as the Australia-Japan Nuclear Safeguards Agreement, prescribe strict safeguards and control measures to ensure that any AONM, nuclear equipment or technology is used solely for peaceful, non-military purposes.
4. The Implementing Arrangement sets out how the Australia-Japan Nuclear Safeguards Agreement is to operate in practice, including listing in the Capsule those facilities at which Japan may process, use, or reprocess ANM in connection with Japan’s peaceful uses of nuclear energy. The facilities listed in the Capsule include power plants and conversion, enrichment, fuel fabrication and reprocessing facilities.
5. The Government of Japan has proposed to replace the Capsule with an amended and consolidated version which includes two additional mixed oxide (‘MOX’) fuel fabrication plants. MOX fuel is an integral part of Japan’s nuclear fuel program – currently there are four MOX fuel fabrication plants listed in the Capsule (two in each of France and Belgium). The proposed replacement Capsule would add the operational Sellafield MOX Plant (located in the United Kingdom) to Section 4.4(a) of the Capsule and the planned Rokkasho MOX Fuel Fabrication Plant (to be located in Japan) to Section 4.4(c) of the Capsule. The replacement Capsule would allow Japan to use AONM in these facilities without seeking the Government of Australia’s approval on a case-by-case basis. This would enable Japan to more effectively and efficiently manage its energy requirements and would further streamline the operation of the Australia-Japan Nuclear Safeguards Agreement.

Reasons for Australia to take the proposed treaty action

6. Pursuant to the Australian Government's policy outlined in paragraph 3 above, AONM may only be exported to countries which are a party to the NPT and with which Australia has concluded a nuclear safeguards agreement.

7. Australia currently has 19 such nuclear safeguards agreements in force, including the Australia-Japan Nuclear Safeguards Agreement. These agreements cover 36 countries (plus Taiwan). These nuclear safeguards agreements recognise the benefit of long-term co-operative arrangements in the field of the peaceful uses of nuclear energy in a predictable and practical manner, which take into account the needs of long-term nuclear energy programs and shared objectives of nuclear non-proliferation.

8. By virtue of the Australia-Japan Nuclear Safeguards Agreement, the Government of Japan has committed to use AONM only for peaceful, non-military purposes. The Australia-Japan Nuclear Safeguards Agreement also contains the following key conditions:

- that International Atomic Energy Agency (IAEA) safeguards must apply;
- retransfers to third countries, enrichment to 20% or greater in the isotope uranium-235, and reprocessing cannot take place without Australia's prior consent;
- an assurance that internationally agreed standards of physical security will be applied to all AONM during use, storage and transport;
- detailed administrative arrangements setting out procedures on accounting for and reporting on AONM are to be concluded between the Australian Safeguards and Non-Proliferation Office (ASNO) and its Japanese counterpart); and
- regular consultations on the operation of the Australia-Japan Nuclear Safeguards Agreement.

Such conditions are contained in all 19 nuclear safeguards agreements which Australia has concluded.

9. Further, in 2005 the Hon Alexander Downer MP announced that the IAEA's Additional Protocol on strengthened safeguards will become a condition of supply to non-nuclear-weapon states, such as Japan. This Additional Protocol entered into force for Japan on 16 December 1999.

10. Australia has been exporting uranium to Japan throughout the life of the Australia-Japan Nuclear Safeguards Agreement, during which time Japan has consistently provided full and active cooperation in all aspects of the relevant safeguards. In 2005 Australia exported a total of 10,480 tonnes of uranium (valued at A\$573M), of which exports to Japan accounted for around 25%. Nuclear energy is a significant element of Japan's electricity sector – as at June 2006 Japan had 55 operational nuclear power plants which provided approximately 30% of its electricity needs.

11. The addition and deletion of facilities to the Capsule are a necessary element of updating the Australia-Japan Nuclear Safeguards Agreement to reflect changes in the operation of Japan's nuclear fuel cycle program.

12. A number of amendments to, and associated replacements of, the Capsule, to add and delete facilities, have been concluded since the Australia-Japan Nuclear Safeguards Agreement entered into force. Pursuant to the amendment provisions of the Implementing

Arrangement, several of these have not required a treaty-level amendment while others have (such as amendments in 1990, 1999 and 2000 to add facilities to the Capsule). The two additions to the Capsule which are contemplated by the proposed replacement Capsule are of a nature which, according to the Implementing Arrangement, must be made by a treaty-level agreement between the Government of Australia and the Government of Japan.

13. Expanding the list of fuel fabrication facilities will not impact on the size of Australian uranium exports to Japan.

