

Committee Secretary
Joint Standing Committee on Treaties
PO Box 6021
Parliament House
Canberra ACT 2600



28 November 2014

ICAN Australia submission

Inquiry into the Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy

1. The International Campaign to Abolish Nuclear Weapons (ICAN) Australia welcomes the opportunity to make a submission to the Joint Standing Committee on Treaties (JSCT) concerning the Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy. We would be pleased to appear before the Committee at any public hearings held in Canberra or Melbourne.
2. ICAN Australia recommends against ratification of the Agreement on the basis that the export of Australian uranium to India would directly or indirectly fuel the expansion of India's nuclear arsenal, thus threatening regional peace and security. We have grave concerns regarding the weak safeguards in the Agreement, the poor safety record at Indian nuclear facilities, and the implications of the Agreement for the nuclear non-proliferation regime.

Undermining the non-proliferation regime

3. Unlike existing recipients of Australian uranium, India is not a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Accordingly, it is not bound by Article VI of the treaty, which obliges all states parties to pursue negotiations in good faith for nuclear disarmament. Moreover, India has made no other legally binding undertakings to disarm, and has failed to ratify the Comprehensive Nuclear-Test-Ban Treaty, leaving open the possibility that it will one day resume nuclear testing.
4. Proceeding with this Agreement would bring into further doubt Australia's commitment to the NPT. In international forums, Australia often describes the NPT as the "cornerstone" of the nuclear non-proliferation and disarmament regime. Many states joined the treaty – and thereby forswore the acquisition of nuclear weapons – on the basis that they would gain access to nuclear materials and technology for non-military purposes. By engaging in nuclear trade with a non-NPT party, Australia would undermine that "bargain".

India's nuclear non-proliferation record

5. The Australian Government has wrongly claimed that India's nuclear non-proliferation record is "impeccable" despite its refusal to join the NPT. India conducted its first nuclear test in 1974 using material and technology

provided by the United States and Canada strictly for non-military purposes. India breached assurances made to these suppliers. Its development of nuclear weapons sparked a nuclear arms race with Pakistan, which led to a series of nuclear tests in the late 1990s, and is still ongoing.

6. India is engaged in “vertical” nuclear proliferation. Current estimates suggest that India possesses between 90 and 110 nuclear warheads, with the number of warheads increasing every year. India continues to expand its uranium enrichment capabilities, with a new unsafeguarded gas centrifuge facility under construction. According to the Stockholm International Peace Research Institute, this expanded enrichment capacity could signify moves towards the development of thermonuclear weapons.
7. India is working towards establishing a nuclear “triad”, that is, the ability to launch its nuclear weapons from land, sea and air. It continues to work on several new types of advanced nuclear-capable ballistic missiles and cruise missiles, including submarine-launched missiles. Such activities have fuelled tensions not only with Pakistan but also with China. Many of the missiles are designed to reach targets throughout China.

Diverting uranium for weapons purposes

8. ICAN Australia is deeply concerned that, should this Agreement be ratified, Australian uranium would fuel India’s nuclear weapons program, either directly or indirectly. Senior Australian and Indian officials have acknowledged that, by exporting uranium to India, Australia would free up India’s domestic reserves of uranium for weapons production. India fuels its civilian reactors largely with imported uranium in order to conserve domestic reserves of uranium for the production of weapons-grade plutonium.
9. We are concerned, moreover, that the provisions within the Agreement intended to safeguard against the use of Australian uranium in weapons production are substantially weaker than the provisions found in other Australian export agreements. Consequently, Australia would have little control over what India does with the uranium it receives. John Carlson, a former director of the Australian Safeguards and Non-Proliferation Office and a supporter of uranium trade with India, has been highly critical of the Agreement on the basis that it contains unacceptably weak safeguards.

Implications of a regional nuclear war in South Asia

10. Past Australian leaders have objected to uranium exports to India on the basis that they could fuel a nuclear conflict in South Asia. Such a conflict would most likely result in tens of millions of immediate deaths, and have devastating global consequences. The soot lofted into the upper troposphere from burning cities would lead to reduced sunlight and rainfall globally, resulting in widespread agricultural collapse and famine. We encourage JSCT to examine recent research on nuclear famine published by the International Physicians for the Prevention of Nuclear War.

Concerns with respect to nuclear safety

11. India’s nuclear industry is poorly regulated with lax safety standards. It has been heavily criticised by India’s Public Accounts Committee and the Indian Comptroller and Auditor-General. In the 2014 Nuclear Security Index

published by the Nuclear Threat Initiative, India was ranked 23 out of 25 countries that possess weapons-usable nuclear materials, ahead of only Iran and North Korea. ICAN Australia has serious concerns about the potential for accidents at Indian nuclear facilities or the theft of nuclear materials.

Legal issues with respect to SPNFZT

12. In 2011 ICAN Australia commissioned legal advice from Donald Rothwell, professor of international law at the Australian National University, on the lawfulness of the proposed sale of Australian uranium to India. He concluded that, under the terms of the South Pacific Nuclear Free Zone Treaty (SPNFZT), Australia could sell uranium to India only if India subjected its entire nuclear sector (not just some nuclear facilities) to comprehensive safeguards and oversight by the International Atomic Energy Agency.
13. India should be treated as a “non-nuclear-weapon State” for the purposes of SPNFZT. Although the treaty does not define the term “nuclear-weapon State”, a legal analysis indicates that it has the same meaning as contained in the NPT i.e. “a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967”. In other words, as India is not recognised as a nuclear-weapon State under international law, Australia must ensure that comprehensive safeguards are in place for all facilities. This is not the case under the proposed Agreement being considered by JSCT.

Promoting a world free from nuclear weapons

14. As a state party to the NPT, Australia regularly voices support for the achievement of a world free from nuclear weapons. However, such expressions of support are rendered meaningless if Australia acts in a way that undermines the goals of nuclear non-proliferation and disarmament. By selling uranium to India, Australia’s commitment to the NPT – and the goal of a nuclear-weapon-free world – would be brought into further doubt.
15. Our campaign is calling on the Australian Government to support a diplomatic process to negotiate a legally binding instrument prohibiting nuclear weapons as a first step towards achieving their complete elimination. Such a process has widespread backing among states. Delegitimising nuclear weapons, and achieving a world without them, is made more difficult by irresponsible, dangerous proposals such as the one presently before JSCT.
16. ICAN Australia reiterates its view that JSCT should recommend against ratification of this Agreement by Australia. Should Australia proceed with uranium sales to India, the consequences will be grave and potentially catastrophic. The sale of uranium to any country is highly hazardous and should be phased out. The sale of uranium to a country engaged in a nuclear arms race with its neighbour is reckless and unsanctionable.

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