



CHAIRMAN

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

COMMISSION
CORRESPONDENCE

August 15, 1980

The Honorable Frank Church, Chairman
Committee on Foreign Relations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

On May 12, you raised a number of questions concerning the Commission's implementation of its export authority under the Non-Proliferation Act, especially as it related to the supply reliability of the United States. I am pleased to respond to your request for this information.

Our responses to your individual questions are enclosed. We will be glad to provide additional information should you desire it.

Sincerely,

John F. Ahearne, acting for

John F. Ahearne

Enclosure:
Responses to Questions

THIS DOCUMENT CONTAINS
POOR QUALITY PAGES

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QUESTION 1:

Since passage of the Non-Proliferation Act, in what percentage of cases has the Commission issued the license within sixty calendar days after receipt of Executive Branch comments on an application? What countries have been involved in applications which exceeded this period?

ANSWER:

Table I-A indicates the total number of licenses issued since the passage of the NNPA and the length of time involved for the NRC to act on the applications following the receipt of Executive Branch views. The information is presented for the years 1978, 1979 and 1980, beginning March 10, 1978 and ending April 30, 1980.

Table I-B is a tabulation of countries involved in applications which required 60 days or longer after receipt of Executive Branch comments for issuance.

Some license applications, because of the type of material or because of the intended end use, or for other reasons, are examined in greater depth than others, frequently necessitating longer review periods by NRC. Generally, these are referred to as Major cases, as distinguished from those involving less sensitive issues or relatively small quantities of material. Because review times can vary, depending upon the types of applications, we have presented the data on a Major/Minor case basis.

Additional information concerning the types of applications which are generally considered as falling in the Major category is found in Subpart E of the NRC Rules and Regulations, 10 CFR 110, a copy of which is enclosed.

Enclosures
As stated

TABLE 1-A

TIME REQUIRED FOR NRC TO ISSUE EXPORT LICENSES FOLLOWING
 EXECUTIVE BRANCH COMMENTS
 (Sen. Church - Question 1.a.)

TYPE OF LICENSE	No. of Licenses Issued 03/10/78 THRU 12/31/78			No. of Licenses Issued 01/01/79 THRU 12/31/79			No. of Licenses Issued 01/01/80 THRU 04/30/80		
	<60 Days	>60 Days	Total	<60 Days	>60 Days	Total	<60 Days	>60 Days	Total
MAJOR CASES -----									
Special Nuclear High-Enriched	10	8	18	5	10	15	1	4	5
Low-Enriched	21	2	33	48	20	68	20	2	22
Source Material	5	1	6	4	6	10	3	1	4
Special Reactor Material	-0-	-0-	-0-	-0-	2	2	-0-	-0-	-0-
Reactors	-0-	2	2	-0-	1	1	-0-	-0-	-0-
Subtotal	36	23	59	57	39	96	24	7	31
MINOR CASES -----									
Special Nuclear	71	-0-	71	116	1	117	27	1	28
Source Material	27	-0-	27	26	-0-	26	11	-0-	11
Byproduct Material	65	1	66	66	-0-	66	23	0	23
Components	52	-0-	52	298	-0-	298	62	-0-	62
Subtotal	215	1	216	506	1	507	123	1	124
TOTALS	251	24	275	563	40	603	147	8	155

TABLE -B

EXPORT APPLICATIONS EXCEEDING 60 DAYS NRC PROCESSING TIME

BY COUNTRY

(Sen. Church - Question 1.b.)

COUNTRY	MAJOR CASES									ALL MINOR CASES								
	SPECIAL NUCLEAR MATERIAL						Source			Reactors			Materials			1978 1979 1980		
	High-Enriched			Low-Enriched			1978	1979	1980	1978	1979	1980	1978	1979	1980	1978	1979	1980
Belgium	-	-	-	1	3	-	-	-	-	-	-	-	-	-	-	-	-	-
Canada	-	2	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-
France	-	2	2	-	2	-	1	1	1	-	-	-	-	-	-	-	-	-
France/Netherlands	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Germany, W.	-	2	-	2	2	1	-	-	-	-	-	-	-	-	-	-	1	-
Germany/Netherlands	1	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Greece	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
India	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-
Italy	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-
Japan	1	-	-	4	6	-	-	-	-	-	-	-	-	2	-	-	-	-
Korea	2	-	-	-	2	-	-	-	-	1	-	-	-	-	-	-	-	-
Mexico	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-
Netherlands	2	2	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Romania	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Spain	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-
Sweden	-	2	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Switzerland	-	-	-	1	-	-	-	-	-	1	-	-	-	-	-	-	-	-
Taiwan	-	-	-	-	1	-	-	2	-	-	1	-	-	-	-	-	-	1
United Kingdom	-	-	-	1	-	-	-	2	-	-	-	-	-	-	-	-	-	-
Yugoslavia	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTALS	8	10	4	12	20	2	1	6	1	2	1	0	0	2	0	1	1	1

Prepared by Neal Moore
June 5, 1980

PART 110 OF EXPORT AND IMPORT OF NUCLEAR FACILITIES AND MATERIALS

Subpart E—Review of License Applications

§ 110.40 Commission review.

(a) Immediately after receipt of a license application, the Commission will initiate its licensing review and, to the maximum extent feasible, will expeditiously process the application concurrently with review by the Executive Branch.

(b) License applications for export of the following will be reviewed by the Commissioners.

(1) Production and utilization facilities:

(2) One effective kilogram or more of high enriched uranium and plutonium (except for plutonium comprised of 80% or more of Pu-238);

(3) 1,000 kilograms or more of heavy water or nuclear grade graphite;

(4) NRC licensed components intended for use in a reprocessing, enrichment, or heavy water production facility;

(5) Any proposed export of any material or equipment, including Section 109 components, items and substances to a country to which the Commissioners have not previously authorized an export pursuant to the Nuclear Non-Proliferation Act of 1978;

(6) Any other license application determined by the staff or a majority of the Commissioners to warrant review by the Commission.

(c) If the Commission has not completed action on a license application within 60 days after receipt of the Executive Branch judgment, as provided for in § 110.41, or the license application when an Executive Branch judgment is not required, it will inform the applicant in writing of the reason for delay and, as appropriate, provide followup reports.

§ 110.41 Executive Branch review.

(a) Except as provided in paragraph (d), the Commission will promptly forward a properly completed export license application to the Executive Branch.

(b) The Executive Branch will be requested to:

(1) Provide its judgment as to whether the proposed export would be inimical to the common defense and security, along with supporting rationale and information.

(2) Where applicable, confirm that the proposed export would be under the terms of an agreement for cooperation; and

(3) Address the extent to which the export criteria in section 110.42 are met, if applicable, and the extent to which the recipient country or group of countries has adhered to the provisions of any applicable agreement for cooperation.

(c) The Commission may request the Executive Branch to address specific concerns and provide additional data and recommendations as necessary.

(d) The Executive Branch has informed the Commission that exports of nuclear equipment and nuclear material in the following categories would not be inimical to the common defense and security because they lack significance for nuclear explosive purposes and will not normally be reviewed by the Executive Branch:

(1) Byproduct material: all types and quantities, except tritium in quantities exceeding 100 curies;

(2) Source material: all exports for non-nuclear end-uses, and exports of less than 250 kilograms for nuclear end uses.

(3) Low-enriched uranium: all exports of 1 kilogram or less of contained U-235;

(4) High-enriched uranium: 0.040 effective kilograms or less;

(5) Plutonium and U-233: 10 grams or less;

(6) Deuterium: 1,000 liters or less (900 grams or less of heavy water);

(7) Nuclear grade graphite: 100 kilograms or less.

(8) Nuclear equipment: all exports with a value under \$10,000.

This paragraph does not apply to exports with end-uses related to isotope separation, chemical reprocessing, heavy water production, plutonium handling, advanced reactors and initial export of nuclear equipment to foreign nuclear reactors, and is subject to other limitations which the Executive Branch or the Commission may, from time to time, deem necessary.

§ 110.42 Export licensing criteria.

(a) The review of specific license applications for the export for peaceful nuclear uses of production or utilization facilities, special nuclear material and source material will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) will be applied with respect to any such facilities or material proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof;

(2) No such facilities or material proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such facilities or material, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device;

(3) Adequate physical security measures will be maintained with respect to such facilities or material proposed to be exported and to any special nuclear material used in or produced through the use thereof. Physical security measures will be deemed adequate if such measures provide a level of protection equivalent to that set forth in 110.423;

(4) No such facilities or material proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other country or group of countries unless the prior approval of the United States is obtained for such retransfer;

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor will be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration; and

(6) With respect to exports of such facilities or material to non-nuclear weapon states, for which the export license application is filed after September 10, 1979, or which will occur after March 10, 1980, IAEA safeguards will be 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. This criterion will not be applied if the Commission has been notified by the President in writing that failure to approve an export because this criterion has not been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, in which case the provisions of section 128 of the Atomic Energy Act regarding Congressional review will apply.

(b) The review of license applications for the export of nuclear equipment, other than a production or utilization facility, and for the export of deuterium and nuclear grade graphite will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the NPT will be applied with respect to such equipment or material;

(2) No such equipment or material will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and

(3) No such equipment or material will be retransferred without the prior approval of the United States.

§ 110.43 Physical security standards.

(a) Commission determinations on the adequacy of physical security programs in recipient countries for Category 2 quantities of nuclear material (see Appendix C) will be based upon:

(1) Review of the physical security program established by the recipient country and of the implementation of the national requirements as considered through country visits and other information exchanges to ensure that the physical security measures provide as a minimum protection comparable to that set forth in International Atomic Energy Agency publication INFCIRC/225/Rev. 1 entitled "The Physical Protection of Nuclear Material

QUESTION 2:

What has the Commission done to ensure the identification of issues arising from an application early in the Executive Branch review process? In what percentage of cases do the Commissioners take advantage of these means where they later send questions to the State Department after the Executive Branch comments have been transmitted to the NRC?

ANSWER:

Prior to June 1979, the staff routinely forwarded to the Commissioners advance information copies of all export license applications requiring eventual Commissioner review. In three of these cases, the Commissioners took advantage of the early notification procedures to raise issues requiring Executive Branch or staff analyses. In none of these three cases did the Commission send subsequent questions to the Executive Branch after receipt of the Executive Branch's analysis and judgment.

In June 1979, the Commission revised its procedures to require Commission notification only upon receipt of Executive Branch comments. The staff, however, does continue to send to the Commissioners, upon receipt, any applications that raise new or unusual issues. In addition, the Office of International Programs continues to provide early notification to all involved NRC staff offices of the receipt of all significant license applications. These procedures were specifically designed to facilitate early NRC staff review and identification of problems in such areas as safeguards, physical security and legal issues. As a consequence, the staff has on many occasions identified and forwarded to the Executive Branch specific questions and concerns in advance of receiving Executive Branch views.

QUESTION 3:

May any one Commissioner transmit questions to the Executive Branch after its comments have been received? Does this mean an automatic delay in the issuance of a license? If the answer to the previous question is negative, has the Commission ever issued a license when a Commissioner was still awaiting a response from the Executive Branch?

ANSWER:

On December 29, 1978, the Commission adopted procedures governing Commissioner review of export license applications. A copy of those procedures is enclosed. Under those procedures a Commissioner may transmit questions to the Executive Branch after Executive Branch views have been provided to the Commission. Commission action upon an application will be deferred until responses to the questions are received, unless a majority votes to act upon the application prior to the receipt of the requested information.

On several occasions the Commission majority has voted to authorize issuance of an export license prior to the receipt of responses to outstanding Commissioner questions. Representative examples are as follows:

1. HEU exports (XSNM-1292, 1232, 1241, 1247 and 1248). Commissioner Gilinsky requested information on status of efforts to convert the recipient reactors to the use of LEU fuel.
2. Physical security measures on HEU exports (XSNM-1212, 1278, 1232, 1241 and 1292). Commissioner Bradford requested detailed description of physical security measures to be applied to the material during shipment.
3. Safeguards facility attachments (XSNM-1227, 1104, 1129 and 1149). Commissioner Bradford concurred in these exports subject to the completion of the relevant facility attachments.
4. Commissioner Bradford has raised a question regarding the adequacy of EURATOM assurances regarding criterion 4 and Japanese assurances regarding criteria 4 and 5 of the Act. These questions affect the majority of exports to these areas. The Commission has voted to continue exports while requesting the State Department to resolve the concerns raised in the context of renegotiating the applicable agreements for cooperation.
5. On XSNM-740, LEU fuel for South Korea, Commissioner Gilinsky requested information on Korean spent fuel disposition plans.
6. On XR-127, power reactor for Switzerland, Commissioner Gilinsky requested a status report on the renegotiation of the U.S./Swiss Agreement for Cooperation.
7. On XSNM-1212, 1232, and 1238, HEU fuel for Italy, Commissioner Bradford raised a question concerning the adequacy of the Italian physical security assurance letter.

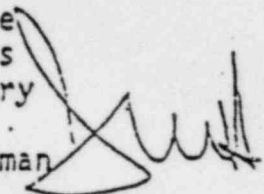


UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

December 29, 1978

CHAIRMAN

MEMORANDUM FOR: Lee V. Gossick, Executive
Director for Operations
Samuel J. Chilk, Secretary

FROM: Joseph M. Hendrie, Chairman 

SUBJECT: EXPORT/IMPORT LICENSING REVIEW PROCEDURES

Consistent with the Congressional intent manifested in the Nuclear Non-Proliferation Act of 1978, the Commission, without compromising the thoroughness of its review, should make every effort to act upon export/import license applications within 60 days after receiving Executive Branch views. In order to meet this schedule for action, the Commission has informally agreed to the following housekeeping 1/ procedures for internal review of export/import 2/ licenses which are reviewed by the Commissioners:

1. The Director, Office of International Programs (IP), will promptly transmit to the Commission for early review a copy of each export/import application received requiring Commission review. If, after review of the application, a Commissioner has any questions which he wishes to address to the Executive Branch or to the NRC staff, these should be submitted to the Director, IP.
2. The Director, IP, will promptly submit to the Commission, for early review, Executive Branch views on the merits of such applications. 3/ Commissioners will review these views and transmit to the Director, IP, any questions they wish to have addressed by the Executive Branch or the NRC staff.
3. The NRC staff should submit its analysis, and recommendations on such applications to the Secretary for distribution to the Commissioners no later than 40 calendar days after receipt of Executive Branch views. The Secretary shall maintain and keep current a docket of applications pending Commissioner action.

1/ These procedures do not create any rights for any person or organization and are not judicially enforceable.

2/ Although the Nuclear Non-Proliferation Act does not establish a time schedule for Commission action on import licenses applications, the Commission as a matter of policy has decided to establish a time schedule.

3/ The Executive Branch does not provide the Commission views on import license applications.

4/31/79
-215

4. After receipt of staff views, Commissioner offices will have five working days to vote 4/ and/or provide views on an application to the Secretariat.
5. This five working day period will be extended not more than an additional four working days at the Request of any Commissioner transmitting such a request (either orally or in writing) to the Secretary, prior to expiration of the five day period.
6. Further extensions for individual Commissioner consideration may be granted only by a majority of the Commissioners.
7. After the five-day review period (or the period as extended pursuant to paragraphs 5 or 6, above) has expired, action will be taken on the application only if all Commissioners have voted or if the following conditions apply:
 - (a) if a majority of Commissioners has provided views, and if a majority of Commissioners explicitly votes not to withhold Commission action pending the receipt of views from a Commissioner(s) who has not yet provided views. Once a majority of the Commission has voted to act on the application Commissioners will be provided twenty-four hours notice before the Commission's decision is implemented. Any Commissioner who has not acted upon the item under these circumstances will be recorded as "not participating" in the Commission decision; or
 - (b) if a majority of the Commissioners has provided views, and the statutory time limit set forth in Section 126 of the Atomic Energy Act has expired (the date after which the President may authorize issuance of the license by Executive Order, in the absence of a Commission decision), the majority's decision will be considered that of the Commission, unless a majority of the Commission decides to withhold decision. Any Commissioner who has not provided views by the end of the statutory time limit will be recorded as "not participating" in the Commission decision. Seventy-two hours before the statutory time limit, the Secretary will notify all Commissioners of the impending expiration of time for Commission review. 5/

4/ The term "vote" in this set of working procedures includes a written notation of a Commissioner's position. Because the authority to issue export and import licenses has been delegated to staff personnel subject to Commission oversight, a formal, collegial vote is not necessary.

5/ If the Commission and the Executive Branch conclude that action within the statutory time limit is not possible, the Secretariat will provide a 72-hour notice at the appropriate time.

8. Commission action upon an application will be deferred until responses to any Commissioner questions to the NRC staff or the Executive Branch are received, unless a majority of Commissioners explicitly votes that the Commission should act upon the application prior to the receipt of the requested information. Once a majority of the Commission has voted to act on the application Commissioners will be provided twenty-four hours notice before the Commission's decision is implemented.
9. If action has been deferred pending receipt of responses to questions submitted to the NRC staff or to the Executive Branch, once the response is received Commissioners will be provided five working days to provide views to the Secretary. Further extensions of time may be granted only by a majority of the Commissioners. The procedures outlined in paragraphs 7 and 8, above, will apply in this situation.

cc:
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford
Commissioner Ahearne
Acting General Counsel
Director, Policy Evaluation
Director, Congressional Affairs
Director, Public Affairs

QUESTION 4:

To what extent is the NRC bound by Presidential and/or State Department agreements with foreign nations? What precedential weight did the Commission give to the Presidential and Congressional decision on XSNM-1060 to India?

ANSWER:

Treaties and agreements for cooperation have the same force of law for the Commission as they have for other agencies of the United States Government. However, the Commission is not bound by Executive Branch interpretations of such agreements, although the Commission gives such interpretations great weight in its decision-making process. The Commission is not obligated to make a finding that the export licensing criteria of the Atomic Energy Act, as amended, are met by the fact that the President has entered into agreements with or has promised nations that the United States will export nuclear equipment and technology to that nation. The Commission in making its independent export licensing decisions must find that the exports meet the applicable criteria set forth in the Atomic Energy Act. Under the Act, the President may waive any or all of the applicable criteria and authorize the export by Executive Order after determining that withholding the license would be seriously prejudicial to the achievement of U.S. non-proliferation objectives, or would otherwise jeopardize the common defense and security.

Because the facts of XSNM-1060 are quite different from those presented by the most recent application for a license to export fuel to Tarapur, Congressional and Presidential action on XSNM-1060 was not a precedent which could guide the Commission's action in its most recent decision on fuel exports to India.

QUESTION 5:

In cases requiring Commissioner approval is the license issued after three members approve or must it await the views of all five Commissioners? Is there any special action-forcing mechanism when the views of a specific number of Commissioners have been received? How often is it employed?

ANSWER:

Under the December 29, 1978 procedures, the general practice is to wait for all Commissioners to provide views before issuing a license or referring the matter to the President. There are two exceptions. A majority of the Commission may vote to act upon the application even though the views from all Commissioners have not been received. In addition, if a majority of the Commissioners has provided views and the statutory time limits set forth in Section 126 of the Atomic Energy Act have expired (the date after which the President may authorize issuance of the license by Executive Order in the absence of a Commission decision), the majority's decision will be considered that of the Commission, unless a majority of the Commission decides to withhold decision. These procedures (based on available information) were invoked approximately eleven times in 1979.

QUESTION 6:

Please give a chronology of Commission decision-making concerning the following exports. Include an unclassified listing and summary of all communications from the Executive Branch urging expeditious treatment, Commissioner questions sent to the Executive Branch and the date each individual Commissioner transmitted his views on the application. Please be as specific as possible as to the concerns of the individual Commissioners.

XR-107 -- Yugoslavia
XSNM-1194 -- Mexico
XR-113 -- Taiwan
XSNM-1229 -- Taiwan
XSNM-1325 -- FRG
XSNM-1285 -- Japan
XR-127 -- Switzerland
XSNM-1227 -- Switzerland
XR-120 -- Philippines
XSNM-1379 -- India

ANSWER.

Attached are chronologies for each of the cases specified and related papers containing Commissioner questions or comments for each case.

CHRONOLOGY OF XR-107

Export of a Westinghouse pressurized water reactor, "KRSKO" to Yugoslavia.

<u>ACTION</u>	<u>DATE</u>
Received application of 4/28/75 from Westinghouse Electric Corporation.	05/12/75
Received additional information from Westinghouse advising that scheduled turnover date of the plant is December 1979	05/30/75
Forwarded application to Executive Branch for views	06/12/75
Notified Joint Committee on Atomic Energy on receipt of application	07/23/75
Forwarded notice to the Federal Register on receipt of application	07/25/75
Notice of receipt of application published in the Federal Register, Vol. 40, No. 150	08/04/75
Received favorable Executive Branch views dated June 16, 1976 recommending issuance of license	06/18/76
Staff forwarded Executive Branch views to Commission, SECY 76-408, for preliminary views	08/10/76
Received letter of 9/24/76 from NUS Corporation (Consultant to the Yugoslov utility) which informed that Westinghouse has invoked <u>force majeure</u> under the terms of the contract for supply of the reactor	09/27/76
Received letter of 12/21/76 from Westinghouse providing additional information on plant schedule and fuel requirements for KRSKO	01/03/77
Completed staff conclusions that proposed license meets the requirements of the Atomic Energy Act and should be issued	05/18/77
Received letter of 5/18/77 (classified) from Department of State forwarding letters of 5/12/77 from the Government of Yugoslavia to State Department relating to the disposition of fuel irradiated in the KRSKO reactor	05/18/77
Executive Branch, referencing its favorable comments of June 16, 1975, recounted Department of State/NRC informal discussion of a classified nature and advised NRC that Yugoslavia had recently completed actions related to equipment retransfer approvals and disposition of irradiated fuel which should permit issuance of license. Department of State urged expeditious consideration of the application	05/18/77
Staff forwarded Commission action paper SECY-77-246 (classified) recommending that license be issued	05/19/77
License No. XR-107 issued by Staff after being notified of Commission approval	05/20/77

ACTIONDATE

Received NRC SECY memorandum of Commissioner approval (see attached)	05/23/77
Received letter from Department of State forwarding final text of Yugoslavia's letter to the IAEA stating Yugoslavia's undertakings with respect to KRSKO	05/25/77
Forwarded EXIM Bank Credit Agreement to the Commission	05/25/77
Forwarded to Commission final text of Yugoslavia letter to the IAEA	05/31/77
Forwarded notice to the Federal Register on issuance of a facility export license	06/02/77
Sent memorandum to NRC's Office of Congressional Affairs on issuance of license	06/02/77
Notified Joint Committee on Atomic Energy of issuance of license XR-107	06/07/77
Notice of issuance published in Federal Register, Vol. 42, # 111	06/09/77

QUESTION 7:

To what extent do NRC deliberations consider the totality of United States relations with a proposed recipient country? Do these deliberations consider whether the recipient nation may buy a reactor or fuel from a non-U.S. source if the NRC either does not issue the license or subjects it to an unreasonable delay?

ANSWER:

As noted above in our answer to Question No. 4, Commission review of proposed exports must, in the first instance, consider whether the Section 127 and 128 criteria of the NNPA are met. Our deliberations on this question cannot, as a matter of law, be affected by the totality of our relations with a proposed recipient country. The Commission must also find, pursuant to the Atomic Energy Act, as amended, that a proposed export of a reactor or special nuclear material would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the American public. In making this finding, other matters, including our relations with the proposed recipient country and the availability of alternative sources, may be considered.

QUESTION 8:

What role will the Commission have in reviewing exports under agreements for cooperation renegotiated to meet the detailed requirements of the Non-Proliferation Act and which have been approved by the President and the Congress? Do Commission regulations provide for any expedited or streamlined review procedure for reactors or fuel?

ANSWER:

There will be no fundamental changes in the Commission's review procedures for exports under new or renegotiated agreements for cooperation. However, it is anticipated that, in many instances, it will be possible to expedite the review of exports under new or renegotiated agreements because of the anticipated elimination of the need to obtain special assurances or perform special analyses for those cases in which existing agreements do not fully meet NNPA requirements. While NRC's regulations do not specifically provide for expedited or streamlined review procedures for exports under new agreements, they do provide an adequate basis for such expedited review where conditions warrant. It is clear that future routine reactor and fuel exports under new or renegotiated agreements for cooperation which meet the provisions of Section 123a., as amended by the NNPA, will permit expedited review procedures and the Commission is prepared to implement such steps.




cc: JDL
MAG
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May 23, 1977

OFFICE OF THE
SECRETARY


MEMORANDUM FOR: Lee V. Gossick, Executive
Director for Operations

FROM: Samuel J. Chilk, Secretary 

SUBJECT: PROPOSED LICENSE TO EXPORT A POWER REACTOR TO YUGOSLAVIA
(APPLICATION NO. XR-107)

This is to advise you that the Commissioners have accepted your recommendation that a license be issued to Westinghouse Electric Corporation for export to Yugoslavia of a pressurized water power reactor. Commissioner Kennedy was not locally available; however, he had been aware of the details pertaining to the proposed license prior to his departure. When apprised by telephone of the submission of the license application to the Commissioners for approval, he concurred in the issuance of the license.

The Office of International Programs was informed of this action on May 20, 1977.

CC:
Commissioners
Commission Staff Offices
Director, International Programs 
Public Document Room

CHRONOLOGY OF XSNM-1194

Export of 377,600 kilograms of uranium enriched to 4% U-235 for the Laguna Verde reactors in Mexico.

<u>ACTION</u>	<u>DATE</u>
Received application of 8/31/77 from General Electric Company	09/06/77
Forwarded application to Executive Branch for views	09/13/77
Received letter of 4/5/78 from applicant expressing concern over delays in obtaining license - request license by September 1, 1978	04/11/78
Sent response letter to applicant advising that both the State Department and the NRC are aware of G.E.'s concerns and that steps are being expedited to obtain the assurances necessary for completion of Executive Branch review	04/27/78
Note to file from discussion at the meeting of the Subgroup on Nuclear Export Cooperation (SNEC) that it was doubtful that case could be approved by the Executive Branch before September due to sensitive discussions involving U.S. and Mexican cooperation on nonproliferation matters.	05/12/78
Received memo from NRC's Office of Nuclear Material Safety and Safeguards stating there was no information available on physical security protection in Mexico	08/01/78
Received memo from NRC's Office of Nuclear Material Safety and Safeguards on U.S. team visit to Mexico	10/27/78
Received copy of cable from U.S. Embassy in Vienna reporting that export would come under the US-IAEA Agreement for Cooperation	12/12/78
Received letter from State Department regarding NRC's inquiry on the status of IAEA Safeguards facility attachments for the Laguna Verde reactors. State has requested this information from the IAEA.	12/29/78
Received favorable Executive Branch views recommending issuance of license	12/29/78
Received copy of memo to Commissioners from NRC's Office of Policy Evaluation which conveys Executive Branch interest in prompt consideration and notes that the President will be visiting Mexico shortly	12/29/78

<u>ACTION</u>	<u>DATE</u>
Staff forwarded Commission action paper SECY-79-121 (attached) with recommendation for approval	02/14/79
Commissioner Kennedy concurs	02/14/79
Forwarded to Commission NRC's Office of Nuclear Material Safety and Safeguards technical analysis of IAEA Safeguards implementation in Mexico, SECY-79-121A (classified)	02/21/79
Staff forwarded Commission information paper, SECY-79-121B which informs that facility attachments for the Laguna Verde reactors have not been completed; however, IAEA interim safeguards will be applied to the exported material until facility attachments are completed	02/26/79
Commissioner Bradford concurs with comments (see attached) concerning approval of multiple reloads and whether criteria 4 and 5 of the NNPA are met	02/27/79
Chairman Hendrie concurs	02/28/79
Commissioner Ahearne concurs with comments (see attached) concerning whether criteria 4 and 5 of the NNPA are met	03/01/79
Commissioner Gilinsky concurs	03/01/79
Received letter of 2/28/79 from State Department enclosing IAEA report on physical security review team visit to Mexico and reaffirms the Executive Branch judgment that physical security measures are adequate in Mexico to protect the material under this export	03/01/79
License XSNM-1194 issued	03/02/79
Received copy of memo to Commissioners dated 3/1/79 from NRC's Office of the General Counsel (OGC) responding to Commissioner Gilinsky's questions on adequacy of Mexican assurances regarding US approval rights over the retransfer of US-origin material to Mexico. OGC replied that the US has a right of prior approval over any retransfer of US-supplied or produced material and the note providing these assurances is binding and legally enforceable by the US.	03/06/79
Received copy of memo to Commissioners dated 3/1/79 from NRC's Office of Policy Evaluation (OPE) responding to Commissioner Gilinsky's questions on the adequacy of assurances provided by Mexico. OPE believes that Mexico agrees that US and IAEA approval must be secured before any retransfer can occur.	03/06/79

<u>ACTION</u>	<u>DATE</u>
Received SECY memorandum of Commissioner approval (see attached)	03/27/79
Received telex from applicant requesting an amendment to the license to reflect a recent change in the organization of Mexican government agencies.	03/28/79
XSNM-1194, Amendment No. 1 issued to reflect change in name of ultimate consignee.	04/03/79
Received letter dated 3/28/79 from G.E. requesting amendment as stated in the 3/28/79 telex.	03/05/79

February 14, 1979

Margo
RC
see 1-19-79

For: The Commissioners

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

Thru: Executive Director for Operations (Signed) Lee V. Gossick

Subject: PROPOSED LICENSE TO EXPORT LOW-ENRICHED URANIUM
TO MEXICO (XSNM-1194)

Review Dates: 60-day period expires on February 27, 1979
120-day period expires on April 28, 1979

Discussion: In August 1977, General Electric Company applied for a license to export 377,600 kilograms of uranium as uranium dioxide enriched to a maximum of 4 percent U-235, to be used as the initial cores and 5 subsequent reloads each for the Laguna Verde Reactors Units I and II. General Electric will fabricate the material. The Laguna Verde Reactors, Units I and II are 1,931 megawatt thermal, boiling water reactors scheduled to begin regular power operation in 1981 and 1982, respectively.

Following a request from the Executive Branch that the NRC give prompt consideration to this proposed license, Executive Branch views of December 29, 1978 on this proposed export were forwarded to the Commission by the Director, Office of Policy Evaluation on December 29, 1978 and January 4, 1979.

The Executive Branch has expressed concern that any significant delay in consideration of this export beyond December 31, 1978 could adversely affect US-Mexican relations and Mexican support for shared nonproliferation goals. It also advises that the Mexican Commission Federal de Electricidad is liable for leased space storage charges after December 31 at the rate of \$30,000 to \$40,000 per month. The applicant has also expressed strong urgency for this export.

