

# **AUSTRALIAN NUCLEAR FORUM**

## **Legal Controls of Nuclear Technology**

### **Policy**

**Legal controls over the peaceful aspects of nuclear technology in Australia should be objectively formulated to ensure that this technology can be used effectively in the national interest.** (Adopted 27/8/03)

### **Summary and Conclusions**

Peaceful nuclear technology was introduced to Australia following World War II. Currently around the world there are many aspects of this technology that contribute to society including medical, industrial, environmental and energy components. In this country the emphasis has been on the first three of these with the involvement in nuclear energy being limited to uranium exports and research on nuclear waste disposal. One of the main reasons for this situation is the common position of the major political parties.

Labor governments in Victoria and NSW in 1983 and 1986 respectively, passed legislation prohibiting certain nuclear activities including uranium mining and nuclear power. More recently WA and SA (1999,2000) have passed legislation prohibiting nuclear waste storage facilities. Ostensibly these legislations have been passed for safety and environmental reasons in spite of experience gained overseas that such activities can be conducted safely and can even improve the environment. Thus the ANF believes that such legislations should be repealed to be replaced by health, safety and environmental controls that are consistent with the hazards involved thereby allowing the realisation of the potential benefits nuclear technology offers

### **Considerations**

#### **1. Federal Legislation**

The major federal nuclear legislation is in the areas of safeguards and the ANSTO Act 1987. The former has led to the establishment of the Australian Safeguards Office to handle Australian interests and responsibilities within the international safeguards regime.

The act establishing ANSTO (out of the former AAEC) on the other hand, does not constrain the organisation from any nuclear technology research and development activities except for nuclear weapons. However, there appears to be an understanding within ANSTO that work on subjects related to nuclear power are off-limits (probably by Ministerial directive).

Also, from a policy point of view, both major political parties have chosen not to consider nuclear power for this country - a position reinforced by the federal constitutional power to control imports (e.g. of reactor components). The reasons for this are varied, but the main one is the political judgment that there would be problems with public acceptance. Concern over greenhouse gas emissions might force a change in this view over the long term, but in the mean time Australia will continue to generate about 50% of its CO<sub>2</sub> this way.

#### **2. State Legislation**

The Victorian and NSW nuclear acts specifically prohibit uranium exploration, mining or enhancement and also any use of nuclear power. This latter feature has meant that the two states with the largest generating capacities and therefore, the greatest abilities to use nuclear power for base-load operation have been prevented from even considering its use. Consequently, what little expertise the electricity commissions in those states possessed at the time was being eroded away. In addition, no nuclear/coal comparative cost studies have

been done which might have demonstrated in comparison with overseas comparative costs, the level of cost subsidisation being applied to coal-fired generators in both states, or revealed differences in generating costs between the states.

The Western Australian Act was created as an attempt to prevent the establishment of an international high-level waste repository (e.g. via PANGEA), whereas the South Australian Act was intended to at least show some displeasure in the establishment of a LL/ML waste repository for nationally produced waste. This latter attempt will probably not withstand legal challenge by the federal government and the national waste repository will be established in the Woomera federal lands.

In Queensland the Labor party position at the time of its 1998 election was "Labor will not grant a mining lease for the purposes of mining uranium in Queensland. Nor will it permit the treatment or processing of uranium in the state." However, it appears that no actual legislation followed.

The international high-level waste repository is another story, and it could be that such a facility would be in the national interest from two points of view: (a) the economic, many of the world's countries with nuclear power programs would no doubt pay considerably to store their waste outside their boundaries, and (b) the environmental argument that such a facility would assist in the development of nuclear power internationally and thereby reduce greenhouse gas (i.e. CO<sub>2</sub>) emissions worldwide.

### **3. Federal Preemption**

In order to avoid difficulties with the states attempting to impose their own legislation on aspects of nuclear technology occurring within their borders it would be more logical for the federal government to seek to preempt this area of legislation for itself. In matters as important as this a national approach should be used.

Incentives to do so that could be in the national interest are: (a) it could pass legislation on LL/ML and high level waste repositories, (b) uranium mining and processing could be carried out nearer to the industrial centres and power supplies, and (c) nuclear power could be introduced into the populated states to strengthen the growing eastern power grid.

### **4. References.**

1. "Legal Barriers to Nuclear Power," N.A. Parsons, ANF Discussion Paper No. 7.
2. Uranium Information Centre Weekly News Summary 17/7/98.