

May 13, 1980

C O R R E C T I O N N O T I C E

TO

ALL HOLDERS OF

SECY-80-238 - PROPOSED EXPORTS OF FUEL AND COMPONENTS TO TARAPUR (XSNM 01569,
XCOM0240, AND XCOM0250) (COMMISSIONER ACTION ITEM)

THE DIRECTOR OF INTERNATIONAL PROGRAMS HAS REQUESTED THAT THE ATTACHED CORRECTION MEMORANDUM BE CIRCULATED TO ALL HOLDERS OF THE SUBJECT PAPER.

ATTACHMENT:
AS TATED

THE SECRETARIAT

8007090030



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 13, 1980

MEMORANDUM FOR: Samuel J. Chilk
Office of the Secretary

FROM: James R. Shea, Director
Office of International Programs

THRU: Acting Executive Director for Operations *JR for W.J.D.*

SUBJECT: CORRECTION NOTICE TO SECY-80-238, PROPOSED EXPORTS OF FUEL
AND COMPONENTS TO TARAPUR (XSNM01379, XSNM01569, XCOM0240,
AND XCOM0250)

IP would like to inform all holders of SECY-80-238 that Commission SECY papers cited in that paper are incorrectly referenced. With regard to XCOM0240 (last line of page 1), the reference should read: SECY-79-328 and 328A. In addition, the first sentence of paragraph 4 on page two should read SECY-79-674A.

JR Shea
James R. Shea, Director
Office of International Programs

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

John F. Ahearne, Chairman
Victor Gilinsky
Richard T. Kennedy
Joseph M. Hendrie
Peter A. Bradford

In the Matter of)	License Nos. XSNM-1379
)	XSNM-1569
EDLOW INTERNATIONAL COMPANY)	XCOM-0240
)	XCOM-0250
(Agent for the Government of India)	XCOM-0376
on Applications to Export Special)	XCOM-0381
Nuclear Materials and Components))	XCOM-0395

MEMORANDUM AND ORDER

CLI-80-_____

Edlow International Company, as agent for the Government of India, filed the following license applications ^{1/} with the Commission seeking authorization to export material and components for use in the Tarapur Atomic Power Station (Tarapur) located near Bombay, India:

- (1) XSNM-1379 on November 1, 1977 for export of 487.3 kilograms of U-235 contained in 19,858.8 kilograms of uranium enriched to a maximum of 2.7%;
- (2) XCOM-0240 on April 25, 1979, as amended May 8, 1980, for export of replacement parts;
- (3) XCOM-0250 on May 7, 1979 for export of replacement parts;
- (4) XSNM-1569 on August 17, 1979 for export of 487.3 kilograms of U-235 contained in 19,858.8 kilograms of uranium enriched to a maximum of 2.71%;

^{1/} A brief chronology of correspondence on these applications is attached.

- (5) XCOM-0376 on March 6, 1980 for export of replacement parts;
- (6) XCOM-0381 on March 14, 1980 for export of replacement parts;
and
- (7) XCOM-0395 on April 3, 1980 for export of replacement parts.

The lengthy history of U.S.-Indian cooperation in connection with the Tarapur reactors is fully chronicled in several formal Commission decisions. ^{2/}

The Commission cannot find, based on a reasonable judgment of the assurances provided by the Government of India and other information available, that License Applications XSNM-1379, XSNM-1569, XCOM-0240, XCOM-0250, XCOM-0376, XCOM-0381 and XCOM-0395 meet the criteria for issuance set forth in Sections 109, 127, and 128 of the Atomic Energy Act. Accordingly, NRC is referring these license applications to the President, pursuant to procedures set forth in Section 126b.(2) of the Atomic Energy Act.

The basis for the Commission's decision is as follows. India has several nuclear facilities which have not been placed under International Atomic Energy Agency safeguards. After reviewing the legislative history of Section 128 of the Atomic Energy Act, the Commission has concluded that the full-scope safeguards criterion applies to the two fuel applications. The legislative history of the Nuclear Non-Proliferation Act is replete with references that the full-scope safeguards criterion would come into effect at a date certain ^{3/} -- that

^{2/} CLI-76-10, 4 NRC 1 (1976); CLI-76-6, 3 NRC 563 (1976); CLI-77-20, 5 NRC 1358 (1977); CLI-78-8, 7 NRC 436 (1978); CLI-78-20, 8 NRC 675 (1978); CLI-79-4, 9 NRC 209 (1979).

^{3/} E.g., H. Rep. No. 95-587, 95th Cong., 1st Sess. at 22, 25; S. Rep. No. 95-467, 95th Cong. 1, 1st Sess. at 18; Statement of Senator Glenn, 123 Cong. Rec. S.13139 (July 29, 1977).

the application of the criterion would have a "guillotine" effect. ^{4/} The State Department's view that the criterion does not apply to license applications filed before September 10, 1979 where the applicant reasonably expected the license to issue prior to March 10, 1980 is, we believe, inconsistent with Congressional intent. As we understand the Department's view, if an application were filed with the Commission prior to September 10, 1979, an applicant expected the license before March 10, 1980, but the Executive Branch did not provide the Commission with its views until years later, the criterion would not apply. Such results do not comport with the "guillotine" approach which was contemplated.

Because of unique features in the Agreement for Cooperation between the United States and India, the Commission is also unable to find that the two fuel applications satisfy the requirements of Section 127 of the Atomic Energy Act or that the component applications satisfy the requirements of Section 109 of the Atomic Energy Act. This issue is thoroughly discussed in earlier Commission opinions. ^{5/}

The Commission's inability to issue these licenses should not be read as a recommendation one way or the other on the proposed exports. Rather, we have found that the particular statutory findings with which the NRC is charged cannot be made. Congress provided that the President may in such a case authorize the export by executive order if he finds "that withholding the proposed export

^{4/} Testimony of Joseph Nye, Deputy Undersecretary of State for Security Assistance, Science and Technology, before the Subcommittees on International Security and Scientific Affairs, and on International Economic Policy and Trade of the House Committee on International Relations, 95th Cong., 1st Sess., at 118 (May 19, 1977).