Obligations

14. Pursuant to the proposed replacement Capsule, Australia would recognise the Sellafield MOX Plant and Rokkasho MOX Fuel Fabrication Plant as facilities at which Japan may undertake MOX fuel fabrication using ANM.

15. This is the only additional obligation which would be placed on Australia by conclusion of this proposed replacement Capsule. This obligation would be specified in subparagraph I (a) (i) of the Implementing Arrangement which defines the Capsule as that part of the Japanese Nuclear Fuel Cycle Program at which AONM may be processed, used or reprocessed.

16. Japan will be obliged to notify Australia of transfers of AONM to the Sellafield MOX facility. Any such transfers, once within the jurisdiction of the United Kingdom, would become subject to the obligations contained in the Australia-UK Safeguards Agreement [Agreement between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Nuclear Transfers between Australia and the United Kingdom, done at London, 24 July 1979 ([1979] ATS 11)]. Any AONM used in the Rokkasho MOX Facility, or AONM transferred from the Sellafield MOX Facility back to Japan, would be subject to the Australia-Japan Nuclear Safeguards Agreement.

Implementation

17. No new legislation is required to give effect to the proposed replacement Capsule or the associated Exchange of Notes. No changes to the existing roles of the Commonwealth or the States and Territories will arise as a consequence of implementing the proposed replacement Capsule.

Costs

18. There will be no additional costs to ASNO associated with the proposed replacement Capsule.

Regulation Impact Statement

19. The Office of Regulation Review (Productivity Commission) has been consulted and has advised that a Regulation Impact Statement is not required.

Future treaty action

20. Given Japan's significance as a uranium market, and the size and complexity of its fuel cycle, further amendments to the Capsule can be expected over the coming years. Any such amendments which, pursuant to the Implementing Arrangement, would require a treaty-

level amendment would be subject to Australia's constitutional and domestic requirements.

Withdrawal or denunciation

21. The proposed replacement Capsule and associated Exchange of Notes do not address withdrawal or denunciation. However, the Australia-Japan Nuclear Safeguards Agreement states that it (including the Implementing Arrangement and its attached Capsule) shall remain in force for an initial period of thirty years, after which time it will continue in force unless it is terminated by either party by providing six months' written notice to the other. AONM, equipment and sensitive technology which are subject to the Australia-Japan Nuclear Safeguards Agreement at the time of its termination shall remain subject to its terms, or otherwise be managed as agreed between the Government of Australia and the Government of Japan. Australia's withdrawal from the Australia-Japan Nuclear Safeguards Agreement would be subject to Australia's domestic treaty process.

Contact details

Nuclear Accountancy and Control Section
Australian Safeguards and Non-Proliferation Office
Department of Foreign Affairs and Trade.

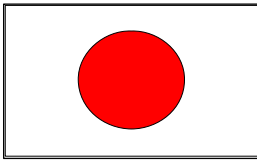
Exchange of Notes constituting an Agreement between the Government of Australia and the Government of Japan to replace the Delineated and Recorded Japanese Nuclear Fuel Cycle Program

CONSULTATION

1. Details of the proposed replacement Capsule were placed on the Treaties Schedule and forwarded to representatives of the States and Territories Standing Committee on Treaties (SCOT). In addition, the proposed replacement Capsule was discussed at the SCOT meeting of 17 May 2006. No comments with respect to this matter were registered by SCOT.
2. Given the proposed replacement Capsule is of an administrative nature, no other consultations were considered necessary.

