

POLICY PERSPECTIVES

June 26, 2012

The Last Domino to Fall: Australia, Uranium, and the India Deal*Talitha Dowds and Sharon Squassoni*

Prime Minister Julia Gillard of Australia and Prime Minister Manmohan Singh of India (courtesy of the Indian government's Photo Division).

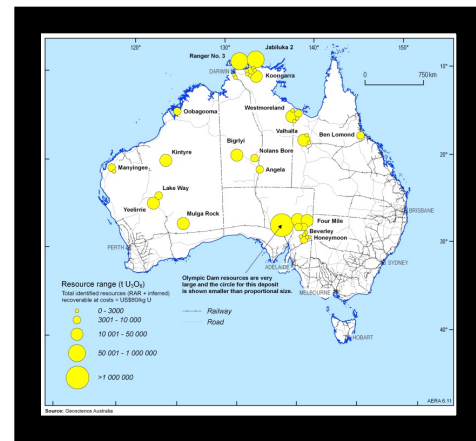
In late 2011, Australia decided to allow uranium exports to India, creating an exception from its long-standing policy of exporting uranium only to countries with full-scope safeguards. Australia was one of a handful of countries that had not moved quickly to cash in on Indian nuclear trade. With its huge uranium resources (it is the third-largest producer of uranium ore and holds 40 percent of known uranium reserves), one would expect Australia to be seriously bullish on nuclear energy and active in export promotion.¹ Yet for decades this significant nuclear supplier has struggled to balance domestic and foreign priorities in the nuclear area. This essay explores Australian nuclear trade policy and the decision to supply India.

Background

While Australian uranium may mean a lot to its recipients, the economic value of uranium exports to the Australian economy is relatively small: about \$600 million (i.e., one-

¹ "Facts about the Uranium Industry," Australian Uranium Association, accessed April 4, 2012, <http://www.auria.org.au/Content/Keindustryfacts.aspx>.

third of Australia's energy exports).² By contrast, Australia exported \$64 billion worth of coal and \$11 billion worth of natural gas in 2011. Australia is the largest coal exporter worldwide and the third-largest natural gas supplier. Although Australia has 40 percent of the world's known uranium reserves, it supplies only 19 percent of the world market.



Australia's Total Defined Uranium Resources—March 2010 (courtesy of the Australian government's Department of Resources, Energy and Tourism).

Environmental and land rights laws have restricted production, while sluggish demand has discouraged expansion of uranium mining. Australia could be, if it so chose, the world's leading uranium exporter, with a corresponding increase in its influence upon the global uranium market.

² All export figures were found in the following sources: Ibid.; Rory Medcalf, "Australia's Uranium Puzzle: Why China and Russia but not India?" *Fearless Nadia Occasional Papers on India-Australia Relations* 1 (Spring 2011), <http://www.aii.unimelb.edu.au/latest/launch-fearless-nadia-occasional-papers-indiaaustralia-relations>; and "Australian Liquefied Natural Gas," Australian Government, accessed May 1, 2012, http://www.ret.gov.au/resources/upstream_petroleum/australian_liquefied_natural_gas/pages/home.aspx.

Australia began to mine and mill uranium on an extensive scale in the mid-1950s. During that time, Australia began exporting uranium to the UK Atomic Energy Authority and the U.S.-UK Combined Development Agency, which supported the U.S. and UK nuclear weapons programs. Smaller amounts had also been exported to Japan and France.³ Even at this early stage, it was evident that Australia struggled to balance its strategic interests against those of the United States and the United Kingdom. Then-Prime Minister Robert Menzies stated:

“Whatever we may think about atomic bombs and their terrible subsequent development, let us understand quite plainly and realistically that part of our security in the present tremulous condition of world safety depends upon the superiority of the Free World in terms of these dreadful instruments. And Australia, by making a contribution of this kind...is itself making a powerful contribution to international defence.”⁴

Support for the U.S. and UK nuclear deterrent did not preclude Australian consideration of its own nuclear weapons option. From 1956 to the early 1960s, Australia pondered procuring nuclear weapons from external sources, notably the United Kingdom.⁵ From 1964 to 1972, Australia shifted from the idea of acquiring nuclear weapons from Britain to developing nuclear weapons indigenously.⁶ The 1964 Chinese nuclear test was a key factor, as was later the U.S. disengagement from Vietnam. Together, these dramatically reduced Australia’s sense of security.⁷ Australia’s pursuit of a nuclear weapons option, however, “was fitful, and did not get very far.”⁸

The negotiation of the Nuclear Non-Proliferation Treaty (NPT) in the late 1960s also prompted questions for Australian officials, including whether nuclear weapons were necessary for Australian national security or whether military alliances with the United Kingdom and United States would suffice. Australian concerns are reflected in the First Committee of the UN General Assembly in 1968:

