



Submission No 40

**Review of Australia's Relationship with the
Countries of Africa**

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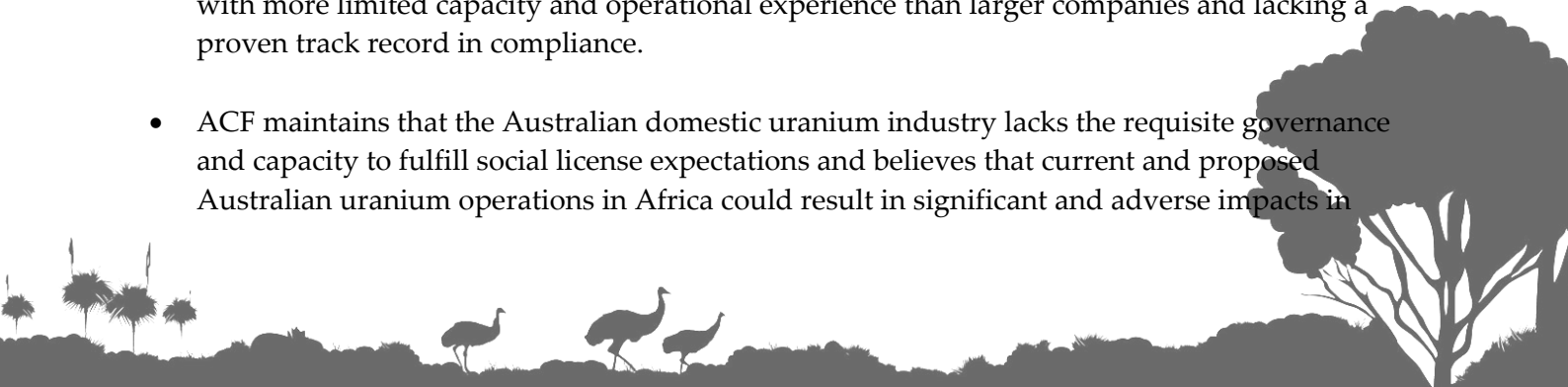
Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) is examining Australia's relationship with the countries of Africa

Many Australian companies, particularly mining companies, can have a severe impact on human rights throughout the world, including the right to food, water, health and a clean environment. Despite this, successive governments lack a clear framework of human rights obligations for Australian corporations operating overseas. This is particularly problematic in countries with lax or limited regulations.

(Regulations that lead to freedom: Human Rights Law Resource Centre, Business Age, January 16, 2010)

Key themes

- Recent years have seen a marked increase in Australian mining operations and ambitions in Africa with a major increase in the number of Australian mining companies and resource service companies active in sub-Saharan Africa (SSA).
- Along with being an area of increasing interest and importance to Australian resource companies SSA is also a complex and insecure region. Plans to expand the uranium industry which poses unique risks and requires particular attention and management strategies in a region with major governance, capacity and transparency challenges is a concern for communities and civil society groups in both Australia and SSA.
- The need to manage radioactive materials over extremely long periods and specific security and proliferation issues make uranium mining fundamentally different from other types of mining. Uranium mining requires a higher level of impact assessment and oversight as well as a suite of robust regulatory options to remedy non-compliance with mandated standards.
- The absence of a robust regulatory regime covering this sector in many African countries could see a situation where Australian companies are engaged in activities that would not be acceptable practise in this nation. This concern is amplified given that many of the Australian companies active in the African uranium sector African uranium sector are small to mid-tier with more limited capacity and operational experience than larger companies and lacking a proven track record in compliance.
- ACF maintains that the Australian domestic uranium industry lacks the requisite governance and capacity to fulfill social license expectations and believes that current and proposed Australian uranium operations in Africa could result in significant and adverse impacts in



Africa and further damage both the reputation and future off-shore access of the wider Australian mining industry.

Recommendations

- Australian companies active in the uranium sector in Africa lodge an independently assessed and annually reviewed compliance and compensation bond with the Commonwealth to ensure that sufficient capacity exists to comprehensively address any impacts arising from their activities.
- Australian companies active in the uranium sector in Africa are subject to an annual and publicly reported operational review conducted by officers of the relevant national agency in conjunction with officers of the assessment division or the Office of the Supervising Scientist unit of the Commonwealth Department of Environment, Water and Heritage.
- Australian companies active in the uranium sector in Africa are not materially facilitated in their operations through the provision of taxpayer funded services or support.
- A public register of Australian companies active in the uranium sector in Africa, or any companies and consultants providing material or logistical support to such companies, is established and routinely updated.
- The Australian Government provides active financial and wider capacity support to civil society and community organisations affected by or monitoring the activities of Australian companies active in the uranium sector in Africa.
- Given the security and proliferation linkages with uranium mining ASNO and other federal agencies provide detail on mechanisms to ensure nuclear safeguards compliance by Australian companies producing or trading in uranium off-shore, especially in SSA.
- Australian companies active in the uranium sector in Africa are required to operate at the same level of industry practise and community expectation as they would be if operating in Australia.
- The economic, employment and social benefits claimed by Australian companies active in the African uranium sector are publicly and independently reviewed annually to help facilitate real community benefit and gender, environmental and social sustainability outcomes.