POLITICAL BRIEF ON JAPAN

1. Australia-Japan relations are in very good shape and evolving with new vigour. The Joint Ministerial Statement signed by Mr Downer and Foreign Minister Aso in March 2006 declared the Australia-Japan comprehensive strategic partnership to be stronger than ever. The Ministers also committed to the highest level of ambition in the future development of the relationship.
2. Our natural partnership with Japan is built on long-established commonalities - we are both industrialised democracies in the same region and key allies of the United States, supporting its strategic engagement in the Asia Pacific region. Cooperation on defence and security issues is becoming an increasingly significant part of the bilateral relationship reflected in our cooperation in Iraq and the raising to Foreign-Minister level of the Trilateral Strategic Dialogue (TSD) between Australia, Japan and the United States. TSD partners are increasingly seeking to implement practical measures to advance common interests, notably in the areas of counter-terrorism and counter-proliferation.
3. Our common interest in regional stability and prosperity has also underwritten our cooperation in regional architecture such as APEC, the ASEAN Regional Forum (ARF) and East Asia Summit (EAS). Australia and Japan are working together to identify new areas to broaden the existing partnership on security matters, including in areas such as humanitarian relief and peace-keeping following our previous cooperation in Cambodia, East Timor and Aceh. Japan's whaling policy is one of the few points of contention in the relationship.
4. Since the signing of the Australia-Japan Commerce Agreement in 1957, both countries have benefited from a dynamic and inter-dependent economic partnership. A joint study into the feasibility of a Free Trade Agreement (FTA) between Australia and Japan is well underway with a view to commencing formal FTA negotiations in 2007 - the 50th anniversary of the Commerce Agreement.
5. Japan has been our largest merchandise export market since 1967 - almost 40 years. Merchandise exports to Japan totalled \$28.4 billion in 2005, more than the combined value of goods exports to China and the United States. Japan is Australia's largest market for agricultural products and is the third largest source of foreign investment in Australia. A major component of Australia and Japan's trade relationship is energy exports, with top earners in recent times being coal and LNG.
6. Australia and Japan have a broad and deep bilateral cultural relationship. There are around 45,000 Japanese living in Australia, of whom 25,000 are permanent residents (an increase of 11 per cent from the 1996 Census). Australia ranks fifth in terms of the countries where Japanese reside abroad. There are currently 16 Australia-Japan and 46 Japan-Australia societies providing grass-roots community support for the relationship, and 99 sister city alliances. Japan is Australia's third largest tourist market after New Zealand and the United Kingdom, with 685,000 visitors in 2005. The number of students from Japan enrolled in Australia in November 2005 was over 18,000. The 2006 Australia-Japan Year of Exchange, a joint prime ministerial initiative to mark the 30th anniversary of the signing of the 1976 Basic Treaty of Friendship and Cooperation between Australia and Japan, has been an effective means of further strengthening the people-to-people linkages.



JAPAN

Fact Sheet

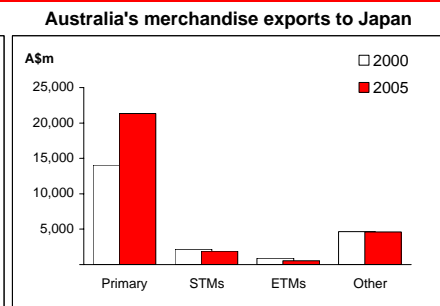
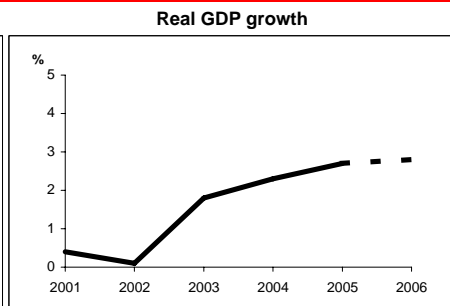
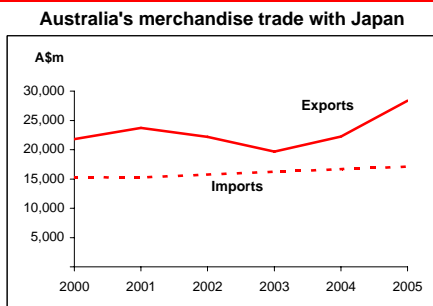
General information:

Fact sheets are updated biannually; May and September

Capital:	Tokyo
Surface area:	378 thousand sq km
Official language:	Japanese
Population:	127.5 million (2005)
Exchange rate:	A\$1 = 86.4859 Yen (Jan 2006)

Head of State:	H.M. Emperor Akihito
Head of Government:	H.E. Prime Minister Mr Junichiro Koizumi

<i>Recent economic indicators:</i>	2001	2002	2003	2004	2005(a)	2006(b)
GDP (US\$bn) (current prices):	4,090.2	3,911.6	4,237.1	4,587.1	4,571.3	4,421.0
GDP PPP (US\$bn) (c):	3,383.5	3,432.2	3,549.5	3,740.8	3,910.7	4,069.2
GDP per capita (US\$):	32,173	30,704	33,199	35,914	35,787	34,590
GDP per capita PPP (US\$) (c):	26,614	26,941	27,811	29,288	30,615	31,838
Real GDP growth (% change YOY):	0.4	0.1	1.8	2.3	2.7	2.8
Current account balance (US\$m):	87,794	112,607	136,238	172,070	163,891	140,175
Current account balance (% GDP):	2.1	2.9	3.2	3.8	3.6	3.2
Goods & services exports (% GDP):	10.6	11.4	12.0	13.4	14.3	16.2
Inflation (% change YOY):	-0.7	-0.9	-0.3	0.0	-0.3	0.3