- “...In assessing whether the treaty will in fact increase world security, all will be conscious of the menacing fact that Communist China, which is proceeding with the development of nuclear weapons with some speed, has already made it clear that it will not be a party to the treaty. This is...particularly important to the countries of Asia and the Pacific...
- ...[A] resolution to the Security Council which will offer assurances of assistance to non-nuclear countries that sign the treaty if they are subjected to nuclear attack or the threat of nuclear attack...will not constitute a water-tight guarantee for any nation....
- ...In this respect, [Australia] notes specifically the proposed reaffirmation by the three nuclear-weapon States and the Security Council of the inherent right, recognized under Article 51 of the Charter, of individual and collective self-defense...The Australian Government relies upon mutual security arrangements, into which it has entered with its allies, as the firm basis of Australian security against both conventional and nuclear aggression...
- ...The...treaty should in no way impede or burden nuclear research, development, production or use for peaceful purposes. This requirement is of paramount importance to my country [Australia]...”⁹

Australia signed the NPT on February 28, 1970, but did not move to ratify the treaty as long as the ruling party still considered an Australian nuclear weapons option. In 1973, the new governing labor party viewed the development of an Australian nuclear weapons capability to be “irresponsible” and began the ratification process.¹⁰ Full-scope International Atomic Energy Agency (IAEA) safeguards soon followed.¹¹

Domestic Influences on Australian Uranium

The late 1960s expansion of civil nuclear power generation in some countries led to a second boom in the uranium market and a reinvigoration of Australia’s uranium

³ Mark Fitzpatrick, ed., “Australia,” in *Preventing Nuclear Dangers in Southeast Asia and Australasia* (London: International Institute for Strategic Studies, 2009), 166.

⁴ Ibid.

⁵ Sara Z. Kutchesfahani, “The Relevance of Historical Experience to Current Nuclear Proliferation Challenges,” in *Project on Nuclear Issues: A Collection of Papers from the 2009 Conference Series*, ed. Mark Jansson (Washington, DC: CSIS, April 2009), http://csis.org/images/stories/poni/110921_Kutchesfahani.pdf.

⁶ Jacques E.C. Hymans, “Isotopes and Identity: Australia and the Nuclear Weapons Option, 1949–1999,” *Nonproliferation Review* (Spring 2000), <http://cns.miis.edu/npr/pdfs/hym71.pdf>.

⁷ Kutchesfahani, “The Relevance of Historical Experience.”

⁸ Fitzpatrick, “Australia,” 166.

⁹ “Statement by the Australian Representative (Shaw) to the First Committee of the General Assembly: Nonproliferation of Nuclear Weapons, May 17, 1968,” in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament 1968* (Washington, DC: GPO, September 1969), 363, <http://www.dtic.mil/cgi-bin/GetTRDoc?Location=U2&doc=GetTRDoc.pdf&AD=AD0703891>.

¹⁰ Ibid.

¹¹ Marty Harris, “The Origins of Australia’s Uranium Export Policy,” Parliament of Australia, December 2, 2011, [http://parlinfo.aph.gov.au/parlInfo/download/library/prspub/1267617/upload_binary/1267617.pdf;fileType=application/pdf#search=%22background%20note%20\(parliamentary%20library,%20australia\)%22](http://parlinfo.aph.gov.au/parlInfo/download/library/prspub/1267617/upload_binary/1267617.pdf;fileType=application/pdf#search=%22background%20note%20(parliamentary%20library,%20australia)%22).

industry.¹² Contracts for the supply of uranium increased, despite Australian fears that the 1968 NPT would restrict nuclear trade.

Three influential issues shaped the biggest changes toward Australia's uranium export policy during the 1970s:

1. *The Aboriginal Land Rights Act of 1976.* The act recognized and established the traditional rights and land interests of the Aborigines. This affected uranium mining and exports since many of the prospective uranium deposits were located either on Aboriginal reserves or on land that was thought would be subject to future land claims.
2. *The creation of Kakadu National Park in 1979.* The national park encompassed uranium land discoveries that were all within the region proposed for the park. The areas bounded by the mining leases however were excluded from the national park.
3. *Growing public concern for the environment.* French atmospheric nuclear testing in the Pacific sparked an anti-uranium movement as conservation groups began highlighting the possible environmental impact of uranium mining.¹³



Ranger Uranium Mine, Northern Territory (courtesy of the Australian government's Department of the Prime Minister and Cabinet).

By 1976, the Australian government decided to conduct an inquiry, called the Ranger Uranium Environmental Inquiry, to assess the environmental impacts of the proposed Ranger uranium mine, whether Australia should mine and/or export uranium, and the impact of Aboriginal land rights legislation. Two reports contain the results of the inquiry, and are largely responsible for establishing the foundation of Australia's uranium export and nonproliferation policy.