^{5/} CLI-78-8, 7 NRC 436 (1978); CLI-79-4, 9 NRC 209 (1979).

would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense and security."*

It is so ORDERED.

By the Commission

SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.

this _____ day of May, 1980.

* Section 201 of the Energy Reorganization Act, 42 U.S.C. 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Kennedy was not present at the meeting at which this Order was approved. Had he been present he would have voted to approve this Order. Accordingly, the formal vote of the Commission is 4-0.

Chronology of Events

- On March 28, 1979, Louis V. Nosenzo, Deputy Assistant Secretary of State sent a letter to James R. Shea, Director, Office of International Programs, U.S. Nuclear Regulatory Commission, which contained an Executive Branch analysis on XSNM-1379. The Executive Branch concluded that all applicable export licensing criteria were met and recommended issuance of XSNM-1379. Shortly after receiving this submission, the NRC posed additional questions to the Executive Branch regarding India's nuclear programs and policies. The Department of State forwarded its response to the NRC on July 5, 1979. On August 15, 1979, the Commission noted changes in the leadership of the Government of India and requested an Executive Branch assessment of the impact of these developments on the Executive Branch analysis of XSNM-1379. In its letter the NRC noted its intention to defer final consideration of XSNM-1379 and two component cases (XCOM-0240 and 0250) until receiving a response to this inquiry. On October 19, 1979, the Commission sent a letter to the Department of State noting that it had not received a response to the questions raised in the August letter and requesting that the Executive Branch include an assessment of the leadership changes in its views on License Application XSNM-1569, which was then pending in the Executive Branch. On May 7, 1980, the Executive Branch in a letter from Louis V. Nosenzo to James R. Shea provided responses to the Commission's August 15 questions and provided its views on XSNM-1569. The Executive Branch concluded that XSNM-1569 met all applicable criteria for issuance and recommended issuance of the license.
- In a letter from Louis V. Nosenzo to James R. Shea, dated June 11, 1979, the Executive Branch concluded that XCOM-0240 met all applicable licensing criteria and recommended issuance of the license.
- In a letter from Louis V. Nosenzo to James R. Shea, dated October 22, 1979, the Executive Branch concluded that XCOM-0250 met all applicable licensing criteria and recommended issuance of the license.
- In three separate letters from Louis V. Nosenzo to James R. Shea, dated May 13, 1980, the Executive Branch concluded that XCOM-0376, 0381, and 0395 met all applicable licensing criteria and recommended issuance of these licenses.

Chairman Ahearne's Concurring Views

In March 1979 I found that a license application for export of fuel to India for use in Tarapur met the Section 127 criteria and concurred in the Commission's decision to authorize that export.^{1/} In connection with that decision I made the following statements:

"If there had been no indications of progress towards U.S. non-proliferation goals, I would find that to weigh in favor of denial. The fact that some progress has been made weighs in the other direction.

"The current Government of India has taken truly significant steps to meet these proliferation goals. India is the only country that having exploded a nuclear device, has turned away from nuclear weapons, and has demonstrated the ability to make the difficult choice of not continuing down that path. Although the previous government was certainly not supportive of non-proliferation policy and acted in a manner which was inimical, the present government has done just the opposite--it has acted responsibly and courageously."
(Id. at 250)

Since that decision, Mr. Desai has departed and Mrs. Gandhi has been elected Prime Minister. No progress has been made in achieving full scope safeguards and Prime Minister Ghardi "has not ruled out the option of so-called peaceful nuclear experiments, should this be considered to be in India's interest."^{2/}

Consistent with my reasoning in the previous case, I can no longer find that the criteria in Section 127 are met. In addition, I do not agree with the Executive Branch's interpretation that the March 10, 1980 deadline for full-scope safeguards meant only that the applicant intended to ship the material prior to the deadline. Consequently, I cannot find that the Section 128 criterion has been met. Finally I cannot find that the criteria in Section 109 are met for the same reasons I cannot find that the corresponding criteria in Section 127 are met.

Consequently, I agree we should forward these applications to the President for his consideration.

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- 1/ Edlow International Company (Agent for the Government of India on Application to Export Special Nuclear Materials), CLI-79-4, 9 NRC 209, 230-50 (1978) (separate views of Commissioner Ahearne).
 - 2/ May 7, 1980 letter from Louis V. Nosenzo, Deputy Assistant Secretary of State, to James R. Shea, Director, Office of International Programs, U.S. Nuclear Regulatory Commission (providing the Executive Branch response to NRC's August 15, 1979 inquiry concerning the impact of the change in government on the prior Executive Branch analysis).

SEPARATE OPINION OF COMMISSIONER GILINSKY

This decision involves, primarily, two export license applications for fuel shipments for the Tarapur Atomic Power Station. 1/ These applications, on which the NRC is acting after the expiration of a two-year grace period provided by the Nuclear Nonproliferation Act, are subject to the requirement of Section 128 of the Atomic Energy Act that international safeguards apply to all nuclear facilities in the receiving country. 2/ India has rejected such full-scope safeguards.

In recommending approval of these applications, the Department of State has informed the Nuclear Regulatory Commission that "[i]f the NRC does not act favorably, the President is prepared to authorize the export by Executive Order." 3/ There is reason to believe, on the basis of the Department of State's presentation to NRC, that the Department, prior to submitting these license applications to NRC, assured the President that Section 128's full-scope safeguard requirement is not applicable to these particular fuel exports, and that the President, in authorizing public comment on his intention, relied on that opinion.