Introduction

The Australian Conservation Foundation is committed to inspiring people to achieve a healthy environment for all. For over 40 years ACF has been a strong voice for the environment, promoting solutions through research, consultation, education and partnerships and by working with the community, business and government to protect, restore, celebrate and sustain our environment.

ACF welcomes this opportunity to comment on Australia's relationship with Africa and would

welcome presenting further detail for the Committee's consideration at any future hearings. There are many important areas of interest in this complex series of relationships but this commentary examines only one: the growing involvement of Australian uranium companies in Africa.

Sub Saharan Africa (SSA) is both an area of increasing interest and importance to Australian resource companies and a complex and insecure region. A recent Lowy Institute report concluded "there is no escaping the fact that SSA is a hazardous place" (*Into Africa*, Lowy Institute Paper, 2008).

Uranium mining is a contested industry with significant security, human and environmental impacts. The current ambitions of an industry that poses unique risks and requires particular attention and management strategies to rapidly expand into a region of with major governance, capacity and transparency challenges is a concern for communities and civil society groups in both Australia and SSA.

ACF and Uranium

ACF's long standing engagement with the uranium sector in Australia and beyond has informed our view that this industry fails key sustainability criteria and provides no net benefit to Australia or other nations.

ACF's continuing co-operation on uranium related issues with community and civil society groups in Africa and recent on-ground experience in Tanzania (see Appendix 2) has further shaped this understanding.

Uranium is the principal material required for nuclear weapons. According the former US Vice-President Al Gore, "in the eight years I served in the White House, every weapons proliferation issue we faced was linked with a civilian reactor program." (*Guardian Weekly*, 9-15 June 2006). In reality, the primary difference between a civilian and military nuclear program is one of intent.

A further inescapable reality of the uranium trade is the creation of long-lived radioactive waste and significant site-specific environmental, social and cultural impacts.

The long-term management of uranium mill tailings presents a major environmental challenge. Given that these contain most of the original radioactivity of the primary ore-body they must be isolated from the wider environment for periods of many thousands of years.

Energy Resources of Australia's (ERA's) Ranger uranium mine is obliged in its Commonwealth licensing agreement to isolate its tailings from the surrounding Kakadu National Park for a period of "not less than 10,000 years". (Dr Gavin Mudd, *Uranium Mining: Australia and Globally*, Energy Science briefing paper #6)

The need to manage radioactive materials over extremely long periods makes uranium mining fundamentally different from other types of mining and requires a higher level of assessment, scrutiny and options for redress.

Africa and Australian mining companies

Recent years have seen a marked increase in Australian mining operations and ambitions in Africa, with a major increase in the number of Australian mining companies and resource-service companies active on the continent.

Mid-tier and junior companies are highly represented in hard-rock mining and exploration in sub-Saharan Africa with over 300 corporate entities involved.

Australian companies are the third biggest explorers in Africa (after South African and Canadian companies) with an annual expenditure of around \$US 160 million. Estimates of actual and prospective resource investment by Australian companies in the region amount to around \$ US 20 billion.

In this context uranium is a key resource target, second only to gold in industry and media references and attracting increasing interest from Australian companies. (*Into Africa*, Lowe Institute, 2008)

A global game is afoot with Australia increasingly emerging as a serious player and ACF is concerned by the lack of ground rules, umpires and adequate mechanisms for accountability and redress.

ACF maintains that the Australian domestic uranium industry lacks the requisite governance and capacity to fulfill social license requirements (refer to Appendix 1). We believe that current and proposed Australian uranium operations in Africa could result in significant and adverse impacts in Africa and thus create further damage both the reputation and future off-shore access of the wider Australian mining industry.

In 2006 John Borshoff, the executive director of Paladin Energy, an Australian company with highly contested operations in Malawi and Namibia, outlined the corporate rationale underpinning the renewed push by Australian uranium hopefuls:

'The Australians and the Canadians have become over-sophisticated in their environmental and social concerns over uranium mining, the future is in Africa'.

This type of thinking bodes ill for both people and the environment should uranium mining plans become a reality in the growing number of places in Africa where this trade is either expanding or gaining a foothold.

The Australian experience with the uranium sector highlights these concerns.

Australia has strong civil society groups, organised and resourced Indigenous organisations, free trade unions, an independent media, dedicated regulators, Parliamentary oversight and legal recourse. While these factors may be constrained and conditional they do nevertheless exist and can have an important influence on policy and operations.