In 1977, Australia formalized a uranium export policy, which specified the condition of NPT membership for uranium exports. In the case of nonnuclear weapon states, this meant they had to accept comprehensive IAEA safeguards. In the case of nuclear weapons states, the policy limited the use of nuclear material to peaceful purposes only. The policy also stipulated that prior consent by Australia must be given for the transfer of Australian supplied nuclear material to a third party and for further enrichment and reprocessing of Australian-supplied uranium. Australian uranium would also “attract full IAEA safeguards by the time it leaves Australian ownership.”¹⁴ Essentially, Australia's bilateral agreements required its material to be brought under IAEA inspection on conversion.

Consistent Nonproliferation Policies

The uranium export policy adopted in 1977 has remained fairly consistent:

- “Australian uranium may only be exported for peaceful non-explosive purposes under Australia's network of bilateral safeguards Agreements, which provide for:
 - coverage by IAEA safeguards
 - fallback safeguards in the event that IAEA safeguards no longer apply for any reason
 - prior Australian consent for any transfer of Australian Obligated Nuclear Material (AONM) to a third party, for any enrichment beyond 20 per cent of uranium-235 and for reprocessing of AONM, and
 - physical security requirements.
- Australia retains the right to be selective as to the countries with which it is prepared to conclude safeguards arrangements.
- Non-nuclear weapon state customer countries must at a minimum be a party to the NPT and have concluded a full-scope safeguards Agreement with the IAEA.
- Nuclear weapon state customer countries must provide an assurance that AONM will not be diverted to non-peaceful or explosive uses and accept coverage of AONM by IAEA safeguards.
- Commercial contracts for the export of Australian uranium should include a clause noting that the contract is subject to the relevant bilateral safeguards arrangement.

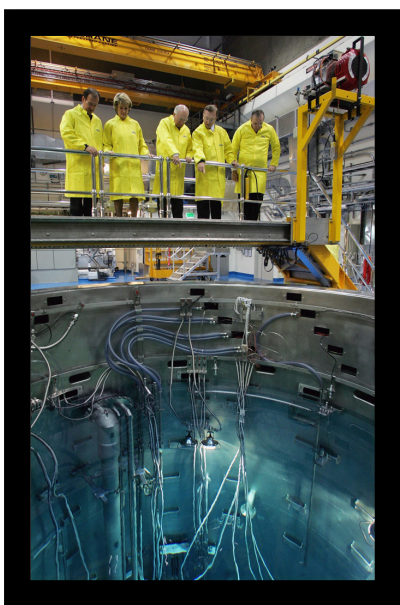
¹² Ibid., 6.

¹³ Ibid., 7.

¹⁴ Australian Parliament, *Uranium: Australian Policy, 1977*, Parliamentary Paper 198 (Canberra: Government Press, 1978), 101.

- The Australian Government has further tightened Australia's export policy by making an Additional Protocol with the IAEA (providing for strengthened safeguards) a condition for the supply of Australian obligated uranium to all states.¹⁵

In 2007, Australia joined many other countries as they anticipated a possible exception to Nuclear Suppliers Group guidelines to allow trade with India, a country that had developed nuclear weapons outside the NPT. That year, the John Howard government in Australia created an exception for India to the long-standing policy of requiring full-scope safeguards for nuclear supply. The Howard government cited "India's democratic government, growing regional power, rising energy needs and 'strong non-proliferation record', as well as global environmental challenges, and Australia's desire to strengthen bilateral relations with India as reasons for changing Australia's uranium export policy."¹⁶ Undoubtedly the close relationship between then-President George W. Bush of the United States and Prime Minister John Howard influenced this decision, which was overturned in late 2007 when Prime Minister Kevin Rudd took office.



Prime Minister John Howard (center) at the official opening of Australia's Opal Research Reactor, April 2007 (courtesy of Australian Nuclear Science and Technology Organization [ANSTO]).

¹⁵ "Nuclear Non-proliferation, Trade and Security," Australian Government, accessed April 2, 2012, http://www.dfat.gov.au/security/aus_uran_exp_policy.html.

¹⁶ Harris, "The Origins of Australia's Uranium Export Policy," 1.

