

**Documents tabled on 12 March 2008**

**National Interest Analysis [2008] ATNIA 11**

**with attachment on consultation**

**Fourth Agreement to Extend the 1987 Regional Cooperative Agreement for Research,  
Development and Training Related to Nuclear Science and Technology  
done at Vienna on 22 June 2006**

## **NATIONAL INTEREST ANALYSIS: CATEGORY 2 TREATY SUMMARY PAGE**

### **Fourth Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology, done at Vienna on 22 June 2006**

#### **Nature and timing of proposed treaty action**

1. It is proposed that Australia accept the Fourth Agreement to Extend the Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology [1988] ATS 11 (“1987 RCA”), which expired on 11 June 2007, for a further five-year period (“the Fourth Extension Agreement”). The 1987 RCA entered into force on 12 June 1987, and was subsequently extended for five-year periods on 12 June 1992, 12 June 1997 and 12 June 2002.
2. Pursuant to Article 2(2) of the Fourth Extension Agreement, it shall enter into force on the date of receipt by the Director General of the International Atomic Energy Agency (IAEA) of the second notification of acceptance from a Member State of the IAEA and party to the 1987 RCA. The Director General received notifications from India and Bangladesh, and accordingly, the Fourth Extension Agreement entered into force on 26 February 2007. The Fourth Extension Agreement will enter into force for Australia on the date of receipt by the Director General of the IAEA of the notification of Australia's acceptance.
3. Subject to the Joint Standing Committee on Treaties' recommendation, it is expected that Australia's acceptance will be lodged as soon as practicable after Parliamentary tabling requirements have been met and Executive Council approval received.

#### **Overview and national interest summary**

4. A regional cooperative agreement is an agreement by IAEA members of a particular region to cooperate in matters of research, development and training related to nuclear science and technology. The 1987 RCA has been continually extended due to its usefulness in providing a regional framework for initiating cooperative projects and coordinated research programming between IAEA member states in the region.
5. Extension of the 1987 RCA for a further five years will have important benefits for Australia from a security, economic and political perspective. As a regional agreement under the aegis of the IAEA, the 1987 RCA is an important mechanism in fulfilling the technical co-operation provisions of the Nuclear Non-Proliferation Treaty (NPT). Our participation helps contribute to a non-proliferation regime which has kept our immediate neighbourhood free of nuclear weapons proliferation for the past 35 years. The 1987 RCA also allows Australia to participate in international collaborative projects and to maintain and extend a national capacity in cutting-edge nuclear technologies. Finally, the 1987 RCA facilitates Australian technical and political cooperation with 16 regional countries in nuclear science and technology, which in turn contributes to maintaining and improving bilateral and multilateral relationships in the Asia-Pacific region.

## **Reasons for Australia to take the proposed treaty action**

6. The 1987 RCA is based on an Agreement of the same name concluded in 1972 (1972 RCA) and subsequently extended in 1977 and again in 1982. The provisions of the 1987 RCA follow closely those of the 1972 RCA. The purpose of the 1987 update was to enhance overall coordination and supervision of co-operative projects carried out under RCA arrangements. The 1987 RCA was extended in 1992, 1997 and 2002. RCA projects are implemented under the auspices of the Technical Cooperation Programme administered by the IAEA.

7. Australia became a party to the RCA in 1977. The other participants are: Bangladesh, Burma, China, India, Indonesia, Japan, the Republic of Korea, Malaysia, Mongolia, New Zealand, Pakistan, the Philippines, Singapore, Sri Lanka, Thailand and Vietnam. Pursuant to Article 1 of the Fourth Extension Agreement, the 1987 RCA continues in force from 12 June 2007. As of November 2007, thirteen states had accepted the Fourth Extension Agreement.

8. Australia has important national interests in maintaining its membership of the 1987 RCA. IAEA-sponsored regional cooperation agreements such as the 1987 RCA provide an important means of fulfilling the technical cooperation provisions of the NPT. The NPT is the centrepiece of the non-proliferation regime which, for more than 35 years, has helped to keep Australia's immediate neighbourhood free of nuclear weapons proliferation. Under the NPT, Non-Nuclear Weapon States have foresworn nuclear weapons and have accepted comprehensive nuclear safeguards to verify compliance with this commitment, but they specifically retain the right to develop research, production and use of nuclear energy for peaceful purposes. As a party to the NPT, Australia has given an undertaking "...to facilitate ... the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy." Continued membership of the 1987 RCA is one way for Australia to meet its obligations to cooperate with other Parties in the peaceful uses of nuclear energy under the NPT, as the 1987 RCA establishes a framework for Parties to cooperate with each other in respect of research, development and training projects in nuclear science and technology.

9. The 1987 RCA contributes towards effective social and economic development in the region. Through projects which strengthen regional regimes governing the safety and security of radioactive materials, the 1987 RCA also assists in preventing potentially dangerous material and technical know-how from being utilised by terrorist organisations.

10. The 1987 RCA also helps Australia maintain and extend its national capacity in leading-edge nuclear technologies. Examples include human health, industrial, environmental and advanced material technologies. Through its membership of the 1987 RCA, Australia will continue to engage in valuable international collaborative projects that apply nuclear techniques to agriculture, medicine, industry, energy planning and the environment - key target areas of the RCA programme - as well as radiation protection and radiation safety projects to underpin a safe environment for the utilisation of these technologies. The Australian Nuclear Science and Technology Organisation (ANSTO) is the designated point of contact for Australia's participation in the 1987 RCA.