Despite these checks and balances, a 2003 Senate Inquiry found that the Australian uranium industry was characterised by "a pattern of underperformance and non-compliance, an absence of reliable data to measure the extent of contamination or its impact on the environment, an

operational culture that gives greater weight to short term considerations than long term environmental protection and which concluded that changes were necessary in order to protect the environment and its inhabitants from ‘serious or irreversible damage’ (*Regulating the Ranger, Jabiluka, Beverley and Honeymoon uranium mines: Environment, Communications, Information Technology and the Arts References Committee, 2003*)

Furthermore, research into Native Title payments and mining agreement clearly show that systemic Aboriginal disadvantage has not been addressed by uranium mining operations and most mining agreements have failed to deliver lasting economic or social benefits to Indigenous communities.

Much has been written of the ‘resource curse’ – the irony whereby the presence of large natural resources actually impedes a developing nation’s economic growth. The exploitation of many developing nation’s significant mineral wealth has not led to a commensurate increase in the wealth or well being of the ordinary citizen and there is no credible reason to think that things would be different if a green light is given to yellowcake.

Transplanting the Australian uranium industry’s operating culture of underperformance, inadequate regulatory compliance and limited transparency to sub-Saharan Africa where many countries suffer from poor governance, corruption and low levels of transparency and accountability is a passport for long term and large scale human dispossession and environmental contamination, not prosperity.

The Australian Government’s Australia-Africa partnership facility

The Australian Government is committed to increasing development aid to Africa. This position is welcomed by ACF, as is the recognition given to the importance of identifying and addressing such pivotal development issues as gender and environmental and social sustainability.

ACF is concerned that an explicit and key focus of future Australian development aid is ...“in helping African countries develop their mining sector and encourage greater investment, including by identifying and addressing barriers to industry development.”

(*Australia-Africa Partnerships Facility Final Design Document, November, 2009*).

This concern is amplified by the recognition that “Australian industry has welcomed Australia’s increased engagement in Africa and has expressed a strong desire to consult with the Australian Government on mining and natural resource issues in Africa.” (*Facility Design, p.15*)

ACF contests the assertion that “Australia’s experience in developing a sustainable mineral resources sector means that it is well placed to help African countries with resources potential to make informed choices about how to maintain a sector that is profitable, technologically appropriate and environmentally and socially responsible” (Ibid p.14 – see Appendix 1).

ACF notes the commitment that “particular care will be taken with the activities under the mining and natural resources sector with meeting relevant environmental guidance” and seeks further detail on the mechanisms for realising this objective in relation to uranium exploration and

mining.

ACF believes that the absence of a robust regulatory regime covering this sector in many African countries could see a situation where Australian companies are engaged in activities that would not be acceptable in this nation, especially given that many of the Australian companies active in the African uranium sector are juniors with limited capacity and little or no operational experience or proven compliance ability.

Recommendations:

- Australian companies active in the uranium sector in Africa lodge an independently assessed and annually reviewed compliance and compensation bond with the Commonwealth to ensure that sufficient capacity exists to comprehensively address any impacts arising from their activities.
- Australian companies active in the uranium sector in Africa are subject to an annual and publicly reported operational review conducted by officers of the relevant national agency in conjunction with officers of the assessment division or the Office of the Supervising Scientist unit of the Commonwealth Department of Environment, Water and Heritage.
- Australian companies active in the uranium sector in Africa are not materially facilitated in their operations through the provision of taxpayer funded services or support.
- A public register of Australian companies active in the uranium sector in Africa, or any companies and consultants providing material or logistical support to such companies, is established and routinely updated.
- The Australian Government provides active financial and wider capacity support to civil society and community organisations affected by or monitoring the activities of Australian companies active in the uranium sector in Africa.
- Given the security and proliferation linkages with uranium mining ASNO and other federal agencies provide detail on mechanisms to ensure nuclear safeguards compliance by Australian companies producing or trading in uranium off-shore, especially in SSA.
- Australian companies active in the uranium sector in Africa are required to operate at the same level of industry practise and community expectation as they would be if operating in Australia.
- The economic, employment and social benefits claimed by Australian companies active in the African uranium sector are publicly and independently reviewed annually to help facilitate real community benefit and gender, environmental and social sustainability outcomes.

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The Australian Conservation Foundation is committed to achieve a healthy environment for all Australians. We work with the community, business and government to protect, restore and sustain our environment.

www.acfonline.org.au

Appendix 1

Uranium Mining in Australia: Radiation, Royalties and Rehabilitation

KEY POINTS

- The uranium sector remains controversial and contested. It is characterised by underperformance and regular non-compliance and is in urgent need of regulatory reform.
- Unresolved concerns over site specific contamination, tailings management, radioactive waste and nuclear proliferation mean that the Australian uranium sector fails any measured sustainability assessment.
- Systemic Aboriginal disadvantage has not been addressed by mining operations and most mining agreements have failed to deliver lasting benefits to Indigenous communities. A dedicated Inquiry should examine and address this continuing failure.
- Indigenous peoples ability to exercise full, free, prior and informed consent and effective input into the activities of mining operations on their traditional lands is compromised by severe capacity and procedural constraints. The legal and approvals framework should be changed to address this power imbalance.
- There is a history of sub-standard mine rehabilitation in the Australian uranium sector and an urgent need to address the long-term impacts of the Australian uranium sector in a way that does not allow cost shifting from mining companies to the public purse.