The Nuclear Regulatory Commission disagrees with the Department of State's interpretation. 4/ The export can take place only if the President grants a waiver from this requirement of the law and if Congress allows that waiver to stand. The law requires the President,

in granting the waiver, to find that failure to approve the export "would be seriously prejudicial to the achievement of the United States non-proliferation objectives, or would otherwise jeopardize the common defense and security...." 5/

It is an unfortunate accident of history that these license applications have come under consideration at a time when the international situation is thought to require a serious compromise of our long-term security objective of preventing the spread of nuclear weapons. 6/ It would be even more unfortunate, however, if the decision to except India from this central provision of the Nuclear Non-proliferation Act were made without a full understanding of the price we may be forced to pay.

Full scope safeguards are the sine qua non of the Nuclear Non-proliferation Act. 7/ If a waiver is in fact granted by the President, and if it is upheld by the Congress, the law will be gravely impaired. If India does not need to satisfy the full-scope safeguards requirement, other countries will be quick to seek similar exemptions, with the inevitable erosion of the law's effectiveness.

There are other difficulties with the export. For reasons which have been spelled out in prior opinions, and which apply with even greater force now, these fuel shipment applications also fail to satisfy the requirements of Section

127 of the Act. 8/ In relevant part, Section 127 requires a pledge that IAEA safeguards will be applied to any material or facilities proposed to be exported or previously exported, that no material or facility will be used for any nuclear explosive device or for research on or development of any such device, and that no material will be reprocessed without the prior approval of the United States. India has made it clear that if there is any halt, or perhaps even lapse, in the supply of fuel for the Tarapur reactors, it will consider itself free of the contractual obligations of the Agreement for Cooperation and at liberty to reprocess as it sees fit the 200 tons of fuel it already holds hostage. 9/ It has not excluded making explosive use of the more than one ton of plutonium that can be separated from the U.S.-supplied fuel. 10/

Commissioner Bradford is in basic agreement with the points made in this opinion.

FOOTNOTES

- 1/ XSNM-1379 and XSNM-1569.
- 2/ 42 U.S.C. Section 2157 which provides that "[a]s a condition of continued United States export of... special nuclear material...to non-nuclear-weapon states, no such export shall be made unless IAEA safeguards are maintained with respect to all peaceful nuclear activities in, under the jurisdiction of; or carried out under the control of such state at the time of the export...."
- 3/ Press Correction issued on May 9, 1980 by Deputy Assistant Secretary of State, Louis V. Nosenzo.

The Nuclear Nonproliferation Act contemplates that the President can respond to the Commission's findings in one of two fashions: he can, after receiving the views of both the Executive Branch and the NRC, determine that a waiver of the Act's requirements is necessary or he can, prior to submitting the application to the NRC, announce that he is granting an exemption from the full-scope safeguards requirement and ask the NRC to consider only the other applicable provisions of law. In the present case, the Department of State has placed the Administration in the position of ignoring NRC's views on the applicability of Section 128 to these exports without regard to what these views might be.

- 4/ The Commission has rejected the Department of State argument that the applicability of the full-scope safeguards requirement depends not on when an export occurs but on when the exporter would have liked it to take place for the reasons set forth in the attached opinion of the General Counsel. "Application of Sections 127 and 128 of the Atomic Energy Act to Proposed Exports to India," memorandum of the General Counsel to the Commission, May 12, 1980.

- 5/ Section 126(b)(2) of the Atomic Energy Act, 42 U.S.C. Section 2155.

- 6/ It should be noted that the present fuel shipments are not immediately necessary to the continued operation of the Tarapur reactors. I understand that India already has sufficient fuel on hand to continue operation of these reactors until the beginning of 1983. If the President grants a waiver from the full-scope safeguards requirement for these two shipments, India will have sufficient fuel to operate the Tarapur reactors until about 1985. In this connection, it should be noted that the Senate section-by-section analysis of Section 128 states that "[t]he NRC should also not permit any other highly unusual proposals which are intended to circumvent this statutory provision." (S. Rep. No. 95-467, 95th Cong., 1st Sess., at 18.)
- 7/ In its Comments to the Senate Committee on Energy and Natural Resources, the Executive Branch stated that full-scope safeguards were of "...crucial and pivotal importance...to an effective non-proliferation policy..." (S. Rep. No. 95-467, 95th Cong., 1st Sess., at 49.). The House report termed the full-scope safeguards requirement "indispensable to any comprehensive nuclear antiproliferation policy." (H. Rep. No. 95-587, 95th Cong., 1st Sess. at 25.)
- 8/ 42 U.S.C. Section 2156. See the views I expressed in Edlow International Company, CLI-79-4, 9 NRC 209 (1979), at 250 (attached).
- 9/ Letter of May 7, 1980 from Deputy Assistant Secretary of State, Louis V. Nosenzo to James R. Shea, Director of International Programs, United States Nuclear Regulatory Commission.
- 10/ Letter of May 7, 1980 from Deputy Assistant Secretary of State, Louis V. Nosenzo to James R. Shea, Director of International Programs, United States Nuclear Regulatory Commission.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

May 12, 1980

MEMORANDUM FOR: Chairman Ahearne
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Hendrie
Commissioner Bradford

FROM: **EB** Leonard Bickwit, Jr., General Counsel

SUBJECT: APPLICATION OF SECTIONS 127 AND 128 OF THE
ATOMIC ENERGY ACT TO PROPOSED EXPORTS TO INDIA

On May 7, 1980, the Executive Branch submitted additional information on XSNM-1379 to the NRC as requested by the Commission in July and October of last year. The Executive Branch also provided its views recommending approval of the follow-on license application, XSNM-1569. Both of these license applications cover proposed exports of special nuclear material to be used at the Tarapur facility. The primary legal issue raised by these applications is whether the full-scope safeguards requirement set forth in Section 128 of the Atomic Energy Act is now applicable to either or both of these licenses.

