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AUKUS and 'the International Rules-based Order' at the IAEA: Another Entirely Australian Own Goal to China.

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Abstract: *In the year since the United States, United Kingdom, and Australian governments announced the formation of AUKUS, a new alliance whose centrepiece is to be the supply of nuclear-powered submarines to Australia, a robust critique of the nuclear weapons expansion has emerged in Australia, China, and the International Atomic Energy Association among others.*

Keywords: *AUKUS, Australia, IAEA, Nuclear Submarines*

It is now a year since the United States, United Kingdom, and Australian governments announced a new Anglosphere alliance known as AUKUS, whose centrepiece is to be the supply of nuclear-powered submarines to Australia by the senior partners.

Exit France, Enter AUKUS

A matter of hours before the AUKUS announcement by President Joe Biden, Prime Minister Boris Johnson, and Prime Minister Scott Morrison in September 2021 the Australian government announced the cancellation, without any notice whatsoever, of Australia's contract to buy a fleet of French conventionally-powered submarines, at an estimated cost that had already doubled to more than AU$90bn during its preliminary design phase.

In place of the French submarines, the Morrison government announced an intention to purchase eight submarines using US or UK nuclear-propulsion – at an unknown cost, with unspecified design, and with undisclosed strategic rationale beyond 'the world is now more uncertain' – i.e. a reference to China.

AUKUS under Labor

Despite the defeat of the Morrison government in May of this year by the Australian Labor Party led by the new Prime Minister Anthony Albanese, Australians are no better informed about what will be Australia's most expensive-ever defence project than they were a year ago.

This is largely due to the Albanese government's reiterated support for AUKUS and the nuclear-submarines project, despite a raft of objections, both domestic and foreign.

Both PM Albanese and Defence Minister Richard Marles have strongly defended the nuclear submarines project and the AUKUS alliance as critical to Australia's defence requirements in the face of expanding Chinese military capabilities – and by ideologically

equating Russia with China and Putin with Xi.

Experts on the nuclear Non-Proliferation Treaty and the International Atomic Energy Agency addressed the possible violation of the NPT by the plan to transfer large amounts of highly enriched uranium to power the submarine reactors, and indeed the transfer of the reactors themselves. Since the US has in the past refused to allow transfer of nuclear naval propulsion technology to East Asian allies such as South Korea, the AUKUS agreement sets the stage for a new naval arms race among US allies at a time of growing tensions with Russia and China.

The Indonesian and Malaysian governments have been particularly concerned about the AUKUS plan, not least because of the suggestion that the submarines would pass though those countries' territorial waters en route to operations against China.

Domestically, issues about financial and opportunity costs, the lack of a nuclear safety or regulatory regime, and heightened technological dependence on the United States have been prominent – but have not gained sufficient traction to slow down the Albanese government's planning.

Most importantly, there has been little government response to the strategic issues raised by the nuclear-powered submarines: what is the fundamental strategic objective requiring the capability for long-range and long-endurance underwater combat operations, and what are the strategic consequences of building that capability?

The only credible Australian strategic objective leading to those long-range requirements is to contribute to US naval plans for attacks on China – either as part of a protective screen for US carrier task forces attacking Chinese targets, or as a contribution to US hunter-killer submarine groups searching for Chinese nuclear ballistic missile carrying submarines – the already vulnerable 'survivable' core of China's nuclear deterrence capability.

Either way, these plans amount to an Australian willingness to actively assist the US in what may well constitute an existential threat to China – something China is unlikely to forget.

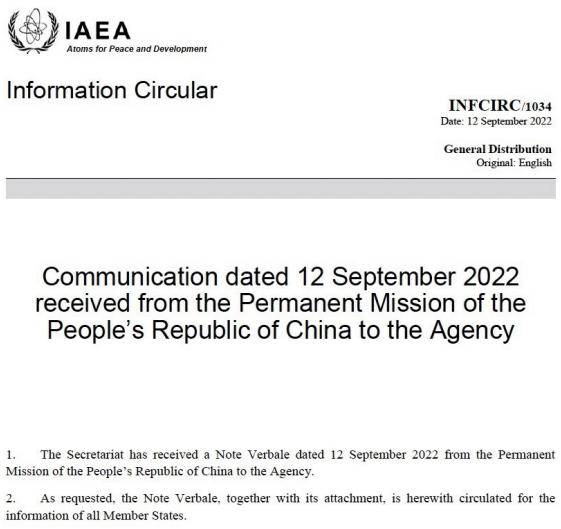
The Chinese Response at the IAEA

While the Albanese government shows little sign of serious engagement with the heavy load of domestic criticisms of the globally-unprecedented project, its most serious and effective opposition may be a wide-ranging Chinese attack in the global legal nuclear arena.

The Chinese government has dramatically shifted the diplomatic attack against the AUKUS partners with an unprecedented and savagely worded submission to the International Atomic Energy Agency on the illegality of the AUKUS transfer of military nuclear-propulsion technology.

'Should such attempts prevail', the Chinese paper states, 'the Agency would be reduced to a "nuclear proliferation agency."'