Overview: ACF believes the uranium industry is unsustainable and provides no net benefit to Australia. ACF notes the unresolved concerns raised about the performance of the Australian uranium industry by a 2003 Senate Inquiry which found the sector characterised by a pattern of underperformance and non-compliance, an absence of reliable data to measure the extent of contamination or its impact on the environment, an operational culture that gives greater weight to short term considerations than long term environmental protection and which concluded that changes were necessary in order to protect the environment and its inhabitants from 'serious or irreversible damage.'¹

¹Senate ECITA Committee: Regulating the Ranger, Jabiluka, Beverley and Honeymoon uranium mines, October 2003, p. iv.

Uranium is the principal material required for nuclear weapons. Successive Australian governments have attempted to maintain a distinction between civil and military end uses of Australian uranium exports, however this distinction is more psychological than real. No amount of safeguards can absolutely guarantee Australian uranium is used solely for peaceful purposes. According the former US Vice-President Al Gore, "in the eight years I served in the White House, every weapons proliferation issue we faced was linked with a civilian reactor program."² Despite Government assurances that bilateral safeguard agreements ensure peaceful uses of Australian uranium in nuclear power reactors, the fact remains that by exporting uranium for use in nuclear power programs to nuclear weapons states, other uranium supplies are free to be used for nuclear weapons programs. In reality, the primary difference between a civilian and military nuclear program is one of intent.

Indigenous land issues:

Mining agreements with Indigenous groups have been justifiably criticised for not operating on a level-playing field. Problems relating to financial and administrative resources, confidential and complex agreements, and inadequate representation show that the "Australian Government is unlikely ever to make *adequate* provision for the proper, professionally-supported preparation and execution of all significant future act negotiations."³ To assert that uranium mining is of benefit to Indigenous groups is highly misleading and does not reflect the past or current reality.

ACF maintains that the cards are heavily stacked against Aboriginal people who are concerned about, and would prefer to see no uranium mining on their country. The inequity found in the relationship between mining companies and indigenous communities is further compounded by the limited rights afforded to Aboriginal people in relation to developments on their traditional lands and estate. According to prominent Aboriginal lawyer Noel Pearson:

The legal framework that applies to mining and native title legal framework that applies to mining and native title severely disadvantages indigenous landowners. Section 38 of the Native Title Act explicitly says that in arbitrating an application for mining, the National Native Title Tribunal "must not determine a condition ... that has the effect that native title parties are to be entitled to payments worked out by reference to:

- (a) the amount of profits made; or
- (b) any income derived; or
- (c) any things produced."

You might as well make clear in the law that the tribunal can only determine beads and mirrors as acceptable outcomes from arbitration, because that is in effect what it has been doing.

² Al Gore, *Guardian Weekly*, 167 (25), 9-15 June 2006.

³ Ciaran O'Faircheallaigh, 'Financial Models for Agreements Between Indigenous Peoples and Mining Companies', *Aboriginal Politics and Public Sector Management*, Research Paper No. 12, January 2003.

The mining lobby has been quiet on land rights for the past decade. Having secured an advantageous legal framework through the bitter conflicts over the Native Title Act in the '90s, they have learned that ideological opposition to land rights is unproductive for its members. As long as member companies are winning hands-down through the so-called agreement-making process, they have had no interest in conflict.⁴

The Aboriginal Land Rights (Northern Territory) Act 1976 provides Traditional Owners with some ability to veto mining proposals on their lands, however this is unnecessarily complicated and compromised by the conjunctive linkage between exploration approval and mining approval. It would be far better if exploration and mining approvals were discrete and separate processes. Such an approach would appear beneficial for all parties by providing increased clarity and certainty for Aboriginal Traditional Owners (that saying yes to exploration did not preclude any ability to say no to future mining), for industry (as Traditional Owner's would be arguably less likely to oppose exploration applications if they knew this would not constrain their options on future mining approvals) and for other stakeholders like ACF (who would have more confidence that the process facilitated and reflected full and informed consent).

Aboriginal communities on native title land have extremely limited ability to say no to mining developments on their country. In ACF's experience, many Aboriginal communities are put in a position where they must choose between (i) non co-operation and non consent with a mining or development proposal, an option that most clearly reflects opposition to the proposed development but is not of itself sufficient to halt the project and also precludes a place at the table should the project go ahead and (ii) forming an Agreement with the developer. This is invariably promoted by the project proponent as proof of community 'consent' and used to confine debate and any continuing concerns over the operation to in house forums. Often unreasonable pressures and expectations are placed on Aboriginal communities in order to fast track mining agreement and approvals.