Applicability of Section 128

In its May 7 submission the Department of State did not provide an analysis in support of its legal position on the Section 128 issue. Instead, the Executive Branch views include a one sentence, conclusory assertion that Section 128 of the Atomic Energy Act does not apply because the two applications were filed with the Commission prior to September 10, 1979, and the initial shipment of the material was reasonably planned to occur prior to March 10, 1980. This legal view appears to represent a change from earlier positions taken by the Executive Branch. For example, in testimony delivered shortly after enactment of the NNPA, when NRC referred Tarapur application XSNM-1060 to the President, Joseph Nye (then Deputy Undersecretary of State for Security Assistance, Science, and Technology) took the position before two congressional committees that the "... Nuclear Non-Proliferation Act ... establishes that a recipient country must, within two years, have all its peaceful nuclear activities subject to IAEA safeguards as a condition for U.S. supply after that time." (Emphasis supplied.) 1/

1/

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India Before the Subcommittee
ional Environment of the
s, 95th Cong. 2nd Session
ngs and Markup on Export
House Committee on Inter-
ession (May 23, 1978) at 38.

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May 9, 1980

SECY-80-238

COMMISSIONER ACTION

For: The Commissioners

From: James R. Shea, Director
Office of International Programs

Thru: Acting Executive Director for Operations *TAR for W.S.D.*

Subject: PROPOSED EXPORTS OF FUEL AND COMPONENTS TO TARAPUR
(XSNM01379, XSNM01569, XCOM0240 AND XCOM0250)

Purpose: To inform the Commission of the receipt of final Executive Branch views on the subject cases and to provide the staff's recommendation on these cases.

Background: On May 8, the Commission received final Executive Branch views with respect to the following export license applications for the Tarapur Atomic Power Station in India:

1. XSNM01379 - 19.858.8 kilograms of uranium in the form of UF₆ and enriched to a maximum of 2.71% U-235. Ref: SECY-79-233 and SECY-79-233A through 233D.
2. XSNM01569 - 19.858.8 kilograms of uranium in the form of UF₆ and enriched to a maximum of 2.71% U-235. Ref: SECY-79-516.

In addition, there are pending before the Commission two related component applications for Tarapur as follows:

1. XCOM0240 - Miscellaneous replacement parts. Ref: SECY-79-238 and 238A.

SECY NOTE: This topic is tentatively scheduled

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DEPARTMENT OF STATE

Washington, D.C. 20520

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BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRSOFFICE OF
INTERNATIONAL
PROGRAMS

May 7, 1980

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

Dear Mr. Shea:

Your letter of August 15, 1979 requested an Executive Branch assessment of the implications of the governmental changes in India on the Executive Branch analyses concerning the pending application for Tarapur fuel (XSNM01379), including an evaluation of the likely policy of the new Indian Government with regard to nuclear explosive development. It also noted that the Commission would defer its final consideration of this application until it received our response.

As you know, this matter has been the subject of discussions between the two governments and of public statements by the new Indian Government. In response to your request, I wish to provide the following information.

The new Indian Government has provided assurances to the United States that it will continue to meet its obligations under the U.S.-India Agreement for Cooperation and related understandings as long as the United States meets its obligations under the agreement. With regard to the policy of the new Indian Government on nuclear explosive development, Prime Minister Gandhi has stated that India's nuclear program is devoted exclusively to peaceful purposes. At the same time, however, she has not ruled out the option of so-called peaceful nuclear experiments, should this be considered to be in India's interest. India described its 1974 nuclear test as a "peaceful nuclear experiment".

We are concerned that the new Indian Government is not prepared to make a more forthcoming statement concerning continued forbearance on development or testing of nuclear

APPENDIX A

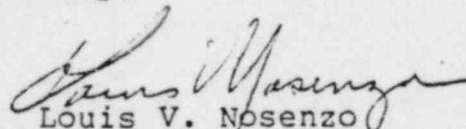
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explosives, and continue to believe that restraint in this regard is key to international stability. However, we do believe that withholding the pending export would advance U.S. interests in this regard.

Moreover, we continue to believe that the proposed export meets the criteria of Section 127 and that the Executive Branch analysis of March 28, 1979 continues to be valid in this regard. The Executive Branch also believes that the Section 128 additional criterion does not apply to this license application since the export was reasonably planned to occur during the period prior to March 10, 1980. Finally, it is our judgment that the proposed export will not be inimical to the common defense and security and that withholding the export would be prejudicial to broader U.S. foreign policy interests. Therefore, the Executive Branch recommends that the license be issued and we hope that the Commission will act expeditiously on the application. As you know, the time for Commission consideration of this license under the NNPA has expired, and this letter completes the Administration submission on this case.

We are also forwarding to the Commission under separate cover the Executive Branch analysis and recommendation on XSNM01569. This analysis and recommendation applies as well to XSNM01379 and the additional factors section accompanying the submittal on XSNM01569 updates and supersedes Sections B and C of the March 28, 1979 analysis of XSNM01379.

Sincerely,


Louis V. Nosenzo
Deputy Assistant Secretary

APPENDIX B

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DEPARTMENT OF STATE

Washington, D.C. 20520

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ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

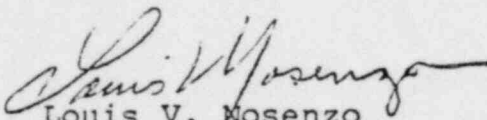
OFFICE OF
INTERNATIONAL
PROGRAMS

May 7, 1980

MEMORANDUM FOR JAMES R. SHEA
NUCLEAR REGULATORY COMMISSION

Enclosed is an Executive Branch analysis covering a license application for the export of low-enriched uranium to India. In accordance with P.L. 95-242, the analysis explicitly addresses how the requirements of Section 126 a.(1) of the Atomic Energy Act are met, including the specific criteria of Sections 127 and 128, as well as certain additional factors, envisaged by Section 126 a. (1).

