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# United States Senate

WASHINGTON, DC 20510

July 10, 2000

XSNM-3060

The Honorable Richard Meserve  
Chairman  
U.S. Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, MD 20852

Dear Chairman Meserve:

I am writing to remind the Commission of an important provision of the Energy Policy Act of 1992 which curtails the export of bomb-grade, highly enriched uranium (HEU). I urge the Commission, which is currently providing its annual oversight of a license approved last year, XSNM-03060, authorizing the export to Canada over five years of 130 kilograms HEU in the form of targets for production of medical isotopes, to uphold the HEU provision of the Act.

As you know, I am the author of the non-proliferation provision of the Energy Policy Act of 1992 that restricts such exports of HEU, permitting them only on an interim basis to facilities which currently lack the ability to use low enriched uranium (LEU) and which are actively converting to LEU. The purpose of this provision is to facilitate the phase out of all remaining international civil commerce in bomb-grade uranium - a goal of U.S. non-proliferation policy for more than two decades - in order to reduce risks of this material being diverted for nuclear weapons by states or sub-state actors.

The Canadian case is especially important because it is the first to come before the Commission to test this provision of law. It also represents an important precedent because Canada is the world's single largest producer of medical isotopes. Accordingly, if the Canadians convert to LEU, they will pave the way for other isotope producers to do likewise. Conversely, if they refuse to convert they could undermine the overall effort to phase out international commerce in bomb-grade uranium.

I commend the Commission for establishing, during last year's license approval, a procedure for reviewing the license annually so as to assess the applicant's efforts toward conversion. The Order stated, "If the Commission should make a finding, following review of periodic status reports and a public meeting, if necessary, that the requirements of the Schumer Amendment are not being met, the Commission may modify, suspend, or revoke the license..."

I understand that the Commission currently is reviewing the first annual progress report on conversion and that it held a public meeting on July 10, 2000 to gather testimony from the Administration, the Canadian applicants (MDS Nordion and AECL), and the Nuclear Control Institute. The Administration recently stated that "Nordion and AECL have agreed on the

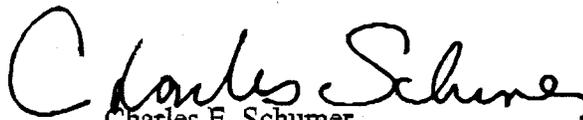
following time-line for moving forward on conversion which involves three steps. The first step is development of a plan by Nordion for resolution of remaining obstacles to conversion, to be completed by September of this year. The second step is technical implementation of this plan, which could require about 18 months. The third step involves safety approvals and environmental impact statement, which could require 3 years or more."

In order to fulfill the intent of the Energy Policy Act of 1992, it is imperative that this conversion to LEU take place expeditiously, to keep to a minimum U.S. exports of bomb-grade uranium. Therefore, I urge the Commission to hold the Canadian companies to this strict timetable for conversion. To promote compliance, the Commission should modify the license, indicating that it will be suspended if the Canadians slip significantly from the agreed timetable without good cause.

If the Energy Policy Act of 1992 is implemented as intended, the Canadian companies will have incentive to convert to LEU within the next few years, and there will be no need for legislation to further restrict HEU exports. However, if the earlier law is not implemented as intended, Congress will be forced to develop remedial legislation.

I appreciate your attention to this important national-security matter. Please keep me apprized of Nuclear Regulatory Commission action.

Sincerely,



Charles E. Schumer  
United States Senator