Aboriginal communities facing uranium developments on their traditional estate need a way to ensure that their key concerns and questions receive meaningful attention, and that they retain a critical and empowered voice, both within and parallel to any Agreement process. The present legislative and procedural framework fails to provide this.

Uranium industry proponent's claim the expansion of the industry will foster benefits for remote Indigenous communities, citing the industry as a vehicle to address Indigenous disadvantage in providing direct employment, secondary industry opportunities and additional revenue through royalty payments. Such claims are flawed and not an accurate representation of past practices and current operational realities. Aboriginal people have not benefitted substantially from uranium mining and changes to the royalty regime and increased mining will not change this trend. Environmental and social concerns relating to uranium mining have been consistently expressed by members of the Aboriginal communities near all uranium

⁴ Noel Pearson, 'Boom or dust lifestyle', *The Australian*, 16 December 2008.

mining operations in Australia. Mirarr Senior Traditional Owner Yvonne Margarula echoed these sentiments in a statement preceding the Gundjeihmi Aboriginal Corporation's submission to the 2005-06 parliamentary inquiry into Australia's uranium industry.

Uranium mining has completely upturned our lives...Uranium mining has also taken our country away from us and destroyed it – billabongs and creeks are gone forever, there are great holes in the ground with poisonous mud where there used to be nothing but bush. I do not like visiting the Ranger mine and seeing what it has done to my father's country. Although the uranium mine at Ranger is taking place on Mirarr country, overall we have not truly benefitted from the mine. Mining and millions of dollars in royalties have not improved our lives... None of the promises last but the problems always do.⁵

Most mining agreements have – and continue – to fail to deliver benefits to Aboriginal landowners. According to the Native Title Working Group Report, obstacles frequently get in the way of successful agreements for Indigenous communities with mining companies.

“There are only a limited number of good agreements to provide models...The reasons for the absence of more agreements containing substantial financial and other benefits for traditional owners after almost 15 years of the operation of the Native Title Act 1993 (NTA) is, in itself, deserving of inquiry.”⁶

ACF strongly supports this call for a dedicated Inquiry into the continuing failure of mining and resource agreements and operations to provide significant and on-going benefit to Aboriginal communities, organisations and representative bodies.

Uranium and Indigenous economic development

Finite extractive industries are not the basis for developing sustainable remote communities and economies. The uranium sector offers short-term revenues and long-term rehabilitation problems and is further dependent on public expenditure and subsidy. Along with other mineral products, uranium prices are subject to significant price fluctuations, creating uncertainty that can have adverse ramifications for Indigenous organisations receiving uranium royalties. Over the past ten years, the spot price for uranium has seen major fluctuations. The commodity traded at US \$9.60 per pound in December 1999, US \$20.70 per lb in December 2004, reached a high of US 138 per lb in June 2007 and in February 2009 is trading at \$US 48 per lb⁷.

Whilst a profit-based royalty regime is advantageous and provides enhanced flexibility for industry, it fails to provide a certain, secure and assured revenue platform for individual Indigenous communities. Linking royalties primarily to profitability as opposed to revenues poses real challenges for Indigenous landowners, their representative bodies and wider

⁵ Yvonne Margarula, 'Look after country, look after people', in *Yellowcake Country: Australia's Uranium Industry*, Beyond Nuclear Initiative, 2005, p.8.

⁷ Native Title Payments Working Group report, December 2008

⁷ Ux Consulting

community. Furthermore, the social and environmental impacts of uranium mining occur irrespective of profits. Detailed research by the University of Queensland has found more than half the indigenous land-use agreements, “were either basket cases that should never of been entered into, or delivered few cultural and monetary benefits.”⁸ During the first five to ten years of a uranium mining operation, there is a high likelihood that little or no income will be generated under a profit-based royalty scheme even though there will be direct environmental and social impacts from any such operations.

If such an approach is adopted Aboriginal communities become exposed to the fluctuations of a highly volatile market because although “profit based royalties may offer the prospect of high returns in some cases, they also carry the risk that Indigenous people will receive no income for periods during the life of a project, that income may be highly unstable and, where projects fail to become profitable at all (as can occur), that resource development will not generate any financial benefit for indigenous landowners”.⁹

Current external pressures on the Australian resource sector with industry contraction, unscheduled mine closures and increasing job losses supports the case for a more cautious and measured assessment and approach.

Ciaran O’Faircheallaigh’s research has indentified a range of concerns in relation to profit based royalty models including.

