



DEPARTMENT OF STATE

Washington, D.C. 20520

ACC

XU08464
11000703

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

SEP 17 1979

EXPORT/IMPORT
AND
INTERNATIONAL STANDARDS

1979 SEP 19 AM 9 45

RECEIVED
U.S. NRC

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

Dear Mr. Shea:

I refer to your letter dated July 9, 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 of 1954, as amended and the Nuclear Non-Proliferation Act of 1978 (P.L. 95-242):

NRC No. XU08464 -- Application by the U.S. Department of the Army for authorization to export to France 30 penetrator 105 mm cartridges containing a total of 102.3 kilograms of depleted uranium for test firing for evaluation by the French Government.

The Executive Branch is currently reviewing the question of appropriate assurances, conditions and controls which could be applied to large exports of source material for the manufacture of penetrator munitions abroad. For future requests to export depleted uranium for munitions manufacture, we may wish to obtain an assurance from the recipient government that the U.S. would have the right of prior consent with respect to any retransfers of U.S.-origin depleted uranium, whether in bulk unfabricated form or contained in penetrator munitions. However, it is the view of the Executive Branch that additional assurances are not necessary in this case (XU08464) on the basis of the end-use statement provided in the application by the Department of the Army, specifying that the material is to be used solely for test firing within France under strictly specified conditions.

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It is the opinion of the Executive Branch that the proposed export may be made without being subject to the terms of an Agreement for Cooperation since source material may be licensed under Sections 62 and 64 of the Atomic Energy Act without the prerequisite of a Section 123 Agreement. Further, it is the judgment of the Executive Branch that the source material export contemplated will not be inimical to the common defense and security of the United States. The Executive Branch has concluded 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. A detailed analysis is believed unnecessary in this case because of the relatively small quantity of material involved, and the non-nuclear end-use.

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

Sincerely,



Louis V. Nosenzo
Deputy Assistant Secretary

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