The Executive Branch, on the basis of its review of this case, has concluded that the requirements of the Atomic Energy Act and P.L. 95-242 have been met and that the proposed export would not be inimical to the common defense and security of the United States. Moreover, India has adhered to the provisions of its Agreement for Cooperation with the United States. Therefore, the Executive Branch recommends issuance of the requested export license.


Louis V. Mosenzo
Deputy Assistant Secretary

Enclosure:
As stated

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No. of pages: 14

APPENDIX C

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APPENDIX D

APPLICATION FOR LICENSE TO
EXPORT BYPRODUCT, SOURCE OR
SPECIAL NUCLEAR MATERIAL
SEE INSTRUCTIONS ON REVERSE

1. APPLICANT'S USE			2. NRC USE		
a. DATE OF APPLICATION (0025)			a. LICENSE NO. (10)		
b. APPLICANT'S REFERENCE (33)			b. DOCKET NO. (04)		
3. APPLICANT'S NAME & ADDRESS		RIS CODE (11)	4. SUPPLIER'S NAME AND ADDRESS		RIS (12)
a. NAME			a. NAME		
b. STREET			b. STREET		
c. CITY		STATE ZIP CODE	c. CITY		STATE ZIP CODE
5. FIRST SHIPMENT SCHEDULED			6. FINAL SHIPMENT SCHEDULED		7. APPLICANT'S CONTRACTUAL DELIVERY DATE
8. PROPOSED EXPIRATION DATE OF LICENSE			9. U.S. DEPT. OF ENERGY CONTRACT NUMBER (if known) (08)		
10. ULTIMATE CONSIGNEE		RIS (28)	11. ULTIMATE END USE (Include Plant or Facility Name)		
a. NAME			11a. EST. DATE OF FIRST USE		
b. STREET			12. INTERMEDIATE CONSIGNEE		
c. CITY - STATE - COUNTRY			RIS (29-01)		
12. INTERMEDIATE CONSIGNEE		RIS (29-01)	13. INTERMEDIATE END USE		
a. NAME			13a. EST. DATE OF FIRST USE		
b. STREET			14. INTERMEDIATE CONSIGNEE		
c. CITY - STATE - COUNTRY			RIS (29-02)		
14. INTERMEDIATE CONSIGNEE		RIS (29-02)	15. INTERMEDIATE END USE		
a. NAME			15a. EST. DATE OF FIRST USE		
b. STREET			16. FORNRC USE		
c. CITY - STATE - COUNTRY			17. MATERIAL TYPE AND DESCRIPTION (Include chemical and physical form and gross wt.)		
18	25	NO	18. MAX. ELEMENT WEIGHT (20)	19. MAX. WT. % (21)	20. MAX. U-235 ISOTOPE WT (22)
			19,858.8	1.71	487.3
			103-Comp. Code		
22. COUNTRY OF ORIGIN - SOURCE MATERIAL		23. COUNTRY OF ORIGIN - SNM WHERE PRODUCED	24. COUNTRIES WHICH ATTACH SAFEGUARDS (if known)		
25. ADDITIONAL INFORMATION (Use separate sheet if necessary)					
26. The applicant certifies that this application is prepared in conformity with Title 10, Code of Federal Regulations, and that all information in this application is correct to the best of his knowledge.			27. AUTHORIZED OFFICIAL & SIGNATURE		
			a. TITLE		

APPENDIX D

दूरभाष :
TELEPHONE: 25 05 01
तार : "ATOMPOWER"
TELEGRAMS RECEIVED BOMBAY.
U.S. NRC



छत्रपति शिवाजी महाराज मार्ग, बम्बई-४०० ०३९.
CHATRAPATI SHIVAJI MAHARAJ MARG,
B O M B A Y - 408 039.

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EXPORT/IMPORT
AND
INTERNAT'L SFGRDS

भारत सरकार
GOVERNMENT OF INDIA
परमाणु विद्युत प्राधिकरण
ATOMIC POWER AUTHORITY

No. B/TAPS/10-E-XVI

September 11, 1978.

Director
Uranium Enrichment Operations Division
Department of Energy
P. O. Box E
Oak Ridge, TN 37830

Atten: Mr. H. Doran Fletcher

Dear Sir,

Subject: Authorisation for withdrawal of enriched UF6 - Contract IN/DS/3.

1. With the receipt of 7.6 tonnes enriched uranium as UF6 in July 1978 we have so far received approximately 5050 kgs. contained U-235 against a total quantity of 14,500 kgs. contained U-235 in the enriched uranium to be supplied to us during the Agreement period (upto 1993). On receipt of material covered by our application No. XSNM-1222, the quantity received may go up to 5450 kgs. contained U-235.

2. We request authorisation for withdrawal of following quantities of enriched uranium as UF6 during 1979:

Nominal Enrichment %	Weight Kg U	Weight lbs UF6	Shipment Ex-U.S.A. by
2.66	6080	20,000	March 1979
2.66	6080	20,000	May 1979
1.6	1520	5,000	August 1979
2.1	6080	20,000	August 1979

3. It may be noted that the quantities and phasing of the above requirements are based on the schedule arrived at in consultation with Mr. Kiefer and Dr. Last, U.S. experts deputed to India by the US State Department in September 1976 for the purpose.