Contact:
W. Upshaw (492-8155)
G. Oplinger (492-7866)

Since Mexico and the United States do not have a bilateral Agreement for Cooperation concerning civil uses of atomic energy, this material would be provided pursuant to the US-IAEA Agreement for Cooperation, the Project Agreement between the Agency and Mexico, and the IAEA-Mexico-U.S. Supply Agreements (Appendix B). Confirmation of the applicability of the U.S.-IAEA bilateral to the proposed export was provided in a December 7, 1978 cable by the IAEA Secretariat [IAEA Vienna cable 11104]. Further, applicability of the IAEA-Mexico Project and Supply Agreements was confirmed by Note No. 2065 from the Permanent Mission of Mexico to the IAEA dated November 17, 1978 (Appendix B). As the Executive Branch has advised, the Project Agreement between the Agency and Mexico, in the preamble cites the U.S.-IAEA Agreement for Cooperation as the authority under which the Project Agreement and the Supply Agreements with Mexico are concluded.

The staff has reviewed the subject application in light of the considerations below.

Safeguards. The export will be subject to IAEA safeguards. As a party to the Nonproliferation Treaty (NPT), Mexico has undertaken an obligation to accept IAEA safeguards on all source or special fissionable material in all peaceful nuclear activities within the territory of Mexico, under its jurisdiction, or carried out under its control anywhere. The Department of State memorandum of December 29, 1978 notes that the IAEA-Mexico safeguards agreement has come into force. By letter of December 29, 1978 the Department of State, in response to an NRC request, advised that the IAEA, through the U.S. Mission in Vienna, has been requested to provide information concerning the status of IAEA safeguards Facility Attachments for the Laguna Verde Units I and II.

Further, the Department of State has stated that the IAEA Secretariat has noted in its Special Safeguards

Implementation Report that with regard to nuclear material subject to IAEA safeguards, while some deficiencies exist in the system, no diversion of a significant quantity of nuclear material was detected in any of the 45 states in which inspections were carried out. Although recognizing the need to correct existing deficiencies in safeguards implementation, the Executive Branch has no reason to believe that the IAEA Secretariat's report is not valid. In light of this and other factors associated with the proposed export, the Executive Branch believes the framework of commitments, assurances, and safeguards is adequate for the purpose of this export.

No Nuclear Explosive Use. As a party to the NPT, Mexico has pledged not to manufacture or otherwise acquire any nuclear weapon or other nuclear explosive devices. Further, under the Safeguards Agreement, Mexico is precluded from engaging in any research and development on any nuclear explosive device involving any US-supplied material or facilities or any special nuclear material derived therefrom.

In addition, pursuant to Article IV of the Project Agreement, Mexico has guaranteed that no material or equipment transferred thereunder and no special nuclear material produced therefrom, will be used in such a way as to further any military purpose.

Therefore, the staff believes Criterion (2) of the NNPA is met.

Physical Security. Mexico has established physical security measures which, as a minimum, meet the requirements recommended in the IAEA's INFCIRC/225/Rev. 1.

Mexico has further advised in its note of November 17, 1978, that the Government of Mexico, in carrying out its nuclear program, will ensure that means of physical protection providing a level of protection comparable to that laid down in IAEA document INFCIRC/225/Rev. 1 will be maintained for all nuclear materials and installations under its jurisdiction.

In view of this, the staff believes that Criterion (3) of the NNPA is met.

Retransfer and Reprocessing

- . Retransfer. Criterion (4) of the NNPA requires, among other things, that prior approval of the United States be obtained for the retransfer of US-supplied material, facilities or sensitive technology, and special nuclear material.
- . Reprocessing. Criterion (5) of the NNPA requires that the U.S. be given the right of prior approval over the reprocessing of US-supplied material and SNM produced through the use of such material.

Under the terms and conditions of the U.S.-IAEA Agreement for Cooperation the United States does not have the right of prior approval for such retransfers. Such rights were granted to the United States as one of the subscribing parties by the Note dated November 17, 1978 from the Permanent Mission of Mexico which states: "The Government of Mexico wishes to inform you that it does not for the moment contemplate the transfer to another country of any of the equipment or material's supplied under said agreements. If in the national interest, the Government of Mexico wishes to make a transfer in accordance with these Agreements, such transfer will be made on the basis of agreements subscribed to by the parties concerned (the Government of Mexico, the IAEA, and the United States of America)."

Mexico also advised that with regard to any nuclear fuel provided under the Supply Agreements and irradiated in the Laguna Verde Reactor Units I and II, plans would be made to enlarge its temporary installations for irradiated fuel storage so that Mexico may temporarily store the fuel for an adequate period for possible subsequent use. After this temporary storage, the irradiated fuel would be disposed of in one of the following possible ways:

"(A) Storage in Mexico.

- "(B) Storage in another country concerned; under agreements subscribed to by the parties.
- "(C) Processing or other utilization under agreements subscribed to by the parties concerned."

Since U.S. agreement is required, as a subscribing party, either for retransfer of the proposed export or for SNM produced through its use, it is the staff's view that Criterion (4) is met.

As discussed in Criterion (4), the Government of Mexico plans to store irradiated fuel in Mexico and does not plan to store spent fuel abroad or to process in any way spent fuel except through agreements to which other parties (i.e. the IAEA and the U.S.) subscribe. Therefore, it's the staff's view that Criterion (5) is met.

Sensitive Technology. The proposed export does not involve sensitive technology.

The staff is of the opinion that Mexico meets Criteria (1), (2), (3), (4), and (5) of Section 17 of the Atomic Energy Act of 1954, as amended by the NNPA, or their equivalent. With regard to Section 128a(1), Mexico as a party to the NPT, has agreed to accept IAEA safeguards with respect to all its peaceful nuclear activities. All peaceful nuclear activities in Mexico are currently subject to IAEA safeguards. The staff, therefore, believes this Criterion is met.

In light of the above, the staff concludes that issuance of the proposed license would be consistent with the NNPA.

In view of all the considerations above, and as required by Section 57 of the Atomic Energy Act and 10 CFR 110.44 the staff has concluded that the export to be made pursuant to the proposed license (1) would be subject to the terms and conditions of the U.S.-IAEA Agreement for Cooperation and the Project Agreement between the IAEA and Mexico and the IAEA-Mexico-U.S. Supply Agreements, and (2) would not be inimical to the common defense and security of the United States or constitute an unreasonable risk to the public health and safety.

As the Commission is aware, the Executive Branch is presently considering guidelines for the provision of multiple reloads. The instant case involves the transfer of an initial core loading and five reloads each for Laguna Verde Units I and II. This transfer would meet statutory requirements in that all peaceful nuclear activities in Mexico are subject to IAEA safeguards. Further, as a party to the NPT, Mexico meets the most stringent conditions presently under consideration for multiple reload approval by the Executive Branch. The staff therefore believes it is appropriate to provide this material, i.e., the initial core loadings and multiple reloads, as requested.

The following documents are forwarded for Commission review of the subject application: (1) Executive Branch views of December 29, 1978 recommending issuance of the license (Appendix A); (2) copies of appropriate agreements and related correspondence (Appendix B); (3) Technical Analysis (Appendix C) CLASSIFIED to be provided under separate cover; (4) application of August 31, 1977 (Appendix D); and (5) copy of the proposed license (Appendix E).

NMSS Technical Review

NMSS has received no information concerning IAEA implementation activities and problems other than that included in the

1976 SSIR and 1977 SIR. Appendix C provides a technical analysis of that information and relates NMSS conclusions to this particular export application. The primary conclusion of the NMSS examinations is that the available information on IAEA implementation is not sufficient to permit NMSS to evaluate the effectiveness of IAEA safeguards in Mexico. However, NMSS believes that it is improbable that the IAEA encountered any major problems that would have seriously impacted on the effectiveness of IAEA verification.

NMSS has received no information concerning the Mexican State System of Accounting and Control.

With respect to physical security, NMSS has reviewed the program in Mexico and found it adequate for the purpose of this export.

Recommendation: That the Commission note the urgency expressed by the Executive Branch and the applicant and that the proposed license be issued to General Electric Company promptly.

Coordination: DELD has no legal objection. NMSS views on the adequacy of the State's physical protection and material control and accounting programs and the effectiveness of IAEA safeguards in Mexico are as stated above. Further, NMSS has advised that in October 1978 a US Government physical security review team, under the auspices of the IAEA, visited the Laguna Verde site. The report of the visit indicated that physical security measures employed at Laguna Verde met or exceeded the requirements of 10 CFR 110.43.

1/5/79
James R. Shea
James R. Shea, Director
Office of International Programs

Enclosures:

1. Appendix A - Executive Branch analysis dtd 12/29/78
2. Appendix B - agreements and correspondence
3. Appendix C - Technical Analysis CLASSIFIED (to be provided under separate cover)
4. Appendix D - application d d 8/31/77
5. Appendix E - copy of proposed license

IPEI
Lee/Moore
2/1/79

OFFICE →	IPEI	IPEI	NMSS	ELD	IP	ELI
SURNAME →	W Upshaw	GG Oplinger	<i>Cl...</i>	J Becker	JR Shea	LV Gossick
DATE →	2/13/79	2/13/79	2/1/79	2/13/79	2/10/79	2/16/79

NOTE: Commissioner comments should be provided directly to the Office of the Secretary, by c.o.b. _____.

Commission staff office comments, if any, should be submitted to the Commissioners NLT _____, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION:

Commissioners
Commission Staff Offices
Exec. Dir. for Operations
Secretariat

APPENDIX A



DEPARTMENT OF STATE

Washington, D.C. 20520

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

1978 DEC 29 AM 9 40

December 29, 1978

RECEIVED
EXPORT/IMPORT
AND
INTERNATIONAL AFFAIRS

XSNM01194
70-2693

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 Mexico. 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 application has concluded that the requirements of the Atomic Energy Act, as amended, 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, the terms of the US-IAEA Agreement for Cooperation are met and Mexico has adhered to the provisions of its Supply Agreements with the International Atomic Energy Agency and the United States and its project agreement with the Agency.

Therefore, the Executive Branch recommends issuance of the requested export license.

Urgent consideration of this case by the Commission would be appreciated in view of the fact that the Mexican Comision Federal de Electricidad is liable for leased space storage charges for any delay in export beyond December 31, 1978 at the rate of \$30,000 to \$40,000 per month. We are concerned that any significant delay in consideration of this export beyond this date could adversely affect US-Mexican relations and Mexican support for our shared non-proliferation goals.

Louis V. Nosenzo

Louis V. Nosenzo
Deputy Assistant Secretary

Enclosure
As stated

XSNM-1194

Country

Mexico

Transaction:

The export of 9,691 kilograms of U-235 contained in 377,600 kilograms of uranium in the form of uranium dioxide enriched to a maximum of 4 percent U-235

Applicant:

General Electric Company

Application Date:

August 31, 1977

Purpose of Export

This low-enriched uranium dioxide will be fabricated into clad fuel rods and assembled into fuel bundles by General Electric for initial core loading to the Comision Federal de Electricidad's Laguna Verde nuclear power reactors, Units 1 and 2 located in the State of Veracruz. This application also allows for five reloads for each of the two units. Laguna Verde Units 1 and 2 are 1931 megawatt thermal General Electric boiling water reactors which are scheduled to begin regular power operation in 1981 and 1982 respectively. Each unit will be initially loaded with 444 fuel bundles containing approximately 81,000 kilograms of uranium. Average U-235 enrichment of the highest enrichment bundle in the initial core will be slightly over 2 percent.

After the first reload of 148 bundles, standard reload for each reactor unit under normal operating conditions of approximately 12 month intervals will be about 112 bundles containing approximately 20,400 kilograms of uranium.

Fabrication and packing for shipment will be performed at General Electric's Wilmington, North Carolina, fuel fabrication plant. Their initial shipment is scheduled for December 1978, subject to timely issuance of the export license.

1. Applicable Agreement for Cooperation

There is no bilateral Agreement for Cooperation between the Government of the United States and the Government of Mexico; therefore, this export of fuel is to take place pursuant to the U.S.-IAEA Agreement for Cooperation and the Project Agreement between the Agency and Mexico and IAEA-Mexico-U.S. Supply Agreements (copies enclosed). The applicability of the US-IAEA Agreement was confirmed December 7, 1978 by the IAEA Secretariat (U.S.-IAEA Vienna 11104). The applicability of the IAEA-Mexico Project and Supply Agreements has been confirmed by Note No. 2065 from the Permanent Mission of Mexico dated November 17, 1978, a copy of which is enclosed. The Project Agreement between the Agency and Mexico in the preamble cites the U.S.-IAEA Agreement for Cooperation as the authority under which the Project Agreement and the Supply Agreement with Mexico are concluded. Therefore the Mexican confirmation of applicability of the Project and Supply Agreements includes by reference the U.S.-IAEA Cooperation Agreement.

The Government of Mexico has adhered to all provisions of its Agreements.

2. Extent to Which Export Criteria Are Met

A. Section 127 Criteria

As provided in Section 127 of the Atomic Energy Act, the following criteria govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

Criterion (1)

"IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable Agreement for Cooperation, and to any special nuclear material used in or produced through the use thereof."

Mexico is a party to the Non-Proliferation Treaty (NPT) and the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco). A safeguard agreement between Mexico and the IAEA pursuant to the NPT entered into force on September 14, 1973 and under that agreement safeguards are being applied.

Therefore, it is the Executive Branch view that criterion (1) is met.

Criterion (2)

"No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable Agreement for Cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device."

Pursuant to Article IV of the Project Agreement, Mexico has guaranteed that no material or equipment transferred thereunder and no special nuclear material produced therefrom, will be used in such a way as to further any military purpose. Mexico, as a party to the NPT, has pledged not to manufacture or otherwise acquire any nuclear weapon or other nuclear explosive devices. Further, in accordance with the Safeguards Agreement, Mexico is precluded from engaging in any research and development on any nuclear explosive device involving any US-supplied material or facilities or any special nuclear material derived therefrom. No sensitive nuclear technology has been exported to Mexico subject to the Agreement.

Since this pledge will apply to the proposed export and to any special nuclear material produced through its use, it is the view of the Executive Branch that criterion (2) is met.

Criterion (3)

"Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to Section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations."

Mexico has established physical security measures which, as a minimum, meet those recommended in the IAEA's INFCIRC/225/Rev.1, "The Physical Protection of Nuclear Material".

In its note of November 17, 1978, the Permanent Mission of Mexico provided the following written assurance regarding physical security to the IAEA:

"Moreover, the Government of Mexico has decided to ensure in carrying out its nuclear program that means of physical protection providing, as a minimum, a level of protection comparable to that laid down in IAEA document INFCIRC/225/Revision 1 are maintained for all nuclear materials and installations under its jurisdiction."

Therefore, it is the view of the Executive Branch that criterion (3) is met.

Criterion (4)

"No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section."

The U.S.-IAEA Agreement for Cooperation does not give the United States the right of prior approval for such retransfers. However, such rights were granted to the United States as one of the subscribing parties by the Note dated November 17, 1978 from the Permanent Mission of Mexico which provides: "the Government of Mexico wishes to inform you that it does not for the moment contemplate the transfer to another country of any of the equipment or materials supplied under the said Agreements. If in the national interest, the Government of Mexico wishes to make a transfer in accordance with these Agreements, such transfer will be made on the basis of agreements subscribed to by the parties concerned (the Government of Mexico, the IAEA, and the United States of America)."

"With regard to the nuclear fuel provided under the Supply Agreements and irradiated in the Laguna Verde Reactor Units 1 and 2, the Government of Mexico in order to store this irradiated fuel for an adequate period with a view to possible subsequent use and, in this connection plans to enlarge its temporary installations for irradiated-fuel storage after this temporary storage, the Government Facility of Mexico will dispose of the irradiated fuel in one of the following possible ways:

- "(A) Storage in Mexico;
- "(B) Storage in another country concerned; under agreements subscribed to by the parties;
- "(C) Processing or other utilization under agreements subscribed to by the parties concerned."

As the agreement of the United States as one of the subscribing parties is required either for retransfer of

the proposed export or for special nuclear material produced through its use (in irradiated fuel), it is the view of the Executive Branch that criterion (4) is met.

Criterion (5)

"No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration."

As discussed under Criterion (4), the Mexican Note of November 17, 1978, provides that:

"With regard to the nuclear fuel provided under the Supply Agreements and irradiated in the Laguna Verde Reactor Units 1 and 2, the Government of Mexico intends to store this irradiated fuel for an adequate period with a view to possible subsequent use and, in this connection plans to enlarge its temporary installations for irradiated-fuel storage facilities. After this temporary storage, the Government of Mexico will dispose of the irradiated fuel in one of the following possible ways:

- "(A) Storage in Mexico;
- "(B) Storage in another country by under agreements subscribed to by the parties concerned;
- "(C) Processing or other utilization under agreements subscribed to by the parties concerned."

Pursuant to the Note, the Government of Mexico has undertaken only to store irradiated fuel in Mexico and will not undertake to store spent fuel abroad or to process in any way spent fuel except through agreements to which other parties (i.e. the IAEA and the USG) subscribe. Therefore, it is the view of the Executive Branch that Criterion (5) is met.

Criterion (6)

"No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology."

The proposed export does not involve the transfer of sensitive nuclear technology. Criterion (6) is, therefore, not applicable.

B. Section 128 Criterion

Section 128 a.(1) of the Atomic Energy Act establishes the following additional criterion: "As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology 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."

As a party to the NPT, Mexico has agreed to accept IAEA safeguards with respect to all its peaceful nuclear activities. All peaceful nuclear activities in Mexico are currently subject to IAEA safeguards. Therefore, this criterion is met.

3. Additional Factors

A. Safeguards Implementation

The IAEA Secretariat has noted in its Special Safeguards Implementation Report that with regard to nuclear material subject to IAEA safeguards, while some deficiencies exist in the system, no diversion of a significant quantity of nuclear material was detected in any of the 45 states in which inspections were carried out. Although recognizing the need to correct existing deficiencies in safeguards implementation, the Executive Branch has no reason to believe that the IAEA Secretariat's report is not valid. In the light of this and other factors associated with the proposed export, the Executive Branch believes the framework of commitments, assurances, and safeguards is adequate for the purpose of this export.

B. Special Non-Proliferation and Other Foreign Policy Considerations

The Government of Mexico has taken an active and constructive role in international non-proliferation and nuclear disarmament matters. It is one of the earlier ratifying nations of the NPT, a major force behind establishment of the Treaty of Tlatelolco, and has been a helpful participant in the INFCE. Mexico plays a major and influential role among non-aligned nations in international organizations, including the IAEA. In view of these factors, the Executive Branch feels that it is particularly important from both a non-proliferation and political standpoint -- now that our negotiations have been successfully completed -- that issuance of this license not be further delayed.

4. Inimicality Judgment

Based on review of the proposed export, it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security, and that the license should be issued.



DEPARTMENT OF STATE

Washington, D.C. 20520

MEXICO

XSNM 1194

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

December 29, 1978

Mr. Gerald G. Oplinger
Assistant Director
Export/Import and International Safeguards
Office of International Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Oplinger:

In regard to Commission interest as to the status of IAEA safeguards Facility Attachments, this is to confirm that we have requested the IAEA through U.S. Mission Vienna to provide such information for the Laguna Verde Power Station Units 1 and 2.

The Commission will be informed of the Agency response as soon as it is received.

Sincerely,

Dixon B. Hoyle, Director
Office of Export and Import Control

APPENDIX B

5 11/11/74

1111



International Atomic Energy Agency

INFORMATION CIRCULAR

INFCIRC/203

5 April 1974

GENERAL Distr.

ENGLISH

Original: ENGLISH
and SPANISH

THE TEXTS OF THE INSTRUMENTS CONCERNING THE AGENCY'S ASSISTANCE
TO MEXICO IN ESTABLISHING A NUCLEAR POWER FACILITY

1. The texts [1] of the Supply Agreement between the Agency and the Governments of Mexico and the United States of America, and of the Project Agreement between the Agency and the Government of Mexico concerning the Agency's assistance to that Government in establishing a nuclear power facility, are reproduced herein for the information of all Members.

2. The Agreements entered into force on 12 February 1974, pursuant to Articles VIII and IX respectively.

[1] The footnotes to the texts have been added in the present information circular.

I. SUPPLY AGREEMENT

AGREEMENT FOR THE SUPPLY OF URANIUM ENRICHMENT SERVICES FOR A NUCLEAR POWER FACILITY IN MEXICO

WHEREAS the Government of the United Mexican States (hereinafter called "Mexico"), desiring to set up a nuclear power project consisting of a boiling-water reactor with a rated generating capacity of 650 MW(e), has requested the assistance of the International Atomic Energy Agency (hereinafter called the "Agency") in securing, among other things, the supply of uranium enrichment services for the project during the lifetime of the reactor;

WHEREAS Mexico desires to obtain such services from the United States Atomic Energy Commission (hereinafter called the "Commission");

WHEREAS the Commission is willing to provide such services through the Agency, pursuant to the Agreement for Co-operation between the Agency and the Government of the United States of America as amended (hereinafter called the "Co-operation Agreement") [2], and under the terms and conditions particularly set forth in a long-term, fixed-commitment contract to be concluded between the Commission and the Mexican National Nuclear Energy Institute and the Mexican Federal Electricity Commission acting on behalf of Mexico (hereinafter called the "Long-Term Contract"); and

WHEREAS the Board of Governors of the Agency approved the project on 12 February 1974, and the Agency and Mexico are this day concluding an agreement for the provision by the Agency of the assistance requested by Mexico (hereinafter called the "Project Agreement") [3];

NOW, THEREFORE, the Agency, the Commission acting on behalf of the Government of the United States of America and Mexico hereby agree as follows:

ARTICLE I

Supply of Uranium Enrichment Services through Long-Term, Fixed-Commitment Contract

1. Subject to the provisions of the Co-operation Agreement, the Commission shall furnish to the Agency for Mexico and Mexico shall purchase, during the period of this Agreement, certain uranium enrichment services in connection with the operation of the Nuclear Power Plant of Laguna Verde, Unit 1, in the State of Veracruz.
2. The particular terms and conditions, including charges and advance payment, for the supply of such enrichment services shall be specified in the Long-Term Contract in implementation of this Agreement. As provided for thereunder, the Commission and Mexico shall agree upon (a) a schedule of enrichment services specifying the number of units of separative work to be furnished by the Commission and purchased by Mexico for delivery during an initial firm period beginning in 1976 and ending in 1986; and

[2] The Co-operation Agreement is reproduced in document INFCIRC/5, part III; the amendments will be reproduced in document INFCIRC/5/Mod. 1.

[3] Part II of this document.

(b) procedures for reaching agreement upon a material schedule specifying the quantities (kgU), assays (weight per cent ²³⁵U) and times of deliveries of material other than natural uranium proposed to be delivered by Mexico, and of enriched uranium proposed to be delivered by the Commission upon performance of the enrichment services for the initial firm period and thereafter.

ARTICLE II

Payment

1. Mexico shall pay the Commission all charges for enrichment services provided hereunder, including other charges connected therewith and advance payment therefor, in accordance with the provisions of the Long-Term Contract.

2. It is recognized that in extending its assistance for the project the Agency is not hereunder providing any guarantees or assuming any financial responsibility in connection with the supply of enrichment services by the Commission to Mexico.

ARTICLE III

Delivery - Title

(a) All material delivered by the Commission to Mexico pursuant to the Long-Term Contract will be delivered to Mexico, f. o. b. commercial conveyance, at the Commission facility from which such material is to be furnished, in accordance with the Long-Term Contract. Title to such material shall pass to Mexico upon such delivery.

(b) All arrangements for the export from the United States of America of material delivered by the Commission to Mexico shall be the responsibility of Mexico, provided that the Government of the United States of America shall take all appropriate steps to facilitate the issuance of any required licences or permits. Prior to the export of such material, Mexico shall notify the Agency of the amount thereof and of the date and method of shipment. At such time as the material leaves the jurisdiction of the United States of America, title thereto shall pass from Mexico to the Agency and shall thereafter immediately and instantaneously pass back to Mexico.

2. All material delivered or returned to the Commission hereunder and pursuant to the provisions of the Long-Term Contract shall be delivered to the Commission, at the Commission facility or facilities to be designated by the Commission in accordance with the Long-Term Contract. Title to such material shall pass to the Commission upon delivery at such facility or facilities.

ARTICLE IV

Responsibility

1. Neither the United States, nor the Commission, nor any person acting on behalf of the Commission shall bear any responsibility for the safe handling and use of materials delivered pursuant to Section 1 of Article III.

2. Neither the Agency nor any person acting on its behalf shall at any time bear any responsibilities towards Mexico or any person claiming through Mexico for the safe handling and the use of such materials.

ARTICLE V

Officials not to Benefit

No Member of the Congress of the United States of America or Resident Commissioner of the United States of America shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

ARTICLE VI

Termination - Suspension - Amendment

1. In the event of termination or suspension of the Long-Term Contract as provided for thereunder, the Commission and Mexico shall jointly notify the Agency of the date on which such termination or suspension is effective. This Agreement shall be terminated or suspended as provided in such notice. It is agreed by Mexico and the Agency that any such termination or suspension shall be without prejudice to the implementation of the rights and responsibilities of the Agency under the Project Agreement.

2. In the event the Long-Term Contract is amended as provided for thereunder, the Commission and Mexico shall, by a written notice to the Agency, notify the Agency of the amendment or amendments. At the request of any party to this Agreement, the parties shall consult each other on corresponding amendments to this Agreement as appropriate.

ARTICLE VII

Settlement of Disputes

Any dispute involving the Agency and one or both of the other parties to this Agreement and arising out of the interpretation or application of this Agreement, which is not settled by negotiation or as may otherwise be agreed by the parties concerned, shall on the request of any party be submitted to an arbitral tribunal composed as follows:

- (a) If the dispute involves only two of the parties to this Agreement, all three parties agreeing that the third is not concerned, the two parties involved shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If within thirty (30) days of the request for arbitration either party has not designated an arbitrator, either party to the dispute may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within thirty (30) days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected.
- (b) If the dispute involves all three parties to this Agreement, each party shall designate one arbitrator, and the three arbitrators so designated shall by unanimous decision elect a fourth arbitrator, who shall be the Chairman, and a fifth arbitrator. If within thirty (30) days of the request for arbitration any party has not designated an arbitrator, any party may request the President of the International Court of Justice to appoint the necessary number of arbitrators. The same procedure shall apply if, within thirty (30) days of the designation or appointment of the third of the first three arbitrators, the Chairman or the fifth arbitrator has not been elected.

A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall be made by majority vote. The arbitral procedure shall be established by the tribunal, whose decisions, including all rulings concerning its constitution, procedure, jurisdiction and the division of the expenses of arbitration between the parties, shall be final and binding on all parties. The remuneration of the arbitrators shall be determined on the same basis as that of ad hoc judges of the International Court of Justice.

ARTICLE VIII

Entry into Force - Duration

This Agreement shall enter into force upon signature by or for the Director General of the Agency and by the authorized representatives of the Commission and Mexico, and shall remain in force for the period of the Long-Term Contract or for a period of thirty two (32) years, whichever is greater, provided that the period of this Agreement shall in no event extend beyond the period during which the Co-operation Agreement is in force.

ARTICLE IX

Agreement for Co-operation

This Agreement, as well as the Long-Term Contract, shall be subject to and in accordance with the Co-operation Agreement, as it may be amended.

DCNE in Vienna, on the twelfth day of February 1974, in triplicate in the English and Spanish languages, both texts being equally authentic.

For the INTERNATIONAL ATOMIC ENERGY AGENCY:

(signed) Sigvard EKLUND

For the GOVERNMENT OF THE UNITED MEXICAN STATES:

(signed) Fernando ALBA ANDRADE

For the UNITED STATES ATOMIC ENERGY COMMISSION
on behalf of the GOVERNMENT OF THE UNITED STATES OF AMERICA:

(signed) William O. DOUB

II. PROJECT AGREEMENT

AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE GOVERNMENT OF THE UNITED MEXICAN STATES FOR ASSISTANCE BY THE AGENCY IN ESTABLISHING A NUCLEAR POWER FACILITY

WHEREAS the Government of the United Mexican States (hereinafter called "Mexico"), desiring to establish a nuclear power project for the production of electricity, has requested the assistance of the International Atomic Energy Agency (hereinafter called the "Agency") in securing a nuclear power reactor which Mexico desires to purchase from a manufacturer in the United States of America (hereinafter called the "Manufacturer"), and in securing uranium enrichment services for the project;

WHEREAS the Board of Governors of the Agency approved the project on 12 February 1974;

WHEREAS under the Agreement for Co-operation between the Agency and the Government of the United States of America (hereinafter called the "United States"), as amended (hereinafter called the "Co-operation Agreement") [2], the United States undertook to make available to the Agency from time to time quantities of special fissionable material as may be authorized by the United States, and also undertook, subject to various applicable provisions and licence requirements, to permit, upon request of the Agency, persons under the jurisdiction of the United States to make arrangements to transfer and export materials, equipment or facilities for a Member of the Agency in connection with an Agency project; and

WHEREAS the Agency, Mexico and the United States Atomic Energy Commission acting on behalf of the United States are this day concluding an agreement for the supply of uranium enrichment services in connection with the project (hereinafter called the "Supply Agreement") [4];

NOW, THEREFORE, the Agency and Mexico hereby agree as follows:

ARTICLE I

Definition of the Project

The project to which this Agreement relates is the establishment of the Nuclear Power Plant of Laguna Verde, located near Alto Lucero, State of Veracruz, consisting of a boiling-water reactor with a rated core power output of 1931 MW(th) and a rated generating capacity of 630 MW(e) (hereinafter called the "reactor"), to be operated by the Mexican Federal Electricity Commission.

ARTICLE II

Supply of Reactor and Uranium Enrichment Services

1. The Agency, pursuant to Article IV of the Co-operation Agreement, shall request the United States to permit the transfer and export to Mexico of the reactor, together with components and spare parts, manufactured in accordance with a contract between Mexico and the Manufacturer.

[4] Part I of this document.

2. The Agency hereby agrees to allocate to the project defined in Article I, and to provide to Mexico enriched uranium (hereinafter called the "supplied material") obtained from the performance of uranium enrichment services pursuant to the terms of the Supply Agreement, which constitutes an integral part of this Agreement to the extent that it creates rights and obligations between the Agency and Mexico.

3. It is understood by the Agency and Mexico that this Agreement shall apply to any additional assistance provided by the Agency to Mexico for the project.

ARTICLE III

Shipment of the Supplied Material

Any part of the supplied material, the shipment of which is arranged by Mexico after title thereto has passed to Mexico in accordance with the Supply Agreement, shall, while the material is in the United States of America, be entrusted to a carrier selected by Mexico and acceptable to the United States Atomic Energy Commission. After export from the United States of America, such material shall be entrusted to a licensed public carrier selected by Mexico or shall be accompanied by a responsible person designated by Mexico.

ARTICLE IV

Agency Safeguards

1. Mexico undertakes that the reactor and any nuclear material contained, used, produced or processed in or by the use of the reactor shall not be used in such a way as to further any military purpose.

