



AUSTRALIANS FOR WAR POWERS REFORM

**AWPR Submission to the
Joint Standing Committee on Treaties (JSCT)
regarding the
Exchange of Naval Nuclear Propulsion Information Agreement (ENNPIA)**

Thank you for the invitation to make a submission on the ENNPIA agreement. We note the JSCT is considering the ENNPIA only at this juncture leaving aside the matter of the overarching AUKUS enhanced trilateral security partnership (the partnership) announced by the national leaders on 15 September 2021. Notwithstanding, this AWPR submission reflects the importance of the partnership agreement as the overarching framework for the ENNPIA and any other agreements or instruments which may follow and be accorded treaty status.

Australians for War Powers Reform (AWPR) is a registered non-government NFP organisation, formed in 2012. Our Executive Committee members have experience in government, defence, foreign affairs, law, medicine, higher education, and media. We are non-partisan, and we advocate legislative change of the way in which the Australian government commits the ADF to armed conflict overseas.

Like other Australian organisations, AWPR is concerned about the AUKUS partnership. On 17 November 2021, we published a position statement, THE AUKUS DECLARATION, expressing our concerns about the secrecy surrounding the partnership, and the lack of public consultation in advance of it. Our Declaration deplored decisions with partnering nations which put at risk Australia's independence, sovereignty, and national security.

The minimal opportunity provided for public comment on the government's proposal to accord treaty status to the AUKUS partnership and this ENNPIA defies our democratic process. The only interests it can be seen to serve are political expediency and electoral advantage.

We draw the attention of the Committee to the following implications of the proposed ENNPIA which pose serious security risks for Australia. We call on the Committee to recommend to Parliament that both it and

the proposed overarching AUKUS Partnership not be accorded treaty status at least until the full scope, terms and conditions of the enhanced trilateral security partnership have been made public.

Contents of the ENNPIA

A US official is quoted in US media on 15 September 2021 stating that: "... any sale of submarines to Australia would take several years. But in the interim, there will be a push for more American nuclear submarines to make port calls in Australia to show presence." We therefore suspect that increased access to Australian bases and territorial waters for US military capabilities may be delivered promptly, while the promised submarines, aircraft, and missiles may not appear for decades, and by then may be redundant.

Few of our elected representatives have been able to consider the leaders' announcement of an enhanced trilateral security partnership, involving the US, UK, and Australia. Most Parliamentarians apparently have little or no information about the extent to which the US will increase its combat force presence on Australian territory. If limits on numbers of personnel, equipment or munitions have been agreed, we and many of our elected representatives do not know what they are. Command arrangements while US forces are based in Australia are unclear. We assume that UK participation is mostly to be confined to minor ship-based naval exercises, but that too has not been clarified. While that lack of information remains the case, we believe the proposed arrangements for trilateral logistics support should not be included in the proposed Agreement.

The ENNPIA mentions at paragraph 6, "without unreasonable risk to each Party's common defense and security". The statement refers to the naval nuclear propulsion information, but the meaning of "unreasonable risk" is unclear and arouses further uncertainties such as:

- What is the need for the caveat?
- How do the parties intend to enforce the agreement?
- What leverage does the US believe itself to have?
- What punitive measures are contemplated to enforce compliance?
- What provisions are made for dispute settlement?

Costs

The little we know about the Agreement indicates that all the costs – more than half a trillion dollars over ten years – will be borne by Australia, to the overwhelming advantage of American and British suppliers.

The decision to acquire nuclear powered submarines to replace our existing six diesel-electric (conventional) boats should be examined in the Parliamentary process of budget appropriations. Whatever the relative merits of nuclear-powered and diesel boats, the anticipated costs may well be prohibitive, on top of significant losses in Australia's export income, penalties imposed on Australia for failing to meet agreed emissions targets, and the costs of the pandemic.

At the least, AWPR expects that the Agreement should specify caps on numbers of visiting personnel, and should confine the purpose of such visits to joint and combined training. Numbers of ships and aircraft visiting Australian ports and airports should explicitly be limited, and the cost of associated replenishment stocks should be set out in detail. Maintenance and parts arrangements should be spelled out publicly, together with costs. These could well amount to more than the purchase of boats and missiles.

Risks

The proposed Agreement has implications for Australia as a non-nuclear powered and non-nuclear armed country. As the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the Treaty to Prohibit Nuclear Weapons (TPNW) are both in force, the Agreement could encounter objections in the UN relating to Australia's non-compliance and non-proliferation obligations.

The US and UK partners to the proposed Agreement are supposed to provide transfer of technology and information. But the ENNPIA provides for them to suspend such cooperation, possibly by claiming in the future they do not trust Australia's protective security arrangements, or even Australia's government.

The Agreement will place Australia in the front line in any regional conflict. A war with China – obviously the notional enemy – is unlikely to be won by the US and its allies, as successive wargames have shown. The US and the UK can retreat from Asia if their strategy fails. Australia cannot.

China could, under pressure, make Australia an exemplary target for conventional or nuclear attack, particularly on sites hosting US military and intelligence capabilities. Australia would not survive, while the US and UK could withdraw.

The acquisition of nuclear-powered attack submarines under the proposed Agreement threatens stability and security in the Asia-Pacific region, whose ASEAN countries are dedicated to non-nuclear principles. The proposed Agreement makes Australia complicit in increasing the risk of military conflict in our region. It is

already disrupting relations with our neighbours, some of whom support the deal while others, including Indonesia and Malaysia, have expressed opposition to it.

Inside Australia, the Agreement enables the US to greatly increase deployments of bomber and escort aircraft in the north of Australia at Tindal, to increase to around 6000 the number of marines deployed in Darwin, and to increase home porting of US vessels in Darwin and Fremantle, including nuclear-powered and armed submarines. In addition, Pine Gap is in the process of significantly expanding its listening and war-directing capabilities.

Acquiescing to these requests or demands considerably undermines Australian sovereignty. The US is likely to want oversight, amounting to control, of northern air space and shipping lanes. It may conduct aggressive and provocative flight missions up to the edge of Chinese air space with nuclear armed bombers and patrol shipping lanes with greater frequency and intensity, knowing it has secure home bases in Australia, protected by surface-to-surface and surface-to-air missiles.

Any one of these flights or naval patrols could trigger a warlike response directed against Australian and US defence facilities and other assets of strategic value, such as oil, fresh water and infrastructure, or could incite a cyber-attack on Australian communications and infrastructure.

Australia could be at war before most Australian politicians are aware of what is happening. In such an event, Parliament will have no say on going to war nor on the conduct of hostilities. The ADF will lose its capacity to act independently. Australia will be on a war footing as soon as these arrangements are in place.

Recommendation

Australians for War Power Reform believes the proposed Agreement should not come into force, and that the AUKUS enhanced trilateral security partnership should not be accorded treaty status.

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