4. Kindly advise the Enrichment Facility from where the above quantities of enriched uranium will be made available.

5. Referring to the End Use Statement, I confirm that the transfer of material will be in accordance with the terms and conditions of the U.S./India Sale Contract IN/DS/3, as amended, pursuant to the Agreement for Co-operation between the Government of U.S.A. and India which entered into force on October 25, 1963, and the enriched UF6 will be used for making fuel assemblies required for the reload fuel requirements of Tarapur Atomic Power Station.

6. Edlow International Company will continue to act as our Transport Agents and Nuclear Audit & Testing Company will represent us for withdrawal and sampling as in the past.

7. As usual, Edlows, as Transport Agents, will be submitting the application for issue of the necessary export licence, etc. on our behalf in due course.

8. Our best estimates indicate that the total quantity of UF6 product required in the following years also will be of the same order, i.e. 18-20 tonnes U as UF6 of 2.71% maximum enrichment.

I take this opportunity to thank you and US DOE for co-operation.

Yours faithfully,

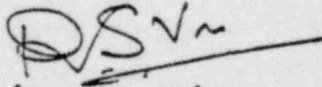
Sd/-

(R.S. Verma)
Commercial Manager

Ref: E/TAPS/10-E-XVI

September 11, 1978.

- Copy to:
1. ✓ Edlow International Company, Suite 404-5, 17th St. N.W. Washington DC 20036, USA (Atten: Mrs. Diane Harmon) - with a request to take immediate action for making the export licence application as usual.
 2. Nuclear Audit & Testing Company, 8206 Leesburg Pike, Vienna, Virginia 22180.
 3. Mr. William F. Courtney, Counsel General, Consulate-General of the U.S.A., Bhulabhai Desai Road, Bombay.
 4. Dr. M. Anandkrishnan, Counsellor (Science), Embassy of India, 2107 Massachusetts Avenue, N.W. Washington DC 20008, USA.


(R.S. Verma)
Commercial Manager

APPLICATION FOR LICENSE TO EXPORT NUCLEAR
MATERIAL AND EQUIPMENT (See Instructions on Reverse)

1. APPLICANT'S USE		a. DATE OF APPLICATION Aug. 17, 1979		b. APPLICANT'S REFERENCE INDS-3		2. NRC USE		a. LICENSE NO. XSNM01569		b. DOCKET NO. 11000787		
3. APPLICANT'S NAME AND ADDRESS a. NAME Edlow Int'l Co. as agent for Government of India b. STREET ADDRESS 1100 17th Street, N.W. #404 c. CITY Washington STATE DC ZIP CODE 20036 d. TELEPHONE NUMBER (Area Code - Number - Extension) (202)633-8237						4. SUPPLIER'S NAME AND ADDRESS a. NAME Department of Energy b. STREET ADDRESS P.O. Box E c. CITY Oak Ridge STATE TN ZIP CODE 37830						
5. FIRST SHIPMENT SCHEDULED Feb. 1980		6. FINAL SHIPMENT SCHEDULED Sept. 1980		7. APPLICANT'S CONTRACTUAL DELIVERY DATE Feb. 1980		8. PROPOSED LICENSE EXPIRATION DATE Jan. 1981		9. U.S. DEPARTMENT OF ENERGY CONTRACT NO. (If Known) IN/DS/3				
10. ULTIMATE CONSIGNEE a. NAME Tarapur Atomic Power Section b. STREET ADDRESS Dept. of Atomic Energy c. CITY - STATE - COUNTRY Bombay India						11. ULTIMATE END USE (Include plant or facility name) 01 11a. EST. DATE OF FIRST USE						
12. INTERMEDIATE CONSIGNEE a. NAME Dept. of Atomic Energy b. STREET ADDRESS Nuclear Fuel Complex c. CITY - STATE - COUNTRY Naula Ali, Hyderabad 40 India						13. INTERMEDIATE END USE 35 To make fuel assemblies required for the reload of the Tarapur Atomic Power Station. 13a. EST. DATE OF FIRST USE						
14. INTERMEDIATE CONSIGNEE a. NAME b. STREET ADDRESS c. CITY - STATE - COUNTRY						15. INTERMEDIATE END USE Upon receipt 15a. EST. DATE OF FIRST USE						
16. NRC USE		17. DESCRIPTION (Include chemical and physical form of nuclear material; give dollar value of nuclear equipment and components)				18. MAX. ELEMENT WEIGHT		19. MAX. WT. %		20. MAX ISOTOPE WT.		21. UNIT
103		Uranium as uranium hexafluoride				19,858.8		2.71%		487.3		kgs
						APPENDIX D						
22. COUNTRY OF ORIGIN - SOURCE MATERIAL				23. COUNTRY OF ORIGIN - SNM WHERE ENRICHED OR PRODUCED				24. COUNTRIES WHICH ATTACH SAFEGUARDS (If Known)				
25. ADDITIONAL INFORMATION (Use separate sheet if necessary) USA Dupe of 7909 240777 (4) pgs. Copy to PDR and ACC 8-31-79												
26. The applicant certifies that this application is prepared in conformity with Title 10, Code of Federal Regulations; and that all information in this application is correct to the best of his/her knowledge.												
27. AUTHORIZED OFFICIAL		a. SIGNATURE Diane Harmon				b. TITLE Asst. to the VP						

00025
5000

APPLICATION FOR LICENSE TO EXPORT NUCLEAR
MATERIAL AND EQUIPMENT (See Instructions on Reverse)