2. It is specified that the safeguards rights and responsibilities of the Agency provided for in paragraph A of Article XII of its Statute are relevant to the project, and that their implementation is satisfied by the application of safeguards procedures pursuant to the Agreement between the United Mexican States and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Treaty on the Non-Proliferation of Nuclear Weapons, signed on 27 September 1972 and which entered into force on 14 September 1973 [5]. If the said Agreement is terminated, the safeguards rights and responsibilities of the Agency shall be implemented pursuant to the Agreement between the International Atomic Energy Agency and Mexico for the Application of Safeguards under the Treaty for the Prohibition of Nuclear Weapons in Latin America, signed on 8 September 1968 and which entered into force on that date [6]. However, if both Agreements are terminated, the safeguards rights and responsibilities of the Agency provided for in paragraph A of Article XII of its Statute shall be implemented in accordance with arrangements which will supplement this Agreement, which shall be agreed forthwith by the Agency and Mexico and shall be based on the then effective Agency's safeguards system applicable to Agency projects, including provisions with respect to Agency inspectors; pending agreement on such arrangements, the Agency will apply safeguards in accordance with the procedures provided for in that system.

[5] Reproduced in document INFCIRC/197

[6] Reproduced in document INFCIRC/118.

ARTICLE V

Health and Safety Measures

The health and safety measures specified in the Annex to this Agreement shall apply to the project.

ARTICLE VI

Agency Inspectors

The relevant provisions of the Agreement between the United Mexican States and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Treaty on the Non-Proliferation of Nuclear Weapons shall apply to Agency inspectors performing functions pursuant to this Agreement.

ARTICLE VII

Languages

All reports and other information required for the application of this Agreement shall be submitted to the Agency in one of the working languages of the Board of Governors of the Agency.

ARTICLE VIII

Settlement of Disputes

1. Any dispute concerning the interpretation or application of this Agreement, which is not settled by negotiation or as may otherwise be agreed, shall be settled in the same manner as that described in Article 22 of the Agreement between the United Mexican States and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Treaty on the Non-Proliferation of Nuclear Weapons.

2. Decisions of the Board of Governors of the Agency concerning the implementation of Article IV, V or VI shall, if they so provide, be given effect immediately by the Agency and Mexico pending the final settlement of any dispute.

ARTICLE IX

Entry into Force

This Agreement shall enter into force upon signature by or for the Director General and by the authorized representative of Mexico.

DONE in Vienna, on the twelfth day of February 1974, in duplicate in the English and Spanish languages, both texts being equally authentic.

For the GOVERNMENT OF THE
UNITED MEXICAN
STATES:

(signed) Emilio O. RABASA

For the INTERNATIONAL ATOMIC
ENERGY AGENCY:

(signed) Sigvard EKLUND

ANNEX

HEALTH AND SAFETY MEASURES

1. The health and safety measures applicable to the project shall be those set forth in Agency document LNF/CIRC/18 (hereinafter called the "Health and Safety Document"), as specified below.
2. Mexico shall apply the Agency's Basic Safety Standards [7] and relevant provisions of the Agency's Regulations for the Safe Transport of Radioactive Materials [8], as these Standards and Regulations are revised from time to time, and shall as far as possible apply them also to any shipment of supplied material outside Mexico. Mexico shall endeavour to ensure safety conditions as recommended in the relevant parts of the Agency's codes of practice on the safe operation of nuclear power plants [9] and on safe reactor design and construction, and of the Agency's guidelines for the organization of regulatory activities for nuclear power reactors and earthquake guidelines for reactor siting [10].
3. Mexico shall arrange for the submission to the Agency, at least six months prior to the proposed transfer of any part of the supplied material to the jurisdiction of Mexico, of a detailed safety report containing the information specified in the Agency's guidelines for the layout and content of safety reports for stationary nuclear power plants [11], with particular reference to the following items to the extent that such information is not yet available to the Agency:
 - (a) Information relating to the site of the nuclear power plant;
 - (b) Summary description of the plant, its principal design criteria, its design bases, and its principal operating characteristics and safety implication;
 - (c) Safety analysis in which individual system and component designs should be evaluated for effects of anticipated disturbances and for susceptibility to component malfunction or failures. The consequences of those anticipated disturbances and possible malfunction or failures should be assessed, and the ability built into the plant to control or accommodate such situations from the viewpoint of safety;
 - (d) Information describing the way in which operation of the plant will be conducted;
 - (e) Receipt and handling of the supplied material;
 - (f) Handling and storage of fuel after unloading from the reactor.

The transfer shall not take place until the Agency has determined that the safety measures described in the report are acceptable. The Agency may require further safety measures in accordance with paragraph 30 of the Health and Safety Document. Should Mexico desire to make substantial modifications to the procedures with respect to which information has

[7] Safety Series No. 9, 1967 Edition (STI/PUB/147).

[8] Ibid., No. 6, 1973 Revised Edition (STI/PUB/323).

[9] Ibid., No. 31, 1969 (STI/PUB/222).

[10] Earthquake Guidelines for Reactor Siting, Technical Reports Series No. 139, 1972 (STI/DOC/10/139).

[11] Safety Series No. 34, 1970 (STI/PUB/272).

been submitted, or to perform any operations with the reactor (including finally closing it down or with the supplied material as to which operations no such information has been submitted, it shall submit to the Agency all relevant information as specified in paragraph 29 of the Health and Safety Document, in sufficient time to enable the Agency to perform its task in accordance with paragraph 30 of the Document, before such modified procedures or additional operations are carried out.

4. Mexico shall arrange for the submission of the reports specified in paragraphs 25 to 27 of the Health and Safety Document.

5. The Agency may inspect the nuclear power plant, in accordance with paragraphs 33 to 35 of the Health and Safety Document, at the pre-construction review and the construction permit stage, once during the first year of operation, and thereafter not more than once a year, provided that special inspections may be carried out in the circumstances specified in paragraph 32 of the Document.

6. Changes may be made to the safety standards and measures laid down in this Annex, in accordance with paragraphs 38 and 39 of the Health and Safety Document.



International Atomic Energy Agency

INFORMATION CIRCULAR

INFCIRC/203/Add.1

31 October 1974

GENERAL Distr.

Original: ENGLISH
and SPANISH

THE TEXTS OF THE INSTRUMENTS CONCERNING THE AGENCY'S ASSISTANCE TO MEXICO IN ESTABLISHING A NUCLEAR POWER FACILITY

A Second Supply Agreement

1. As a sequel to the assistance which the Agency provided to the Government of Mexico in establishing a nuclear power facility [1], a Second Supply Agreement has been concluded between the Agency and that Government.
2. The Agreement entered into force on 14 June 1974, pursuant to Article IX, and the text thereof [2] is reproduced herein for the information of all Members.

[1] Pursuant to the agreements reproduced in document INFCIRC/203.

[2] The footnotes to the text have been added in the present information circular.

SECOND SUPPLY AGREEMENT

AGREEMENT FOR THE SUPPLY OF URANIUM ENRICHMENT SERVICES FOR
A SECOND REACTOR UNIT FOR A NUCLEAR POWER FACILITY IN MEXICO

WHEREAS the Government of the United Mexican States (hereinafter called "Mexico"), desiring to set up a second reactor unit at the Nuclear Power Plant of Laguna Verde, has requested the assistance of the International Atomic Energy Agency (hereinafter called the "Agency") in securing a boiling-water reactor with a rated generating capacity of 650 MW(e), which Mexico desires to purchase from a manufacturer in the United States of America (hereinafter called the "Manufacturer"), and in securing the supply of uranium enrichment services for the reactor during its lifetime;

WHEREAS under the Agreement for Co-operation between the Agency and the Government of the United States of America (hereinafter called the "United States"), as amended (hereinafter called the "Co-operation Agreement") [3], the United States may make available to the Agency from time to time certain additional quantities of special fissionable material and may permit, upon request of the Agency, persons under the jurisdiction of the United States to make arrangements to transfer and export materials, equipment or facilities for a Member of the Agency in connection with an Agency project;

WHEREAS Mexico desires to obtain uranium enrichment services from the United States Atomic Energy Commission (hereinafter called the "Commission");

WHEREAS the Commission is willing to provide such services through the Agency, pursuant to the Co-operation Agreement and under the terms and conditions particularly set forth in a long-term, fixed-commitment contract to be concluded between the Commission and the Mexican National Nuclear Energy Institute and the Mexican Federal Electricity Commission acting on behalf of Mexico (hereinafter called the "Long-Term Contract");

WHEREAS the Agency and Mexico on 12 February 1974 concluded an agreement for assistance by the Agency to Mexico in establishing a first reactor unit at the Nuclear Power Plant of Laguna Verde (hereinafter called the "Project Agreement") [4]; and

WHEREAS the Board of Governors of the Agency approved the project on 13 June 1974;

NOW, THEREFORE, the Agency, the Commission acting on behalf of the United States, and Mexico hereby agree as follows:

ARTICLE I

Amendment of Project Agreement

It is agreed by Mexico and the Agency that:

- (a) Article I of the Project Agreement is hereby amended to include the establishment, at the Nuclear Power Plant of Laguna Verde, located near Alto Lucero, State of Veracruz, of a second boiling-water reactor with a rated core power output of 1931 MW(th) and a rated generating capacity of 650 MW(e) (hereinafter called the "reactor"), to be operated by the Mexican Federal Electricity Commission; and

[3] Reproduced in document INFCIRC/5, part III, as amended by the agreement reproduced in document INFCIRC/5/Mod. 1.

[4] Reproduced in document INFCIRC/203, part II.

- (b) Section 2 of Article II of the Project Agreement is hereby amended to include, under the definition of supplied material, the enriched uranium obtained from the performance of uranium enrichment services pursuant to the terms of this Agreement.

ARTICLE II

Supply of Reactor

The Agency, pursuant to Article IV of the Co-operation Agreement, shall request the United States to permit the transfer and export to Mexico of the reactor, together with components and spare parts, manufactured in accordance with a contract between Mexico and the Manufacturer.

ARTICLE III

Supply of Uranium Enrichment Services through Long-Term, Fixed-Commitment Contract

1. Subject to the provisions of the Co-operation Agreement, the Commission shall furnish to the Agency for Mexico and Mexico shall purchase, during the period of this Agreement, certain uranium enrichment services in connection with the operation of the Nuclear Power Plant of Laguna Verde, Unit 2, in the State of Veracruz.
2. The particular terms and conditions, including charges and advance payment, for the supply of such enrichment services shall be specified in the Long-Term Contract in implementation of this Agreement. As provided for thereunder, the Commission and Mexico shall agree upon (a) a schedule of enrichment services specifying the number of units of separative work to be furnished by the Commission and purchased by Mexico for delivery during an initial firm period beginning in 1977 and ending in 1987; and (b) procedures for reaching agreement upon a material schedule specifying the quantities (kgU), assays (weight per cent ^{235}U) and times of deliveries of material other than natural uranium proposed to be delivered by Mexico, and of enriched uranium proposed to be delivered by the Commission upon performance of the enrichment services for the initial firm period and thereafter.

ARTICLE IV

Payment

1. Mexico shall pay the Commission all charges for enrichment services provided hereunder, including other charges connected therewith and advance payment therefor, in accordance with the provisions of the Long-Term Contract.
2. It is recognized that in extending its assistance for the project the Agency is not hereunder providing any guarantee or assuming any financial responsibility in connection with the supply of enrichment services by the Commission to Mexico.

ARTICLE V

Delivery - Title

1. (a) All material delivered by the Commission to Mexico pursuant to the Long-Term Contract will be delivered to Mexico, f.o.b. commercial conveyance, at the Commission facility from which such material is to be furnished, in accordance with the Long-Term Contract. Title to such material shall pass to Mexico upon such delivery.

- (b) All arrangements for the export from the United States of America of material delivered by the Commission to Mexico shall be the responsibility of Mexico, provided that the United States shall take all appropriate steps to facilitate the issuance of any required licenses or permits. Prior to the export of such material, Mexico shall notify the Agency of the amount thereof and of the date and method of shipment. At such time as the material leaves the jurisdiction of the United States of America, title thereto shall pass from Mexico to the Agency and shall thereafter immediately and instantaneously pass back to Mexico.

2. All material delivered or returned to the Commission hereunder and pursuant to the provisions of the Long-Term Contract shall be delivered to the Commission, at the Commission facility or facilities to be designated by the Commission in accordance with the Long-Term Contract. Title to such material shall pass to the Commission upon delivery at such facility or facilities.

ARTICLE VI

Responsibility

1. Neither the United States, nor the Commission, nor any person acting on behalf of the Commission shall bear any responsibility for the safe handling and the use of the material delivered pursuant to Section 1 of Article V.

2. Neither the Agency nor any person acting on its behalf shall at any time bear any responsibilities towards Mexico or any person claiming through Mexico for the safe handling and the use of such material.

ARTICLE VII

Termination - Suspension - Amendment

1. In the event of termination or suspension of the Long-Term Contract as provided for thereunder, the Commission and Mexico shall jointly notify the Agency of the date on which such termination or suspension is effective. This Agreement shall be terminated or suspended as provided in such notice. It is agreed by Mexico and the Agency that any such termination or suspension shall be without prejudice to the implementation of the rights and responsibilities of the Agency under the Project Agreement as amended pursuant to Article I of this Agreement.

2. In the event the Long-Term Contract is amended as provided for thereunder, the Commission and Mexico shall, by a written notice to the Agency, notify the Agency of the amendment or amendments. At the request of any party to this Agreement, the parties shall consult each other on corresponding amendments to this Agreement as appropriate.

ARTICLE VIII

Settlement of Disputes

Any dispute involving the Agency and one or both of the other parties to this Agreement and arising out of the interpretation or application of this Agreement, which is not settled by negotiation or as may otherwise be agreed by the parties concerned, shall on the request of any party be submitted to an arbitral tribunal composed as follows:

- (a) If the dispute involves only two of the parties to this Agreement, all three parties agreeing that the third is not concerned, the two parties involved shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If within thirty (30) days of the request for arbitration either party has not designated an arbitrator, either party to the dispute may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within thirty (30) days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected;
- (b) If the dispute involves all three parties to this Agreement, each party shall designate one arbitrator, and the three arbitrators so designated shall by unanimous decision elect a fourth arbitrator, who shall be the Chairman, and a fifth arbitrator. If within thirty (30) days of the request for arbitration any party has not designated an arbitrator, any party may request the President of the International Court of Justice to appoint the necessary number of arbitrators. The same procedure shall apply if, within thirty (30) days of the designation or appointment of the third of the first three arbitrators, the Chairman or the fifth arbitrator has not been elected.

majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall be made by majority vote. The arbitral procedure shall be established by the tribunal, whose decisions, including all rulings concerning its constitution, procedure, jurisdiction and the division of the expenses of arbitration between the parties, shall be final and binding on all parties. The remuneration of the arbitrators shall be determined on the same basis as that of ad hoc judges of the International Court of Justice.

ARTICLE IX

Entry into Force - Duration

This Agreement shall enter into force upon signature by or for the Director General of the Agency and by the authorized representatives of the Commission and Mexico, and shall remain in force for the period of the Long-Term Contract or for a period of thirty-three (33) years, whichever is greater, provided that the period of this Agreement shall in no event extend beyond the period during which the Co-operation Agreement is in force.

ARTICLE X

Agreement for Co-operation

This Agreement, as well as the Long-Term Contract, shall be subject to and in accordance with the Co-operation Agreement, as it may be amended.

DONE in Vienna, on the fourteenth day of June 1974, in triplicate in the English and Spanish languages, both texts being equally authentic.

For the INTERNATIONAL ATOMIC ENERGY AGENCY:

(signed) Sigvard Eklund

For the GOVERNMENT OF THE UNITED MEXICAN STATES:

(signed) Ulises Schmill

For the UNITED STATES ATOMIC ENERGY COMMISSION on behalf of the
GOVERNMENT OF THE UNITED STATES OF AMERICA:

(signed) William O. Doub

No. 2065
433.5'138:391.8(CNM)/8"73"

VIENNA, a 17 de noviembre de 1973.

Señor Director General,

En relación con el acuerdo de suministro de uranio enriquecido para la planta Nucleoeléctrica Laguna Verde, por instrucciones de mi Gobierno comunico a usted lo siguiente :

"El Gobierno de México reafirma su aceptación del Sistema Internacional de Salvaguardias del Organismo Internacional de Energía Atómica, establecido en el Tratado de No Proliferación de Armas Nucleares (TNP) y en el Tratado para la Proscripción de las Armas Nucleares en la América Latina (Tratado de Tlatelolco). Asimismo, al realizar su Programa Nuclear, el Gobierno de México ha decidido que se asegurará de que las medidas de protección física, proporcionando como mínimo un nivel de protección comparable con el establecido en el documento INFCIRC/225/REVISION I, del OIEA, se mantendrán con respecto a todos los materiales e instalaciones nucleares dentro de la jurisdicción del Gobierno de México. Con relación al acuerdo entre el Organismo, el Gobierno de México y el Gobierno de los Estados Unidos de América, relativo a la prestación de servicios de enriquecimiento de uranio para una central nuclear en México, de fecha 12 de febrero de 1974 (Acuerdo de Suministro), al Acuerdo entre el Organismo y el Gobierno

1973-11-17

[Handwritten signatures]
Al señor
Dr. Sigvard E. K. L. U. n
Director General del O
V. S. S. G.
Hall
Bilman

24 NOV 1973
ACT 101

SECRET
AGENCIA
COMUNICACION
RECEPCION
REVISOR
FECHA
OTRO

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P. C. L.
W. C. L.

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de los Estados Unidos Mexicanos, por el que el Organismo prestará asistencia en la ejecución de un proyecto relativo a una central nuclear, de fecha 12 de febrero de 1974 (Acuerdo sobre el proyecto), y al Acuerdo entre el Organismo y los Estados Unidos Mexicanos relativo a la prestación de servicios de enriquecimiento de uranio para una segunda unidad generadora de una Central Nuclear en México, de fecha 14 de junio de 1974 (Segundo Acuerdo de Suministro). Al Gobierno de México le complace informar a usted que no contempla por el momento la transferencia a otro país de ningún equipo o material suministrado bajo estos acuerdos. En el caso de que por interés nacional el Gobierno de México requiere hacer una transferencia congruente con dichos Acuerdos, la transferencia se hará mediante acuerdos que las partes (el Gobierno de México, el OIEA y los Estados Unidos de América) suscriban.

Con respecto al combustible nuclear proporcionado conforme a los Acuerdos de Suministro e Irradiado en el Reactor de Laguna Verde unidades uno y dos, la intención del Gobierno de México es de almacenar este combustible irradiado por un período suficiente para su posible uso subsecuente y, de acuerdo con esto, ampliar sus instalaciones temporales de almacenamiento para el combustible irradiado. Posterior a este almacenamiento temporal, el Gobierno de México dispondrá del combustible irradiado, de acuerdo con las alternativas siguientes :

- a) Almacenamiento en México,
- b) Almacenamiento en otro país a través de acuerdos que suscriban las partes,
- c) Procesamiento u otra utilización a través de acuerdos que suscriban las partes.

MISION PERMANENTE DE MEXICO

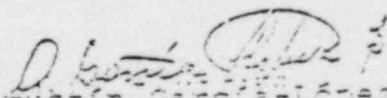
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El Gobierno de México también desea reiterar su determinación de continuar un intercambio de puntos de vista con las otras partes en relación con la utilización de cualquiera otros combustibles nucleares, que pudieran ser irradiados en el reactor de Laguna Verde, unidades uno y dos."

Aprovecho la oportunidad para reiterar a usted, señor Director General, las seguridades de mi muy atenta consideración.


Lic. Agustín García-López Santaolalla
Embajador de México
Representante Permanente

PERMANENT MISSION OF MEXICO
Vienna

No. 2065

17 November 1978

433.5:138:391.6(CMX)/3078"

Sir,

In connection with the agreement on the supply of enriched uranium for the Laguna Verde nuclear power plant, I am instructed by my Government to forward to you the following communication:

"The Government of Mexico re-affirms its acceptance of the International Atomic Energy Agency's international safeguards system, established (sic) in the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the Treaty for the Prohibition of Nuclear Weapons in Latin America (Tlatelolco Treaty). Moreover, the Government of Mexico has decided to ensure, in carrying out its nuclear programme, that means of physical protection providing, as a minimum, a level of protection comparable to that laid down in IAEA document INF/CIRC/225/Rev.1 are maintained for all nuclear materials and installations under its jurisdiction. In connection with the Agreement dated 12 February 1974 between the Agency, the Government of Mexico and the Government of the United States of America relating to the provision of uranium enrichment services for a nuclear power station in Mexico (Supply Agreement), the Agreement dated 12 February 1974 between the Agency and the Government of the United Mexican States under which the Agency will provide assistance for establishing a nuclear power facility (Project Agreement), and the Agreement dated 14 June 1974 between the Agency and the United Mexican States relating to the provision of uranium enrichment services for a second generator unit of a nuclear power station in Mexico (Second Supply Agreement), the Government of Mexico wishes to inform you that it does not for the present contemplate the transfer to another country of any of the equipment or materials supplied under the said agreements.

Dr. Sigvard Erlund
Director General
IAEA, Vienna

APPENDIX C

CLASSIFIED

(to be provided under separate cover)

APPENDIX D

APPLICATION FOR LICENSE TO EXPORT
BYPRODUCT, SOURCE, OR SPECIAL NUCLEAR MATERIAL

Submit in Triplicate

Carefully Read Instructions on Back

XSNA-1194
70 2673
S-860
I.C. 14331
m/c 77-250

DATE OF APPLICATION August 31, 1977	2. APPLICANT'S REFERENCE NO. (if any) Laguna	3. COUNTRY OF ULTIMATE DESTINATION Mexico
NAME OF APPLICANT General Electric Co. STREET ADDRESS 175 Curtner Ave. CITY, STATE, AND ZIP CODE San Jose, California 95125		5. ULTIMATE CONSIGNEE IN FOREIGN COUNTRY (Name and address) Comision Federal de Electricidad, Rodano 14, and Instituto Nacional de Energia Nuclear, Av. Insurgentes, Sur 1079, 3er. Piso Mexico, D. F.
INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY (Give name and address. If same as ultimate consignee, state "Same.") Same		7. IF PURCHASER IN FOREIGN COUNTRY IS OTHER THAN ULTIMATE CONSIGNEE, GIVE NAME AND ADDRESS. (If same, state "Same.") Same

(a) QUANTITY TO BE SHIPPED (See instructions on back) 9,691 kilograms Uranium-235	(b) COMMODITY DESCRIPTION (Include chemical and physical forms for special nuclear material and byproduct material also specify isotopic content; if in a device, identify the device, manufacturer, and model number.) Contained in 377,600 kilograms of uranium as 428,400 kilograms UO ₂ enriched in U-235 not in excess of 4 percent by weight.
--	---

(c) SHIPPING AND PACKING PROCEDURES (Required for special nuclear material. See instructions on back.)
E model RA-3 shipping containers, USNRC certificate of compliance
USA/4986/B () F.

END USE OF COMMODITIES COVERED BY THIS APPLICATION: (Describe fully, stating what will be produced or manufactured, what service will be rendered, or the nature of the research that will be performed.) (See instructions on back for special nuclear material.)

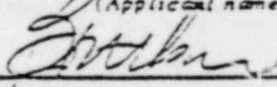
Laguna Verde, Units 1 and 2, initial cores plus 5 reloads for each unit. (Laguna Verde reactors licensed for export under XR 98 and XR-102). A statement of End Use dated 2 August, 1977 by the consignee accompanies this application.

The applicant, and any official executing this certificate on behalf of the applicant named in Item 4, certify that this application is prepared in conformity with Title 10, Code of Federal Regulations, Parts 30 and 36 (if for byproduct material) or Part 40 (if for source material), or Part 70 (if for special nuclear material), and Part 71 (for transport of radioactive material, if applicable) and that all information contained herein, including any supplements attached hereto, is true and correct to the best of their knowledge and belief.

RECEIVED
U.S. NRC

General Electric Company

(Applicant named in Item 4)

By: 
BD Wilson, Manager
Government Relations and Export

(Title of certifying official authorized to act on behalf of the applicant)

Licensing

1977 SEP 6 AM 10 01

EXPORT/IMPORT
AND
INTERNAT'L SFGROS

18 U.S.C. Section 1001; Act of June 25, 1948; 62 Stat. 749; makes it a criminal offense to make a knowingly false statement or representation to any department or agency of the United States as to any matter within its jurisdiction

Copy 2
- I + E

APPENDIX E

EXPORT LICENSE

NRC LICENSE NO.

THIS LICENSE EXPIRES

United States of America
Nuclear Regulatory Commission

XSNW01194

Reference to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 and the regulations of the Nuclear Regulatory Commission issued pursuant thereto, and in reliance on statements and representations heretofore made by

the licensee, a license is hereby issued to the licensee authorizing the export of the materials and/or products or utilization facilities listed below, subject to the terms and conditions herein.

LICENSEE
General Electric Company
175 Curtner Avenue
San Jose, California 95128
Attn: B. D. Wilson
M/L 838

ULTIMATE CONSIGNEE IN FOREIGN COUNTRY
Comision Federal de Electricidad
Rodrigo 14, add
Instituto Nacional de Energia Nuclear
Av. Insurgentes Sur 1070
Piso
Mexico D.F.

CONSIGNEE IN FOREIGN COUNTRY
NONE

OTHER PARTIES TO EXPORT
NONE

COUNTRY OF ULTIMATE DESTINATION
Laguna

MEXICO

QUANTITY
300 grams uranium-235

DESCRIPTION OF MATERIALS OR FACILITIES
Contained in 377,600 kilograms uranium, enriched to 4 w/o maximum.
Conditions 6 and 8 on page two of this license apply to this export.
END

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.
This license is subject to the right of recapture or control by Section 108 of the Atomic Energy Act of 1954, as amended and to all of the other provisions of said Acts, now or hereafter in effect and to all valid rules and regulations of the Nuclear Regulatory Commission.

THIS LICENSE IS INVALID UNLESS SIGNED BELOW BY AUTHORIZED NRC REPRESENTATIVE
Gerald G. Colinger, Assistant Director
Export/Import and International Safeguards
Office of International Programs
DATE OF ISSUANCE

U.S. NUCLEAR REGULATORY COMMISSION
EXPORT LICENSE

Conditions

License Number XSNM01194

Condition 1 — Licensee shall file with the Customs Officer or the Postmaster two copies, in addition to those otherwise required, of the Shipper's Export Declaration covering each export and mark one of such copies for transmittal to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The following declaration should accompany or be placed on the Shipper's Export Declarations for such exports:

"This shipment is being made pursuant to specific license number (specific license number) filed at (location of Customs office where license is filed), on (date license was filed). This license expires on (expiration date of license), and the unshipped balance remaining on this license is sufficient to cover the shipment described on this declaration."

Condition 2 — Exports authorized in any country or destination, except Country Groups Q, S, W, X, Y, and Z in Part 370, Supplement No. 1, of the Comprehensive Export Schedule of the U.S. Department of Commerce.

Condition 3 — This license covers only the nuclear content of the material.

Condition 4 — The material to be exported under this license shall be shipped in accordance with the physical protection requirements for special nuclear material in 10 CFR 73.

Condition 5 — Special nuclear material authorized for export under this license shall not be transported outside the United States in passenger-carrying aircraft in shipments exceeding (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium 233, or (2) 350 grams of uranium 235.

Condition 6 — This license authorizes export only and does not authorize the receipt, physical possession, or use of the nuclear material.

Condition 7 — The licensee shall complete and submit an NRC Form 741 for each shipment of source material exported under this license.

Condition 8 — The licensee shall advise the NRC in the event there is any change in the designation of the company who will package the nuclear material to be exported under this license, or any change in the location of the packaging operation, at least three weeks prior to the scheduled date of export.

In connection with his approval, Commissioner Bradford provided the following comments on 2/27/79:

1. I would approve the exporting of the cores plus 5 of the 10 reloads. To approve the full amount would be to countenance stockpiling in a manner inconsistent with the Congressional intent underlying the exemption period.
2. Because of the urgency attached to this export, I would use the exemption upon receipt of the required notification from State. I cannot yet find Criteria 4 and 5 to be met.
3. I have some questions about the workings of the assurances on Criteria 4 and 5 in practice that can be pursued more thoroughly once the approvals have been granted for the initial amount in No. 1 above.
4. I would not approve the full export at this time, though I would hope to be able to do so shortly.

Commissioner Ahearne made the following comment on 3/1/79:

"The primary issue presented by this application is whether Criteria 4 and 5 are met. In this case the language of the Mexican note is, on its face ambiguous. The discussions which led up to this particular formulation are very important to an understanding of what was meant. It would have been helpful if this background had been included in the paper. In the future I would appreciate an effort to present the entire basis for the deciding issues which go beyond routine considerations."



OFFICE OF THE
SECRETARY


March 27, 1979



SV
MRP
BL

Shea
Oplinger
Dircks
Shapar
Haller
Hayden

MEMORANDUM FOR: Lee V. Gossick, Executive Director
for Operations

FROM: Samuel J. Chilk, Secretary 

SUBJECT: SECY-79-121 - PROPOSED LICENSE TO EXPORT
LOW-ENRICHED URANIUM TO MEXICO (XSNM-1194)
(COMMISSIONER ACTION ITEM)

This is to advise you that the Commissioners have reviewed the subject license to General Electric Company. The Commission (with all Commissioners concurring) has accepted your recommendation to export to Mexico 377,600 kilograms of uranium, enriched to 4% U-235, in the form of uranium dioxide.

The Director of International Programs was authorized by telephone on March 2, 1979 to issue this license.

cc:
Commissioners
Commission Staff Offices
Director, International Programs
Public Document Room

CHRONOLOGY OF XR-113

Export of two Westinghouse pressurized water reactors, "Taipower Units 5 and 6" to Taiwan.