- There is a need for a steady income stream to provide services in remote Aboriginal communities. In many cases, mineral exploration is presented or perceived as the only or most deliverable opportunity to increase a community’s living standards. Volatile income flows can have disastrous ramifications for communities and the absence of guaranteed revenue severely hinders future community service and infrastructure planning.
- Indigenous communities usually occupy relatively small areas of land. Their capacity to spread risks across projects is therefore minimal. Conversely, Governments can afford to spread risk. With hundreds of projects, a high tax yield will still occur in the event of a few unprofitable mines. Most Indigenous communities will not have numerous mines on their land and only a limited chance of receiving royalties.
- Indigenous communities usually experience a high degree of social, cultural and economic dislocation because of mining. To a certain extent, the rationale of royalty payments is to compensate for these numerous negative impacts. It is unacceptable to adopt a royalty regime that may fail to generate revenue to cover certain adverse

⁸ Quoted in Pearson, *The Australian*.

⁹ Ciaran O’Faircheallaigh, *Financial models fro agreements between Indigenous peoples and mining companies*, .Aboriginal Politics and Public Sector Management Research Paper No12, January 2003, pp. 14-17.

impacts of mining, especially given that the existence of these impacts is not related to profitability.

- In many instances Indigenous communities have insufficient specialised administrative, information gathering or enforcement functions. They are likely to encounter serious difficulties in managing profit-based regimes. Land Councils have limited financial and commercial capacities and their lawyers lack the power of multinational corporation's legal representatives. Many developing countries find it exceptionally difficult to administer and enforce profit-based royalty regimes, let alone individual indigenous groups.

Environmental protection and radioactive rehabilitation

Uranium is a unique mineral and uranium mining and processing poses significant challenges and risks, both now and long into the future. One particular area of concern is the long term management of hazardous uranium tailings. These tailings contain around 80% of the radioactivity of the original ore body and, post mining, are far more bio-available and mobile.

Tailings pose a long term human and environmental hazard and an earlier Senate inquiry into the uranium sector viewed "tailings management as amongst the most serious challenges facing uranium miners and, indeed, the entire nuclear energy industry in the future. It will also continue to be a major preoccupation for regulators and scientists as well"¹⁰.

Australia's longest running uranium mine, Energy Resource's of Australia's Ranger mine in Kakadu, is required to ensure that:

- (i) the tailings are physically isolated from the environment for at least 10,000 years, and
- (ii) any contaminants arising from the tailings will not result in any detrimental environmental impacts for at least 10,000 years¹¹

ACF doubts that the corporate and political capacity and longevity exists to meet these requirements but welcomes the recognition given to the seriousness and long term nature of the threats posed by uranium mining operations and views this as an industry benchmark. This ten thousand year standard should be a Commonwealth requirement for operations at all current and any future uranium operations in any Australian jurisdiction.

¹⁰Uranium Mining and Milling in Australia - Report of the Senate Select Committee on Uranium Mining and Milling, May 1997 p.63

¹¹ Ranger uranium mine – Environmental Requirements

Such an approach may help to mitigate some of the long term impacts of mining and the disturbing and continuing practice of sub standard mine site rehabilitation and cost shifting from the mine operator to the public purse.

A 2006 House of Representatives Inquiry into the Australian uranium industry recommended “that the Australian Government provide adequate funding to ensure the rehabilitation of former uranium mine sites...”¹²

ACF rejects this view and believes that the mining companies responsible for the waste generating operation should meet the full cost of the subsequent clean up. What was proposed in the 2006 Inquiry is a further form of direct subsidiary and industrial welfare that reinforces the far too common approach of the Australian resource sector to privatise profit and socialise costs.

Instead ACF advocates a dedicated royalty stream – separate to any remuneration to traditional landowners – to provide for environmental rehabilitation and post closure monitoring and mitigation. The rehabilitation of mine sites is a serious problem associated with uranium mining and any examination of the status of former uranium operations in Australia shows that it remains unfinished business long after closure. The federal government has an opportunity to act clearly with this legislation to address a long standing and continuing industry deficiency and take decisive steps to improve capacity for rehabilitation in line with community expectation.

There is a long and sorry history of sub standard rehabilitation and poor post closure monitoring and mitigation across the Australian uranium sector and extensive evidence regarding the unsuccessful rehabilitation of past uranium mine sites at Rum Jungle, South Alligator Valley and Mary Kathleen. Any critical evaluation of the rehabilitation of abandoned mines and mill tailings supports the need for concerted efforts at the legislative level to address these issues.

Rum Jungle: The Rum Jungle rehabilitation project is an important case study relating to uranium mining and its legacy. It is a prime example of the many problems facing uranium mines at the end of their life cycle. In operation from 1954 to 1971, poor waste management led to a long-term environmental impact at the site. Belated major rehabilitation work commenced during the 1980s and continues to this day.