This decision held until 2011, when Australia reversed course again. This time, the policy change was characterized as strengthening Australia's "strategic partnership" with India in "this Asian century" and creating jobs to benefit the Australian economy.¹⁷

Peer Pressure

Pressure on other suppliers to create an exception for India began with passage in the United States of the Henry J. Hyde United States–India Peaceful Atomic Energy Cooperation Act of 2006. This bill required the Bush administration to obtain a waiver from the full-scope safeguards requirement for nuclear trade within the Nuclear Suppliers Group (NSG) before a U.S. waiver from the U.S. Atomic Energy Act could be implemented. Even before the Hyde Act passed, however, suppliers began considering their options. For example, in March 2006, Russia declared it would begin supplying fuel to India's Tarapur nuclear reactors immediately. After the September 2008 NSG decision, countries lined up to sign nuclear cooperation agreements with India. France followed the United States in 2008, Russia in 2009, and Canada and Japan in 2010. Japan, as a key supplier of nuclear components and a country that sought to enter the expanding nuclear reactor market, undoubtedly felt pressure from other key suppliers to change its stringent export control policies.¹⁸ Australia was the last domino to fall when it created an exception for India to its export policies in December 2011.

President Barack Obama was on hand for the announcement, but alliance politics were not the overriding factor in Australia's decision, at least not with the United States. In November 2009, Australia and India issued a joint statement on a "Strategic Partnership" to intensify their efforts in peace, stability, and prosperity and to put in place mechanisms to ensure closer and regularized collaboration in security areas.¹⁹ Overall, a strong relationship with India will allow Australia to capitalize not just in terms of regional and global security in the Asian century, but to place itself in a position to develop and pursue its economic objectives. The fact that India is Australia's fourth-largest export market, coupled with

¹⁷ "Australia Ruling Party Backs Plans to Sell Uranium to India," *The Telegraph*, December 4, 2011, <http://www.telegraph.co.uk/earth/energy/nuclearpower/8934139/Australia-ruling-party-backs-plans-to-sell-uranium-to-India.html>.

¹⁸ Masako Toki, "Japan's Dilemma: Nuclear Trade vs. Nuclear Disarmament Advocacy," *Bulletin of the Atomic Scientists*, November 3, 2010, <http://thebulletin.org/web-edition/features/japan%E2%80%99s-dilemma-nuclear-trade-vs-nuclear-disarmament-advocacy>.

¹⁹ "India Country Brief," Australian Government, accessed May 7, 2012, http://www.dfat.gov.au/geo/india/india_brief.html.

India's strong economic growth, undoubtedly played a significant role.



President Barack Obama delivers remarks during his visit to Australia, November 17, 2011 (official White House photo by Pete Souza).

In practice, the next steps for Australia to export uranium to India will take time. A bilateral safeguards agreement needs to be negotiated, which “would apply the same standards to India as to all countries to which Australia exports uranium, including strict adherence to IAEA arrangements and strong bilateral undertakings and transparency measures that will provide assurances that Australia’s uranium will be used only for peaceful purposes.”²⁰

Once a bilateral safeguards agreement is in place, licensed uranium exporters will be able to export to Indian customers provided that:

- “Both Australia and India fulfill their reporting requirements (usually undertaken by the entity exporting the nuclear material with the support of the local regulators) to the IAEA and
- Any transporter will need to comply with the relevant procedures, principles and treaties governing the transportation of nuclear materials.”²¹

Impact on Nonproliferation Regime

India pursued its nuclear energy program in relative isolation for more than 40 years. It was excluded from nuclear trade for about half that time, beginning with the NSG requirement for full-scope safeguards from 1992. More than Western reactors, what India wanted was uranium. In fact, its nuclear power reactors had been operating at reduced power levels in the run-up to the U.S.-India deal precisely due to a lack of uranium. For India, therefore, Australia’s commitment to engage in nuclear trade is particularly important. No matter how quickly or slowly new nuclear power plants are constructed in India, there will still be significant demand for uranium for India’s existing heavy-water reactors.

This means, of course, that India’s domestic uranium resources can be used for other purposes, including for nuclear weapons. Pakistan is alarmed by this prospect and has responded by expanding its fissile material production for weapons. It is too soon to tell whether Australia’s strategic alliance with India will enhance its influence regarding other important nonproliferation and disarmament objectives—for example, in winning Indian acceptance of the Comprehensive Test Ban Treaty. However, it is clear that Australia could and should maximize its leverage, given that it has not abandoned its wide range of interests in reducing nuclear risks worldwide.

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²⁰ Vincent Dwyer, Fiona Reilly and Raj Karia, “A Policy Update: Australian Uranium Export to India,” Norton Rose LLP, December 2011, <http://www.nortonrose.com/knowledge/publications/60357/a-policy-update-australian-uranium-export-to-india>.

²¹ Daryl G. Kimball, “Indian Membership in the NSG? A Bad Idea Whose Time Has Not Come,” *Arms Control Now*, June 23, 2011, <http://armscontrolnow.org/2011/06/23/indian-membership-iin-the-nsg-a-bad-idea-whose-time-has-not-come/>.