<u>ACTION</u>	<u>DATE</u>
Received application of 1/7/76 from Westinghouse Electric Corporation	01/19/76
Forwarded application to NRC's Office of Standards Development for determination if reactor application constitutes a utilization facility	02/03/76
Forwarded application to the Executive Branch for views	02/13/76
Received response memo from NRC's Office of Standards Development stating that proposed reactor export does constitute a utilization facility	02/17/76
Forwarded notice to <u>Federal Register</u> on receipt of application	02/20/76
Sent notification letter to Joint Committee on Atomic Energy on receipt of application	02/24/76
Notice of application published in <u>Federal Register</u> , Vol. 41, No. 39	02/26/76
Received copy of letter from Westinghouse to State Department requesting timely issuance of license due to high storage costs incurred by the customer and value of equipment in terms of revenue for Westinghouse	01/1/78
Applicant calling to check on status of application	02/08/78
Received favorable Executive Branch views recommending issuance of license	05/11/78
Received assurance letter from the Embassy of Taiwan that the export will come under the US-Taiwan Agreement for Cooperation.	05/19/78
Copy of Executive Branch views forwarded to Commission for early review	06/07/78
Received memo from the Executive Branch expressing their view that physical security in the ROC meets IAEA INFCIRC/225 measures	06/20/78
Completed staff memo to file stating that export meets the requirements of the Atomic Energy Act, as amended by the NNPA	07/12/78
Sent 60 day notification letter to applicant explaining that the delay in obtaining the license is due to the need for additional information on Taiwan's nuclear power and research programs	07/21/78

<u>ACTION</u>	<u>DATE</u>
Received memo from NRC's Office of Nuclear Material Safety and Safeguards which concurs in draft staff paper that the proposed export license should be issued.	07/25/80
Received phone call from State requesting that all export licenses to Taiwan be held up until further notice by the Executive Branch.	08/15-20/78
Received letter from State confirming request to hold all Taiwan applications until a briefing by State.	08/23/78
Received NRC's Office of Nuclear Material Safety and Safeguards concurrence on Commission paper recommending that proposed license be issued.	08/28/78
120 day review period expired.	09/08/78
Staff sent classified information paper to the Commission (SECY 78-520) regarding proposed briefing by State on the Taiwan's nuclear program.	09/25/78
State/CIA briefing for Commissioners on classified matters.	09/27/78
Received letter from State requesting Commission to act expeditiously on all pending exports to Taiwan.	10/10/78
Forwarded staff recommendation to Commissioners, SECY 78-548 (classified), to approve proposed export.	10/19/78
Received copy of November 9 letter from Westinghouse to the NRC Secretariat expressing concern about continued delay in obtaining license.	11/13/78
Received Commissioner Bradford's comments and question of a classified nature regarding Taiwan exports.	12/08/78
Staff referred Commissioner Bradford's classified question to the Executive Branch for comment.	12/12/78
NRC Secretary solicited views of individual Commissioners for guidance on whether to proceed with further action on the proposed export (see attached).	12/12/78
Commissioner Gilinsky responded to Secretariat request of 12/12/78: defer action.	12/13/78
Commissioner Hendrie responded to the 12/12/78 SECY request: defer action.	12/14/78
Commissioner Kennedy responded to the 12/12/78 SECY request: Issue license.	12/14/78

<u>ACTION</u>	<u>DATE</u>
President Carter announces that the U.S. is recognizing the Government of the People's Republic of China as the sole legal government of China and is terminating diplomatic relations with the Republic of China, at January 1, 1979.	12/15/78
Commissioner Ahearne responded to the 12/12/78 SECY request: defer action.	12/18/78
Received Executive Branch response (classified) to Commissioner Bradford's classified question.	12/19/78
President Carter issues memorandum instructing Federal agencies on how the new U.S. policy on China is to be implemented vis-a-vis Taiwan.	12/30/78
Received December 29 letter from Westinghouse criticizing NRC for continued delay. Westinghouse stated that the U.S. is not meeting its end of the bargain as a reliable supplier.	01/03/79
NRC General Counsel presents its analysis of the significant legal issues concerning NRC's continued export licensing activities concerning Taiwan and outlined possible future courses of action for the Commission.	01/30/79
Forwarded response to Commissioner Ahearne on urgency of proposed licenses pending for Taiwan with respect to impacts, costs, and other effects of delays.	02/02/79
Forwarded to Commission a proposed staff response to Westinghouse's December 29 letter (SECY 78-548A) advising that the President's decision to break diplomatic relations with Taiwan has raised several fundamental questions concerning the legal basis for future U.S. nuclear cooperation with Taiwan. In addition to seeking further clarification from the Executive Branch, there is proposed legislation before Congress on the basis for continued cooperation with Taiwan.	12/12/79
The proposed letter to Westinghouse was reviewed, commented upon and revised by the Commissioners and by the Office of the General Counsel. (see attached)	02/15/79 to 03/07/79
Sent final revised response to Westinghouse.	03/07/79
The Taiwan Relations Act, P.L. 96-8, was enacted.	04/10/79

<u>ACTION</u>	<u>DATE</u>
NRC Office of General Counsel advised Commissioner Kennedy of its analysis of the Taiwan Relations Act, concluding that the legislation disposes of legal issues raised in the OGC memo of January 30.	04/23/79
NRC Executive Legal Director's Office advises NRC staff of its conclusions on the affects of the Taiwan Relations Act.	05/11/79
Commissioners Hendrie, Kennedy and Ahearne concur.	06/06/79
Commissioner Gilinsky concurs.	06/07/79
Commissioner Bradford concurs with comments on other pending licenses to Taiwan.	06/08/79
License No. XR-113 issued.	06/08/79
Received SECY memo with Commissioner concurrence (see attached).	06/11/79
License No. XR-113, Amendment No. 1 issued changing the ultimate consignee from the Republic of China to Taiwan.	06/13/79
Forwarded Commission information paper, SECY 79-357A which responds to Commissioner Gilinsky's questions on urgency of pending Taiwan exports and the status of the nongovernmental entities for dealing with Taiwan.	06/27/79

NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555

December 12, 1978

Shea
Gossick
Rehm
Dircks/NMSS
Shapar
Haller
Hayden
Hanauer

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Ahearne

FROM: For Samuel J. Chilk, Secretary *Ewm*

SUBJECT: SECY-78-548 - PROPOSED LICENSE TO EXPORT
TWO PRESSURIZED WATER REACTORS TO REPUBLIC
OF CHINA (ROC) (APPLICATION XR-113)
(COMMISSIONER ACTION ITEM)

This is to advise you of the current status of the subject export license and to solicit your views on further action in accordance with the proposed export/import license review procedures which are currently undergoing review by the Commission (reference OGC memorandum to Commissioners, dated December 8, 1978).

This paper was issued to the Commissioners on October 20, 1978. Chairman Hendrie and Commissioners Kennedy and Ahearne have concurred in the issuance of the license. The review period, to include an extension in the case of Commissioners Gilinsky and Bradford, has expired. The statutory time limit set forth in Section 126 of the Atomic Energy Act, as amended by the Nuclear Nonproliferation Act of 1978, expired on November 2, 1978. Commissioner Bradford has recently requested additional information on Executive Branch views. Commissioner Gilinsky has not responded but it is our understanding that he is awaiting a response to Commissioner Bradford's request prior to taking action.

The Office of International Programs has contacted the Executive Branch concerning Commissioner Bradford's request and it is indefinite as to when a response will be forthcoming.

In accordance with the provision contained in Section I 7(b) (page 4) of the OGC procedures, I would advise the Executive Director for Operations that he is authorized to issue the subject export license. However, since the procedures have not been formally adopted and this is the first-time these procedures would be implemented, I have elected to request a positive indication from a majority of the Commissioners whether or not Commission action should be deferred pending receipt of a response to Commissioner Bradford's request. Therefore, I request that you indicate

your desires on this matter by checking the appropriate entry below and returning this memorandum to me by c.o.b., Thursday, December 14, 1978.

_____ I recommend that the license be issued.

_____ I believe that Commission action should be deferred pending receipt of a response to Commissioner Bradford's request.

Signature

Date

cc:
Commissioner Bradford
Exec Dir for Operations
Acting General Counsel
Director, Policy Evaluation

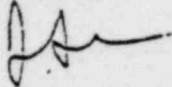
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

February 15, 1979

~~FS~~
~~SS~~
MP

OFFICE OF THE
COMMISSIONER

MEMORANDUM FOR: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford

FROM: John Ahearne 

SUBJECT: PROPOSED LETTER TO WESTINGHOUSE REGARDING
EXPORTS TO TAIWAN (SECY-78-548A)

I believe the proposed letter should be revised to be short and to indicate that NRC will reach its own conclusion based upon information that we will be acquiring. I have attached a version which I propose be sent.

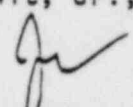
Attachment

cc: Mr. Chilk
IP ✓
CPE
EDO

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

March 5, 1979

OFFICE OF THE
COMMISSIONER

MEMORANDUM FOR: Leonard Bickwit, Jr., GC
FROM: John Ahearne 
SUBJECT: PROPOSED RESPONSE TO WESTINGHOUSE ON TAIWAN
EXPORTS (SECY-78-548-A)

I was surprised to find that the letter to Westinghouse had not yet gone out (since the Secy paper indicated it would be sent shortly after February 16). However, since it has not been sent, I have no objection to incorporating your concepts unless it would delay even longer sending out the letter.

I still prefer my version of February 15 (attached).

Attachment

cc: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford
Secy
Mr. McGregor, Secy
EDO
IP ✓



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555

March 6, 1979

JS
GO
MP

OFFICE OF THE
COMMISSIONER

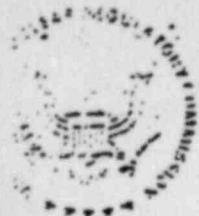
MEMORANDUM FOR: Samuel J. Chilk, Secretary

FROM: Peter A. Bradford ^{*P.B.*}

SUBJECT: PROPOSED LETTER TO WESTINGHOUSE REGARDING EXPORTS TO
TAIWAN (SECY-78-548A)

This is just to advise you that no one has yet succeeded in drafting a version of this letter in which I do not concur. Consequently, I will vote for that letter whose author offers me the best trade on other matters. Please let me know the bidding, but in any case I think the decision should be made soon.

- cc: Chairman Hendrie
- Commissioner Gilinsky
- Commissioner Kennedy
- Commissioner Ahearne
- L. V. Gossick, EDO
- ~~J. Shea, IP~~
- L. Bickwit, OGC
- A. Kenneke, OPE



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

March 6, 1979

PRICE OF THE
COMMISSIONER

Memorandum for James R. Shea, Director :
Office of International Programs

From: Richard T. Kennedy *RTK*

Subject: RESPONSE TO WESTINGHOUSE ON TAIWAN EXPORTS
(SECY-78-548A)

I am amazed to find that the proposed response to Westinghouse has not yet been dispatched. My concurrence was provided to Mr. Oplinger on February 14, with a minor editorial suggestion. The letter was straightforward, factual and answered the Westinghouse questions--an obligation which any agency has to the public. The OGC comments were also straightforward and worthy of incorporation.

Please advise the reasons for the delay in issuing the letter.

- cc: Chairman Hendrie
- Commissioner Gilinsky
- Commissioner Bradford
- Commissioner Ahearne
- L. Bickwit, OGC
- EDO
- SECY

3/7/79
2:00



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

Rehm
Dircks
Shapar
Haller
Hayden

June 11, 1979

OFFICE OF THE
SECRETARY

[Handwritten signature]
NIM

MEMORANDUM FOR: Lee V. Gossick, Executive
Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-79-357 - PROPOSED LICENSES FOR EXPORT TO TAIWAN
(COMMISSIONER ACTION ITEM)

This is to advise you that the Commission (with all Commissioners concurring) has approved the issuance of a proposed license to export two pressurized water reactors to Taiwan (Application XR-113).

The Commission (with four Commissioners concurring) has also approved the issuance of the following export licenses to Taiwan: XU08412, XU-8393, and XSNM-1341. In addition, the Commission noted that the staff will forward its recommendation on license application XSNM-1279 in the near future. Commissioner Bradford provided the following comment on these licenses: "In view of the concerns of the Office of Nuclear Material Safety and Safeguards, I would take no action on XU08412, XU-8393, XSNM-1279, or XSNM-1341 at this time."

The Office of International Programs was informed of this action by telephone on June 8, 1979.

cc:
Commissioners
Commission Staff Offices
Director, International Programs
Director, Nuc Mat Safety & Safeguards

CHRONOLOGY OF XSNM-1229

Export of 3,630 grams of uranium, enriched to 19.9% U-235 for use in the Tsing Hua open pool research reactor in Taiwan.

<u>ACTION</u>	<u>DATE</u>
Received application of 11/11/77 from General Atomic Company	11/18/77
Forwarded application to the Executive Branch for views	11/25/77
Received letter of 3/22/78 from applicant requesting amendment for small increase in quantity of material	03/29/78
Forwarded letter amendment for material increase to the Executive Branch	04/07/78
Received favorable Executive Branch comments of 8/15/78 recommending issuance of the proposed license	08/16/78
Received phone call from State requesting that all pending export licenses to the ROC be held up until further notice by the Executive Branch	
Received letter from State confirming request to hold ROC applications until briefing by State	08/23/78
State/CIA briefing for Commissioners	09/27/78
NRC staff advised Commissioners that application could be approved at the staff level but Commissioner comments were solicited prior to staff action	10/19/78
Commissioner responses to staff's request of 10/19/78 received. (Commissioner Kennedy does not object to action. Commissioner Bradford requested that application be forwarded for Commission Action. Commissioner Ahearne, Bradford and Gilinsky asked for CIA Briefings on Taiwan.	10/19/78- 10/26/78
Sent 60 day notification letter to applicant explaining delay is due to the need for additional information on Taiwan's nuclear power and research programs	11/06/78
State/CIA representatives briefed Commission on developments concerning nuclear-related activities in Taiwan.	11/17/78
President Carter announces that the U.S. is recognizing the Government of the People's Republic of China and is terminating diplomatic relations with the Republic of China on January 1, 1979	12/15/78
President Carter issues memorandum instructing Federal agencies on how the new U.S. policy on China is to be implemented vis-a-vis Taiwan	12/30/78

<u>ACTION</u>	<u>DATE</u>
Sent supplemental letter to applicant explaining that the reason for further delay is due to a Commissioner request for more information	01/03/79
NRC General Counsel presents its analysis of the significant legal issues concerning NRC's continued export licensing activities concerning Taiwan and outlined possible future courses of action for the Commission.	01/30/79
The Taiwan Relations Act, P.L. 96-8, was enacted	04/10/79
NRC Office of General Counsel advised Commissioner Kennedy of its analysis of the Taiwan Relations Act concluding that the legislation disposes of legal issues raised in the OGC memo of January 30	04/23/79
NRC Executive Legal Director's office advises NRC staff of its conclusions on the effects of the Taiwan Relations Act	05/11/79
Staff forwarded Commission Action Paper recommending issuance of license (SECY-79-537, see attached)	09/19/79
Light spikes of unknown origin, characteristic of a nuclear explosion, reported by satellite over ocean off Southern Coast of Africa	09/22/79
Commissioner Ahearne concurs	09/28/79
Commissioner Kennedy concurs	10/01/79
Commissioner Gilinsky notes without objection	10/10/79
Chairman Hendrie concurs	10/12/79
Received copy of Commissioner Bradford's comment noting that in view of the apparent nuclear explosion of September 22, he is reluctant to approve license without some information ruling out the possibility of Taiwan involvement (see attached). Commission majority concurs in delay of license until September 22 event is clarified	10/26/79
Executive Branch advises that information concerning the September 22 event is inconclusive	02/04/80
Commissioner Bradford notes without objection	02/08/80
License No. XSNM-1229 issued	02/08/80
Received SECY memo with Commissioner concurrence (see attached)	02/11/80

September 19, 1979

SECY-79-537

For:

~~The Commissioners~~
COMMISSIONER ACTION

From:

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

Thru:

Executive Director for Operations *ES/p. 206*

Subject:

PROPOSED LICENSE TO EXPORT LOW ENRICHED URANIUM
TO TAIWAN (XSNM-1229)

Purpose:

Commission review of proposed issuance of export license
to General Atomic Company.

Review Dates:

60-day period expired October 15, 1978
120-day period expired December 14, 1978

Discussion:

On November 11, 1977 General Atomic Company requested a license for the export of 3565 grams of uranium containing 715 grams U-235 (20.06 percent enriched). This request was amended by letter of March 22, 1978 from General Atomic to increase the amount of uranium to 3630 grams, with a maximum enrichment of 19.9 percent. The material will be fabricated into 15 TRIGA fuel elements by General Atomic for use in the Tsing Hua open-pool research reactor (THOR).

The application was forwarded to the Executive Branch for review and comment on November 25, 1977 and April 7, 1978. On August 15, 1978 the Executive Branch (1) advised NRC that issuance of the proposed license would not be inimical to the interests of the U.S., including the common defense and security; (2) confirmed that the material will be subject to the terms and conditions of the Agreement for Cooperation between the U.S. and Taiwan; and (3) confirmed that Taiwan had adhered to the provisions of its Agreement for Cooperation.

The Executive Branch also forwarded an assurance letter from the Taiwan Government which contains the written physical security assurances required by 10 CFR 110.43(b).

Final processing of this case, as well as all Taiwan nuclear exports, was delayed pending clarification, through passage of the Taiwan Relations Act, of the basis for continued nuclear cooperation with Taiwan, and Commission review of the implications of the Act. In June 1979, the Commission approved the issuance of several major export licenses for Taiwan and this case was then prepared for final processing by the staff.

Contact:

J. Upshaw, IP (492-8155)
M. Moore, IF (492-7984)

Discussion:
(cont'd)

Under the provisions of 10 CFR §110.40 this request would fall within the category of minor cases; thus Commission review would normally not be required. However, pursuant to Commissioner Bradford's request, which resulted from questions concerning Taiwan's nuclear program, this case is being submitted for Commission review.

The staff notes that, based upon recent checks with the appropriate Executive Branch agencies (the most recent on September 4), there have been no significant developments to report with respect to Taiwan beyond those which the Commission is aware of from previous classified briefings and literature. The staff will continue to monitor and report on nuclear-related activities in Taiwan and will arrange for additional briefings to be presented to the Commission should the situation dictate.

Further, the staff believes that there are no material changed circumstances, since issuance of export license XSNM1341 for LEU to Taiwan on June 8, 1979 after Commission review, which affect the Commission's finding that the export licensing criteria are met with respect to exports to Taiwan. This procedure is authorized by §110.44(a)(2) of Part 110 and is based on section 126(a)(2) of the AEA as amended by the NNPA of 1978. The staff has also concluded that this export would not be inimical to the common defense and security of the U.S.

In light of the above, it is the staff's view that future processing of minor cases for Taiwan can proceed at the staff level in the absence of material changed circumstances.

The following documents are pertinent to the subject application: (1) Executive Branch views of August 15, 1978 recommending issuance (Appendix A); (2) application of November 11, 1977 and amended request of March 22, 1978 (Appendix B); and (3) copy of the proposed license (Appendix C).

NMSS Technical
Review:

The proposed export of low enriched uranium fuel elements will be subject to IAEA safeguards in Taiwan. Although insufficient information is available to completely evaluate the adequacy of safeguards in Taiwan, NMSS believes that the control and accounting for the relatively small quantity of material in reactor fuel elements on an item basis is within State capabilities and should pose no serious safeguards problems for the IAEA.

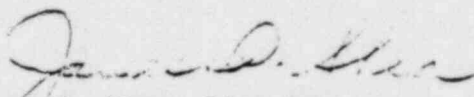
NMSS has reviewed the program in Taiwan for the physical protection of low enriched uranium and research reactors and found it adequate to meet the requirements of 10 CFR 110.42 and 110.43.

Urgency: As the Commission is aware, General Atomic, by letter dated August 15, 1979, advised NRC that this request was urgent and requested (1) prompt issuance of the proposed export license or (2) an explanation for nonissuance. The staff prepared a response to GA advising that the subject request would be forwarded to the Commission for final review in the near future. This response was recently forwarded for Commission clearance.

Recommendation: That the Commission:

1. Approve issuance of the proposed license.
2. Note that, unless there is a material change in circumstances, the staff plans to process future minor cases for Taiwan without referral to the Commission in accordance with the provisions of Part 110.40 unless otherwise advised by the Commission.

Coordination: ELD has no legal objection. Additional classified NMSS comments are being forwarded by separate memorandum.*


James R. Shea, Director
Office of International Programs

SEP 18 1979

Enclosures:

1. Appendix A - Executive Branch views dtd 8/15/78
2. Appendix B - Appl. dtd 11/11/77 and amended request dtd 3/22/78
3. Appendix C - Copy of proposed license

DISTRIBUTION:

Commissioners
Commission Staff Offices
Exec. Dir. for Opers.
Secretariat

NOTE: Commissioner comments should be provided directly to the Office of the Secretariat, by c.c.b. Friday, September 28, 1979.

Commission staff office comments, if any, should be submitted to the Commissioners NLT September 26, 1979, with an information copy to the Office of the Secretariat. If the paper is of such a nature that it requires additional time for analytical review and comments, the Commission and the Secretariat should be apprised of when comments may be expected.

SECY NOTE: Ref. SECY-79-537A (CLASSIFIED), dated September 19, 1979.



DEPARTMENT OF STATE

Washington, D.C. 20520

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

August 15, 1978

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

XSNM 01229
70-2751

EXPORT/IMPORT
AND
INTERNATIONAL STANDARDS

1978 AUG 16 AM 7 37

RECEIVED
U.S. NRC

Dear Mr. Shea:

This letter is in response to your letters dated November 25, 1977 and April 7, 1978 requesting Executive Branch views as to whether issuance of an export license in accordance with the application hereinafter described, as amended, 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 (PL-95-242):

NRC No. 862 (XSNM-1229) -- General Atomic Company's application dated November 11, 1977, as amended March 22, 1978, for authorization to export to the Republic of China 715 grams of U-235 contained in 3,630 grams of uranium enriched to a maximum of 19.9 percent. This material will be fabricated into 15 TRIGA fuel elements by General Atomic for the Tsing Hua open pool research reactor.

The proposed export would take place pursuant to the Agreement for Cooperation Between the United States and the Republic of China as confirmed in a letter from the Embassy of the Republic of China dated May 30, 1978. The Republic of China has adhered to the provisions of its Agreement for Cooperation with the United States.

The Executive Branch has reviewed this application and concluded that the requirements of the Atomic Energy Act and P.L. 95-242 have been met and that the proposed export

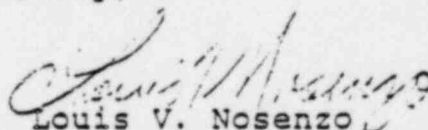
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will not be inimical to the common defense and security of the United States. A detailed analysis is believed unnecessary in this case because of the small quantity of material involved.

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

Sincerely,



Louis V. Nosenzo
Deputy Assistant Secretary

Enclosure
Assurance letter

XSNM-1229
S-862
70-2751
m/c 77/322
I.C. 14395

APPLICATION FOR LICENSE TO EXPORT
BYPRODUCT, SOURCE, OR SPECIAL NUCLEAR MATERIAL

Submit in Triplicate

Carefully Read Instructions on Back

1. DATE OF APPLICATION 11/11/77	2. APPLICANT'S REFERENCE NO. (if any) IEL-861	3. COUNTRY OF ULTIMATE DESTINATION Taiwan, Republic of China
4. NAME OF APPLICANT GENERAL ATOMIC COMPANY P.O. Box 81608 San Diego, CA 92318 ATTN: W.R. Mowry	5. ULTIMATE CONSIGNEE IN FOREIGN COUNTRY (Name and address) Atomic Energy Council, Executive Yuan 6th Floor, BCC Building 53, Jen Ai Road, Section 3 Taipei, Taiwan, 106 Republic of China	
6. INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY (Give name and address. If same as ultimate consignee, state "Same.") SAME	7. IF PURCHASER IN FOREIGN COUNTRY IS OTHER THAN ULTIMATE CONSIGNEE, GIVE NAME AND ADDRESS. (If same, state "Same.") SAME	

8. QUANTITY TO BE SHIPPED (See instructions on back) 302 715 gm U-235 contained in 3565 gm uranium.	(b) COMMODITY DESCRIPTION (Include chemical and physical forms for special nuclear material and byproduct material also specify isotopic content; if in a device, identify the device, manufacturer, and model number.) 15 TRIGA fuel elements. Each element contains a Uranium-Zirconium-Hydride metal alloy. The Uranium (approximately 242 gm/element) is enriched in U-235 to 19.9% nominal.
---	---

9. SHIPPING AND PACKING PROCEDURES (Required for special nuclear material. See instructions on back.)
The elements will be packaged in NRC licensed containers and shipped in compliance with NRC Certificate of Compliance #9034 & 9037.

10. USE OF COMMODITIES COVERED BY THIS APPLICATION. (Describe fully, stating what will be produced or manufactured, what service to be rendered, or the nature of the research that will be performed.) (See instructions on back for special nuclear material.)
The fuel elements containing the SNM above will be used as fuel for the Tsing Hua Open-pool reactor operated for research and training purpose.

The applicant, and any official executing this certificate on behalf of the applicant named in Item 4, certify that this application is prepared in conformity with Title 10, Code of Federal Regulations, Parts 30 and 36 (if for byproduct material) or Part 40 (if for source material), or Part 70 (if for special nuclear material), and Part 71 (for transport of radioactive material, if applicable) and that all information contained herein, including any supplements attached hereto, is true and correct to the best of their knowledge and belief.

RECEIVED
NOV 19 1977

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EXPORT
SPECIAL MATERIALS

GENERAL ATOMIC COMPANY
(Applicant named in Item 4)

By: William R. Mowry
William R. Mowry
Licensing Administrator

(Title of certifying official authorized to act on behalf of the applicant)



GENERAL ATOMIC

GENERAL ATOMIC COMPANY
P.O. BOX 81608
SAN DIEGO, CALIFORNIA 92138
(714) 455-3000

IEL-900

March 22, 1978

XSNM-1029
70-2751
S-862

Dr. Michael A. Guhin
Assistant Director
Export/Import & International Safeguards
Office of International Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Subject: SNM Export license application; Amendment request.

Reference: SNM Export license Application (IEL-861)
dated 11/11/77: Taiwan.

Dear Dr. Guhin:

General Atomic Company made application, ref. a, to export certain TRIGA Reactor low enriched fuels to the Republic of China, Taiwan. The application requested the export of up to 715 grams U-235 in a maximum of 3665 gram Uranium. The exported Uranium is to be less than 20% enriched in U-235. This amendment requests a small increase in the Uranium quantity because, without other considerations, one can conclude that high enriched Uranium (20.06%) may, despite assurances to the contrary, be exported.

In making export license applications, usually submitted considerably in advance of the fuel manufacture precise values for Uranium, U-235 or enrichment in the exported material are not known. Nominal values rounded up to the next highest gram are typically used in the derivation of quantities used for licensing purposes. For this application an error in arithmetic rounding, its truncation and extension to 15 elements lead to an inappropriate Uranium quantity. A new quantity of 3630 grams has been derived and is requested as an upper license limit. Most likely the material actually exported will not exceed the originally requested Uranium quantity nor will all the 715 gm. license limit be used.

We herewith request that item 8(a) on our referenced application's form NRC-7 be changed to read:

715 gm. U-235 contained in 3630 gm. ^{RECEIVED} Uranium.

Other conditions are to remain the same.

We are hopeful that approval consideration on the subject license can proceed on an expedited basis without causing resubmission of modified end use statements, etc.

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EXPORT/IMPORT
AND
INTERNATIONAL SAFEGUARDS

- 8 copy to
... ACC

Dr. Michael A. Guhin

-2-

IEL-900

We continue to look forward to an appropriate export license so that we may promptly export the badly needed fuel elements.

Very truly yours,

William R Mowry

William R. Mowry
Licensing Administrator
Nuclear Materials Control Division

WRM:hcs

RECEIVED
MAR 29 1978

1978 MAR 29 AM 11 24

EXPORT/IMPORT
AND
INTERNATIONAL SFGRDS

EXPORT LICENSE

FORM NRC-250
7-751

NRC LICENSE NO.

THIS LICENSE EXPIRES 01 July 1980

XS1M01229

United States of America
Nuclear Regulatory Commission

Pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 and the Regulations of the Nuclear Regulatory Commission issued pursuant thereto, and in reliance on statements and representations heretofore made by

the licensee, a license is hereby issued to the licensee authorizing the export of the materials and/or production or utilization facilities listed below, subject to the terms and conditions herein.

LICENSEE

NAME General Atomic Company

ADDRESS P. O. Box 81608
San Diego, California 92318
Attn: W. R. Mowry

ULTIMATE CONSIGNEE IN FOREIGN COUNTRY

NAME Atomic Energy Council,
Executive Yuan
ADDRESS 6th Floor, BCC Building
53, Jen Ai Road, Section 3
Taipei, Taiwan, 106

INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY

NAME NONE

ADDRESS

OTHER PARTIES TO EXPORT

NONE

APPLICANT'S REF. NO. IEL-861

COUNTRY OF ULTIMATE DESTINATION TAIWAN

QUANTITY DESCRIPTION OF MATERIALS OR FACILITIES

715 grams uranium-235. Contained in 3,630 grams uranium enriched to 19.9 w/o maximum.

Conditions 6 and 8 on page two of this license apply to this export.

//////END//////



Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.

This license is subject to the right of recapture or control by Section 26 of the Atomic Energy Act of 1954, as amended and to all of the other provisions of said Act, now or hereafter in effect and to all valid rules and regulations of the Nuclear Regulatory Commission.

THIS LICENSE IS INVALID UNLESS SIGNED BELOW BY AUTHORIZED NRC REPRESENTATIVE

Marvin R. Peterson, Acting Assistant Director
Export/Import and International Safeguards
Office of International Programs

DATE OF ISSUANCE

EXPORT LICENSE

U.S. NUCLEAR REGULATORY COMMISSION
EXPORT LICENSE

Conditions

License Number XSNM01229

Condition 1 — Licensee shall file with the Customs Officer or the Postmaster two copies, in addition to those otherwise required, of the Shipper's Export Declaration covering each export and mark one of such copies for transmittal to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The following declaration should accompany or be placed on the Shipper's Export Declarations for such exports:

"This shipment is being made pursuant to specific license number (specific license number) filed at (location of Customs office where license is filed), on (date license was filed). This license expires on (expiration date of license), and the unshipped balance remaining on this license is sufficient to cover the shipment described on this declaration."

Condition 2 — Exports authorized in any country or destination, except Country Groups Q, S, W, X, Y, and Z in Part 370, Supplement No. 1, of the Comprehensive Export Schedule of the U.S. Department of Commerce.

Condition 3 — This license covers only the nuclear content of the material.

Condition 4 — The material to be exported under this license shall be shipped in accordance with the physical protection requirements for special nuclear material in 10 CFR 73.

Condition 5 — Special nuclear material authorized for export under this license shall not be transported outside the United States in passenger-carrying aircraft in shipments exceeding (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium 233, or (2) 350 grams of uranium 235.

Condition 6 — This license authorizes export only and does not authorize the receipt, physical possession, or use of the nuclear material.

Condition 7 — The licensee shall complete and submit an NRC Form 741 for each shipment of source material exported under this license.

Condition 8 — The licensee shall advise the NRC in the event there is any change in the designation of the company who will package the nuclear material to be exported under this license, or any change in the location of the packaging operation, at least three weeks prior to the scheduled date of export.



NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

October 26, 1979

OFFICE OF THE
COMMISSIONER

MEMORANDUM FOR: Samuel J. Chilk, Secretary
FROM: Peter A. Bradford
SUBJECT: YOUR MEMO OF OCTOBER 25 REGARDING LICENSE TO
EXPORT LOW-ENRICHED URANIUM TO TAIWAN (XSNM-1229)

In view of the extraordinary uncertainty which surrounds the apparent nuclear explosion of September 22, I would not approve this license at least until we have some information that satisfactorily rules out the possibility that Taiwan was in some way involved.

