

Chapter 3

Current royalty regimes

Uranium mines in the Northern Territory

3.1 Currently uranium royalties in the Northern Territory are worked out on a case-by-case basis, as with the Ranger Mine – currently the only operating uranium mine in the Northern Territory. To date royalty arrangements have been determined for three Northern Territory uranium projects (Ranger, Narbalek and Jabiluka) by the relevant Australian Government Minister on a project-by-project basis taking into account a range of factors, including the world market for uranium, any non-statutory payments to Aboriginal communities, the loss or damage likely to be suffered by Aboriginal communities affected by the proposed mining interest and the royalty rate set for other mines.¹

Ranger

3.2 As noted above, the Ranger mine is the only uranium mine currently operating in the Northern Territory. On 3 November 1978 the Northern Land Council (NLC) and the Commonwealth Government executed an agreement under the *Aboriginal Land Rights (Northern Territory) Act 1976* in relation to mining for uranium on the Ranger Project Area. The Ranger mine is subject to a 5.5% ad valorem royalty composed of three components – 2.5% is the royalty applicable on Aboriginal reserves under the then Northern Territory Mining Ordinance, 1.75% is the notional negotiated payment for traditional owners (the Commonwealth Government pays the sum of these first two components (4.25%) into the Aboriginals Benefits Account (ABA)), and 1.25% which the Commonwealth Government pays to the Northern Territory Government as a grant in lieu of royalty under the terms of a 1978 Memorandum of Understanding between the Commonwealth and Northern Territory Governments. The 1.25% paid to the Northern Territory Government equates to the royalty rate for minerals under the Northern Territory Mining Ordinance at the time of self-government in 1978. Other financial arrangements under the agreement included up-front payments and an annual rental. Up-front payments from the Commonwealth to the NLC totalled \$1.3 million payable in stages up to the mine's first production. The Commonwealth also paid \$150,000 per annum for four years to the NLC for it to meet administrative costs associated with the Ranger project. The Commonwealth also agreed to pay the NLC \$200,000 in annual payments, termed rentals.²

1 *Explanatory Memorandum*, p. 13.

2 *Explanatory Memorandum*, pp 13–14 and Gundjeihmi Aboriginal Corporation, *Submission 9*, pp 2–3.

3.3 In their submission the Gundjehmi Aboriginal Corporation, which has been the royalty receiving entity for the Ranger mine since 1995, argues that:

There are a number of noteworthy matters regarding the November 1978 agreement. Firstly, as noted in Altman 1983, ‘the [mining] company has taken over the total Commonwealth liability in respect of royalties’. This significant point has been frequently overlooked in discussion of the financial arrangements which apply at Ranger. Also, the annual payment of a ‘rental’ was not linked to inflation and has therefore declined significantly in agreement year (1978) values. Perhaps most important to Aboriginal interests was the fact that the negotiated royalty of 1.75% was treated as a statutory royalty (i.e. it was combined with the statutory royalty) and therefore subject to the distribution provisions of the *Aboriginal Land Rights (Northern Territory) Act 1976*. This meant that only 30% of the negotiated royalty flowed to the affected region. In other mining agreements 100% of negotiated royalties flow to the affected regions. As a result of this arrangement, local Aboriginal interests have netted 1.275% of the total Ranger revenue per annum.

Whilst the negotiated financial arrangements referred to above have provided a regular inflow of funds to the relevant organisations, the level of annual receipts has varied dramatically, despite the financial strength of the mine operator.³

Narbalek

3.4 The Narbalek deposit was relatively small and mining was completed in 1988. An ad valorem royalty of 3.75% applied to the Narbalek operation.⁴

Jabiluka

3.5 The Jabiluka mineral lease, which is yet to be activated, specifies an ad valorem royalty of 5.25%. The Jabiluka royalty comprised two components of 4% payable into the ABA and 1.25% payable to the Northern Territory Government. However, this royalty arrangement applied only until 30 June 1990 and the project has not proceeded.⁵

Non-uranium mines in the Northern Territory

3.6 In the Northern Territory, non-uranium minerals are subject to the *Mineral Royalty Act 1982 (NT)*. The royalty regime in this Act involves a profit-based royalty applied at 18% of net receipts (revenue minus specified costs including operating costs, exploration costs and an allowance for capital costs including plant and equipment).⁶

3 Gundjehmi Aboriginal Corporation, *Submission 9*, pp 2–3.

4 *Explanatory Memorandum*, p. 13.

5 *Explanatory Memorandum*, p. 13.

6 *Explanatory Memorandum*, p. 14.

Other jurisdictions

South Australia

3.7 Royalty regimes differ throughout various jurisdictions. In South Australia, the only other Australian jurisdiction in which uranium is presently mined, the royalty applicable to all minerals, including uranium, is 3.5% ad valorem (i.e. 3.5% of revenue). However, new mines can apply to the Minister for 'new mine status'. If granted, then for a period of 5 years commencing on the date of paying the first royalty payment, the royalty payable in relation to minerals recovered will be equivalent to 1.5% ad valorem.⁷

Saskatchewan

3.8 In Saskatchewan (currently the largest uranium producing region in the world accounting for about 30% of annual world uranium production) there is a basic 5% ad valorem royalty on uranium mines. This basic rate may be modified by a 1% Saskatchewan Resource Credit (a 1% reduction in the basic rate) and an additional tiered royalty of up to 15% depending on the average price per kilogram of uranium. The additional tiered royalties can be reduced by a 'capital recovery bank' which consists of standard allowances for certain types of mine development activities. The bank is based on the level of mineral development investment made by a royalty payer. Following recovery of the capital investment, the revenues of the royalty payer are subject to the tiered royalties that increase as the price per kilogram increases.⁸

7 Primary Industries and Resources SA, *Mineral Royalties*, http://outernode.pir.sa.gov.au/minerals/licensing_and_regulation/fees_rents_and_royalties/mineral_royalties [accessed 17 April 2009]

8 Energy and Resources, Government of Saskatchewan, *Uranium Information Circulars*, <http://www.ir.gov.sk.ca/Default.aspx?DN=892618b1-2ba2-444d-b33e-97c1b5dcb6a0> [accessed 17 April 2009]