1. APPLICANT'S USE		a. DATE OF APPLICATION April 25, 1979		b. APPLICANT'S REFERENCE BDW-79108		2. NRC USE		a. LICENSE NO. 25M0240		b. DOCKET NO. 11070623		
3. APPLICANT'S NAME AND ADDRESS a. NAME General Electric Co., Attn: B. D. Wilson MC 838 d. STREET ADDRESS 175 Curtner Avenue c. CITY San Jose STATE CA ZIP CODE 95125 d. TELEPHONE NUMBER (Area Code - Number - Extension) 408-925-1380						4. SUPPLIER'S NAME AND ADDRESS RIS (Complete if applicant is not supplier of material)						
5. FIRST SHIPMENT SCHEDULED May 14, 1979		6. FINAL SHIPMENT SCHEDULED Jan. 31, 1980		7. APPLICANT'S CONTRACTUAL DELIVERY DATE May 21, 1979		8. PROPOSED LICENSE EXPIRATION DATE Jan. 1, 1981		9. U.S. DEPARTMENT OF ENERGY CONTRACT NO. (if known) N/A				
10. ULTIMATE CONSIGNEE a. NAME Government of India b. STREET ADDRESS Department of Atomic Energy c. CITY - STATE - COUNTRY Bombay 400 001 India						11. ULTIMATE END USE (Include plant or facility name) Replacement in Tarapur reactor Units 1 and 2 11a. EST. DATE OF FIRST USE						
12. INTERMEDIATE CONSIGNEE a. NAME b. STREET ADDRESS c. CITY - STATE - COUNTRY						13. INTERMEDIATE END USE 13a. EST. DATE OF FIRST USE						
14. INTERMEDIATE CONSIGNEE a. NAME b. STREET ADDRESS c. CITY - STATE - COUNTRY						15. INTERMEDIATE END USE 15a. EST. DATE OF FIRST USE						
16. NRC USE		17. DESCRIPTION (Include chemical and physical form of nuclear material; give dollar value of nuclear equipment and components) Replacement parts for use during period of operation covered by issued XSNM licenses. See attached list. Value approximately \$180,000.				18. MAX. ELEMENT WEIGHT		19. MAX. WT. %		20. MAX ISOTOPE WT.		21. UNIT
22. COUNTRY OF ORIGIN - SOURCE MATERIAL N/A				23. COUNTRY OF ORIGIN-SNM WHERE ENRICHED OR PRODUCED N/A				24. COUNTRIES WHICH ATTACH SAFEGUARDS (if known) N/A				
25. ADDITIONAL INFORMATION (Use separate sheet if necessary) Dupe of 790615047 (2pgs) Copy to FDR and AEC 5/4/79 APPENDIX D 00025												
26. The applicant certifies that this application is prepared in conformity with Title 10, Code of Federal Regulations, and that all information in this application is correct to the best of his/her knowledge.												
27. AUTHORIZED OFFICIAL						a. SIGNATURE [Signature]			b. TITLE Manager, Gov't Relations and Export Licensing			

April, 1979

GENERAL ELECTRIC ORDERS
FOR
TARAPUR REPLACEMENT PARTS

<u>Qty</u>	<u>Description</u>	<u>Approx Value</u>
6	Thermal Sleeve for control rod	12,450
20	Guide tube for TIP Detectors	2,300
2	Ion Chambers	17,500
12	Misc. parts for control rod drives	57,900
10	Recorder parts	1,950
various	Refueling platform control parts	2,750
various	Control rod drive mechanical parts	29,300
1	Index mechanism for TIP	9,250
2	IRM drive system mount & gear	7,250
2	Bearing assemblies for pump	38,500

APPLICATION FOR LICENSE TO EXPORT NUCLEAR
MATERIAL AND EQUIPMENT (See Instructions on Reverse)

1. APPLICANT'S USE		a. DATE OF APPLICATION May 7, 1979		d. APPLICANT'S REFERENCE BDW 79122		2. NRC USE		e. LICENSE NO. XCSM 250		b. DOCKET NO. 11000642		
3. APPLICANT'S NAME AND ADDRESS						4. SUPPLIER'S NAME AND ADDRESS <i>(Complete if applicant is not supplier of material)</i>						
a. NAME General Electric Co. Attn: B.D. Wilson M/C 838						a. NAME RIS						
d. STREET ADDRESS 175 Curtner Avenue						b. STREET ADDRESS						
c. CITY San Jose				STATE Ca		ZIP CODE 95125		c. CITY				
d. TELEPHONE NUMBER (Area Code - Number - Extension) 408-925-1380				STATE		ZIP CODE		c. CITY				
5. FIRST SHIPMENT SCHEDULED		6. FINAL SHIPMENT SCHEDULED		7. APPLICANT'S CONTRACTUAL DELIVERY DATE		8. PROPOSED LICENSE EXPIRATION DATE		9. U.S. DEPARTMENT OF ENERGY CONTRACT NO. (If Known)				
September 1, 1979		Same		September 24, 1979		September 1, 1980		N/A				
10. ULTIMATE CONSIGNEE						11. ULTIMATE END USE <i>(Include plant or facility name)</i>						
a. NAME Government of India						For use in Tarapur Units 1 and 2 Nuclear Power facilities						
b. STREET ADDRESS Department of Nuclear Energy						11a. EST. DATE OF FIRST USE						
c. CITY - STATE - COUNTRY Bombay 400 001 India						13. INTERMEDIATE END USE						
12. INTERMEDIATE CONSIGNEE						13a. EST. DATE OF FIRST USE						
a. NAME						15. INTERMEDIATE END USE						
b. STREET ADDRESS						15a. EST. DATE OF FIRST USE						
c. CITY - STATE - COUNTRY						15. INTERMEDIATE END USE						
14. INTERMEDIATE CONSIGNEE						15a. EST. DATE OF FIRST USE						
a. NAME						15. INTERMEDIATE END USE						
b. STREET ADDRESS						15a. EST. DATE OF FIRST USE						
c. CITY - STATE - COUNTRY						15. INTERMEDIATE END USE						
16. NRC USE		17. DESCRIPTION <i>(Include chemical and physical form of nuclear material; give dollar value of nuclear equipment and components)</i>				18. MAX. ELEMENT WEIGHT		19. MAX. WT. %		20. MAX ISOTOPE WT.		21. UNIT
		Six (6) Traversing Incore Probe detector assemblies. Value \$112,000.										
		"Copy to PDR and ACC 5/14/79"										
22. COUNTRY OF ORIGIN - SOURCE MATERIAL						23. COUNTRY OF ORIGIN - SNM WHERE ENRICHED OR PRODUCED			24. COUNTRIES WHICH ATTACH SAFEGUARDS (If Known)			
25. ADDITIONAL INFORMATION (Use separate sheet if necessary)												
Duple of 7906150029 1pg. ACUS												
26. The applicant certifies that this application was prepared in conformity with Title 10, Code of Federal Regulations, and that all information in this application is correct to the best of his/her knowledge.												
27. AUTHORIZED OFFICIAL						a. SIGNATURE <i>[Signature]</i>			b. TITLE Manager - Government Relations and Export Licensing			