Perhaps most importantly, China is seeking to create a global coalition of dissatisfied NPT member states against the AUKUS nuclear submarine project as part of a call for revision of the United States' illegitimate de facto influence over rule-making in the international order.



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Atoms for Peace and Development

Information Circular

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Communication dated 12 September 2022 received from the Permanent Mission of the People's Republic of China to the Agency

1. The Secretariat has received a Note Verbale dated 12 September 2022 from the Permanent Mission of the People's Republic of China to the Agency.

2. As requested, the Note Verbale, together with its attachment, is herewith circulated for the information of all Member States.

Taking a leaf from American insistence on adherence to 'the rules-based international order', China has turned the tables on Australia and its senior partners. China accuses the three AUKUS states of 'an obvious cover-up effort', 'misleading the international community' about 'an act of nuclear proliferation', failing in their reporting obligations to the IAEA, gaslighting the IAEA community by falsely proclaiming genuine engagement, and 'taking hostage of the Secretariat to engage in activities prohibited by the statute.'

The Chinese attack is a carefully thought-out political response to a limp AUKUS submission to the recently closed IAEA Review Conference on the submarines project.

Reading more like a Canberra media release than a serious political engagement, the AUKUS countries' working paper amounted to little more than 'Trust us, we are the good guys. And by the way, "Director General Rafael Grossi has repeatedly expressed his satisfaction at the level of transparency of this engagement" – so you can relax.'

Most potently in the long term, China has played on long-running dissatisfaction with the NPT and its limited effectiveness in meeting the obligation of the nuclear powers to reduce their nuclear profile, and concern with the activities and capabilities of the IAEA Secretariat.

Going further, China argues that the AUKUS countries 'have undermined the non-proliferation functions and integrity of the Agency by taking hostage of the Secretariat to engage in activities prohibited by the statute'.

The Chinese paper states that the Director-General 'cannot be involved in nuclear proliferation and the furtherance of military purposes', and 'cannot be reduced to a political tool' of the AUKUS countries.

Perhaps most ominously of all for Australian plans, China calls on all IAEA Member States to involve themselves in the AUKUS discussions, and by implication, help rein in unacknowledged American influence over its processes and rule-making.

China is not the only source of criticisms of the behaviour of the IAEA board and its Director General in particular over the AUKUS nuclear naval propulsion controversy. There have been warnings against the 'perception of double standards already present in the non-proliferation regime'.

The Agency's former Head of Verification and Security Policy Coordination, Tariq Rauf, has argued strenuously for comprehensive review of the 'grey zone' in the NPT regime that the AUKUS countries are relying on to legitimate the nuclear reactor transfer. Rauf has sharply criticised the Australian 'expansive claim' made by its representative, Senator Tim Ayres, in its National Statement at the NPT review conference, claiming legitimation on the grounds that,

'Australia's acquisition of nuclear-

> *powered, conventionally armed submarines, as is provided for in the NPT, the IAEA Statute, and our own Comprehensive Safeguards Agreement.'*

'Unfortunately', wrote Rauf, Senator Ayres

> 'is probably not familiar with the IAEA Statute which prohibits the Agency's involvement in the furtherance of *"any military purpose"*. Also, likely it is somewhat of a stretch to claim that the NPT allows for nuclear-powered submarines—the Treaty is silent on this matter, it neither allows nor disallows.'

More substantively, Rauf focussed on the procedural concerns with the behaviour of the IAEA board and Director General amplified so dramatically by the Chinese working paper on 12 September:

> 'the IAEA's nuclear verification/safeguards system is facing an unprecedented challenge in dealing with the naval nuclear propulsion programmes of Australia and Brazil. Exempting nuclear material and nuclear reactors for naval use from safeguards will result in creating *within* the NPT/IAEA regime new arrangements under which a State can operate two parallel nuclear programmes, one under and one outside IAEA safeguards.'

(Rauf's detailed critical consideration of the IAEA's handling of the Australian and Brazilian nuclear propulsion controversies and proposals for urgent reform is available here.)

Australia's Own Goal against China over the 'Rules-based International Order'

In addition to all the other risks of the AUKUS project for Australia – strategic, financial, technological, regulatory and deformations of force structure and opportunity costs – the Chinese intervention at the IAEA will drag Australia into another world of political and diplomatic costs in its attempt to support US military strategy against China.

There will of course be an AUKUS policy counter-attack, but none of this is good for the Albanese government's commitment to acquisition of nuclear-powered submarines.

China has refined and widened the attack on Australia and the AUKUS submarine issue in plausible and potent ways. The IAEA is the principal arena for limiting the proliferation of nuclear weapons – a paradigm of the much-trumpeted US vision of a 'rules-based order'.

Apart from the obvious double standards demonstrated by the individual AUKUS countries about which international rules are to be applied (think Iraq, Diego Garcia, and similar cases), China has a good chance of building an effective campaign within the IAEA to reform 'the rules-based international order'.

Australia and its elder partners did the IAEA head no favours by hiding behind his assertions of 'AUKUS transparency', and have provided China with another stick to beat Australia with.

Once again, an entirely an Australian own goal for China.

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