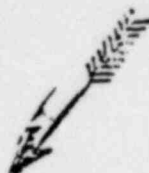
- cc: Chairman Hendrie
- Commissioner Gilinsky
- Commissioner Kennedy
- Commissioner Ahearne



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

Cys: Acting EDO
Cornell
Rehm
Smith
Shapar
NMSS
Haller
Singer

OFFICE OF THE
SECRETARY



February 11, 1980

MEMORANDUM FOR: William J. Dircks, Acting
Director for Operations
FROM: Samuel J. Chilk, Secretary
SUBJECT: SECY-79-537 - PROPOSED LICENSE TO EXPORT LOW ENRICHED
URANIUM TO TAIWAN (XSNM-1229) (COMMISSIONER ACTION ITEM)

This is to advise you that the Commissioners have reviewed the subject license to General Atomic Company. The Commission (with Chairman Ahearne and Commissioners Kennedy and Hendrie concurring and Commissioners Gilinsky and Bradford noting without objection) has accepted the staff's recommendation to export to Taiwan 3,630 grams of uranium, enriched to 19.9 percent U-235, in the form of 15 TRIGA fuel elements.

The Office of International Programs was informed of this action by telephone on February 8, 1980.

- cc:
- Chairman Ahearne
- Commissioner Gilinsky
- Commissioner Kennedy
- Commissioner Hendrie
- Commissioner Bradford
- Commission Staff Offices
- Director, International Programs
- Public Document Room

CHRONOLOGY OF XSNM-1325

Export of 22,295.905 kilograms of uranium, enriched to 3.0% U-235 for use in the Wurgassen reactor in the Federal Republic of Germany.

<u>ACTION</u>	<u>DATE</u>
Received application of 6/7/78 from Transnuclear, Inc.	06/08/78
Forwarded application to Executive Branch for views	06/13/78
Forwarded notice to Federal Register on receipt of application	06/14/78
Notice of receipt published in Federal Register, Vol. 43, No. 119	06/20/78
Received memo of 6/30/78 from the NRC's Office of Nuclear Material Safety and Safeguards identifying no safeguards concerns	07/03/78
Received assurance letter of 7/11/78 from EURATOM that the material will be subject to the US-EURATOM Agreement for Cooperation	07/14/78
Received favorable Executive Branch views of 9/6/78	09/12/78
Case delayed due to concerns regarding adequacy of written physical security letter from FRG (SECY-78-563, classified)	10/78
Sent 60-day notification letter to applicant explaining that reason for delay in issuing license is due to the need for clarification of certain issues of a classified nature in connection with the requirement for written physical security assurances	11/13/78
Received letter of 11/28/78 from applicant forwarding telex from NUKEM, the fabricator of the material, which stresses an urgent need for the license	11/29/78
Case further delayed by the adequacy of physical security assurance letters from EURATOM	12/78 - 1/79
Received letter of 2/8/79 from EURATOM to Chairman Hendrie expressing urgency for the material	02/09/79
Forwarded Commission information paper on several pending LEU applications for EURATOM (including XSNM-1325) which are pending a Commission decision on the issue of the adequacy of physical security assurances from EURATOM (classified)	02/13/79
Received Commission concurrence on staff recommendation in SECY-78-563 "Physical Security Assurances For Nuclear Exports" (classified), that FRG assurances are adequate	02/16/79
Forwarded Commission Action Paper in response to Commissioner Ahearne's questions regarding delays in receiving physical security assurance letters from EURATOM (SECY-79-126, Classified)	02/16/79

ACTIONDATE

Received Commission concurrence on staff recommendation in SECY-78-600 to exempt certain countries from physical security assurance letter requirements for nuclear exports	02/22/79
Staff granted an exemption for this case from the provisions of 10 CFR 110.43(b) for the written physical security assurance letter requirement for the group of countries in EURATOM	02/23/79
Completed staff findings that export meets all requirements of the Atomic Energy Act, as amended by the NNPA (No need for Commissioner approval as this is a routine reload case)	02/23/79
License No. XSNM01325 issued	02/23/79
Received letter of 2/27/79 with additional information on sample shipments from the applicant	03/05/79

CHRONOLOGY OF XSNM-1285

Export of 1,897 kilograms of uranium, enriched to 3.85% U-235 for use in the Hamaoka Unit 2 reactor in Japan.

<u>ACTION</u>	<u>DATE</u>
Received application dated 2/28/78 from Mitsui and Company	03/03/78
Application forwarded to the Executive Branch for views	03/15/78
Received memo from the NRC'S Office of Nuclear Material Safety and Safeguards identifying no physical security concerns	07/18/78
Applicant calling periodically to check on status of application	
Received letter of 9/29/78 from applicant requesting an amendment to increase the nominal enrichment maximum percentage of the material	10/06/78
Commissioner Bradford raised a question of a classified nature with respect to a proposed export of HEU TO Japan and whether or not the export meets criteria 4 and 5 of the NNPA	11/08/78
Staff forwarded Commission information paper (SECY-78-498D, classified), containing a legal analysis prepared by the NRC's Office of the Executive Legal Director in response to Commissioner Bradford's November 8, 1978 inquiry	11/21/78
Commissioner Bradford raised additional questions and comments (classified) on the legal analysis attached to SECY-78-498D classified	12/19/78
Staff forwarded a letter (classified) to State Department requesting Executive Branch views on exports to Japan in light of Commissioner Bradford's concerns	12/29/78
The NRC's Office of the Executive Legal Director forwarded a Commission information paper (SECY-79-32, classified), in response to Commissioner Bradford's Dec. 19, 1978 questions and comments	01/16/79
Received [redacted] Executive Branch views of 1/17/79, recommending [redacted] the proposed license to Japan	01/19/79
Received letter of 1/24/79 from the Executive Branch responding to several questions raised by Commissioner Bradford which were forwarded in the 12/29/78 letter from the staff	01/25/79
Staff forwarded Executive Branch views on proposed export to Commissioners (SECY-79-73) for early review	01/29/79

ACTION

Staff forwarded Executive Branch letter of 1/24/79 to the Commission for review with detailed staff analysis to follow (SECY-79-92, classified)	02/05/79
Staff forwarded Commission Action Paper (SECY-79-111, classified) with an analysis of the Executive Branch's 1/24/79 letter and a request for Commission views concerning Japan meeting criteria 4 and 5 of the NNPA	02/13/79
Received memo of 2/15/79 from the NRC's Office of Nuclear Material Safety and Safeguards concurring on the draft staff paper	02/16/79
Forwarded Commission action paper, SECY-79-73A, recommending approval (this application would normally be processed by the staff without referral to the Commission; however, due to concerns raised by Commissioner Bradford regarding criteria 4 and 5 of the NNPA (classified), all major case applications to Japan are to be reviewed by the Commission until further notice) (see attached)	02/28/79
Commissioner Kennedy concurs	03/08/79
Commissioner Ahearne concurs	03/19/79
Chairman Hendrie concurs	03/20/79
Forwarded 60-day notification letter to applicant explaining that the delay is due to the need for the Commission to clarify how some of the NNPA criteria are satisfied with respect to exports to Japan	03/29/79
Commissioner Gilinsky concurs	04/03/79
Received a classified memorandum from the NRC's Office of Policy Evaluation to Commissioner Bradford in response to his request for an analysis of whether Japan meets criteria of the NNPA	04/05/79
Commissioner Bradford made the following comment: "I concur in this export pending resolution of issues I have previously raised regarding criteria 4 and 5. The oral assurances on criteria 4 and the Tokai experience are helpful, but they do not fully solve the problem."	04/11/79
License No. XSNM-1285 issued	04/13/79
Received SECY memo of 4/13/79 with Commissioner concurrence (see attached)	04/18/79

FEB 28 1979

SECY-79-73A

For: The Commissioners

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

Thru: Executive Director for Operations ^{(Signed) Lee V. Gossick}

Subject: PROPOSED LICENSE TO EXPORT LOW-ENRICHED URANIUM
TO JAPAN (XSNM-1285, SECY-79-73)

Purpose: Commission review of proposed issuance of subject license
to Mitsui and Company.

Review Dates: 60-day period expires on March 20, 1979
120-day period expires on May 19, 1979

Discussion: In February 1978, Mitsui and Company applied for a license to export 1,897 kilograms of uranium, enriched to 3.85% U-235 to Japan for use as reload in the Hamaoka Unit 2 reactor. The material, in the form of uranium hexafluoride, will be shipped to Sumitomo Metal Mining for conversion, then transferred to the Japan Nuclear Fuel Company Limited for fabrication into fuel assemblies.

The application was forwarded for Executive Branch review and comment on March 15, 1978. On January 17, 1979, the Executive Branch (1) advised NRC that issuance of the proposed license would not be inimical to the interests of the US, including the common defense and security; (2) confirmed that the material will be subject to all the terms and conditions of the US-Japan Agreement for Cooperation; (3) confirmed that Japan has adhered to the provisions of its Agreement for Cooperation; and (4) advised that there were no material changed circumstances since the submission of its detailed analysis on December 12, 1978 on seven proposed exports of low-enriched

Contact:
J. Dunn Lee (492-7984)
G. G. Oplinger (492-7866)

OFFICER					
REPLACES					
DATE					

uranium discussed in SECY-79-64, classified, dated January 24, 1979.

Under 10 CFR 110.40(b)(2), the staff would normally be authorized to process this application as a routing reload without referral to the Commission. However, due to concerns raised by Commissioner Bradford as discussed in SECY-78-468D, SECY-79-32, SECY-79-64, SECY-79-64B, and SECY-79-111, all classified confidential, the subject application is being forwarded for Commission review.

It is the staff's understanding that the exchange of notes between Japan and the IAEA bringing into force the subsidiary arrangements to Japan's safeguards agreement may mean that all the facility attachments to the subsidiary arrangements have been completed. The staff has asked State for confirmation of this.

In any event, with regard to facilities specific to this application (Hamaoka 2, Sumitomo Metal Mining, and Japan Nuclear Fuel Company Limited), the staff has recently received a cable which advises that facility attachments have been completed for these facilities.

The staff believes there are no material changed circumstances concerning exports to Japan which would affect the Commission's consideration of licensing criteria and which have occurred since export license XSHMO1244 was issued on July 5, 1978 for similar material for Japan after Commission review. Assuming that Commissioner Bradford's questions are resolved, the staff believes that this proposed export license may be issued. This procedure is authorized by section 110.44(a)(2) of Part 110 and is based on section 126(a)(2) of the AEA as amended by the Nuclear Non-Proliferation Act of 1978.

The following documents are forwarded for Commission review of the subject application (1) application of February 28, 1978 and letter amendment of September 29, 1978 (Appendix A); (2) Executive Branch views of January 17, 1979 (Appendix B); and (3) copy of proposed license (Appendix C).

WVSC Technical Review:

No information has been received concerning the Japanese state system of accounting and control.

Note: NRC request for state systems accounting and control information is pending Commission approval of SECY-79-3 "Acquisition of Information on Implementation of International Safeguards for Export Licensing Review".

OFFICE					
SURNAME					
DATE					

Also, NMSS has received no information concerning IAEA implementation activities and problems in Japan other than from the source which was the basis for NMSS conclusions reflected in Table VIII of the November 29, 1978 memorandum to Commissioner Gilinsky. The principal conclusion of the NMSS examinations is that the available information on IAEA implementation is insufficient to permit an evaluation of the effectiveness of IAEA safeguards in Japan.

NMSS has reviewed the physical security program in Japan and found it adequate for the purpose of this export.

Recommendation: That the Commissioners approve issuance of the proposed license to Mitsui and Company subject to resolution of Commissioner Bradford's questions in regard to Criterion 4. In view of the age of this application (almost a year, the Commission may wish to proceed to authorize issuance of this license if resolution of Commissioner Bradford's questions appear likely to require a protracted period.

Coordination: ELD has no legal objection. NMSS views on the adequacy of the accounting and control system, the effectiveness of IAEA safeguards implementation, and the adequacy of the physical security program in Japan are as stated above.

19

James R. Shea, Director
Office of International Programs

Enclosures:
As stated

OFFICE	IPEI	IPEI:AD	NMSS/Inns	OELD	IP:DIR	EDO
SUNAME	Shea/Brinog	GGOpfinger	WJD/Inns	JMBecker	JRShea	LVGossick
DATE	1/31/79	2/2/79	2/15/79	2/5/79	2/24/79	2/28/79

ENC-2

APPENDIX A

XSNM-1285
70-2829
S-954
I.C. 14652
M/C 78-062

APPLICATION FOR LICENSE TO EXPORT
BYPRODUCT, SOURCE, OR SPECIAL NUCLEAR MATERIAL

Submit in Triplicate

Carefully Read Instructions on Back

1. DATE OF APPLICATION February 28, 1978	2. APPLICANT'S REFERENCE NO. (if any) MBK-H2R1	3. COUNTRY OF ULTIMATE DESTINATION Japan
4. NAME OF APPLICANT Mitsui & Co. (U.S.A.), Inc. STREET ADDRESS Park Avenue CITY, STATE, AND ZIP CODE New York, New York 10017	5. ULTIMATE CONSIGNEE IN FOREIGN COUNTRY (Name and address) The Chubu Electric Power Company, Inc. 1, Toshin-cho, Higashi-ku Nagoya, Japan	
6. IMMEDIATE CONSIGNEE IN FOREIGN COUNTRY (Give name and address. If same as ultimate consignee, state "Same.") See attached sheet	7. IF PURCHASER IN FOREIGN COUNTRY IS OTHER THAN ULTIMATE CONSIGNEE, GIVE NAME AND ADDRESS. (If same, state "Same.") ALTERNATE CONSIGNEE IN FOREIGN COUNTRY See attached sheet	
8. QUANTITY TO BE SHIPPED (See instructions on back) Kgs U-235	(b) COMMODITY DESCRIPTION (Include chemical and physical form; for special nuclear material and byproduct material also specify isotopic content; if in a device, identify the device, manufacturer, and model number.) U-235 contained in 1,897 Kgs-U as 2,806 Kgs-UF6 Nominal enrichment 2.86 w/o average, 3.80 w/o max. 1.20 w/o minimum 3.85	

9. SHIPPING AND PACKING PROCEDURES (Required for special nuclear material. See instructions on back.)

See attached sheet.

10. USE OF COMMODITIES COVERED BY THIS APPLICATION: (Describe fully, stating what will be produced or manufactured, what service will be rendered, or the nature of the research that will be performed.) (See instructions on back for special nuclear material.)

See attached statement of end use.

I, the applicant, and any official executing this certificate on behalf of the applicant named in Item 4, certify that this application was prepared in conformity with Title 10, Code of Federal Regulations, Parts 30 and 36 (if for byproduct material) or Part 40 (if for source material), or Part 70 (if for special nuclear material), and Part 71 (for transport of radioactive material, if applicable) and that all information contained herein, including any supplements attached hereto, is true and correct to the best of their knowledge and belief.

RECEIVED
J.D.W.S.

1978 MAR 3 AM 11 20

EXPORT/IMPORT
AND
GENERAL RECORDS

Mitsui & Co. (U.S.A.), Inc.
(Applicant named in Item 4)

By: T. Nohara
T. Nohara, General Manager

(Title of certifying official authorized to act on behalf of the applicant)
Metal Second Dept.

6. INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY

For Fabrication

- (1) Nuclear Fuel Industries, Ltd.
2-3-1 Nagasaka, Yokosuka-shi
Kanagawa-ken, Japan

OR

- (2) Japan Nuclear Fuel Co., Ltd.
907 Uchikawa Shinden, Yokosuka-shi
Kanagawa-ken, Japan

7. ALTERNATE CONSIGNEE IN FOREIGN COUNTRY

- (1) For Conversion:
The Sumitomo Metal Mining Co., Ltd.
11-3, 5-chome Shimbashi, Minato-ku
Tokyo, Japan

- (2) For Transportation:
Mitsui & Co., Ltd.
1-2-1, Ohtemachi
Chiyodaku, Tokyo, Japan

8. (c) Shipping and Packing Procedures

Special Nuclear Material in the form of uranium hexafluoride will be shipped in packages authorized for delivery of such material to a carrier for transport by valid amendments to IAEA Certificate No. USA/4909/B () F

Packaging for this shipment will be done at DOE's Gaseous Diffusion Plant (s).

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U.S. NRC

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EXPORT/IMPORT
AND
INTERNAT'L SFGRS

THE CHUBU ELECTRIC POWER CO., INC.

NO.1, TOSHIN-CHO, HIGASHI-KU

NAGOYA JAPAN

CABLE ADDRESS: CHUBPOCO NAGOYA
TELEX: 4444405 CHUDEN J

U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
U. S. A.

STATEMENT OF END USE

Gentlemen:

It is our understanding that, as a requisite to export license action, the U. S. Nuclear Regulatory Commission requires a statement concerning the end use of the special nuclear material which is described in the Mitsui & Co. (U. S. A.), Inc. application for a USNRC export license and which is to be transferred from U. S. DOE Facility to the Hamaoka Unit No. 2 Reactor site in Japan.

Accordingly, it is hereby stated that the material as 52 kilograms of U-235 contained in uranium hexafluoride will be converted to uranium dioxide at the Sumitomo Metal Mining's Tokai Facility in Ibaragi, Japan. And further, such uranium dioxide will be fabricated into fuel assemblies for ultimate use in our Hamaoka Unit No. 2 Reactor.

Sincerely yours,

Tamio Miki

Tamio Miki
General Manager
Fuels Division

16
1800
1788
16

16

MITSUI & CO. (U.S.A.), INC.

IMPORTERS AND EXPORTERS

200 PARK AVENUE
NEW YORK, N. Y. 10017

CABLE ADDRESS
"MITSUI NEWYORK"
RCA TELE 232612
ITT TELEX 420153
WUI TELEX 620251

February 28, 1978

United States Nuclear Regulatory Commission
Office of Nuclear Material Safety and Safeguards
Licenses and Export Branch
Washington D.C. 20555

Attention: Mr. Raymond N. Moore

Subject: NRC Export License Application for
Special Nuclear Material
Country: Japan

Dear Mr. Moore,

Mitsui & Co. (U.S.A.), Inc. (Mitsui) has been designated as representative for exportation of special nuclear materials from The Chubu Electric Power Company, Inc. (CHUBU) Hamaoka 2 reactor in Japan.

It is anticipated that shipment of bulk uranium hexafluoride to the Sumitomo Metal Mining Co., Ltd. (SUMITOMO) in Japan for conversion of UF₆ into UO₂ will begin on September 1, 1978. Whether such UO₂ will be fabricated into fuel assemblies at Nuclear Fuel Industries, Ltd. (NFI) or Japan Nuclear Fuel Co., Ltd. (JNF) in Japan is not yet determined. The UO₂ is destined for this reactor. Therefore, pursuant to Part 70 of Title 10, Code of Federal Regulations, MITSUI hereby applies for a license to export to CHUBU, Nagoya, Japan, special nuclear material as described on the enclosed Form AEC-7. SUMITOMO will be the destination of UF₆ in Japan for conversion into UO₂ for further fabrication at NFI or JNF, and NFI or JNF will be the destination of UO₂ converted at SUMITOMO into fuel assemblies. The quantity of U-235 included includes approximately 5% for contingencies.

A copy of the Statement of End Use from the ultimate consignee is attached. The material at the time of export will be owned by CHUBU, and, we understand, originated in South Africa or Canada before shipment and processing in the United States.

1978 MAR 5 11 11 25

EXPORT/IMPORT
AND
FINANCIAL SERVICES

continued....

United States Nuclear
Regulatory Commission

Page 2

to: Mr. R.N. Moore

Subject: NRC Export License Application for
Special Nuclear Material
Country: Japan

We respectfully request that Commission correspondence with the Government of Japan concerning this export indicate explicitly at the ultimate consignee authorization and any other information requested by the Commission in this matter concern only that quantity of special nuclear material which is actually exported under the export license, not the quantity of special nuclear material shown in this application nor that which appears on the face of the license.

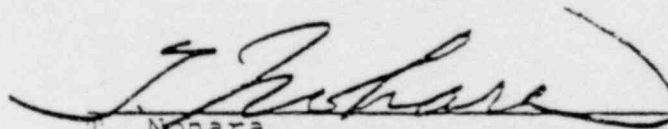
It is requested that the license be granted to extend until September, 1979.

We trust you will find this application satisfactory to permit issuance of the appropriate NRC license.

If we may furnish further information, please call Mr. I. Suzuki direct - telephone (212) 973-2011.

Very truly yours,

MITSUI & CO. (U.S.A.), INC.



I. Nonara
General Manager
Metal Second Dept.

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U.S. NRC

1978 MAR 5 AM 11 25

EXPORT/IMPORT
AND
SPECIAL MATERIALS



MITSUI & CO. (U.S.A.), INC.

IMPORTERS AND EXPORTERS
200 PARK AVENUE
NEW YORK, N.Y. 10017

RECEIVED
U.S. NRC

CABLE ADDRESS
"MITSUI NEWYORK"
RCA TELEX 232613
ITT TELEX 420153
WUI TELEX 620251

TELEPHONE
(212) 973-4500
TAX 710-581-2788
WU 012056

1978 OCT 6 PM 3 07

September 29 1978
EXPST/IMPORS
AND
INTERNAT'L SFGRDS

Mr. Raymond N. Moore
U.S. Nuclear Regulatory Commission
Office of Nuclear Material Safety and Safeguard
Agreements and Export Branch
Washington, DC 20555

Dear Mr. Moore:

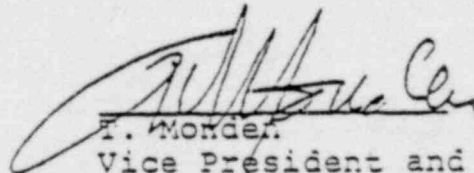
This is in reference to the telephone conversation between you and our Mr. Suzuki today. We would appreciate it if you could amend Section 8 (b) of Export License XSNM 01276; XSNM 01272 and of our application XSNM 01285 to increase the nominal enrichment maximum percentage as follows:

XSNM 01276	from	3.01 percent	to	3.06 percent
XSNM 01272	from	3.07 percent	to	3.12 percent
XSNM 01285	from	3.80 percent	to	3.85 percent

This amendment is for any contingency due to possible enrichment variation.

Your kind attention in this matter is most appreciated.

Very truly yours,


F. Morden
Vice President and
General Manager

TM/lab

APPENDIX B



DEPARTMENT OF STATE

Washington, D.C. 20520

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U.S. NRC

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

1979 JAN 19 PM 1 34

January 17, 1979

EXPORT/IMPORT
AND
INTERNAT'L SFGDRS

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

XSNM01285
70-2829

Dear Mr. Shea:

This letter is in response to your letter dated March 15, 1978, 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 of the Atomic Energy Act as amended by the Nuclear Non-Proliferation Act of 1978:

NRC No. XSNM01285 -- Application by the Mitsubishi International Corporation for authorization to export to Japan 52 kilograms of uranium-235 contained in 1,897 kilograms of uranium enriched to 3.8 percent. The material in the form of uranium hexafluoride will be shipped to the Sumitomo Metal Mining for conversion into uranium dioxide, then transferred to the Japan Nuclear Fuel Company, Ltd. for fabrication into fuel assemblies. The assemblies will be used for reload of Unit 2 of the Hamaoka Nuclear Power Plant in Japan.

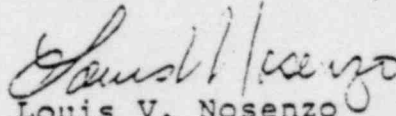
The proposed export would take place pursuant to the Agreement for Cooperation Between the United States and Japan as confirmed in a letter from the Embassy of Japan dated November 20, 1978. Japan has adhered to the provisions of its Agreement for Cooperation with the United States.

The Executive Branch has reviewed this application and concluded that the requirements of the Atomic Energy Act and P.L. 95-242 have been met and that the proposed

export will not be inimical to the common defense and security of the United States. A detailed analysis was submitted for Japan on December 12, 1978 for NRC license applications nos. XSNM-1291, 1300, 1301, 1304, 1303, 1315 and 1365. There has been no material change in circumstances since the submission of that analysis.

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

Sincerely,



Louis V. Nosenzo
Deputy Assistant Secretary

Enclosure:
Assurance letter

EMBASSY OF JAPAN

22 MASSACHUSETTS AVENUE, N.W.

WASHINGTON, D.C. 20008

(202) 234-2266

November 20, 1978

Colonel Vance H. Hudgins
Assistant Director for
Politico-Military Security Affairs
Division of International Security Affairs
Department of Energy
Washington, D.C. 20545

Dear Colonel Hudgins:

Concerning import of the special nuclear material for the facility noted below, this will confirm that the Government of Japan appointed the Chubu Electric Power Company, Inc.

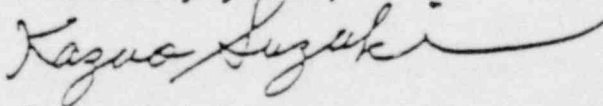
as an authorized person under the terms and conditions pursuant to Article VI of the Agreement for Cooperation between the Government of the United States of America and Government of Japan concerning Civil Uses of Atomic Energy which entered into force on July 10, 1968, amended by the Protocol on December 21, 1973.

Fuel for the Hamaoka Nuclear Power Station Unit No. 2: 52 kgs
of U-235 contained in 1,897 kgs of uranium (3.85 % maximum enrichment)

Further, it is confirmed that the transfer of the special nuclear material identified above will take place under all the terms and conditions of the Agreement for Cooperation between our Governments, and that the appointee(s) named above have been authorized to receive and possess the material by both Governments.

Also, the Government of Japan confirms that the safeguards and guarantees of the Agreement for Cooperation will always apply to this special nuclear material, except for that material subsequently retransferred with the written approval of the United States.

Sincerely yours,



Kazuo Suzuki
First Secretary (Scientific)

This is in reference to the case number of S-954 stated in your letter dated March 22, 1978.

The intermediate consignees, Sumitomo Metal Mining Company, Ltd. and Japan Nuclear Fuel Company, Ltd., are also authorized to receive and possess the material.

APPENDIX C

FORM NRC-100

NRC LICENSE NO.

THIS LICENSE EXPIRES

United States of America
Nuclear Regulatory Commission

XSNH01285

Pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 and the regulations of the Nuclear Regulatory Commission issued pursuant thereto, and in reliance on statements and representations heretofore made by

the licensee, a license is hereby issued to the licensee authorizing the export of the materials and/or production or utilization facilities listed below, subject to the terms and conditions herein.

LICENSEE:
NAME Mitsui & Co. (U.S.A.), Inc.
ADDRESS 200 Park Avenue
New York, New York 10017
Attn: T. Mahara

ULTIMATE CONSIGNEE IN FOREIGN COUNTRY
NAME The Chubu Electric Power Company, Inc.
ADDRESS 1, Toshin-cho, Higashi-ku
Nagoya, Japan

INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY:
For Fabrication:
NAME (1) Nuclear Fuel Industries, Ltd.
2-3-1 Nagasaka, Yokosuka-shi
Kanagawa-ken, Japan
or
NAME (2) Japan Nuclear Fuel Co., Ltd.
907 Uchikawa Shinden, Yokosuka-shi
Kanagawa-ken, Japan

OTHER XXXXXXXXXX Intermediate Consignees
For Conversion:
NAME (3) The Sumitomo Metal Mining Co., Ltd.
11-3, 5-chome Shimbashi, Minato-ku
Tokyo, Japan.
For Transportation:
NAME Mitsui & Co., Ltd.
1-2-1, Ohtemachi
Chiyodaku, Tokyo, Japan

APPLICANT'S REF. NO. MBK-H2R1

COUNTRY OF ULTIMATE DESTINATION Japan

QUANTITY	DESCRIPTION OF MATERIALS OR FACILITIES
52 kilograms uranium-235	Contained in 1,897 kilograms uranium, as uranium hexafluoride (UF6), enriched to 3.85 w/o maximum. Condition 6 on page two of this license applies to this export.
//END//	

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.
This license is subject to the right of recapture or control by Section 171 of the Atomic Energy Act of 1954, as amended and to all of the other provisions of said Acts, now or hereafter in effect and to all rules and regulations of the Nuclear Regulatory Commission.

THIS LICENSE IS INVALID UNLESS SIGNED BELOW BY AUTHORIZED NRC REPRESENTATIVE:
Gerald G. Oplinger, Assistant Director
Export/Import and International Safeguards
Office of International Programs
DATE OF ISSUANCE

EXPORT LICENSE

U.S. NUCLEAR REGULATORY COMMISSION
EXPORT LICENSE

Conditions

License Number XSNM01285

Condition 1 — Licensee shall file with the Customs Officer or the Postmaster two copies, in addition to those otherwise required, of the Shipper's Export Declaration covering each export and mark one of such copies for transmittal to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The following declaration should accompany or be placed on the Shipper's Export Declarations for such exports:

"This shipment is being made pursuant to specific license number (specific license number) filed at (location of Customs office where license is filed), on (date license was filed). This license expires on (expiration date of license), and the unshipped balance remaining on this license is sufficient to cover the shipment described on this declaration."

Condition 2 — Exports authorized in any country or destination, except Country Groups Q, S, W, X, Y, and Z in Part 370, Supplement No. 1, of the Comprehensive Export Schedule of the U.S. Department of Commerce.

Condition 3 — This license covers only the nuclear content of the material.

Condition 4 — The material to be exported under this license shall be shipped in accordance with the physical protection requirements for special nuclear material in 10 CFR 73.

Condition 5 — Special nuclear material authorized for export under this license shall not be transported outside the United States in passenger-carrying aircraft in shipments exceeding (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium 233, or (2) 350 grams of uranium 235.

Condition 6 — This license authorizes export only and does not authorize the receipt, physical possession, or use of the nuclear material.

Condition 7 — The licensee shall complete and submit an NRC Form 741 for each shipment of source material exported under this license.

Condition 8 — The licensee shall advise the NRC in the event there is any change in the designation of the company who will package the nuclear material to be exported under this license, or any change in the location of the packaging operation, at least three weeks prior to the scheduled date of export.



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

Cys: Gossick
Corbett
Rehm
Dircks
Shapar
Oplinger
Haller
Hayden

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USNRC

April 13, 1979 79 APR 18 11:33

OFFICE OF
INTERNATIONAL
PROGRAMS

MEMORANDUM FOR: Lee V. Gossick, Executive
Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-79-73A - PROPOSED LICENSE TO EXPORT LOW-
ENRICHED URANIUM TO JAPAN (XSNM-1285, SECY-79-73)
(COMMISSIONER ACTION ITEM)

This is to advise you that the Commissioners have reviewed the subject license to Mitsui and Company. The Commission (with five Commissioners concurring) has accepted your recommendation to export to Japan 1,897 kilograms of uranium, enriched to 3.85% U-235, in the form of uranium hexafluoride.