11. Over the past thirty-five years, the RCA has evolved to become an important vehicle for Australia's cooperation with regional countries in nuclear science and technology. It has enabled

Australia to participate in mutually beneficial research and training related to nuclear science and technology with 16 countries in the Asia-Pacific region. Such cooperation has had a positive flow-on effect on our bilateral and multilateral relationships in the region, with significant political benefits for Australia.

12. Non-acceptance of the Fourth Extension Agreement would impede Australia's ability to remain constructively engaged in regional nuclear activities and would limit our ability to forge links with regional experts at a time when a significant expansion in nuclear power production is underway or under consideration by a number of countries in our region. It would diminish Australia's standing in international nuclear arms control forums and our ability to influence international nuclear policy developments in accordance with our national economic and security interests.

### **Obligations**

13. Australia's obligations under the Fourth Extension Agreement derive from the 1987 RCA. The 1987 RCA places a number of obligations on parties, which are to be implemented within the framework of their national laws. In particular, the 1987 RCA requires that the Parties:

- promote and coordinate cooperative research, development and training projects in nuclear science and technology through their appropriate national institutions (Article I);
- attend meetings to consider, approve or evaluate cooperative projects and conduct other business relating to the 1987 RCA (Article II);
- make available the necessary scientific and technical facilities and personnel for the implementation of cooperative projects in which the party is participating (Article V.1);
- take reasonable and appropriate steps for the acceptance of scientists, engineers or technical experts designated by other participating governments or by the IAEA to work at designated installations for the purpose of implementing cooperative projects in which the party is participating (Article V.1);
- submit to the IAEA an annual report on the implementation of the portion of cooperative projects assigned to it (Article V.2)
- ensure that the IAEA's safety standards and measures are applied to relevant cooperative projects (Article IX.1); and
- ensure that any assistance provided to them under the RCA would be used only for peaceful purposes, in accordance with the statute of the IAEA (Article IX.2).

14. Australia's obligations remain those accepted in the 1987 RCA. There are no new obligations imposed on Australia by the Fourth Extension Agreement.

### **Implementation**

15. No legislation is required to give effect to the obligations contained in the Fourth Extension Agreement. Neither the 1987 RCA nor the First, Second or Third Extension Agreements required legislation to give effect to them - all four were implemented by way of

administrative action. The obligations continuing by virtue of the Fourth Extension Agreement will also be implemented in that manner.

16. No changes to the existing roles of the Commonwealth or the States and Territories will arise as a consequence of implementing the Agreement.

### **Costs**

17. As a party to the RCA, Australia has the option of contributing financially and 'in-kind' to facilitate the effective implementation of co-operative projects. Financial contributions to project costs will be assessed, on a case-by-case basis, and provided for through normal budgetary processes.

18. Australia's contributions 'in-kind' are given through: the placement of RCA and IAEA fellowship and scientific visitor awardees for study in Australia; the provision of courses and experts to provide assistance to the IAEA or to individual RCA Member States on behalf of the IAEA; and the hosting of RCA meetings sponsored by the IAEA. These costs are met by relevant agencies from their existing resources.

### **Regulation Impact Statement**

19. The Office of Best Practice Regulation (OBPR) self-assessment process has been performed to confirm that no Regulation Impact Statement is required for the proposed treaty action.

### **Future treaty action**

20. The Fourth Extension Agreement does not provide for the negotiation of future related legally-binding instruments such as protocols or annexes. Given this is the fourth time that the 1987 RCA has been extended, it is likely that a further extension of five years will be proposed. If this were to occur, Australia would need to consider the merits of agreeing to a fifth extension.

### **Withdrawal or denunciation**

21. The Fourth Extension Agreement does not contain express provisions dealing with withdrawal or denunciation, but it would be possible to withdraw from the Fourth Extension Agreement at any time by consent of all the parties to it (Vienna Convention on the Law of Treaties [1974] ATS 2, Article 54). In addition, it would be possible to withdraw on one year's notice if such a right could be implied from the nature of the Fourth Extension Agreement (Article 56 of the Vienna Convention on the Law of Treaties). Withdrawal by Australia would be subject to our domestic treaty process, including tabling and consideration by JSCOT.

### **Contact details**

Australian Nuclear Science and Technology Organisation

**Fourth Agreement to Extend the 1987 Regional Cooperative Agreement for  
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**CONSULTATION**

1. Information on the proposed Fourth Extension Agreement has been provided to the States and Territories through the Commonwealth-State Standing Committee on Treaties' Schedule of Treaty Action. It will have no effect on the States and Territories.
2. Australian Nuclear Science and Technology Organisation (ANSTO) personnel have consulted widely with relevant agencies including AusAID, the Department of Education Science and Training (now the Department of Innovation, Industry, Science and Research (DIISR), the IAEA Policy area of DFAT, the Australian Safeguards and Non-Proliferation Office (ASNO) and the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). All agencies have indicated their support for Australia's acceptance of the Fourth Extension.
3. Consultation was undertaken within the previous Government. Approval was obtained from the Minister for Education, Science and Training, the Minister for Foreign Affairs and the Attorney-General, and the Prime Minister was advised of the proposed treaty action. Following the change in government, approvals from relevant Ministers will be sought prior to Executive Council action.