

Wash. Delegation
Brussels, - 9. VI. 1980
JJ/rb

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Mr James C. SHEA
Director
Office of International Programs
US-Nuclear Regulatory Commission
WASHINGTON D.C.
20555 USA

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Mr Gerald HELFERICH
Director
Office of Export and Import Control
OIS/NEC
Room 4327
US-Department of State
WASHINGTON D.C.
20520 USA

EXPORT/IMPORT
AND
INTERNATIONAL SERVICES

XSNM 01685

Subject: AGT/27 - Requirements contract for enriching services AT/49-14/-UES/
EU/27 of January 28, 1972

Gentlemen:

Please recall the aforementioned contract between the US government then represented by the USAEC and the European Community represented by our Agency and concerning the furniture of uranium enrichment services to the Hochtemperatur - Kernkraftwerk GmbH (HKG) reactor THTR at Uentrop. As you know this reactor is fuelled by spherical graphite elements containing HEU = highly enriched uranium in U-235, and thorium.

As you might also recall the fuelling of the THTR has been mentioned when our Additional Agreement for Cooperation was amended in 1972, please find enclosed a copy of A.S. Friedman's letter of August 9, 1972, to F. Spaak and refer to its fourth paragraph. Finally, we want to remind you that on Febr. 11, 1977, the United States Energy Research and Development Administration and the Federal Minister for Research and Technology of the Federal Republic of Germany concluded an Agreement in the field of Gas-Cooled Reactor Concepts and Technology. We conclude therefrom a common interest in high temperature gas-cooled reactor technology.

The occasion for this letter is the Transnuclear Inc. / Falls Church, Va. application deposited with the Nuclear Regulatory Commission for a license to export 103.258 kg of U, 93,3 % enriched, to Nukem for conversion and Hobeg for fabrication of THTR fuel, dated May 14, 1980, and to which number XSNM-1685 has been allocated. A corresponding time-to-time agreement under Art. II, 3 of contract UES/EU/27 will be requested in due time.

Art. I bis A of the Additional Agreement for Cooperation of 1960 as amended provides that uranium containing more than 20 % in the isotope U-235 may be made available "when the use of such material is technically or economically justified".

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Whereas such justification of the need for HEU is usually given in a check-list / questionnaire (US Mission / Brussels - R.A. Purple letter of March 29, 1978, to G. Schuster, copied to us) and technically examined by the Argonne National Lab. RERTR group, we do not suppose this approach to be the correct one for the THTR requirements. In fact, most HEU is used to fuel research and materials test reactors and the questions are therefore predominantly framed to assess the justification for such purpose.

But we and our customers assume that US authorities require more and detailed information about the needs of the THTR.

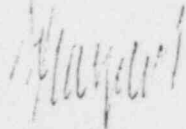
Nukem GmbH, Hanau, has been entrusted by HKG to procure the aforementioned material and has put together background information in a letter addressed to J.C. Shea /NRC and G. Helfrich /DOS. We have been requested to transmit this letter and enclose it here with.

We are copying this letter with annexes to

DOE / Washington, H.D. Bengelsdorf
DOE / Oak Ridge, P.D. Dayton
ACDA / Washington, K. McManus.

If you have any further questions on this matter, please do not hesitate to evoke them with us and our customers.

Yours sincerely,


for J.B. Mennicken

cc.

DISCRIMINATIVE COMMENTS BY EXCHANGE OF LETTERS.

ANNEX I

UNITED STATES ATOMIC
ENERGY COMMISSION
Washington D.C. 20545

Aug. 9, 1972.

Mr. Fernand SPAAK
Director General for Energy
and Safeguards
Commission of the European Communities
200, rue de la Loi
1050 Brussels

Dear Mr. Spaak,

We are all quite pleased that the negotiations for the proposed amendment to the Additional Agreement for Cooperation have proceeded in so mutually satisfactory a manner. This is in keeping with the close relationship and the common understanding that have steadily characterized relations between the United States Atomic Energy Commission and Euratom. We have long regarded our relations with Euratom as a model of international cooperation.

A number of issues arose during the negotiations which I would like to clarify.

During these discussions, the U.S. negotiators made it clear that the U.S. does not intend to discriminate among its foreign customers on charges for enrichment services and prices for enriched uranium nor with respect to advance notice required for delivery of materials. Accordingly, the Community will receive such material and services at prices as favorable as those offered to other customers abroad and the advance notice expected from the Community will not be greater than that required from such other customers.

Article II of the amendment, specifically paragraph A of the New Article I bis, was discussed in light of the implications involved in the provision of large quantities of highly enriched uranium for power reactor fueling, and it was recognized that the USAEC has in the past contracted to provide such material to the Community for use in the Federal Republic of Germany's THUR program. You may be confident that the Commission will continue to give sympathetic consideration to requests for supply of highly enriched fuel to the Community.

In our discussions of the quantity of enriched uranium which could be held within the Community for purposes authorized in the agreement (paragraph B of the new Article I bis), we noted that it was our interpretation that, if final purchasers do not wish to acquire material to hold for speculative gain, Community users or processors may obtain and hold such amounts of material as are related to activities which they undertake within the terms of the agreement, including the fabrication of fuel for export.

Reexports from the Community of material of U.S. origin are governed by Article XI of the Joint Program Agreement of 1958. In considering proposed exports under this provision, the USAEC's concern is that the material go to countries or groups of countries which have an agreement for cooperation with the U.S. within the scope of which the transferred material would fall, and that the material be covered by appropriate safeguards. Specific circumstances may arise, however, which would necessitate consideration of other factors than the foregoing and we shall be glad to consult with Euratom regarding the acceptability of reexports in such circumstances.

The language of paragraph D of Article I of the amendment regarding transfers of special nuclear material for fabrication services is permissive in nature. As was discussed during the negotiations, it is the intent of both Parties that opportunities will be available on a reciprocal basis for fabrication under the jurisdiction of each Party to supply services for customers under the jurisdiction of the other Party. This consideration was a significant factor in the mutual acceptability of the provision, and it was recognized on our part that U.S. approval of transfers of special nuclear material under this provision would depend upon the existence of opportunities on a realistic basis for U.S. suppliers of fabrication services to provide such services to consumers in the Community.

We wish also to reiterate that, for reasons which were explained during the negotiations, the United States is not now in a position to agree to the transfer to the Community for reprocessing of special nuclear material irradiated in the United States. Any change in this position would be reflected in an appropriate amendment to our agreement for cooperation providing for the transfer for reprocessing and return to the U.S. of special nuclear material irradiated in the United States.

We believe that these clarifications of USAEC policy will enable us to proceed with the proposed amendment on the basis of that common understanding which has so strongly marked relationships between Euratom and the USAEC in the past and which we wish to see continued in the future.

Sincerely,

A.S. FRIEDMAN, Director
Division of International Programs