In his concurrence Commissioner Bradford stated: "I concur in this export pending resolution of issues I have previously raised regarding criteria 4 and 5. The oral assurances on criteria 4 and the Tokai experience are helpful, but they do not fully solve the problem."

The Office of International Programs was informed of this action by telephone on April 13, 1979.

It is requested that you provide notification of the issuance and delivery of this license to Mitsui by c.o.b. April 19, 1979.

CC:
Commissioners
Commission Staff Offices
Director, International Programs
Public Document Room

ab7

CHRONOLOGY OF XR-127

Export of a General Electric boiling water, reactor, "KAISERAUGST" to Switzerland.

<u>ACTION</u>	<u>DATE</u>
Received application of 7/21/77 from General Electric Company	07/25/77
Forwarded application to the Executive Branch for views	08/01/77
Staff memo to the file with finding that proposed export does constitute a utilization facility	08/01/77
Notified the NRC's Office of Congressional Affairs on receipt of application	08/22/77
Transmitted notice on receipt of application to the Federal Register for publication	08/22/77
Notified Joint Committee on Atomic Energy on receipt of application	08/26/77
Notice published in the Federal Register, Vol. 42, No. 167	08/29/77
Received favorable Executive Branch views of 5/22/78	05/24/78
Forwarded Executive Branch views to Commissioners for early review	06/07/78
State Department advised that physical security protection in Switzerland is adequate	06/26/78
Completed staff conclusions that requirements of the Atomic Energy Act, as amended by the NNPA are met	07/03/78
Received NRC's Office of Nuclear Material Safety and Safeguards concurrence on staff paper by memo dated 7/11/78	07/12/78
Sent 60 day notification letter to applicant explaining that delay is due to need for staff to obtain additional information on physical security assurances	07/28/78
Staff forwarded Commission action paper, SECY-78-443, recommending approval of the proposed license (see attached)	08/15/78
Commissioner Kennedy concurs	08/21/78
Commissioner Ahearne concurs	08/23/78
Chairman Hendrie concurs	08/24/78

<u>ACTION</u>	<u>DATE</u>
Received request from Commissioner Bradford for additional information concerning timing of safeguards application to the facility (see attached)	08/30/78
Sent letter to State Department requesting safeguards related information for Commissioner Bradford	09/08/78
Received request from Commissioner Gilinsky for (1) the status of the renegotiation of agreement for cooperation with Switzerland and (2) what control the US will have over non-US origin material irradiated in the reactors (see attached)	09/13/78
Staff responded to Commissioner Gilinsky's request	09/19/78
Commissioner Gilinsky concurs and requests that he be kept up-to-date on the status of the renegotiation of the agreement	10/03/78
State Department advised staff that their response to Commissioner Bradford's question will be available in a week	10/06/78
Received response from State Department to Commissioner Bradford's questions on safeguards implementation	10/23/78
Forwarded staff analysis and views on State Department response to Commissioner Bradford	11/09/78
Commissioner Bradford concurs with comments on the time delay resulting from his questions	11/20/78
License No. XR-127 issued	11/20/78
Received comments from Commissioner Bradford on delay of issuing license (see attached)	12/04/78
Received SECY memo of Commissioner approval (see attached)	12/04/78
Forwarded notice to Federal Register on issuance of facility export license	12/12/78

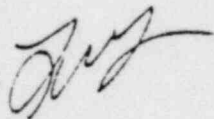
August 15, 1978

SECY-78-443

COMMISSIONER ACTION

For: The Commissioners

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

Thru: Executive Director for Operations 

Subject: PROPOSED LICENSE TO EXPORT A POWER REACTOR TO SWITZERLAND (APPLICATION XR-127)

Discussion: In July 1977, General Electric Company filed an application for a license to export a power reactor [962MW(e)] to Switzerland.

Based upon its independent analysis (Appendix A) and review of the Executive Branch submission, the staff has concluded that Switzerland currently meets all applicable statutory requirements of the NNPA for issuance of the license.

In its memorandum dated June 26, 1978 (Appendix E) the Executive Branch has concluded that the US has assurance that Switzerland is committed to providing adequate physical security for its nuclear program, including a level of protection comparable with that envisioned by the recommendations in IAEA INFCIRC/225. The memorandum also noted that while the Physical Security Review Team which visited Switzerland in April 1976 reported some organizational weakness in their physical security program, these were being overcome at that time. NMSS has reviewed the team's report and concludes (Appendix F) that the physical security measures employed significantly exceed the criteria in INFCIRC/225. In addition, the staff has recently obtained supplementary information to the effect that the physical security program in Switzerland was further strengthened as a result of organizational changes made subsequent to the 1976 visit.

Contact:
R.N. Moore (492-7984)
J.G. Dunn (492-7004)

Discussion:
(continued)

The written assurance on physical protection required by 10 CFR 110.43(c) has not been obtained from the Government of Switzerland. However, since the facility will contain only Category III material, the staff purposes to issue an exemption from this requirement as discussed in SECY-78-291 and 78-386 if the Commission approves issuance of the license.

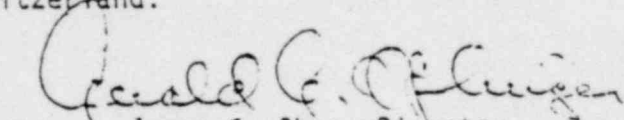
The following documents are forwarded for Commission review of the subject application: (1) staff review and conclusion that the proposed export meets statutory requirements (Appendix A); (2) Executive Branch views of May 22, 1978 recommending issuance (Appendix B); (3) application of July 21, 1977 (Appendix C); (4) copy of Federal Register notice of August 21, 1977 (Appendix D); (5) State Department letter of June 26, 1978 (Appendix E); (6) NMSS memorandum of July 11 (Appendix F); and (7) copy of proposed license (Appendix G).

Recommendation:

That the Commission approve the issuance of the proposed license to General Electric Company and General Electric Technical Services Company, Inc.

Coordination:

OELD has no legal objection. NMSS wishes to inform the Commission that it has not received country-specific information which permits it to make an independent conclusion as to the effectiveness of IAEA material control and accounting safeguards to deter and detect diversion in Switzerland.


James R. Shea, Director
Office of International Programs

Enclosure:
As stated above

NOTE:

Commissioner comments or concurrence should be provided directly to the Office of the Secretary by c.o.b. Tuesday, August 22, 1978.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT August 18, 1978, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION

Commissioners
Commission Staff Offices
Exec Dir for Operations
Secretariat

APPENDIX A



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

JUL 3 1978

MEMORANDUM TO THE FILE

STAFF CONCLUSIONS REGARDING PROPOSED LICENSE TO EXPORT A POWER REACTOR
TO SWITZERLAND (XR-127)

In July 1977, General Electric Company filed an application for a license to export a boiling water reactor to Energie Nucleaire de Kaiseraugst, S.A. of Switzerland.

The reactor, known as the Kaiseraugst Nuclear Power Station, has a design power level of 2,894 MW(t) (962 MW(e)) and will be located 12 kilometers east of Basel, Switzerland. The scheduled commercial operation for the plant is October 1, 1983. The export is valued at approximately \$23,000,000.

In response to our August 1, 1977 request for views, the Executive Branch has (1) concluded that issuance of the proposed license would not be inimical to the interests of the US, including the common defense and security; and (2) confirmed that the material will be subject to all the terms and conditions of the Agreement for Cooperation between the US and Switzerland.

The views and license application analysis by the Executive Branch were forwarded by the State Department analysis of May 22, 1978.

Confirmation of the applicability of the US-Switzerland Agreement for Cooperation was also set forth in the letter of March 6, 1978 from the Embassy of Switzerland.

The staff has reviewed the subject application in light of the considerations below:

- o Safeguards. Although a party to the NPT, Switzerland has not yet concluded an NPT safeguards agreement with the IAEA pursuant to INFCIRC/153. Nevertheless, all materials or facilities proposed to be exported or previously exported pursuant to the US-Switzerland Agreement for Cooperation and any US-supplied Nuclear Material used in the facility, or produced through the use thereof, will be subject to IAEA safeguards under a trilateral US-Switzerland-IAEA safeguards agreement based on INFCIRC/66/Rev. 2. It is expected that IAEA safeguards pursuant to INFCIRC/153 will be brought into force this year or in 1979.

Memorandum to File

- o No Nuclear Explosive Use. As a non-nuclear weapon state party to the NPT, Switzerland has undertaken the obligations not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.
- o Physical Security. The Executive Branch has assessed the physical security measures maintained in Switzerland with respect to nuclear material and facilities and has found them adequate for the facility covered by this license. The Executive Branch has also advised that Switzerland has implemented IAEA guidelines regarding the physical security for nuclear materials. Based upon the staff's assessment of information obtained through visits, reviews, and exchanges, and upon information provided by the Executive Branch, the physical security program in Switzerland is considered adequate to physically protect the facility, the fuel, and the material produced through the use thereof, as required pursuant to 10 CFR 110.42 and 110.43.
- o Retransfer. The US-Switzerland Agreement prohibits the retransfer of any material supplied by the US, beyond the jurisdiction of Switzerland without US approval to such retransfer, and then only if it is within the scope of an agreement for cooperation between the US and the other nation or group of nations. Similarly, it prohibits the transfer of special nuclear material produced through the use of US-supplied material or facilities without US approval.
- o Reprocessing. The US-Switzerland Agreement stipulates that any reprocessing of US-supplied material shall be performed in facilities acceptable to both parties upon a joint determination that safeguards may be effectively applied.

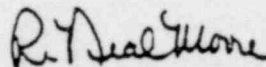
Memorandum to File

- o Sensitive Technology. The proposed export does not involve sensitive technology.

As more fully developed in its memorandum dated May 22, 1978, the Executive Branch has determined that Switzerland currently meets all the criteria of P.L. 95-242, including the requirements of Section 126(a)(1) and the specific criteria of Sections 127 and 128 and that Switzerland has adhered to all the provisions of its Agreement for Cooperation with the US.

The staff has concluded that issuance of the proposed license would be consistent with the recently enacted Nuclear Nonproliferation Act, including the specific criteria of Section 127.

In view of all the considerations above, and as required by Section 103 of the Atomic Energy Act and 10 CFR 110.44, the staff has concluded that the export to be made pursuant to the proposed license (1) would be subject to the terms and conditions of the Agreement for Cooperation between the US and Switzerland, and (2) would not be inimical to the common defense and security of the United States or constitute an unreasonable risk to the public health and safety.



R. Neal Moore
Senior Licensing Reviewer
Office of International Programs

APPENDIX B

DEPARTMENT OF STATE

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

XR-127
50-587

May 22, 1978

MEMORANDUM FOR JAMES R. SHEA
NUCLEAR REGULATORY COMMISSION

Enclosed is an Executive Branch analysis covering a license application for the export of a nuclear power reactor to Switzerland. 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 application, 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, Switzerland 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. Nosenzo
Louis V. Nosenzo
Deputy Assistant Secretary

Enclosure
As stated

EXPORT LICENSE APPLICATION ANALYSIS

XR - 127

Country: Switzerland
Transaction: One light water cooled and moderated
boiling water nuclear power reactor
to Switzerland
Applicant: General Electric Company
Applicant Reference: BDW-131.77
Date of Application: July 21, 1977

Purpose of the Export

This light water cooled and moderated boiling water nuclear power reactor with a designated power output of 962 Megawatts electric will be known as the Kaiseraugst Nuclear Power Station and will be owned and operated by Energie Nucleaire de Kaiseraugst, S.A., Baden, Switzerland.

The total estimated value of the equipment to be exported is \$23,000,000. The proposed shipments of this equipment are to begin January 1, 1979. The proposed date on which the reactor will achieve criticality is October 1, 1983.

EMBASSY OF SWITZERLAND
SCHWEIZERISCHE BOTSCHAFT
AMBASSADE DE SUISSE

WASHINGTON D. C. 20008,
2900 Cathedral Avenue N.W.
Telephone 462-1811/7

Ref.: 651.513 K'augst - CF/or

March 6, 1978

Colonel Vance H. Hudgins
Asst. Director for Politico-
Military Security Affairs
Division of International
Security Affairs
U.S. Department of Energy
Washington, D.C. 20545

Dear Colonel Hudgins:

Reference is made to your letter of October 31, 1977 and my letter of January 12, 1978 concerning application S-766 for a license to export to Switzerland one GE forced circulation, single-cycle, light water cooled and moderated boiling water reactor 962 MW_e.

I hereby give written confirmation that the material identified on the General Electric license application of July 21, 1977 will be subject to the terms and conditions of the Agreement for Cooperation concerning civil uses of atomic energy between the Government of the United States and the Government of Switzerland, and also that the ultimate consignee and the intermediate consignees are authorized to receive and possess the material.

Sincerely yours,



Special Representative
for the United States

1. Applicable Agreement for Cooperation

The proposed export is subject to all of the terms and conditions of the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland concerning Civil Uses of Atomic Energy, which entered into force on August 8, 1966, as amended January 29, 1974. This was confirmed in a letter from the Embassy of Switzerland to the Department of Energy dated March 6, 1978, a copy of which is attached.

Switzerland has adhered to all provisions of its agreement with the United States.

2. Extent to Which Export Criteria Are Met

A. Section 127 Criteria

As provided in Section 127 of the Atomic Energy Act, the following criteria govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

Criterion (1)

"IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable Agreement for Cooperation, and to any special nuclear material used in or produced through the use thereof."

Switzerland is a Party to the Treaty on the Non-Proliferation of Nuclear Weapons and deposited its instrument of ratification on March 9, 1977. Switzerland has not yet concluded an NPT safeguards agreement with the IAEA pursuant to INFCIRC/153. IAEA safeguards are applied in Switzerland to all materials or facilities proposed to be exported, as well as to any such material or facilities previously exported pursuant to the U.S.-Switzerland agreement for cooperation and to any U.S.-supplied special nuclear material used in or produced through the use thereof under a trilateral U.S.-Switzerland-IAEA safeguards agreement based on INFCIRC/66 Rev./2, which entered into force on February 28, 1972.

Therefore, it is the Executive Branch view that criterion (1) is met.

Criterion (2)

"No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable Agreement for Cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device."

As a Party to the NPT, Switzerland is committed not to develop nuclear explosive devices for any purpose. Therefore, it is the view of the Executive Branch that criterion (2) is met.

Criterion (3)

"Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to Section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations."

The Executive Branch has assessed the physical security measures maintained in Switzerland with respect to nuclear material and facilities and determined that they are adequate for the facility covered by this license application.

Therefore, it is the view of the Executive Branch that criterion (3) is met.

Criterion (4)

"No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section."

Article IX A. (3) of the 1966 U.S. - Switzerland Agreement for Cooperation, as amended in 1974, stipulates that: "No material, including equipment and devices, transferred to the Government of Switzerland or authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Switzerland except as the Commission may agree to such a transfer to the jurisdiction of another nation or group of nations, and then only if, in the opinion of the Commission, the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and the other nation or group of nations."

Insofar as special nuclear material produced in these reactors is concerned, Article X B. provides, inter alia, that: "B. ... the Government of the United States of America, notwithstanding any other provisions of this Agreement shall have the following rights: ...

"(2) With respect to any source or special nuclear material made available to the Government of Switzerland or any person under its jurisdiction by the Government of the United States of America or any person under its jurisdiction and any source or special nuclear material utilized in, recovered from, or produced, as a result of the use of any of the following materials, equipment, or devices so made available:

"(a) source material, special nuclear material, moderator material, or other material designated by the United States Commission,

"(b) reactors ...

"(ii) to require that any such material in the custody of the Government of Switzerland or any person under its jurisdiction be subject to all of the safeguards provided for in this Article and the guaranties set forth in Article IX;"

These articles give the U.S. an unqualified approval right over the retransfer of facilities (e.g. reactors) or material from Switzerland supplied by the U.S. or special nuclear material produced through the use of such facilities or material and allow retransfers only if it is determined to be within the scope of an agreement for cooperation with the recipient country.

Therefore, it is the Executive Branch view that, as the U.S. has the right of prior approval over retransfer of U.S.-supplied facilities or material and material produced through the use of U.S. facilities or material, criterion (4) is met.

Criterion (5)

"No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration."

Since this application is for the export of a reactor rather than material, criterion (5) is not directly applicable.

To the extent that U.S.-supplied material is used to fuel this reactor, Article VII Bis C. of the U.S. Switzerland Agreement for Cooperation provides that: "When any special nuclear material received from the United States of America requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States of America are to be removed from a reactor and are to be altered in form or content, such reprocessing or alteration shall be performed in facilities acceptable to both Parties upon a joint determination that the provisions of Article X may be effectively applied."

As no joint determination under Article VII Bis C. can be made without the agreement of the United States, and since the facilities to be used must be acceptable to the U.S. as one of the Parties, it is the view of the Executive Branch that criterion (5) is met.

Criterion (6)

"No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology."

The proposed export does not involve sensitive nuclear technology. Criterion (6) is, therefore, not applicable.

B. Section 128 Criterion

Section 128 a. (1) of the Atomic Energy Act establishes the following additional criterion: "As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology 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."

It should be noted that this criterion only applied to exports to take place after March 10, 1980 or pursuant to an application submitted after September 10, 1979. We anticipate that this recommended export will occur before March 10, 1980. In any case, as a Party to the NPT, Switzerland has accepted IAEA safeguards on all its nuclear activities thereby satisfying this criterion.

3. Additional Factors

- A. Safeguards Implementation -- Significant information the Executive Branch possesses bearing on the effectiveness of implementation of IAEA safeguards in the recipient country, including any such information on steps being taken to correct any identified deficiencies in the application of IAEA safeguards in that country:

The IAEA Secretariat has concluded in its Special Safeguards Implementation Report that with regard to nuclear material subject to IAEA safeguards, while some deficiencies exist in the system, "in none of the 41 states in which inspections were carried out was there any diversion of a significant quantity of nuclear material". Although recognizing the need to correct existing deficiencies in safeguards implementation, the Executive Branch has no reason to believe that the IAEA Secretariat's conclusion is not a valid one with specific regard to nuclear facilities or material subject to the IAEA-Switzerland-U.S. Agreement for Cooperation. In the light of this and other factors associated with the proposed export, the Executive Branch believes the framework of commitments, assurances, and safeguards is adequate for the purposes of this export.

IAEA safeguards in Switzerland are currently being carried out under INFCIRC/66-type safeguards arrangements. We anticipate that IAEA safeguards under INFCIRC/153 arrangements will be brought into force this year or in 1979.

B. Special Non-Proliferation and Other Foreign Policy Considerations

None.

4. Inimicality Judgment

Based on review of the proposed export, it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security, and that the license should be issued.

APPENDIX C

GENERAL ELECTRIC

NUCLEAR ENERGY

PROGRAMS DIVISION

INTERNATIONAL
OPERATIONS

GENERAL ELECTRIC COMPANY, 175 CURTNER AVENUE, SAN JOSE, CALIFORNIA 95125
Phone (408) 297-3000 TWX No. 710-338-0116

BDW-131-77

July 21, 1977

XR-127
50587
S-766
I.C. 14331
mlc 77-208

Director of the Office of International Programs
Attention: Assistant Director
Export/Import and International Safeguards
U.S. Nuclear Regulatory Commission
Washington D. C. 20555

Subject: APPLICATION FOR EXPORT LICENSE - KAISERAUGST .
COUNTRY: SWITZERLAND

Dear Sir:

Pursuant to the Atomic Energy Act of 1954, as amended, and Title 10 Code of Federal Regulations, application is hereby made for a license to export portions of a nuclear power station, Kaiseraugst, from the United States to Switzerland.

Detailed information is set forth hereunder, incorporating requirements of the proposed new Part 110:

Applicants:

General Electric Company and
General Electric Technical Services Co., Inc.

2) Address:

Mail Code 871
175 Curtner Avenue
San Jose, California 95125

3) Export arrangements:

Except for the applicants and their duly authorized domestic shipping agents, no other persons will be arranging for the export of the Kaiseraugst.

4) Ultimate Consignee:

Energie Nucleaire De Kaiseraugst S.A. (ENK)
Parkstrasse 27
5401 Baden, Switzerland

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Continued -

July 21, 1977

(5) Intermediate Consignees:

- (i) General Electric Technical Services Co., Inc.
P.O. Box 624
Bellerivestrasse 34
8050 Zurich, Switzerland
- (ii) Konsortium BBC-GETSCO
Neunbrunnenstrasse 85
8050 Zurich, Switzerland
- (iii) Fracht Ltd.
Austrasse 95
4009 Basel, Switzerland

(6) Proposed first shipment: January 1, 1979

(7) Proposed completion of shipments: December 31, 1989

(8) Contractual delivery dates: Not established

(9) Planned use dates: See item 5 below

(10) Proposed expiration date: December 31, 1989

(11) End use by consignees:

- (i) Ultimate consignee will use Kaiseraugst to generate electrical energy for supply to its customers.
- (ii) GETSCO provides a variety of services including export of GE supplied equipment, and erection, startup and servicing arrangements of nuclear power plants at foreign locations. Brown Boveri & Cie (BBC) is a Swiss manufacturer of electrical equipment and an architect engineer. The consortium BBC-GETSCO has the contractual responsibility to design and construct the Nuclear Power Station Kaiseraugst.
- (iii) Fracht Ltd. is the Swiss freight handling agent designated to expedite GE-exported equipment from the port of entry in Europe to the Kaiseraugst construction site.

Continued -

GENERAL  ELECTRIC

USNRC

July 21, 1977

BDW-131-77

Page 3.

Additional Information:

(a) General

- (1) Type of facility: One GE forced circulation, single cycle light water cooled and moderated boiling water reactor.
- (2) Design power level: 2894 megawatts thermal
962 megawatts electrical
- (3) Facility name: Kaiseraugst
- (4) Location: 12 kilometers east of Basel, Switzerland
- (5) Proposed criticality date: October 1, 1983
- (6) Total value of exports: Approximately \$23,000,000

Systems and Components to be Exported:

- (1) Reactor coolant pressure boundary including recirculation pumps, flow control valves, steam dryers, steam separators, control rods, CRD's, CRD guide tubes, HCU's, RCIC turbine, jet pumps, diffusers, fuel support orifices, fuel channels, and other items of lesser value.
- (2) Instrumentation including local power range monitoring detectors, process radiation cabinets and associated electronic computational equipment.
- (3) Fuel handling equipment
- (4) Spare and replacement components
- (5) Equipment and tools

GENERAL  ELECTRIC

USNRC

July 21, 1977

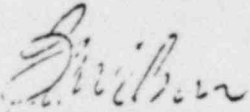
BDW-131-77

Page 4

Additional Authorization

Applicants hereby request authorization to dispose of, or return to General Electric in the United States, equipment, tools, components and materials exported under a license issued pursuant to this application or to transfer such items to the site of another reactor exported pursuant to a facility export license issued by the NRC to General Electric or GETSCO.

Very truly yours,



B. D. Wilson, Manager
Government Relations and
Export Licensing
M/C 871 - 925 1380

-tim

APPENDIX D

staff has concluded that an environmental impact statement for this particular action is not warranted because of the Commission's regulations in 10 CFR Part 51 and the Commission's Environmental Quality Guidelines in 10 CFR 1500.6. The Commission has determined that this change to the construction permit is not a major federal action significantly affecting the quality of the human environment.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555; and at the Reference Department of the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Bethesda, Maryland, this 15th day of August, 1977.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects
Branch 1, Division of Site
Safety and Environmental
Analysis.

[PR Doc. 77-24061 Filed 8-26-77; 8:45 am]

[Docket No. 50-587]

**GENERAL ELECTRIC CO. AND GENERAL
ELECTRIC TECHNICAL SERVICES CO.,
INC.**

Application for Consideration of Issuance
of Facility Export License

Please take notice that General Electric Company and General Electric Technical Services Company, Incorporated (GETSCO), San Jose, California, have submitted to the Nuclear Regulatory Commission an application for a license to authorize the export of a boiling water reactor with a thermal power level of 2,034 megawatts to Switzerland and that the issuance of this license is under consideration by the Nuclear Regulatory Commission.

No license authorizing the proposed reactor export will be issued until the Nuclear Regulatory Commission determines that the export is within the scope of and consistent with the terms of an applicable agreement for cooperation arranged pursuant to Section 123 of the Atomic Energy Act of 1954, as amended (Act), nor until the Nuclear Regulatory Commission has found that:

(1) The application complies with the requirements of the Act and the Commission's regulations set forth in 10 CFR Chapter 1, Part 51.

(2) The reactor proposed to be exported is in compliance with as defined in the Act and the Commission's regulations.

Unless before September 28, 1977, a request for a hearing is filed with the Nuclear Regulatory Commission by the applicant, or a petition for leave to intervene is filed by any person whose interests may be affected by the proceeding, the Director of the Office of International Programs may, upon the determinations and findings noted above, cause to be issued to General Electric Company and

GETSCO a facility export license and may cause to be published in the Federal Register a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Nuclear Regulatory Commission will issue a notice of hearing or an appropriate order.

A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 22nd day of August, 1977.

For the Nuclear Regulatory Commission.

MICHAEL A. GUNN,
Assistant Director, Export/Import
and International Safeguards, Office of International
Programs.

[PR Doc. 77-24062 Filed 8-26-77; 8:45 am]

[Docket No. 50-281]

**VIRGINIA ELECTRIC AND POWER CO.,
SURRY POWER STATION, UNIT NO. 2**
Order for Modification of License

I

Virginia Electric and Power Company (the Licensee), is the holder of Facility Operating License No. DPR-37 which authorizes the operation of the nuclear power reactor known as Surry Power Station, Unit No. 2 (the facility) at steady state reactor power levels not in excess of 2441 thermal megawatts (rated power). The reactor is a pressurized water reactor (PWR) located at the Licensee's site in Surry County, Virginia.

II

On April 1, 1977, the staff issued an Order for Modification of License No. DPR-37 which addressed operation of Surry Power Station Unit No. 2 under conditions in which steam generator tubes have been plugged as a result of tube denting caused by corrosion of the tube support plate in the annular spaces between tube and the tube support plate. In order to perform an inspection of the steam generators, the April 1, 1977 Order limited operation to 4 equivalent months. The licensee's fuel cycle for Surry 2 will end on September 15, 1977, and the resulting shutdown will include performance of the required inspection. The NRC staff has evaluated the results of the previous inspection program and has assessed continued safe operation of the facility. This evaluation is set forth in the staff's concurrently issued Safety Evaluation relating to steam generator tube integrity.

With respect to the effect of increased stress in the tube support plate as a result of tube support plate growth, the staff, in their April 1, 1977, Safety Evaluation (SE), concluded that neither buckling of the tube support plate nor damage to the steam generator shell through the wrapper and channel spacer would develop.

Continued growth of the tube support plate continues to impose stresses on the tubes and may result in the development of stress corrosion cracks in denting locations. The staff has considered the effect of the development of stress corrosion cracking during the course of operation of this facility, and has assessed the effect of such cracks in conjunction with a steam line break and loss of coolant accident events. The staff has concluded that under the limitations on tube leakage set forth in this Order, the effect of continued denting on the consequences of the steam line break event would be a fraction of Part 100, and the effect on continued denting on LOCA events, as stated in the April 1, 1977 SE, would not be significant. These events are of extremely low probability, and would be especially so for the limited period of approximately 29 days covered by this Order. The limitations set forth in this Order will provide reasonable assurance that the public health and safety will not be endangered.

After discussion with the staff the licensee has proposed in his July 29, 1977, submittal to continue the limitations applicable to this facility in the manner set forth in the April 1, 1977 Order. The NRC staff believes that the licensee's actions, under the circumstances are appropriate and should be confirmed by NRC order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Swem Library, College of William and Mary, Williamsburg, Virginia: (1) Licensee's submittals of July 29, 1977 and August 9, 1977, (2) Order for Modification of License dated April 1, 1977, (3) this Order for Modification of License, in the Matter of Virginia Electric and Power Company, Surry Power Station, Unit No. 2, Docket No. 50-281, and (4) the Commission's concurrently issued Safety Evaluation supporting this Order.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is ordered that Facility Operating License No. DPR-37 is hereby amended by replacing in its entirety existing paragraph 3.E. of the license with the following:

3.E. *Steam Generator Inspection*—Surry Unit No. 2 shall be brought to the cold shutdown condition by midnight, September 15, 1977. In order to perform an inspection of the steam generators, Nuclear Regulatory Commission approval shall be obtained before commencing power operation following inspection.

(a) Primary coolant leakage from the primary system to the secondary system through the steam generator tubes shall be limited to 1.0 gpm for all three steam generators.

A copy of Items (2), (3), and (4) may be obtained, upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

APPENDIX E

June 26, 1978

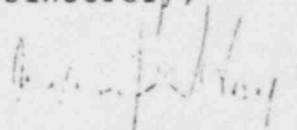
BY
XR-127
50-587

MEMORANDUM FOR JAMES R. SHEA
NUCLEAR REGULATORY COMMISSION

An Executive Branch analysis covering a license application for the export of a nuclear power reactor to Switzerland was transmitted to the Commission under cover of Mr. Nosenzo's memorandum to you dated May 22, 1978, recommending issuance of the requested license.

In connection with that and other recommendations regarding proposed nuclear exports to Switzerland, it should be noted that, in the judgment of the Executive Branch, Switzerland is committed to maintaining adequate physical security for its nuclear program, meeting as a minimum, a level of protection compatible with that envisaged by IAEA TNECIRC/225. In addition to the factors cited in the May 22 Analysis under criterion (3), this judgment is enforced by information obtained in the visit to Switzerland by a USG Physical Security Review Team in April 1976. During that visit, the Team noted that Swiss officials responsible for physical security of nuclear facilities and material demonstrated awareness and concern for the need for physical protection, including measures against possible terrorist acts. Swiss organizational weaknesses in their physical security program resulting from the regional autonomy of the various Swiss Cantons were in 1976 in the process of being overcome by the assumption of leadership and authority by the Federal Office of Energy of the Swiss Government in the physical security area and by the development of federal ordinances relating to physical security. In sum, the Team found that the strengths of the Swiss physical security program outweighed the weaknesses, that upgrading of the program was continuing and that the level of security provided was adequate.

Sincerely,



Dixon B. Hoyle, Acting
Deputy Assistant Secretary

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APPENDIX E

APPENDIX F



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

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MEMORANDUM FOR: James R. Shea, Director
Office of International Programs

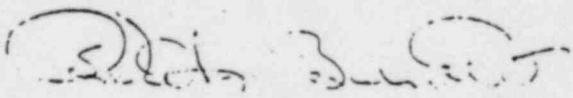
FROM: Clifford V. Smith, Jr., Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: EXPORT OF A NUCLEAR POWER REACTOR TO SWITZERLAND,
XR-127

The Office of Nuclear Material Safety and Safeguards concurs in the staff paper pertaining to this export.