Despite the studies and monitoring that has been undertaken on the rehabilitation of Rum Jungle critical gaps remain in representing a complete picture of the project. A comprehensive study undertaken by Dr. Gavin Mudd at Monash University concludes that:

¹² Australia’s uranium – Greenhouse friendly fuel for an energy hungry world, House of Representatives Standing Committee on Industry and Resources, November 2006, p. 533

The Rum Jungle remains a polluting site...Given that groundwater remains contaminated and waste rock dump infiltration is increasing, pollutant loads into the Finniss River can be expected to intensify in the future, The Rum Jungle U-Cu site, despite significant effort has not met the test of time and remains a recalcitrant and polluting mine."¹³

The problems facing Rum Jungle nearly forty years after it ceased operations, are set to continue and possibly worsen. Moreover, the extensive problems come at the taxpayers' expense. And these issues are not stale case studies - Compass Resources Ltd., whose primary focus was the Rum Jungle mineral field, went into voluntary administration in January 2009. The Compass saga should serve as a cautionary lesson regarding the gap between the promise and the performance of uranium mining companies operations.

South Alligator valley: The South Alligator uranium mines and mills have also caused environmental problems. Radioactive tailings from mines were discharged onto adjacent floodplains, a poorly funded 'Hazard Reduction Works' program has not stood the test of time and high gamma radiation rates still persist in some areas, with erosion problems and perpetual maintenance required. The Federal Government has allocated \$A7.3 million in its 2006 budget over four years to clean up abandoned mines in Kakadu National Park.¹⁴

Mary Kathleen: Despite winning an award in 1986 by the Institution of Engineers Australia, the rehabilitation of the Mary Kathleen uranium mine in Queensland has similarly faced substantial problems including: The deliberate release of one million litres of radioactive liquid from evaporation ponds in February 1984 and the use of waste rock to cover radioactive tailings instead of engineered fine soil or clay to lower costs. This has increased the potential of further groundwater contamination and has led to groundwater and waste-rock management problems and further public expense.¹⁵

Nabarlek: In 1970 Queensland Mines Ltd. discovered Nabarlek, a small high-grade deposit just inside Arnhem Land, 15 kilometres east of Gunbalanya (Oenpelli) in West Arnhem and mining operations commenced in 1979.

The Nabarlek ore body was mined over the dry season and 600,000 tonnes of average 2% grade ore stockpiled for treatment from 1980. Just over 10,000 tonnes of uranium oxide (U₃O₈) and sold to Japan, Finland and France between 1981 and 1988. The mining process generated around 2.3 million tonnes of waste and ceased operation in 1988. In August 2003 the operators of the closed Nabarlek uranium mine received 95% of the money previously held in a trust fund dedicated to pay for the cleanup and rehabilitation of the mine.

¹³ Gavin M. Mudd and James Patterson, 'The Rum Jungle U-Cu Project: A Critical Evaluation of Environmental Monitoring and Rehabilitation Success,' in Broder J. Merkel and Andrea Hasche-Berger (eds.) *Uranium Mining and Hydrogeology V*, Saxon Ministry of Environment and Agriculture: Freiburg, Germany, p. 326.

¹⁴ The Hon Greg Hunt MP, Parliamentary Secretary to the Minister for the Environment and Heritage, *Media Release: Old Mining leases to become part of Kakadu*, Australian Government, Canberra, 5 June 2006,

¹⁵ Gavin M. Mudd, *Uranium Mill Tailings Wastes in Australia: Past, Present and Future Management – Research Report Summary*, MAPW National Conference on Nuclear Issues, Canberra, 2005, p. 8.

The decision to grant this money was made by officers in the former Northern Territory Department of Business, Industry and Resource Development (DBIRD). This action occurred without the knowledge or consent of the traditional Aboriginal owners, the Northern Land Council or the Supervising Scientists Division (SSD) – the Commonwealth agency charged with oversight of uranium mining operations in the Alligator Rivers region.

The return of the bond money was made despite there being no final agreed and approved mine closure plan and despite continuing and unresolved rehabilitation and mitigation efforts at the former mine site.

Further work is still required at Nabarlek and much further work is needed on both a policy framework and practise to ensure that future generations of Australian citizens and taxpayers will not be left footing the environmental, social and financial bill arising from uranium mining.

OUT OF AFRICA...

... is the message a newly formed alliance of NGOs and communities is sending to uranium miners and the nuclear industry. ACF's Dave Sweeney recently joined African and international campaigners on a tour of Tanzania – the new uranium frontline ...

DAVE SWEENEY

Tanzania is home to around 40 million people and some of the world's most recognised species and landscapes.



WHEN YOU STAND QUIETLY in central Tanzania, the idea of Gondwanaland makes a lot of sense: you might easily be in parts of remote Australia. The landscape is clearly different but strangely familiar, as is the reality of travelling long hours on bush tracks in the back of a Toyota to meet with locals concerned about plans for a new uranium mine on their country.

The Bahi region, located near the dry and dusty political capital of Dodoma, is currently one of the areas attracting the interest of Australian uranium mining companies. With little or no operational experience, companies like Mantra Resources and Uranex are hardly household names in Australia but in cash-strapped Tanzania, where a third of the population lives below the UN's dollar-a-day poverty line and half lack access to safe water, the promises of distant and

junior uranium companies have found a resonance with the national government and are a source of growing concern for local communities.

