



DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, D. C. 20301



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PUBLIC DOCUMENT ROOM

EXPORT/IMPORT
AND
INTERNAT'L SFGRDS

PRM-40-22

Mr. Gerald G. Oplinger
Assistant Director for Export/Import
and International Safeguards
Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Mr. Oplinger:

Department of Defense has been seeking statutory authority to sell or grant depleted uranium (DU) munitions on a government-to-government basis by amending the Arms Export Control Act (AECA) and Foreign Assistance Act (FAA). These acts as currently written do not include depleted uranium penetrators within the definition of a "defense article" which DoD is authorized to sell to foreign governments. We believe that statutory amendments to the AECA and FAA, which would in effect include DU penetrators within the definition of a "defense article", are about to be adopted by the Congress in HR 3173, 96th Congress, the International Security Assistance Act of 1979. In anticipation of this change to legislation, which will in effect authorize DoD to sell DU munitions on a government-to-government basis, application is being made at this time for a general license for DoD to export DU contained in defense articles granted or sold on a government-to-government basis under the authority of the FAA or AECA. Our recommended change to Section 40.23 of 10 CFR is at the first attachment.

We recognize that such a general license cannot be issued until these amendments are enacted, but early application may help expedite what we expect will be a lengthy inter-agency coordination process. For that reason, specific export licenses are also requested at this time for the export of 20mm DU munitions by the Department of the Navy to Saudi Arabia and Israel to support the sale of the Phalanx Close-In-Weapons-System (CIWS). The sale of the CIWS to these countries has been made with the approval of the President and notice to the Congress has been given.

We request that this specific license be issued as soon as practicable after enactment of the amendments to the AECA and FAA. Specific information on the sale of the amendment to these countries is at the second attachment.

As part of the coordination process involved in the sale of DU munitions, the Defense Security Assistance Agency (DSAA) will refer to the State Department the request of any foreign government for DU munitions for proper foreign policy coordination prior to Defense issuance of authorization for sale or grant of such munitions.

Attachments

Ernest Graves

ERNEST GRAVES
Lieutenant Colonel, USAF

DEFENSE SECURITY ASSISTANCE AGENCY

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1002 004

PETITION FOR GENERAL LICENSE

This petition is submitted in accordance with 10 CFR Part 40 for a general license authorizing the Department of Defense to export depleted uranium in the form of munitions penetrators and as described in recent amendments to the Arms Export Control Act (AECA) and Foreign Assistance Act (FAA). The Department of the Army, Navy, and Air Force have under development or have developed depleted uranium munitions which are designed to take advantage of the high density of DU in order to obtain desired weapons effects against heavily armored targets or for close-in airborne missiles. These munitions will also be made available to foreign governments under grant aid or military sales programs authorized by the AECA and FAA.

Granting a general license to export DU penetrators would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety.

Utilization of a general license for the export of DU munitions will require that DoD secure approval for any proposed sale of such munitions from the State Department and condition any sale on agreement by the recipient foreign government not to retransfer DU munitions to another country without USG approval, not to divert DU munitions for uses other than their intended purpose, and to comply with USG requirements for inventory verification.

SUGGESTED WORDING FOR SECTION 40.23, 10 CFR

(g) A general license is hereby issued authorizing the Department of Defense to export to any authorized country pursuant to the Arms Export Control Act or the Foreign Assistance Act of 1961 depleted uranium in munitions penetrators, provided that each such export is approved by the Department of State pursuant to either Act.

Attachment 1

1002 005

PETITION FOR SPECIFIC LICENSE

This petition is submitted in accordance with 10 CFR Part 40 for a specific license authorizing the export of depleted uranium in the form of munitions penetrators to the Government of Saudi Arabia and Israel. U.S. shipbuilders have constructed and have under contract a number of ships for Saudi Arabia equipped with the Phalanx Close-in Weapons-System (CIWS). Agreement has been reached to provide CIWS to Israel for backfit on their ships. To date, the U.S. Navy has been unable to export the ammunition for the weapons system because the penetrator associated with the ammunition contains depleted uranium. Depleted uranium is considered a "source material" for purposes of the Atomic Energy Act of 1954 and thus has been excluded from the term "defense article" which may be transferred to foreign governments under the Arms Export Control Act. However, recent amendatory legislation now treats DU penetrators within the definition of "defense article".

Granting a specific license to export penetrators containing depleted uranium would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety and would provide the Royal Saudi Navy and Israeli Navy with munitions which are an integral part of their ships close-in-weapon-systems.