With respect to the physical protection of nuclear power reactors in Switzerland, we note that:

- a) A USG physical security review team visited a commercial nuclear power reactor (Beznau) in April 1976.
- b) Information in the review team report indicates that the physical security measures employed to protect the fuel and the reactor significantly exceed the criteria in INFCIRC/225.


Clifford V. Smith, Jr., Director
Office of Nuclear Material Safety
and Safeguards

APPENDIX G

EXPORT LICENSE

NRC LICENSE NO

THIS LICENSE EXPIRES 31 December 1989

United States of America
Nuclear Regulatory Commission

XR-127
Page 1 of 3 pages

Pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 and the regulations of the Nuclear Regulatory Commission issued pursuant thereto, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued to the licensee authorizing the export of the materials and/or production or utilization facilities listed below, subject to the terms and conditions herein.

<p>LICENSEE</p> <p>NAME General Electric Company and General Electric Technical Services Company, Inc. (GETSCO) ADDRESS 175 Curtner Avenue San Jose, California 95125 Mail Code 871 Attn: B.D. Wilson</p>	<p>ULTIMATE CONSIGNEE IN FOREIGN COUNTRY</p> <p>NAME Energie Nucleaire De Kaiseraugst S.A. (ENK) ADDRESS Parkstrasse 27 5401 Baden, Switzerland</p>
<p>INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY</p> <p>(a) NAME General Electric Technical Services Co., Inc. P.O. Box 624 Bellerivestrasse 34 8050 Zurich, Switzerland (b) Konsortium BBC-GETSCO Neunbrunnenstrasse 85 8050 Zurich, Switzerland</p>	<p>OTHER PARTIES TO EXPORT</p> <p>(c) Fracht Ltd. Austrasse 95 4009 Basel, Switzerland</p>
<p>APPLICANT'S REF NO: BDW-131-77</p>	<p>COUNTRY OF ULTIMATE DESTINATION: Switzerland</p>

QUANTITY	DESCRIPTION OF MATERIALS OR FACILITIES
	<p>The facility known as Kaiseraugst nuclear power station consists of one GE forced circulation, single cycle, light water cooled and moderated boiling water reactor with a thermal power level of 2894 megawatts, plus associated structures, systems, and components classified within the following categories:</p> <p>(A) Reactor coolant pressure boundary including recirculation pumps, flow control valves, steam dryers, steam separators, control rods, CRD's CRD guide tubes, HCU's, RCIC turbine, jet pumps, diffusers, fuel support orifices, fuel channels, and other items of lesser value.</p> <p>(B) Instrumentation including local power range monitoring detectors, process radiation cabinets and associated electronic</p> <p>(continued on page 2 Docket No. 50-587)</p>

Neither this license nor any right under it shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.

This license is subject to the right of recapture or control by Section 103 of the Atomic Energy Act of 1954, as amended and to all of the other provisions of said Acts, now or hereafter in effect and to all

THIS LICENSE IS INVALID UNLESS SIGNED BELOW BY AUTHORIZED NRC REPRESENTATIVE

James R. Shea, Director
Office of International Programs

APPENDIX 6

DATE OF ISSUANCE

EXPORT LICENSE

FORM NRC-256
17-751

NRC LICENSE NO.

THIS LICENSE EXPIRES 31 December 1989

United States of America
Nuclear Regulatory Commission

XR-127
Page 2 of 3 Pages

Pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 and the regulations of the Nuclear Regulatory Commission issued pursuant thereto, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued to the licensee authorizing the export of the materials and/or production or utilization facilities listed below, subject to the terms and conditions herein.

LICENSEE	ULTIMATE CONSIGNEE IN FOREIGN COUNTRY
<p>NAME General Electric Company and General Electric Technical Services Company, Inc. (GETSCO) ADDRESS 175 Curtner Avenue San Jose, California 95125 Mail Code 871 Attn: B.D. Wilson</p>	<p>NAME Energie Nucleaire De Kaiseraugst S.A. (ENK) ADDRESS Parkstrasse 27 5401 Baden, Switzerland</p>

INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY	OTHER PARTIES TO EXPORT
<p>(a) NAME General Electric Technical Services Co., Inc. P.O. Box 624 Bellerivestrasse 34 8050 Zurich, Switzerland (b) SS Konsortium BBC-GETSCO Neunbrunnenstrasse 85 8050 Zurich, Switzerland</p>	

APPLICANT'S REF. NO. BDW-131-77 COUNTRY OF ULTIMATE DESTINATION Switzerland

QUANTITY	DESCRIPTION OF MATERIALS OR FACILITIES
	computational equipment.
(C)	Fuel handling equipment components
(D)	Spare and replacement components
(E)	Equipment and tools

The approximate value of the goods to be exported from the United States is \$23,000,000.00.

Equipment, tools, components and materials covered by this license may be disposed of or returned to General Electric Company in the United States or transferred to the site of another reactor exported pursuant to a facility export license issued by the U.S. Nuclear Regulatory Commission to General

(continued on page 3 Docket No. 587)

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.

This license is subject to the right of recapture or control by Section 108 of the Atomic Energy Act of 1954, as amended and to all of the other provisions of said Acts, now or hereafter in effect and to all valid rules and regulations of the Nuclear Regulatory Commission.

THIS LICENSE IS INVALID UNLESS SIGNED BELOW
BY AUTHORIZED NRC REPRESENTATIVE

DATE OF ISSUANCE _____

EXPORT LICENSE

FORM NRC 250

NRC LICENSE NO

THIS LICENSE EXPIRES 31 December 1989

United States of America
Nuclear Regulatory Commission

XR-127

Page 3 of 3 Pages

Pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 and the regulations of the Nuclear Regulatory Commission issued pursuant thereto, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued to the licensee authorizing the export of the materials and/or production or utilization facilities listed below, subject to the terms and conditions herein.

LICENSEE	ULTIMATE CONSIGNEE IN FOREIGN COUNTRY
NAME ADDRESS SAME AS PAGE 1	NAME ADDRESS SAME AS PAGE 1

INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY	OTHER PARTIES TO EXPORT
NAME ADDRESS SAME AS PAGE 1	NAME ADDRESS SAME AS PAGE 1

APPLICANT'S REF NO BDW-131-77	COUNTRY OF ULTIMATE DESTINATION Switzerland
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QUANTITY	DESCRIPTION OF MATERIALS OR FACILITIES
	<p>Electric Company or its wholly owned subsidiary, General Electric Technical Services Company (GETSCO).</p> <p>No byproduct, source, or special nuclear materials may be exported under this license.</p> <p>//////////////////////////////////////END//////////////////////////////////////</p>

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.

This license is subject to the right of recapture or control by Section 108 of the Atomic Energy Act of 1954, as amended and to all of the other provisions of said Acts, now or hereafter in effect and to all valid rules and regulations of the Nuclear Regulatory Commission.

THIS LICENSE IS INVALID UNLESS SIGNED BELOW BY AUTHORIZED NRC REPRESENTATIVE

James R. Shea, Director
Office of International Programs

DATE OF ISSUANCE _____



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

August 30, 1978



OFFICE OF THE
SECRETARY

MEMORANDUM FOR: Lee V. Gossick, Executive
Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-78-443 - PROPOSED LICENSE TO EXPORT A POWER
REACTOR TO SWITZERLAND (APPLICATION XR-127)
(COMMISSIONER ACTION ITEM)

Attached for your information and required action by the staff is a request from Commissioner Bradford for additional information concerning the subject license.

The Office of International Programs was informed of this request by telephone on August 30, 1978.

It is requested that you provide a response through the Office of the Secretary by c.o.b. September 15, 1978.

Attachment:
As stated

cc:
Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford
Commissioner Ahearne
Acting General Counsel
Director, Policy Evaluation
Director, International Programs

CONTACT:
EWMcGregor (SECY)
4-1410



OFFICE OF THE
COMMISSIONER

NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

August 29, 1978

MEMO TO: Samuel J. Chilk, SECY
FROM: ^{1076 A} Peter A. Bradford
SUBJECT: SECY-78-443 PROPOSED LICENSE TO EXPORT A POWER
REACTOR TO SWITZERLAND

Before concurring in the proposed export, I would like the following in order to be assured that Criterion 1 of the NNPA is met.

1. What types of actions to implement IAEA safeguards would IAEA take for this reactor prior to the time fuel is received at the reactor?
2. What does the IAEA require of the reactor operator and Swiss government prior to arrival of the fuel at the reactor site?
3. At what time would containment and surveillance of this reactor be implemented and what would trigger the implementation?

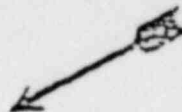
cc: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Ahearne
Ken Pedersen
James L. Kelley




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

September 13, 1978

OFFICE OF THE
SECRETARY



MEMORANDUM FOR: Lee V. Gossick, Executive Director
for Operations

FROM: Samuel J. Chilk, Secretary 

SUBJECT: SECY-78-443 - PROPOSED LICENSE TO EXPORT A POWER
REACTOR TO SWITZERLAND (APPLICATION XR-12); AND
SECY-78-478 - PROPOSED LICENSE TO EXPORT TWO POWER
REACTORS TO THE REPUBLIC OF KOREA (APPLICATION XR-131)
(Commissioner Action Item)

Attached for your information and required action by the staff is a request from Commissioner Gilinsky for additional information concerning the subject licenses.

The Office of International Programs was informed of this request by telephone on September 13, 1978.

It is requested that you provide a response through the Office of the Secretary by c.o.b. September 29, 1978.

Attachment:
As stated

cc: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford
Commissioner Ahearne
Acting General Counsel
Director, Policy Evaluation
Director, International Programs

CONTACT:
EWMcGregor (SECY)
4-1410

J. Gossick
11/2/78



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

OFFICE OF THE
COMMISSIONER

September 12, 1978

MEMORANDUM FOR: Samuel J. Chalk
FROM: George Eysymontt *GE*
SUBJECT: SECY-78-478 AND SECY-78-443

Commissioner Gilinsky would like to know what the status is of the renegotiation of the Agreements for Cooperation with Switzerland and Korea. In particular, what control will the U.S. have over non-U.S. material irradiated in these reactors?

cc: Commissioners' Assistants

J. Gilinsky
11/2/78



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

December 4, 1978

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: Lee V. Gossick
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-78-443 - PROPOSED LICENSE TO EXPORT A POWER
REACTOR TO SWITZERLAND (APPLICATION XR-127)
(COMMISSIONER ACTION ITEM)

Reference is made to Secretariat decision memorandum, subject as above,
dated December 4, 1978.

The attached comment of Commissioner Bradford, submitted in connection
with his concurrence in the subject license, is forwarded for appropriate
action.

Attachment:
As stated

CONTACT:
EWMcGregor (SECY)
4-1410

This application has been unnecessarily delayed for more than a month by the following sequence:

- 1) On August 29, I asked three questions about the timing of safeguards application to the facility. SECY requested a response by September 15.
- 2) On October 3, in the context of an export of a reactor to Korea, I concluded that these questions need not hold up the export and so I concurred in the Korean export. I would have done the same in this case, if further significant delay had seemed likely. However,
- 3) On October 6, my office was told that the response to the August 29 questions would be available within a week. Consequently, I decided to wait.
- 4) The State response was not received at IP until October 23 and was not forwarded to the Commission until Thursday, November 9.

I do not think the delay has done much harm in this case, but, as we discuss more self-discipline by Commissioners in these matters, I do want to note that an accurate estimate of a response arrival (not even the response itself) would have resulted in a saving of five weeks in the issuance of this license.




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

December 4, 1978

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: Lee V. Gossick
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary 

SUBJECT: SECY-78-443 - PROPOSED LICENSE TO EXPORT A POWER
REACTOR TO SWITZERLAND (APPLICATION XR-127)
(COMMISSIONER ACTION ITEM)

This is to advise you that the Commissioners have reviewed the subject license to General Electric Company. The Commission (with all Commissioners concurring) has accepted your recommendation for export to Switzerland of a light water cooled and moderated boiling water reactor (962 ME(e)). In connection with his concurrence, Commissioner Gilinsky has requested that he be kept informed of the status of the US-Switzerland Agreement.

The Office of International Programs was informed of this action by telephone on November 20, 1978.

cc: Commissioners
Commission Staff Offices
Director, International Programs
Public Document Room

CHRONOLOGY OF XSNM-1227

Export of 243,000 kilograms of uranium, enriched to 4.0% U-234 and 1.07 grams of uranium, enriched to 93.5% U-235 for use in the Leibstadt reactor in Switzerland.

<u>ACTION</u>	<u>DATE</u>
Received application dated 11/10/77 from General Electric Company	11/14/77
Application forwarded to Executive Branch for views	11/28/77
Received letter of 1/5/78 from applicant with information about origin of material and enrichment contract number	01/10/78
Sent additional information to Executive Branch to be incorporated in the review of the original application	01/12/78
Staff note to file that Executive Branch wants to recommend approval of initial core and a reasonable number of spares instead of full amount of the application	03/13/78
Received Executive Branch views of 3/23/78 recommending approval of partial amount while Executive Branch policy on multiple reloads is being developed	03/28/78
NRC staff noted for the record that allowance for damaged fuel bundles be considered in the quantity of material authorized	04/07/78
Forwarded information paper to Commissioners, SECY-78-198, which discusses status of several pending applications, including XSNM-1227	04/07/78
Received Executive Branch views in new format since passage of the NNPA (still recommending partial amount)	05/09/78
Received letter of 5/26/78 from applicant protesting the issuance of partial amount. GE claims that customer may decide to switch to a European fuel supplier if full amount is not authorized in a timely fashion	05/30/78
Sent letter to State Department (transmitting GE letter of 5/26/78) requesting reconsideration of this case	06/07/78
Received favorable Executive Branch comments of 6/23/78 for full amount of material as requested	06/28/78
Received memo from the NRC's Office of Nuclear Material Safety and Safeguards identifying no physical security concerns	07/10/78

<u>ACTION</u>	<u>DATE</u>
Sent 60 day notification letter to the applicant stating that the reason for delay in issuing the license is due to the staff referral of the case back to the Executive Branch for reconsideration	07/10/78
Completed staff conclusions that requirements of the Atomic Energy Act, as amended by the NNPA, are met	07/28/78
Received memo from the NRC's Office of Nuclear Material Safety and Safeguards concurring in the staff draft paper on the proposed export	08/08/78
Staff forwarded Commission action paper, SECY-78-471, recommending approval of the proposed license (see attached)	08/24/78
Commissioner Kennedy concurs	08/29/78
Commissioner Ahearne concurs	09/01/78
Received request from Commissioner Bradford for IAEA safeguards implementation information on the Leibstadt reactor (attached)	09/08/78
Commissioner Gilinsky concurs	09/12/78
Received comment from Commissioner Bradford that license should not be issued until additional safeguards information is received unless the case is urgent (see attached)	09/15/78
Requested safeguards implementation information from State Department in response to Commissioner Bradford's questions	09/18/78
Chairman Hendrie concurs	10/04/78
Received State Department response to Commissioner Bradford's questions on safeguards implementation	10/27/78
Received letter of 10/31/78 from applicant expressing concern over long delays in obtaining license (notes that 120 days have passed since Executive Branch views were received)	11/03/78
Staff forwarded memorandum to the Commissioners which discusses safeguards-related information on several proposed exports (including XSNM-1227). State Department response to Commissioner Bradford's question was also attached.	11/09/78
Sent response to applicant's 10/31/78 letter advising that the delays were due to complexities in the review of the case stemming from the request for multiple reloads, waiving the regulatory requirement for written physical security assurances, and obtaining additional information from the Department of State.	11/15/78

<u>ACTION</u>	<u>DATE</u>
Commissioner Bradford concurs, subject to the assurances that facility attachment will be completed upon arrival of fuel	11/17/78
Granted exemption from the licensing requirements for written physical security assurances as stated in 10 CFR 110.43(b)	11/17/78
License No. XSNM-1227 issued	11/17/78
Received SECY memo with Commissioner concurrence. (see attached)	11/20/78

August 24, 1978

SECY-78-471

COMMISSIONER ACTION

For: The Commissioners

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

Thru: Executive Director for Operations *JRS*

Subject: PROPOSED LICENSE TO EXPORT LOW-ENRICHED URANIUM TO SWITZERLAND (APPLICATION XSNM-1227)

Discussion: On November 10, 1977, General Electric filed an application for a license to export 243,000 kilograms of uranium, enriched to 4.0% U-235, and 1.07 grams of uranium enriched to 93.5% U-235 to Switzerland. The material, in the form of fabricated fuel bundles and neutron detection instruments, will be shipped over a five year period for use as the initial core, three reloads and spares in the Leibstadt Nuclear Power Plant. The reactor is scheduled to begin regular operation in 1981.

The fact that this application involves multiple reloads has complicated the Executive Branch review. The Executive Branch forwarded views on March 23 and May 9 (detailed criteria analysis) recommending issuance of the requested export license, provided that the license be limited to authorize export of a total of 118,950 kilograms of uranium to cover the initial core loading, essential spares and the neutron detection instruments. In anticipation of new USG policy and procedures governing the licensing of multiple reloads, the Executive Branch reserves judgment on the balance of the remaining material covered by this application until such policy and procedures were formally adopted. This information was conveyed by phone to the applicant. On May 26,

Contact:
G.G. Oplinger (492-7866)
J.G. Dunn (492-7984)

Discussion:
(continued)

General Electric wrote to the NRC (Appendix C), to express its concerns over the possibility that the license might be limited as recommended by the Executive Branch, and its fear that this limitation might cause the reload order to be cancelled in favor of a European fabricator.

The staff discussed General Electric's letter with State, and the application was also discussed in the Subgroup on Nuclear Export Coordination (SNEC), which currently has under consideration general criteria for approving multiple reloads. While criteria have not yet been adopted, it was the view of SNEC members that Switzerland would clearly qualify under any of the criteria being considered. Following these discussions, the application was returned to the Executive Branch on June 7 for reconsideration of its recommendation.

On June 23, State forwarded a letter which noted among other things, that Switzerland is (1) a party to the NPT; (2) a participant in INFCE, and (3) a strong supporter of non-proliferation goals shared by the U.S. For these reasons, the Executive Branch anticipates that Switzerland will be included in any list of eligible countries which would be drawn up in connection with the formulation of procedures governing advance export approval for multiple reloads. In light of this, the Executive Branch concluded upon reconsideration that it would be appropriate at this time to grant a one-time exception pending adoption of the general multiple reload policy.

The staff noted that, contrary to the erroneous statement concerning Section 128 of the NNPA contained in the Executive Branch analysis of May 9, 1978 (Appendix B), the application states that shipment of this material will begin in June, 1980 and requests that the license be valid for 5 years. Section 128 of the NNPA requires that for any application under which the first export would occur after March 10, 1980, it will be required that IAEA safeguards are maintained with respect to all peaceful nuclear activities under the jurisdiction of the recipient country. Although shipment of the material in this case will begin after the March 10, 1980 deadline, Switzerland, as a party to the NPT, has accepted full-scope safeguards and therefore satisfies the requirement of Section 128.

Discussion:
(continued)

Based upon its independent analysis and review of the Executive Branch submissions, the staff has concluded that Switzerland currently meets all applicable statutory requirements of the NNPA for the issuance of this license.

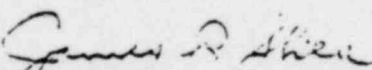
General Electric has expressed apprehension that KKL and the Government of Switzerland may regard the failure to issue a license for the full quantity of material as a contradiction of US reliability and may influence the Leibstadt customer to cancel the reload order in favor of a European fuel fabricator because of continuing uncertainty about U.S. export licensing actions. While, ideally, it might be desirable to wait until multiple reload criteria have been formally adopted by the Executive Branch before issuing this license for the full period requested, we believe the concerns and urgency expressed by General Electric should be given serious consideration, in spite of the fact that shipments are not expected prior to June 1980. In view of Switzerland's NPT status and excellent non-proliferation credentials, the staff recommends approval of the license as requested.

The written assurance on physical security required by 10 CFR 110.43(b) has not been obtained from Switzerland. However, substantial physical security assurances have been received from Switzerland, and the U.S. expects to obtain more specific written assurance, pursuant to the requirements of 10 CFR 110.43, from Switzerland. Pending receipt of these additional written assurances, the staff will issue an exemption from this requirement, as discussed in SECY 78-291 and 78-386, if the Commission approves issuance of this license.

The following documents are forwarded for Commission review of the subject application: (1) staff review and conclusion that the proposed export meets statutory requirements (Appendix A); (2) Executive Branch views of March 23, May 9, and June 23, 1978 recommending issuance (Appendix B); (3) application of November 10, 1977 (Appendix C); and (4) copy of proposed license (Appendix D).

Recommendation: That the proposed license be issued to General Electric Company and General Electric Technical Services Company, Incorporated.

Coordination: OELD has no legal objection. NMSS wishes to inform the Commission that it has not received country-specific information which permits it to make an independent conclusion as to the effectiveness of IAEA material control and accounting safeguards to deter and detect diversion in Switzerland. With respect to physical security, NMSS has reviewed the program in Switzerland and found it adequate for the purposes of the export.


James R. Shea, Director
Office of International Programs

Enclosures:
As stated

NOTE: Commissioner comments should be provided directly to the Office of the Secretary, by c.o.b. Friday, September 1, 1978.

Commission staff office comments, if any, should be submitted to the Commissioners NLT August 30, 1978, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION:
Commissioners
Commission Staff Offices
Exec. Dir. for Opers.
Secretariat

APPENDIX A



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

July 28, 1978

MEMORANDUM FOR: The File

STAFF CONCLUSIONS REGARDING PROPOSED LICENSE TO EXPORT LOW-ENRICHED URANIUM TO SWITZERLAND (XSNM-1277)

In November 1977, General Electric Company filed an application for a license to export 243,000 kilograms of uranium, enriched to 4.0% U-235, and 1.07 grams of uranium enriched to 93.5% U-235 to Switzerland. The material, in the form of fabricated fuel bundles and neutron detection instruments, will be shipped over a 5 year period for use as the initial core, three reloads and spares in the Leibstadt Nuclear Power Plant.

The Executive Branch forwarded views on March 23 and May 9 (detailed criteria analysis) recommending issuance of the requested export license, provided that the license be limited to authorize export of a total of 118,950 kilograms of uranium to cover the initial core loading, essential spares and the neutron detector instruments. In anticipation of new USG policy and procedures governing the licensing of multiple reloads, the Executive Branch reserved judgment on the remaining material until such policy and procedures were formally adopted. This information was conveyed by phone to the applicant.

On May 26, General Electric submitted a letter in response to the Executive Branch's recommendation that the export be limited to the suggested quantity. Due to questions and concerns raised by the applicant and pursuant to our discussions with State, the application was returned to the Executive Branch on June 7 for reconsideration of its recommendation for the export of this material. (This application has also been discussed at a recent meeting of the Subgroup on Nuclear Export Coordination.)

On June 23, State forwarded a letter which noted, among other things, that Switzerland is (1) a party to the NPT; (2) a participant in INFCE, and (3) a strong supporter of non-proliferation goals shared by the U.S. For these reasons, the Executive Branch anticipates that Switzerland will be included in any list of eligible countries which would be drawn up in connection with the formulation of procedures governing advance export approval for multiple reloads. In light of this, the Executive Branch concluded upon reconsideration that it would be appropriate at this time to grant a one-time exception pending adoption of the general multiple reload policy.

In response to our August 1, 1977 and June 7, 1978 requests for views, the Executive Branch has (1) concluded that issuance of the proposed license would not be inimical to the interests of the U.S., including the common defense and security; and (2) confirmed that the material will be subject to all the terms and conditions of the Agreement for Cooperation between the U.S. and Switzerland.

These views and license application analysis by the Executive Branch were forwarded by the State Department memorandum of May 9, 1978 and letter of June 23, 1978.

Confirmation of the applicability of the U.S.-Switzerland Agreement for Cooperation was also set forth in the letter of December 15, 1977 from the Embassy of Switzerland.

The staff has reviewed the subject application in light of the considerations below:

- c Safeguards. Although a party to the NPT, Switzerland has not yet concluded an NPT safeguards agreement with the IAEA pursuant to INFCIRC/153. Nevertheless, all materials or facilities proposed to be exported or previously exported pursuant to the U.S.-Switzerland Agreement for Cooperation and any U.S.-supplied nuclear material used in the facility, or produced through the use thereof, will be subject to IAEA safeguards under a tri-lateral U.S.-Switzerland-IAEA safeguards agreement based on INFCIRC/66/Rev. 2. It is expected that IAEA safeguards pursuant to INFCIRC/153 will be brought into force this year or in 1979.

- c No Nuclear Explosive Use. As a non-nuclear weapon state party to the NPT, Switzerland has undertaken the obligations not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

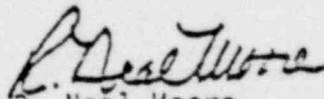
- c Physical Security. The Executive Branch has assessed the physical security measures maintained in Switzerland with respect to nuclear material and facilities and has found them adequate for the material covered by this license. The Executive Branch has also advised that Switzerland has implemented IAEA guidelines regarding the physical security for nuclear materials. Based upon the staff's assessment of information obtained through visits, reviews, and exchanges, and upon information provided by the Executive Branch, the physical security program in Switzerland is considered adequate to physically protect the material requested in this license. Although the written physical security assurance required by 10 CFR 110.43(b) has not been obtained, an exemption from this requirement will be issued pursuant to authority under 10 CFR 110.10(a).

- o Retransfer. The US-Switzerland Agreement prohibits the retransfer of any material supplied by the US, beyond the jurisdiction of Switzerland without US approval to such retransfer, and then only if it is within the scope of an agreement for cooperation between the US and the other nation or group of nations. Similarly, it prohibits the transfer of special nuclear material produced through the use of US-supplied material or facilities without US approval.
- o Reprocessing. The US-Switzerland Agreement stipulates that any reprocessing of US-supplied material shall be performed in facilities acceptable to both parties upon a joint determination that safeguards may be effectively applied.
- o Sensitive Technology. The proposed export does not involve sensitive technology.

As more fully developed in its memorandum dated May 9, 1978, the Executive Branch has determined that Switzerland currently meets all the criteria of P.L. 95-242, including the requirements of Section 126(a)(1) and the specific criteria of Sections 127 and 128 and that Switzerland has adhered to all the provisions of its Agreement for Cooperation with the US.

The staff has concluded that issuance of the proposed license would be consistent with the recently enacted Nuclear Nonproliferation Act, including the specific criteria of Section 127.

In view of all the considerations above, and as required by Section 57 of the Atomic Energy Act and 10 CFR 110.44, the staff has concluded that the export to be made pursuant to the proposed license (1) would be subject to the terms and conditions of the Agreement for Cooperation between the US and Switzerland, and (2) would not be inimical to the common defense and security of the United States or constitute an unreasonable risk to the public health and safety.



R. Neal Moore
Senior Licensing Reviewer
Office of International Programs

APPENDIX B



DEPARTMENT OF STATE

Washington, D.C. 20520

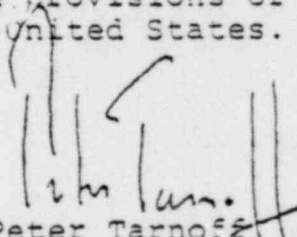
March 23, 1978

XSNM-1007
70-2745
S-860

MEMORANDUM FOR LEE V. GOSSICK
NUCLEAR REGULATORY COMMISSION

This export license application was being processed at the time of enactment of the Nuclear Non-Proliferation Act of 1978, P.L. 95-242. While our analysis deals, in substance, with the extent to which the criteria in new section 127 (and section 128, if applicable) of the Atomic Energy Act are met, the analysis is in the old format and is not specifically keyed to these criteria. The Executive Branch, in consultation with NRC staff, is currently developing new procedures pursuant to P.L. 95-242 which will be applied to cases after they come into effect.

In view of the enactment of P.L. 95-242, the Department has reviewed this license application to ensure that the requirements of section 126 a. (1) of the Atomic Energy Act are met. In this regard, as indicated in the analysis, the export criteria in section 127, or their equivalent, are met. Further, Switzerland has adhered to the provisions of its agreement for cooperation with the United States.


Peter Tarnoff
Executive Secretary

RECEIVED
MAR 26 1978

1978 MAR 26 PM 1:00



DEPARTMENT OF STATE

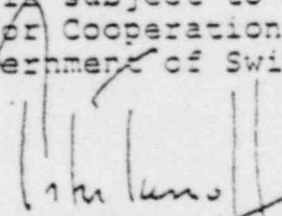
Washington, D.C. 20520

March 23, 1978

MEMORANDUM FOR LEE V. GOSSICK
NUCLEAR REGULATORY COMMISSIONSubject: Comments to NRC on Nuclear Export License
Application

Your letter of November 28, 1977, requested the views of the Executive Branch on the proposed license for the export to Switzerland of 5,600 kilograms of U-235 contained in 243,000 kilograms of uranium enriched to a maximum of 4.0 percent U-235 content and 1 gram of U-235 contained in 1.07 grams of uranium enriched to 90.5 percent for use as a neutron detector.

On the basis of the factors covered by the attached analysis, the Executive Branch has concluded that issuance of the proposed license would not be inimical to the interests of the United States including the common defense and security and is of the view that the license should be issued, provided that the license be limited to authorize export of a total of 118,850 kilograms of uranium for the initial core loading, essential spare fuel elements and the 1 gram of highly enriched uranium to be used as a neutron detector for the Leibstadt Nuclear Power Plant scheduled to begin operation in Canton Aargau, Switzerland, in 1980. Under the newly enacted non-proliferation legislation, we anticipate new U.S. Government policy and procedures governing the licensing of multiple core reloads as requested in this license application. Pending the implementation of such policy and procedures, however, we believe it appropriate to recommend approval of a license covering material sufficient for the initial core loading and essential spares only. The supply of this low enriched uranium is subject to all the terms and conditions of the Agreement for Cooperation between the United States of America and the Government of Switzerland as amended.


Peter Tarnoff
Executive SecretaryAttachments:

1. License Application Analysis
2. Letter from the Embassy of Switzerland dated December 15, 1977

LICENSE APPLICATION ANALYSIS

Transaction: The export to Switzerland of 5,600 kilograms of uranium-235 contained in 243,000 kilograms of uranium enriched to a maximum of 4.0 percent U-235; and 1 gram U-235 contained in 1.07 grams of uranium enriched to 93.5 percent as neutron detectors.
Applicant: General Electric Technical Services Co., Inc.
Applicant's Reference: KKL
Date of Application: November 10, 1977.

1. What is the purpose of the export?

This enriched uranium in the form of already fabricated fuel bundles and neutron detection instruments will be shipped over a period of five years to Switzerland for the initial core, three reloads and spares for Kernkraftwerk Leibstadt AG (KKL) Leibstadt Nuclear Power Plant, Canton Aargau, Switzerland.

The Leibstadt Nuclear Power Plant is a 942 megawatt electric boiling water reactor which is scheduled for regular power operation in 1980.

