

No. 27460

AUSTRALIA
and
UNITED STATES OF AMERICA

Exchange of notes constituting an agreement concerning Australian ores containing uranium or thorium (monazite and xenotime). Washington, 13 December 1989

Authentic text: English.

Registered by Australia on 30 July 1990.

AUSTRALIE
et
ÉTATS-UNIS D'AMÉRIQUE

Échange de notes constituant un accord relatif aux minerais d'Australie qui contiennent de l'uranium ou du thorium (monazite et xenotime). Washington, 13 décembre 1989

Texte authentique : anglais.

Enregistré par l'Australie le 30 juillet 1990.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING AUSTRALIAN ORES CONTAINING URANIUM OR THORIUM (MONAZITE AND XENOTIME)

I

Note No. 366

The Embassy of Australia presents its compliments to the Department of State and has the honour to refer to the Agreement between Australia and the United States of America Concerning Peaceful Uses of Nuclear Energy, done at Canberra on July 5, 1979² (the "Agreement on Peaceful Uses") including its Agreed Minute (the "Agreed Minute").

With reference to Article 2(r) of the Agreement and the first paragraph of the section entitled "Coverage of the Agreement" in the Agreed Minute, the Embassy has further the honour to propose the following procedures concerning the treatment of ore transferred from Australia to the United States containing more than 0.05% by weight of uranium or thorium or both:

1. When such transfers are made for use of the contained uranium or thorium or both for peaceful nuclear purposes, the contained uranium and thorium so transferred shall become subject to the Agreement on Peaceful Uses, provided that:

a. The Government of Australia provides the Government of the United States the requisite notification, and receives the requisite confirmation from the United States Government in accordance with the Agreement and arrangements pursuant thereto;

¹ Came into force on 13 December 1989, the date of the note in reply, in accordance with the provisions of the said notes.

² United Nations, *Treaty Series*, vol. 1217, p. 211.

b. The Government of Australia ensures through commercial arrangements that the recipient and any other United States person that will possess the material is specifically licensed by the United States Nuclear Regulatory Commission for that purpose; and

c. If the concentration of contained uranium or thorium or both should at any time be less than 5% concentration by weight, it shall be subject to the Agreement as soon as practicable pursuant to the applicable reporting procedures when the Government of Australia or persons acting on its behalf apprise the United States Department of Energy of the Australian origin and concentration of the material in the United States, and thereafter annually, and at the time of any proposed export of the material.

2. When such transfers of ore are not for application of the transferred uranium and thorium for nuclear purposes but the application changes to one within the scope of the Agreement, the transferred uranium and thorium shall become subject to the said Agreement on Peaceful Uses in one of two ways:

a. If the change of application referred to above is to occur in the United States, when the procedures in para. 1 are followed;

b. If the transferred uranium and thorium is to be converted to nuclear applications in a third country after export from the United States, which applications would be within the scope of the Agreement if such applications were conducted within the United States, the material shall be subject to Article 5(2)(b) at the time the export is proposed when the appropriate Australian governmental authority or a person acting on its behalf identifies and provides notification of the transferred uranium and thorium to the United States Department of Energy and the Nuclear Regulatory Commission as Australian origin and provides the concentration levels.

The Embassy has the honour to propose that if the foregoing is acceptable to the Government of the United States of America, this note and the Department's confirmatory reply shall constitute an agreement between the Government of Australia and the Government of the United States of America which shall enter into force on the date of the Department's reply and shall remain in force for as long as the Agreement on Peaceful Uses remains in force unless otherwise agreed by the two Governments.

The Embassy of Australia avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

Washington, D.C.

13 December 1989

II

The Department of State acknowledges receipt of Note No. 366 of December 13, 1989, from the Embassy of Australia, which reads as follows:

[*See note I*]

The Department confirms that the foregoing is acceptable to the Government of the United States of America and accordingly that the Embassy's note and this reply shall constitute an agreement between the Government of the United States of America and the Government of Australia which shall enter into force on the date of this reply note and shall remain in force for as long as the Agreement on Peaceful Uses remains in force unless otherwise agreed by the two Governments.

Department of States
Washington
