

ACC



DEPARTMENT OF STATE

Washington, D.C. 20520

RECEIVED  
NSR

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

AUG 24 1979

EXPORT AND  
SCIENTIFIC AFFAIRS

Mr. James R. Shea  
Director of International Programs  
United States Nuclear Regulatory Commission  
Room 6714 - MNBB  
Bethesda, Maryland

XCOM0266  
11000683

Dear Mr. Shea:

I refer to your letter dated June 25, 1979, requesting Executive Branch views as to whether issuance of an export license in accordance with the application hereinafter described would be inimical to the common defense and security of the United States, and whether the proposed export meets the applicable criteria in the Atomic Energy Act, as amended by the Nuclear Non-Proliferation Act of 1978:

NRC No. XCOM0266 -- Application by Westinghouse for authorization to export to Switzerland via the Netherlands electrical penetration assemblies specially designed for use with nuclear reactors and valued at \$800,000. Components will be used in the Leibstadt NOK and NBK nuclear power plant in Baden, Switzerland.

It is the judgment of the Executive Branch that the export contemplated will not be inimical to the common defense and security of the United States, and that this export is consistent with the provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978.

As an NPT party, Switzerland has committed itself to maintaining IAEA safeguards on all of its peaceful nuclear activities and has pledged not to use any nuclear export for production or research and development of any nuclear explosive device, two of the three criteria required to be met for exports of reactor components under Section 109 of the Atomic Energy Act, as amended. Moreover, Switzerland has provided written assurances with

965 098

7909190271

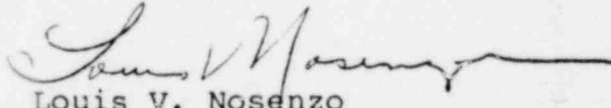
respect to maintaining these two conditions. The remaining criterion, agreement not to retransfer any U.S.-supplied component without prior U.S. consent, has also been satisfied by the assurance letter from the Embassy of Switzerland, the subject of my letter to you dated October 24, 1978.

With regard to the intermediate consignee for the proposed export, as an NPT party, the Netherlands has committed itself to maintaining IAEA safeguards on all of its peaceful nuclear activities and has pledged not to use any nuclear export for production or research and development of any nuclear explosive device, two of the three criteria required to be met for exports of reactor components under Section 109 of the Atomic Energy Act, as amended.

As noted in my letter dated February 1, 1979, the United States received assurances, by letter dated January 25, 1979, from the Delegation of the Commission of the European Communities for all EURATOM Member States. The Delegation letter confirms that U.S. exports to the European Community of nuclear components specially designed or prepared for use in a nuclear facility, deuterium (including heavy water) and reactor grade graphite (as detailed in 10 CFR 110): A) fall within the category of "material, including equipment and devices" in Article XI of the Agreement for Cooperation Between the United States and EURATOM, as amended; B) will be transferred under the U.S.-EURATOM Cooperation Agreement and thus be subject to the guarantees in that article; and C) therefore, the criteria set forth in Section 109 b. of the Atomic Energy Act, as amended, are met. These guarantees include a pledge of no explosive use and no retransfer beyond the jurisdiction of the Community without prior U.S. approval.

On the basis of the foregoing, the Executive Branch recommends that the license be issued.

Sincerely,

  
Louis V. Nosenzo  
Deputy Assistant Secretary