
The Parliament of the Commonwealth of Australia

Report 151

Treaty tabled on 28 October 2014

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

September 2015
Canberra

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Foreword

According to the Minerals Council of Australia, our country possesses 30 per cent of the known global reserves of uranium ore.

Australia can become the world leader in supplying fuel for low-carbon emission base load electrical power in rapidly expanding economies looking to secure their energy needs while limiting greenhouse gas emissions.

One of the largest of the rapidly developing economies is India.

The Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy, can double the size of Australia's nuclear mining sector. In terms of export income, it could add up to \$1.75b to the Australian economy. It could increase the number employed in uranium mining from 4,000 at present to 8,000.

Contributors to the inquiry identified excellent opportunities for employment and export income in South Australia and Western Australia. There are also potential benefits to Queensland should uranium mining recommence in that state.

The Indian Government is planning an exponential growth in electricity generation from a base of 408kWh per capita per year in 2001 to 5,300kWh per capita per year in 2052.

India is using a spectrum of low-carbon emission technologies to generate this additional power, with nuclear power playing an important part. India will need access to a reliable and consistent supply of uranium if it is to achieve this growth.

While there are considerable benefits for both parties, negotiating a nuclear cooperation agreement with India presents some significant risks. The question for the Committee is, then, can the risks be tolerated and ameliorated?

There are three areas of risk associated with the Agreement.

The first is the risk to nuclear non-proliferation. As India is not a signatory to the Nuclear Non-Proliferation Treaty, it exists in isolation from the nuclear non-proliferation mainstream. However, it is not realistic to expect India to renounce the manufacture of nuclear weapons and dismantle its nuclear arsenal. India borders two other nuclear weapons states with which it is occasionally in conflict.

The agreement represents a different approach to non-proliferation in India; using engagement to bring India into the nuclear non-proliferation mainstream.

The Committee agrees with this approach, but believes that only genuine non-proliferation advances on India's part will ameliorate the potential risk to the non-proliferation framework. Consequently, the Committee has made recommendations encouraging the Australian Government to engage in a diplomatic effort to produce genuine non-proliferation advances from India.

The second area of risk relates to the regulation of India's nuclear facilities. Both the Auditor-General of India and the International Atomic Energy Commission have identified a number of weaknesses in the regulatory framework that jeopardise nuclear safety and security.

The Committee has made a recommendation that the sale of uranium to India only commence when these weaknesses have been addressed.

The final area of risk concerns the provisions of the Agreement. A number of the provisions were debated in considerable detail. The Committee was satisfied that the bulk of concerns have been addressed.

In particular, in relation to accounting for Australian nuclear materials in India, the Committee reached a position where it trusts that Australian nuclear material in India can be accounted for and tracked.

The Committee identified two unresolved issues relating to the provisions of the Agreement; the terminology used in the consent mechanism for the refinement of nuclear materials, and the question of whether the proposed Agreement breaches the Treaty of Rarotonga. In both cases, the Committee was faced with opposing interpretations presented by reputable sources. The Committee has recommended that the outline of the Australian Government's legal advice on these matters be included in the Government Response to the Report.

The Committee took the time to fully consider the issues raised by this Agreement, and has reached a view that, provided the recommended steps are taken as part of the implementation of the Agreement, it can be ratified and the benefits realised.

Mr Wyatt Roy MP
Chair



Membership of the Committee

Chair	Mr Wyatt Roy MP	
Deputy Chair	The Hon Kelvin Thomson MP	
Members	Mr Andrew Broad MP	Senator Chris Back
	Dr Dennis Jensen MP	Senator David Fawcett
	Mr Ken O'Dowd MP	Senator Sue Lines
	The Hon Melissa Parke MP	Senator the Hon Joe Ludwig
	The Hon Dr Sharman Stone MP	Senator James McGrath
	Mr Tim Watts MP	Senator Glenn Sterle
	Mr Brett Whiteley MP	Senator Peter Whish-Wilson

Committee Secretariat

Secretary	Stuart Woodley (<i>to 15.05.15</i>) Lynley Ducker (<i>from 30.07.15</i>)
Inquiry Secretary	Dr Narelle McGlusky
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Resolution of Appointment

The Resolution of Appointment of the Joint Standing Committee on Treaties allows it to inquire into and report on:

- a) matters arising from treaties and related National Interest Analyses and proposed treaty actions and related Explanatory Statements presented or deemed to be presented to the Parliament;
- b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
 - (i) either House of the Parliament, or
 - (ii) a Minister; and
 - (iii) such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.



List of abbreviations

ACF	Australian Conservation Foundation
ANU	Australian National University
ASNO	Australian Safeguards and Non-Proliferation Office
CTBT	Comprehensive Nuclear Test Ban Treaty
EU	European Union
FoE	Friends of the Earth
GW	Gigawatts
IAEA	International Atomic Energy Agency
ICAN	International Campaign to Abolish Nuclear Weapons
INFCIRC	IAEA Information Circular
kWh	Kilowatt hours
MCA	Minerals Council of Australia
NIA	National Interest Analysis
NCA	Nuclear Cooperation Agreement
NPT	Nuclear Non-Proliferation Treaty
OECD	Organisation for Economic Cooperation and Development
UAE	United Arab Emirates
VVER	Vodo-Vodyanoi Energetichesky Reaktor (water–water power reactor)



List of recommendations

4 Nuclear non-proliferation

Recommendation 1

The Committee urges the Australian Government to commit significant diplomatic resources to encouraging India to become a party to the Comprehensive Test Ban Treaty, and to negotiate a fissile material cut-off treaty.

Recommendation 2

The Committee recommends the Australian Government considers facilitating the negotiation of a nuclear arms limitation treaty for the Indian subcontinent region. Such a treaty could feasibly have an initial goal of preventing the development of thermonuclear weapons by India and Pakistan, and prevent the deployment of such weapons to the region by China.

5 Nuclear safety in India

Recommendation 3

Committee recommends that, should the *Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy* be ratified, uranium sales to India only commence when the following conditions are met:

- India has achieved the full separation of civil and military nuclear facilities as verified by the IAEA;
- India has established an independent nuclear regulatory authority under law;
- the Indian nuclear regulator's existing policies and arrangements have been reviewed to ensure its independence;

- the frequency, quality and comprehensiveness of onsite inspections at nuclear facilities have been verified by the IAEA as being best practice standard; and
- the lack of sufficient planning for the decommissioning of nuclear facilities has been rectified.

6 Specific provisions

Recommendation 4

The Committee recommends that the Australian Government outline the legal advice it has received regarding the consent to reprocessing provisions in Article VI of the proposed *Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy*.

7 Concluding remarks

Recommendation 5

The Committee recommends that the Australian Government outline the legal advice it has received concerning whether the proposed *Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy* breaches Australia's obligations under the *South Pacific Nuclear Weapons Free Zone Treaty*.

Recommendation 6

Subject to the above recommendations, the Committee supports the *Agreement between the Government of Australia and the Government of India on Cooperation in the Peaceful Uses of Nuclear Energy* and recommends that binding treaty action be taken.