Australia's trade relationship with Japan:

Australian merchandise trade with Japan, 2005:

Exports to Japan (A\$m):	28,380
Imports from Japan (A\$m):	17,117
Total trade (exports + imports) (A\$m):	45,497

Total share:	Rank:	Growth (yoy):
20.4%	1st	27.7%
11.0%	3rd	2.7%
15.4%	1st	17.0%

Major Australian merch. exports, 2005 (A\$m):

Coal	9,014
Iron ore	3,309
Bovine meat	2,368
Aluminium	1,449

Major Australian merch. imports, 2005 (A\$m):

Passenger motor vehicles	6,692
Motor vehicles for transporting goods	1,216
Civil engineering equipment	580
Motor vehicle parts	510

Australia's trade in services with Japan, 2005:

Exports of services to Japan (A\$m):	3,132
Imports of services from Japan (A\$m):	2,003

Total share:

8.4%
5.2%

Major Australian service exports, 2005 (A\$m):

Personal travel excl. education	1,462
Transportation	929

Major Australian service imports, 2005 (A\$m):

Transportation	1,249
Personal travel excl. education	156

Japan's global merchandise trade relationships:

Japan's principal export destinations, 2005:

1	United States	22.6%
2	China	13.5%
3	Korea, South	7.8%
12	Australia	2.1%

Japan's principal import sources, 2005:

1	China	21.0%
2	United States	12.4%
3	Saudi Arabia	5.6%
5	Australia	4.7%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a) all recent data subject to revision; (b) IMF/EIU forecast; (c) PPP is purchasing power parity.

Bilateral treaties between Australia and Japan

Treaties in force

- Exchange of Notes regarding the Revival of pre-War Treaties between Australia and Japan
[1953] ATS 9
- Agreement Relative to the British Commonwealth War Cemetery in Japan and Exchange of Notes
[1956] ATS 10
- Agreement with Japan for Air Services, and Exchange of Notes
[1956] ATS 6
- Agreement with Japan on Commerce, and four Exchanges of Notes
[1957] ATS 15
- Protocol amending the Agreement on Commerce with Japan
[1964] ATS 11
- Agreement with Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income
[1970] ATS 9
- Cultural Agreement with Japan
[1976] ATS 3
- Basic Treaty of Friendship and Co-operation with Japan [NARA], and Protocol
[1977] ATS 19
- Exchange of Notes constituting an Agreement concerning the Commonwealth War Cemetery in Japan
[1978] ATS 6
- Agreement on Fisheries with Japan
[1979] ATS 12
- Agreement with Japan on Cooperation in Research and Development in Science and Technology
[1980] ATS 28
- Agreement with Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment
[1981] ATS 6

- Exchange of Notes with Japan constituting an Agreement extending the Agreement on Co-operation in Research and Development in Science and Technology of 27 November 1980
[1985] ATS 28
- Exchange of Letters constituting an Agreement with Japan concerning Cooperation on a Project for a Geostationary Meteorological Satellite-4 System
[1990] ATS 28
- Exchange of Notes constituting an Agreement with Japan to further amend the Schedule to the Agreement for Air Services of 19 January 1956
[1993] ATS 22
- Exchange of Notes constituting an Agreement with Japan concerning Cooperation on a Project for a Geostationary Meteorological Satellite-5 System
[1997] ATS 32

**LIST OF AUSTRALIA'S BILATERAL NUCLEAR SAFEGUARDS AGREEMENTS,
WITH DATE OF ENTRY INTO FORCE**

Republic of Korea – [1979] ATS 5	2 May 1979
United Kingdom – [1979] ATS 11	24 July 1979
Finland – [1980] ATS 4	9 February 1980
United States – [1981] ATS 4	16 January 1981
Canada – [1981] ATS 8	9 March 1981
Sweden – [1981] ATS 13	22 May 1981
France – [1981] ATS 23	12 September 1981
Euratom – [1982] ATS 26	15 January 1982
Philippines – [1982] ATS 25	11 May 1982
Japan – [1982] ATS 22	17 August 1982
Switzerland – [1988] ATS 15	27 July 1988
Egypt – [1989] ATS 14	2 June 1989
Russia – [1990] ATS 43	24 December 1990
Mexico – [1992] ATS 32	17 July 1992
New Zealand – [2000] ATS 16	1 May 2000
Czech Republic – [2002] ATS 8	17 May 2002
United States (covering supply to Taiwan) – [1989] ATS 31	17 May 2002
Hungary – [2002] ATS 10	15 June 2002
Argentina – [2005] ATS 5	12 January 2005