In November 2009, a group of Tanzanian NGOs hosted a two-week uranium awareness project that involved international experts and activists joining local groups on tours of uranium exploration sites, holding public meetings, information sessions and symposiums and lots of talking with and listening to villagers, herders and farmers and communities in affected regions.

I had the privilege of joining this group to help counter some of the more fanciful claims being spread by industry promoters and share the reality of what 30 years of uranium mining has meant for communities and country in Australia.

In 2006, John Borshoff the executive

director of Paladin Energy, an aggressive Australian company with new operations in Malawi and Namibia, bluntly outlined the corporate rationale underpinning the renewed push by Australian uranium hopefuls:

'The Australians and the Canadians have become over-sophisticated in their environmental and social concerns over uranium mining, the future is in Africa'.

This type of thinking bodes ill for the people and environment of Tanzania should uranium mining plans become a reality – and for the growing number of other places in Africa where this trade is either expanding or gaining a foothold.

The Australian experience with the uranium sector highlights these concerns.

We have strong civil society groups, organised and resourced Indigenous organisations, free trade unions, an



The iconic 'Jabiluka hand' designed by Australian artist Kathleen McCann has been adopted by the new African Uranium Alliance.

IMAGE: Kathleen McCann



independent media, dedicated regulators, parliamentary oversight and legal recourse. Of course all these things are constrained, compromised and conditional – but at least, to varying degrees of effectiveness and reality, they exist.

However even given this we have a uranium industry that a 2003 Senate Inquiry found was characterised by a pattern of under-performance and non-compliance, an absence of reliable data to measure the extent of contamination or its impact on the environment, an operational culture that gives greater weight to short-term considerations than long-term environmental protection – and which concluded that changes were necessary in order to protect the environment and its inhabitants from 'serious or irreversible damage'.

Furthermore, systemic Aboriginal disadvantage has not been addressed by uranium mining operations and most mining agreements have clearly and comprehensively failed to deliver lasting benefits to Indigenous communities.

Transplanting this culture of under-performance, corner-cutting and secrecy to Africa is a passport for dispossession and contamination, not prosperity.

Much has been written of the 'resource curse' – the irony in which the presence of large natural resources actually impedes a developing nation's economic growth. Fortunately, modern Tanzania, with its democratic tradition and absence of tribal or communal violence, has escaped the worst aspects of this curse but the exploitation of its significant mineral wealth has not led to a commensurate increase in the wealth or well-being of the ordinary citizen – and there is no reason to think that things would be different if a green light were given to yellowcake.

Research by the legal team at LEAT (Friends of the Earth Tanzania) into money flows in the nation's gold-mining sector starkly highlights this. In the decade from 1998 to 2008 around \$US 2.6 billion of gold-derived export revenue left Tanzania. Over the same period, government revenue from



Locals washing in waste mine water....one more reason to say no to uranium.

PHOTO: ACF / Dave Sweeney



ACF's Dave Sweeney and FEMAPO country director Matthias Paul Boniface address a community meeting in the Bahi region.

PHOTO: ACF

gold mining amounted to only \$US 78 million.

The gold and the massive profits leave but the residual cyanide in the tailings dams, displaced and disempowered locals, and an increasingly skewed economy remains. Add the prospect of short-term profit flight and long-term environmental degradation through uranium wastes and radioactive contamination to this mix and the picture gets far uglier.

These very real concerns were repeatedly raised by villagers and the wider community during the Tanzanian tour. People spoke passionately about their concern over the impacts any uranium mining would have on their water, their food production and their way of life.

They spoke of their lack of confidence in the authorities and how decisions are made and they spoke, repeatedly and powerfully, of their desire to be allowed to live on their country.

In this decade alone, literally hundreds of thousands of Tanzanians have been unwillingly, often forcibly, removed from their homes to make way for foreign mining operations. As you watch the dozers level your mud hut, from the back of a truck that is taking you, your

family and all you possess to an unknown destination, the concept of the trickle-down effect – or that someone half a world away is about to get richer – would be scant comfort.

It was these stories that led the Tanzanian groups LEAT, CESOPE and FEMAPO to initiate this tour and to actively start campaigning against the introduction of uranium mining. This time also saw the inaugural meeting of the African Uranium Alliance (AUA) – the first continent-wide forum to monitor, track and resist the nuclear industry in Africa

The tour was a potent affirmation that people's aspirations and actions for a better future on our shared and fragile planet have a power that is cleaner, stronger and saner than that which comes from a nuclear reactor. As delegates enthusiastically adopted the iconic 'Jabiluka hand' as the AUA's unifying symbol it was good to remember that globalisation cuts both ways and companies must act responsibly and will be held accountable wherever they operate.