GENERAL ELECTRIC



RECEIVED
USNRC

79 OCT -5 P3:05

NUCLEAR POWER
SYSTEMS DIVISION

GENERAL ELECTRIC COMPANY, 175 CURTNER AVE., SAN JOSE, CALIFORNIA 95125

OFFICE OF
INTERNATIONAL
PROGRAMS

October 1, 1979

Mr. James R. Shea
Director
Office of International Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Expedite!
*Forwarded to
States & E. O.
agencies
on 10/10/79*

SUBJECT: Request for Expedited Processing - XCOM 250

Dear Mr. Shea:

On May 7, 1979 General Electric filed an application for the subject license. When issued, the license will authorize export of six (6) traversing incore probes - neutron detectors used to calibrate the power range monitors at the Tarapur Atomic Power Station (TAPS).

Recent inquiries on the status of this application indicate:

1. Executive branch views have not been completed and tend toward a final recommendation that only four of the six required detectors be approved for export;
2. Even after executive branch views are transmitted, the case will be referred to the Commissioners and will be taken up only at such time as they are prepared to consider all other pending applications for exports to TAPS.

As to the first point, TAPS has advised GE by wire dated September 27, 1979 that one of its installed detectors is inoperative and scheduled for replacement in October using the only currently available spare. Traversing probes operate under severe mechanical stress in a high temperature environment and are extremely vulnerable to damage. Two others are marginal and are to be replaced in December.

Dupe of 800140044 (2 pgs)

✓

Mr. J. R. Shea

- 2 -

October 1, 1979

Thus, if only four are supplied, the two then remaining spares will constitute the barest minimum number required for safe operation. If the license covers the six units TAPS has purchased, and GE has packaged and ready for transport, four spares - one for each installed unit - will be available after the December replacement.

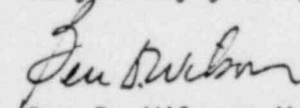
A single set of spare probes, in our view, could scarcely be characterized as excessive stockpiling; indeed, it is merely prudent operating practice.

The second point, further indefinite delay for Commissioner action, threatens to leave the Tarapur Station with no spare detectors after the October outage. As previously stated, the one spare unit will be used then. TAPS has repeatedly requested expedited shipment in recent months. They have approved premiums to cover the costs of transport by air. They know the probes are packaged and shipment awaits only the issuance of XCOM 250.

TAPS, without adequate spare instrumentation, clearly would not be in the interest of public health and safety. Nor would the continued withholding of XCOM 250 at this time contribute significantly to construction of stronger Tarapur safeguards.

Given these facts, we are confident you will now initiate all reasonably productive steps toward timely issuance of XCOM 250. Please keep us advised of progress toward that goal.

Very truly yours,



Ben D. Wilson, Manager
Governmental Relations &
Export Licensing

clk

cc: G.R. Helfrich
R.L. Williamson
V.H. Hudgins

GENERAL ELECTRIC

NUCLEAR ENERGY
BUSINESS GROUP

GENERAL ELECTRIC COMPANY, 175 CURTNER AVE., SAN JOSE, CALIFORNIA 95125

1980 JAN 14 AM 8 44

January 11, 1980

BDW 80005

EXPORT/IMPORT
AND
INTERNAT'L SFGRODS

Mr. James R. Shea, Director
Office of International Programs
MNBB 8103
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Subject: Expedited Issuance of XCOM 250

Dear Mr. Shea:

This confirms information discussed today by phone with Mr. William Upshaw of your staff.

As stated in my letter to you of October 1, 1979, only one spare traversing incore probe (TIP) was available at the Tarapur Atomic Power Station (TAPS) and it was used to replace a failed TIP during the October outage of reactor Unit Two.

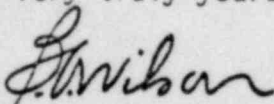
This leaves absolutely no available spares for the scheduled replacements of the two TIPs in Unit One. That unit was shut down for refueling and maintenance on November 28, 1979. It is scheduled for return to service on February 28, 1980.

Although TAPS has approved air shipment of the six probes (a costly and unusual instruction from TAPS), there is scarcely enough time remaining before the planned February 28, 1980 Unit One startup to accommodate the needs to complete shipping arrangements, for air shipment to Bombay, trucking to TAPS site, inspection, testing, preparation, removal of old failed units to storage casks and installation of the spares.

We therefore urge your best efforts to issue XCOM 250 immediately in order to avoid both of the unacceptable alternative consequences; i.e., (a) remain inoperative until the spare units are exported and replaced or, (b) attempt potentially unsafe start-up with faulty instrumentation, if Government of India safety regulations permit.

Your immediate attention to this matter is appreciated.

Very truly yours,



B. D. Wilson, Manager
Government Relations and Export Licensing

/shh Dupe of 8446120365 (LPG)