It is anticipated that shipments will be as follows:

1980	648 bundles	core	118,584 kg. uranium
	2 bundles	spares	366 kg. uranium
1982	128 bundles	reserve	23,424 kg. uranium
1982	212 bundles	reload #1	38,796 kg. uranium
1983	176 bundles	reload #2	32,208 kg. uranium
1984	156 bundles	reload #3	28,548 kg. uranium
	<u>1,322 bundles</u>		<u>241,926 kg. uranium</u>

An additional allowance of 1000 kilograms of uranium has been requested in application for export license in case of damage to fuel bundles in shipping, fabricating or in loading into the reactor.

2. Does the recipient country have an Agreement for Co-operation with the United States under Section 123 of the Atomic Energy Act, as amended? And, if so, is the export in question covered by the Agreement?

The supply of this enriched uranium is subject to all of the terms and conditions of the Agreement for Cooperation between the United States of America and the Government of Switzerland, as amended. This was confirmed in a letter from the Embassy of Switzerland dated December 15, 1977, a copy of which is attached. The Agreement initially entered into force August 8, 1966, and was amended on January 29, 1974.

3. Has the recipient country accepted and implemented IAEA safeguards and/or other appropriate supplementary bilateral conditions (including, where applicable, understandings regarding reexport) imposed by the U.S.?

A trilateral agreement between the IAEA, the Government of Switzerland, and the Government of the United States of America was signed and entered into on February 28, 1972 and safeguards are being applied under the provisions of the agreement.

Under the bilateral agreement between the United States and Switzerland, "When any special nuclear material received from the United States...requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States...are to be removed from a reactor and are to be altered in form or content, such reprocessing or alteration shall be performed in facilities acceptable to both Parties upon a joint determination that the provisions of Article X may be effectively applied.

"No special nuclear material produced through the use of material transferred to the Government of Switzerland or to authorized persons under its jurisdiction, pursuant to this Agreement...will be transferred to the jurisdiction of any other nation or group of nations, except as the Commission may agree to such a transfer."

4. In cases in which the recipient country is not required by the NPT to accept IAEA safeguards, does the recipient country or organization have accounting and inspection procedures such as to assure compliance with the requirements of the relevant U.S. Agreement?

A trilateral safeguards agreement between the United States, Switzerland, and the IAEA is in effect and is applicable to this export.

5. Does the recipient country have adequate physical security arrangements to deal with threats of sub-national diversion of significant quantities of nuclear weapon materials (plutonium or highly enriched uranium)?

Switzerland has complied with IAEA guidelines for the physical security of low enriched uranium which is not weapons grade material.

6. What is the position of the recipient country with regard to non-proliferation (e.g., party to NPT, LANFZ, public statements)?

Switzerland is a party to the NPT.

7. What understandings does the United States have with the recipient country with respect to the use of U.S.-supplied material or equipment to acquire or develop nuclear explosive devices for any purpose, and as to the recipient country's policies and actions as to such development using equipment and material from any source?

As a party to the NPT, Switzerland is committed not to develop nuclear explosive devices for any purpose.

8. What other factors are there which bear on the issuance of the export license, such as further U.S. understandings with the recipient country, other supplier countries or interested regional countries?

There are no other special factors not already covered in responses to the previous points.

EMBASSY OF SWITZERLAND
SCHWEIZERISCHE BOTSCHAFT
AMBASSADE DE SUISSE

WASHINGTON D. C. 20535
2909 Cathedral Avenue N.W.
Telephone 402-1511/7

Ref: 651.513 Leibstadt - or

December 15, 1977

Colonel Vance H. Hudgins
Division of International
Security Affairs
U.S. Department of Energy
Washington, D.C. 20545

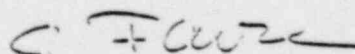
Dear Colonel Hudgins:

Reference is made to your letter dated December 9, 1977 concerning the export of nuclear material by General Electric Technical Services Company, Inc., San José, California, to the Nuclear Power Plant of Leibstadt, Switzerland.

This letter serves as attestation that the transfer of the material identified in Export License Application S-860 will be undertaken in accordance with the terms and conditions of the Agreement for Cooperation concerning civil uses of atomic energy between the Government of the United States and the Government of Switzerland.

In addition, I am in a position to confirm that the ultimate consignee, Leibstadt Nuclear Power Plant, and the intermediate consignee, Fracht AG, Basel, Switzerland, freight forwarders, are authorized to receive and possess the material in question.

Sincerely yours,



Dr. Christian Favre
Scientific Counselor



DEPARTMENT OF STATE

WASHINGTON, D.C. 20520

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

XSNM-1227

70-2745

May 9, 1978

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 Switzerland. 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 application, 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, Switzerland has adhered to the provisions of its Agreement for Cooperation with the United States.

The Executive Branch recommends issuance of the requested export license, limited to authorize export of a total of 118,950 kilograms of uranium for the initial core loading, essential spare fuel elements and the 1 gram of highly-enriched uranium to be used as a neutron detector for the Leibstadt Nuclear Power Plant scheduled to begin operation in Canton Aargau, Switzerland, in 1980. Under P.L. 95-242, we anticipate new U.S. Government policy and procedures governing the licensing of multiple core reloads as requested in this license application. It is our intention to expedite transmittal of the Executive Branch judgement on the balance of the enriched uranium covered by this application as soon as the new policy and procedures with respect to multiple reloads have been adopted.

RECEIVED
CENTRAL

Louis V. Nosenzo
Louis V. Nosenzo
Deputy Assistant Secretary

1978 MAY 9 PM 4 34

Enclosure:

As stated.

ENCLOSURE
MICROFILM

changed to 118,950 per instructions

EXPORT LICENSE APPLICATION ANALYSIS

XSNM-1227

Country: Switzerland
Type of Material: Low-enriched uranium
Transaction: The export to Switzerland of 5,600 kilograms of uranium-235 contained in 243,000 kilograms of uranium enriched to a maximum of 4.0 percent U-235; and 1 gram U-235 contained in 1.07 grams of uranium enriched to 93.5 percent as neutron detectors.
Applicant: General Electric Technical Services Co., Inc.
Applicant's Reference: KKL
Date of Application: November 10, 1977.

Purpose of Export

This enriched uranium in the form of already fabricated fuel bundles and neutron detection instruments will be shipped over a period of five years to Switzerland for the initial core, three reloads and spares for Kernkraftwerk Leibstadt AG (KKL) Leibstadt Nuclear Power Plant, Canton Aargau, Switzerland.

The Leibstadt Nuclear Power Plant is a 942 megawatt electric boiling water reactor which is scheduled for regular power operation in 1980.

It is anticipated that shipments will be as follows:

1980	648 bundles	core	118,584 kg. uranium
	2 bundles	spares	366 kg. uranium
1982	128 bundles	reserve	23,424 kg. uranium
1982	212 bundles	reload #1	38,796 kg. uranium
1983	176 bundles	reload #2	32,208 kg. uranium
1984	156 bundles	reload #3	28,548 kg. uranium
	<u>1,322 bundles</u>		<u>241,926 kg. uranium</u>

An additional allowance of 1000 kilograms of uranium has been requested in application for export license in case of damage to fuel bundles ^{PACKED} shipping, fabricating or in loading into the reactor. ^{U.S. REG}

1978 MAY 9 PM 4 32

EXPORT/IMPORT
AND
INTERNATIONAL SERVICES

1. Applicable Agreement for Cooperation

The proposed export is subject to all of the terms and conditions of the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland concerning Civil Uses of Atomic Energy, which entered into force on August 8, 1966, as amended January 29, 1974. This was confirmed in a letter from the Embassy of Switzerland to the Department of Energy dated December 15, 1977, a copy of which is attached.

Switzerland has adhered to all provisions of its agreement with the United States.

2. Extent to Which Export Criteria Are Met

A. Section 127 Criteria

As provided in Section 127 of the Atomic Energy Act, the following criteria govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

Criterion (1)

"IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable Agreement for Cooperation, and to any special nuclear material used in or produced through the use thereof."

Switzerland is a Party to the Treaty on the Non-Proliferation of Nuclear Weapons and deposited its instrument of ratification on March 9, 1977. Switzerland has not yet concluded an NPT safeguards agreement with the IAEA pursuant to INFCIRC/153. IAEA safeguards are applied in Switzerland to all materials or facilities proposed to be exported, as well as to any such material or facilities previously exported pursuant to the U.S.-Switzerland agreement for cooperation and to any U.S.-supplied special nuclear material used in or produced through the use thereof under a trilateral U.S.-Switzerland-IAEA safeguards agreement based on INFCIRC/66 Rev./2, which entered into force on February 28, 1972.

Therefore, it is the Executive Branch view that criterion (1) is met.

Criterion (2)

"No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable Agreement for Cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device."

As a Party to the NPT, Switzerland is committed not to develop nuclear explosive devices for any purpose. Therefore, it is the view of the Executive Branch that criterion (2) is met.

Criterion (3)

"Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to Section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations."

The Commission has not, as yet, promulgated new regulations pursuant to Section 304(d) of P.L. 95-242.

The Executive Branch has assessed the physical security measures maintained in Switzerland with respect to nuclear material and facilities and determined that they are adequate for the material covered by this license application. Therefore, it is the view of the Executive Branch that criterion (3) is met.

Criterion (4)

"No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section."

Article IX A. (3) of the 1966 U.S. - Switzerland Agreement for Cooperation, as amended in 1974, stipulates that: "No material, including equipment and devices, transferred to the Government of Switzerland or authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Switzerland except as the Commission may agree to such a transfer to the jurisdiction of another nation or group of nations, and then only if, in the opinion of the Commission, the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and the other nation or group of nations."

Article X B. provides, inter alia, that: "B. ... the Government of the United States of America, notwithstanding any other provisions of this Agreement shall have the following rights: ...

"(2) With respect to any source or special nuclear material made available to the Government of Switzerland or any person under its jurisdiction by the Government of the United States of America or any person under its jurisdiction and any source or special nuclear material utilized in, recovered from, or produced, as a result of the use of any of the following materials, equipment, or devices so made available:

"(a) source material, special nuclear material, moderator material, or other material designated by the United States Commission," ...

"(ii) to require that any such material in the custody of the Government of Switzerland or any person under its jurisdiction be subject to all of the safeguards provided for in this Article and the guaranties set forth in Article IX;"

These articles give the U.S. an unqualified approval right over the retransfer of material from Switzerland supplied by the U.S. or produced through the use of such material and allow retransfers only if it is determined to be within the scope of an agreement for cooperation with the recipient country. This right would apply to irradiated fuel because it contains U.S.-supplied material.

Therefore, it is the Executive Branch view that, as the U.S. has the right of prior approval over retransfer of U.S.-supplied material and material produced through the use of U.S. material, criterion (4) is met.

Criterion (5)

"No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration."

Article VII Bis C. of the U.S. Switzerland Agreement for Cooperation provides that: "When any special nuclear material received from the United States of America requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States of America are to be removed from a reactor and are to be altered in form or content, such reprocessing or alteration shall be performed in facilities acceptable to both Parties upon a joint determination that the provisions of Article X may be effectively applied."

As no joint determination under Article VII Bis C. can be made without the agreement of the United States, and since the facilities to be used must be acceptable to the U.S. as one of the Parties, it is the view of the Executive Branch that criterion (5) is met.

Criterion (6)

"No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology."

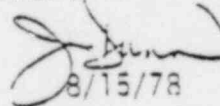
The proposed export does not involve sensitive nuclear technology. Criterion (6) is, therefore, not applicable.

B. Section 128 Criterion

Section 128 a.(1) of the Atomic Energy Act establishes the following additional criterion: "As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology 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."

It should be noted that this criterion only applies to exports to take place after March 10, 1980 or pursuant to an application submitted after September 10, 1979. We anticipate that this recommended export will occur before March 10, 1980. In any case, as a Party to the NPT, Switzerland has accepted IAEA safeguards on all its nuclear activities thereby satisfying this criterion.

According to the application of November 10, 1977, shipment of the material is scheduled to begin on June 1, 1980. State Department (R. Delabarre) has been informed of this error.


8/15/78

3. Additional Factors

- A. Safeguards Implementation -- Significant information the Executive Branch possesses bearing on the effectiveness of implementation of IAEA safeguards in the recipient country, including any such information on steps being taken to correct any identified deficiencies in the application of IAEA safeguards in that country:

The IAEA Secretariat has concluded in its Special Safeguards Implementation Report that with regard to nuclear material subject to IAEA safeguards, while some deficiencies exist in the system, "in none of the 41 states in which inspections were carried out was there any diversion of a significant quantity of nuclear material". Although recognizing the need to correct existing deficiencies in safeguards implementation, the Executive Branch has no reason to believe that the IAEA Secretariat's conclusion is not a valid one with specific regard to nuclear material subject to the IAEA-Switzerland-U.S. Agreement for Cooperation. In the light of this and other factors associated with the proposed export, the Executive Branch believes the framework of commitments, assurances, and safeguards is adequate for the purposes of this export.

IAEA safeguards in Switzerland are currently being carried out under INFCIRC/66-type safeguards arrangements. We anticipate that IAEA safeguards under INFCIRC/153 arrangements will be brought into force this year or in 1979.

B. Limitation on Quantity of Export

P.L. 95-242 anticipates the development of procedures for the processing of export license applications which would minimize the period for such processing in certain instances, including the licensing of reloads for which earlier fuel exports have been licensed.

Pending this development, our recommendation is limited to the initial core loading and essential spares. It is our intention to expedite transmittal of the Executive Branch judgment on the balance of the enriched uranium covered by this application as soon as the new policy and procedures with respect to multiple reloads has been adopted.

4. Inimicality Judgment

Based on review of the proposed export, it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security, and that the license should be issued.

EMBASSY OF SWITZERLAND
SCHWEIZERISCHE BOTSCHAFT
AMBASSADE DE SUISSE

WASHINGTON D. C. 20005.
2200 Cathedral Avenue N.W.
Telephone 462-1811/7

December 15, 1977

Ref: 651.513 Leibstadt - or

Colonel Vance H. Hudgins
Division of International
Security Affairs
U.S. Department of Energy
Washington, D.C. 20545

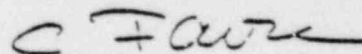
Dear Colonel Hudgins:

Reference is made to your letter dated December 9, 1977 concerning the export of nuclear material by General Electric Technical Services Company, Inc., San José, California, to the Nuclear Power Plant of Leibstadt, Switzerland.

This letter serves as attestation that the transfer of the material identified in Export License Application S-860 will be undertaken in accordance with the terms and conditions of the Agreement for Cooperation concerning civil uses of atomic energy between the Government of the United States and the Government of Switzerland.

In addition, I am in a position to confirm that the ultimate consignee, Leibstadt Nuclear Power Plant, and the intermediate consignee, Fracht AG, Basel, Switzerland, freight forwarders, are authorized to receive and possess the material in question.

Sincerely yours,



Dr. Christian Favre
Scientific Counselor

RECEIVED
U.S. NRC

1978 MAY 9 PM 4 32

EXPORT/IMPORT
AND
INTERNATIONAL SERVICES



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

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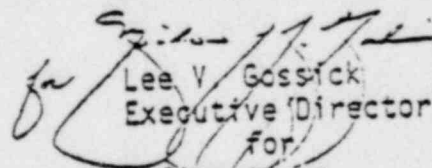
Mr. Peter Tarnoff
Executive Secretary
U.S. Department of State
Washington, D.C. 20520

Dear Mr. Tarnoff:

Enclosed please find an application from General Electric Technical Services Company, Incorporated for a license to export special nuclear material to Switzerland.

Before taking action on this license application, we would appreciate your views, in accordance with established procedures and from the overall perspective of the Executive Branch, as to whether the issuance of the requested license would be inimical to the interests of the United States, including the common defense and security, and whether the export would fall within an Agreement for Cooperation.

Sincerely,


Lee V. Gossick
Executive Director
for
Operations

Enclosure:
Appl. dtd November 10, 1977
(S-860, XSNM-1227)

cc w/enclosure:
Mr. Nelson F. Sievering, DOE
Mr. Richard L. Williamson, ACDA/NP/NX
Dr. Maurice J. Mountain, DOD
Mr. Alfred D. Starbird, DOE
Mr. Rauer H. Meyer, DOC

RECEIVED
U.S. NRC

1978 MAY 9 PM 4 32

EXPORT/IMPORT
INTERNATIONAL SERVICES

Missed
12-1-77

7730135

XSNM-1207
70-2745
S-860
I.C. 14331
M/C 77-318

APPLICATION FOR LICENSE TO EXPORT
BYPRODUCT, SOURCE, OR SPECIAL NUCLEAR MATERIAL

Submit in Triplicate

Carefully Read Instructions on Back

DATE OF APPLICATION November 10, 1977	2. APPLICANT'S REFERENCE NO. (if any) KKL	3. COUNTRY OF ULTIMATE DESTINATION Switzerland
NAME OF APPLICANT General Electric Technical Services Co, Inc STREET ADDRESS 75 Curtner Ave. - M/C 871 CITY, STATE, AND ZIP CODE San Jose, Ca. 95125		5. ULTIMATE CONSIGNEE IN FOREIGN COUNTRY (Name and address) Kernkraftwerk Leibstadt AG (KKL) Postfach 8022 Zurich, Switzerland
INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY (Give name and address. If same as ultimate consignee, state "Same.") Sacht Ltd. Mustrasse 95 Basel, Switzerland		7. IF PURCHASER IN FOREIGN COUNTRY IS OTHER THAN ULTIMATE CONSIGNEE, GIVE NAME AND ADDRESS. (If same state "Same.") Same
(a) QUANTITY TO BE SHIPPED (See instructions on back)	(b) COMMODITY DESCRIPTION (Include chemical and physical form; for special nuclear material and byproduct material also specify isotopic content; if in a device, identify the device, manufacturer, and model number.)	
i) 5,600 kilograms U-235	i) Contained in 243,000 kilograms of uranium enriched to 4.0 W/O maximum as fuel bundles	
ii) 1 gram U-235	ii) Contained in 1.07 grams U as detection instruments (92.5%)	

(c) SHIPPING AND PACKING PROCEDURES (Required for special nuclear material. See instructions on back.)
Fuel bundles in GE model RA-3 shipping packages, USNRC certificate No. USA/4936/B(F).
Detection instruments exempt from 10CFR Part 71.

END USE OF COMMODITIES COVERED BY THIS APPLICATION: (Describe fully, stating what will be produced or manufactured, what service will be rendered, or the nature of the research that will be performed.) (See instructions on back for special nuclear material.)
Leibstadt: initial cores plus 3 reloads. (Leibstadt reactor was exported under USNRC License No. XR-104, Docket 50-536). A statement of end use by the ultimate consignee dated October 25, 1977 accompanies this application.

9. The applicant, and any official executing this certificate on behalf of the applicant named in Item 4, certify that this application is prepared in conformity with Title 10, Code of Federal Regulations, Parts 30 and 36 (if for byproduct material) or Part 40 (if for source material), or Part 70 (if for special nuclear material), and Part 71 (for transport of radioactive material, if applicable) and that all information contained herein, including any supplements attached hereto, is true and correct to the best of their knowledge and belief.

General Electric Technical Services Co
(Applicant named in Item 4)

By: BD Wilson
Mgt. Government Relations and
(Title of certifying official authorized to act on behalf of applicant)
Export Licensing

cc 18-77
18-77

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U.S. NRC

1977 NOV 14 AM 10 52

EXPORT/IMPORT

Received Consortium KKL

26. OKT. 77.

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Vis. *Ha.*

GETSCO
BSC-KKL
Kernkraftwerk
Leibstadt
CH-5300

POSTADRESSE POSTFACH, 8022 ZÜRICH
TELEPHON 01.32.62.61
TELEX 53.639
TELEGRAMME ELEKTROWATT ZÜRICH

Consortium BBC/GETSCO
Attn. Mr. R.H. Leasburg
Neunbrunnenstrasse 85

8050 Zürich

ZÜRICH, BELLEFIVESTRASSE 36

October 25th, 1977 1370 SCT/BL

Dear Sir,

It is our understanding that as a requisite to export license action, the United States Atomic Energy Commission requires a statement concerning the end use of the special nuclear material in nuclear fuel assemblies and instrument manufacturing facility to the Kernkraftwerk Leibstadt site in Switzerland.

*To be
forwarded
by GC*

Accordingly, it is hereby stated that the fuel containing approximately 5,600 kilograms of U235 in approximately 243,000 kilograms of uranium enriched in U235 to a maximum of four percent and the detectors (not to exceed one (1) gram U235 as contained in 93.5 percent enriched uranium) will be used respectively to load the core of the Kernkraftwerk Leibstadt reactor located in Canton Aargau, Switzerland, and as part of its instrumentation system or held as spares for possible subsequent installation.

Sincerely,

KERNKRAFTWERK LEIBSTADT AG

pp. Staub pp. Künig

COMMUNICATIONS DISTRIBUTION

A. C. D.

X

GENERAL ELECTRIC

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

NUCLEAR ENERGY
PROGRAMS DIVISION
INTERNATIONAL
MARKETING

BDW-173-77

November 10, 1977

Dr. Michael A. Guhin
Assistant Director
Imports/Exports and International Safeguards
United States Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Dr. Guhin:

Pursuant to 10CFR Part 70, General Electric Technical Services Co., Inc. hereby applies for a license to export special nuclear material, in particular, low enriched uranium (except one gram as high enriched uranium in nuclear detectors) to Kernkraftwerk Leibstadt A.G. (KKL) in Switzerland.

The material to be exported consists of 5,600 kilograms of uranium 235 as further described in the attached form AEC-7 (1-67).

This material will be used for initial loading and three reloads for the Leibstadt reactor located in Canton Aargau, Switzerland. This is a nominal 1,000 MWe General Electric boiling water reactor which is scheduled to begin regular power operation in 1981. It is owned and operated by KKL.

A standard reload for this reactor under normal operating conditions at approximately 12 month intervals without adjustment of spares inventory is about 180 bundles which, in the aggregate contain from 30,000 to 33,000 kilograms of uranium at various percentages of enrichment with a maximum enrichment of 4% U-235.

The special nuclear material is of Canadian origin and will be owned by KKL at the time of export. The General Electric fuel fabrication plant at Wilmington, North Carolina will prepare and package the fuel for shipment.

The first shipment of this material is currently scheduled for June 1, 1980. It is therefore requested that the license be issued on or before that time and be valid for 5 years after issuance.

Continued -

GENERAL ELECTRIC

Dr. Rubin

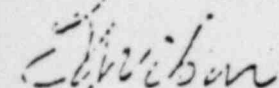
November 10, 1977

BDW-173-77

Page 2.

If additional information would be helpful in considering this application, please do not hesitate to contact me.

Very truly yours,



B. D. Wilson, Manager
Government Relations and Export Licensing
M/C 871 - 925 1380

-ijm

encl.

11/10/77

DEPARTMENT OF STATE

WASHINGTON, D. C. 20520

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

June 23, 1978

XSNM-1227
70-2745

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

Dear Mr. Shea:

This letter is in response to Mr. Gossick's letter dated June 7, 1978 requesting that the Executive Branch reconsider its earlier recommendation regarding the export of low-enriched uranium to Switzerland under application no. XSNM-1227. In our letter of May 9, 1978, we had conveyed to you the Executive Branch recommendation that the requested license be limited to authorize export of a total of 118,950 kilograms of uranium for the initial core loading only of the Leibstadt Nuclear Power Plant in Aargau Switzerland, plus essential spare fuel elements and 1 gram of highly-enriched uranium rather than the multiple reloads which had originally been requested.

The Executive Branch is currently developing a new policy and procedures under P.L. 95-242 regarding such multiple reloads. The approach which is under discussion will allow multiple reloads for a fixed number of years to countries which meet certain non-proliferation criteria. Among the criteria we believe will be given heavy weight are whether the country is a party to the Non-Proliferation Treaty, has cooperated to renegotiate its Agreement for Cooperation and has participated in international non-proliferation initiatives such as the International Nuclear Fuel Cycle Evaluation.

As stated in our letter of May 9, we had anticipated expeditious consideration and transmittal of an Executive Branch judgment of the balance of this requested license

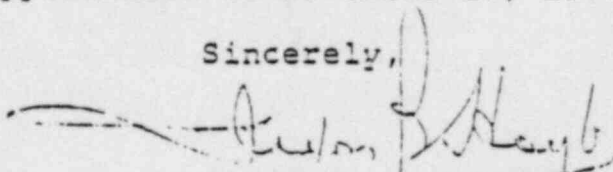
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EXPORT/IMPORT
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application as soon as the policy was adopted. However, the Executive Branch has reconsidered this application in light of the points raised in General Electric's letter of May 26, 1978 and a discussion was held regarding this case at the June 2, 1978 meeting of the Subgroup on Nuclear Export Coordination. As you know, Switzerland is a party to the Non-Proliferation Treaty, a participant in INFCE and a strong supporter of non-proliferation goals shared by the U.S. We anticipate that Switzerland will be included in any list of eligible countries which would be drawn up in connection with the formulation of procedures governing advance export approval for multiple reloads. In light of this fact, the Executive Branch, has concluded upon reconsideration that it would be appropriate at this time to grant a one-time exception pending adoption of the general multiple reload policy.

Accordingly, the Executive Branch hereby recommends issuance of an export license for the entire amount of 242,926 kilograms of uranium as requested in the General Electric Company's application of November 10, 1977. ..

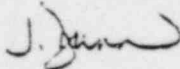
Sincerely,



Dixon S. Hoyle

Acting Deputy Assistant Secretary

→ This figure corresponds to the totals computed in the Executive Branch's May 9 analysis for shipments of the core, spares, reserves, and reloads, plus an additional allowance in case of damage during shipping, fabrication, or in loading. GE has rounded this figure up to 243,000 in their application (per Aug. 10 conversation with R. Delabarre, DOS).



APPENDIX C

APPLICATION FOR LICENSE TO EXPORT
BYPRODUCT, SOURCE, OR SPECIAL NUCLEAR MATERIAL

Submit in Triplicate

XSNM-1207
70-2745
S-860
I.C. 14331
M/C 77-318

Carefully Read Instructions on Back

1. DATE OF APPLICATION November 10, 1977	2. APPLICANT'S REFERENCE NO. (if any) KKL	3. COUNTRY OF ULTIMATE DESTINATION Switzerland
4. NAME OF APPLICANT General Electric Technical Services Co, Inc STREET ADDRESS 175 Curtner Ave. - M/C 871 CITY, STATE, AND ZIP CODE San Jose, Ca. 95125		5. ULTIMATE CONSIGNEE IN FOREIGN COUNTRY (Name and address) Kernkraftwerk Leibstadt AG (KKL) Postfach 8022 Zurich, Switzerland
6. INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY (Give name and address. If same as ultimate consignee, state "Same.") Fracht Ltd. Austrasse 95 Basel, Switzerland		7. IF PURCHASER IN FOREIGN COUNTRY IS OTHER THAN ULTIMATE CONSIGNEE, GIVE NAME AND ADDRESS. (If same, state "Same.") Same

(a) QUANTITY TO BE SHIPPED (See instructions on back)	(b) COMMODITY DESCRIPTION (Include chemical and physical form; for special nuclear material and byproduct material also specify isotopic content; if in a device, identify the device, manufacturer, and model number.)
(i) 5,600 kilograms U-235	(i) Contained in 243,000 kilograms of uranium enriched to 4.0 W/O maximum as fuel bundles
(ii) 1 gram U-235	(ii) Contained in 1.07 grams U as detection instruments (92.5g)

(c) SHIPPING AND PACKING PROCEDURES (Required for special nuclear material. See instructions on back.)
 Fuel bundles in GE model RA-3 shipping packages, USNRC certificate No. USA/4986/B(1)F.
 Detection instruments exempt from 10CFR Part 71.

END USE OF COMMODITIES COVERED BY THIS APPLICATION: (Describe fully, stating what will be produced or manufactured, what service will be rendered, or the nature of the research that will be performed.) (See instructions on back for special nuclear material.)
 Leibstadt initial cores plus 3 reloads. (Leibstadt reactor was exported under USNRC License No. XR-104, Docket 50-536). A statement of end use by the ultimate consignee dated October 25, 1977 accompanies this application.

The applicant, and any official executing this certificate on behalf of the applicant named in Item 4, certify that this application is prepared in conformity with Title 10, Code of Federal Regulations, Parts 30 and 36 (if for byproduct material) or Part 40 (if for source material), or Part 70 (if for special nuclear material), and Part 71 (for transport of radioactive material, if applicable) and that all information contained herein, including any supplements attached hereto, is true and correct to the best of their knowledge and belief.

General Electric Technical Services Co.
 (Applicant named in Item 4)
 By: BD Wilson
 Mgr., Government Relations and
 (Title of certifying official authorized to act on behalf of the applicant)
 Export Licensing

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1877

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1977 NOV 14 AM 10 52

EXPORT

18 U.S.C. Section 1007, Act of June 25, 1948: 62 Stat. 749; makes it a criminal offense to make a willfully false statement or representation to any department or agency of the United States as to any matter within its jurisdiction

Received Consortium KKL		Vic.
26. OKT. '77.	OZ 066.02-A	<i>Ma.</i>
X GETSCO	General	
X KKL	Special	
X KKL	Admin.	

Consortium BBC/GETSCO
Attn. Mr. R.H. Leasburg
Neunbrunnenstrasse 85

8050 Zürich

POSTADRESSE POSTFACH 8022 ZÜRICH
TELEPHON 01.92.62.61
TELEX 53.639
TELEGRAMME ELEKTROWATT ZÜRICH

ZÜRICH, BELLERIVESTRASSE 36

OZ 066.02

October 25th, 1977 1370 SCT/BL

Dear Sir,

It is our understanding that as a requisite to export license action, the United States Atomic Energy Commission requires a statement concerning the end use of the special nuclear material in nuclear fuel assemblies and instrument manufacturing facility to the Kernkraftwerk Leibstadt site in Switzerland.

to be forwarded by Getso

Accordingly, it is hereby stated that the fuel containing approximately 5,600 kilograms of U235 in approximately 243,000 kilograms of uranium enriched in U235 to a maximum of four percent and the detectors (not to exceed one (1) gram U235 as contained in 93.5 percent enriched uranium) will be used respectively to load the core of the Kernkraftwerk Leibstadt reactor located in Canton Aargau, Switzerland, and as part of its instrumentation system or held as spares for possible subsequent installation.

Sincerely,

KERNKRAFTWERK LEIBSTADT AG

pp. Staub pp. Kluiger

C. INDICATED
A. 00
X
X

GENERAL ELECTRIC

NUCLEAR ENERGY

PROGRAMS DIVISION

INTERNATIONAL

MARKETING

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

BDW-173-77

November 10, 1977

Dr. Michael A. Guhin
Assistant Director
Imports/Exports and International Safeguards
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Dr. Guhin:

Pursuant to 10CFR Part 70, General Electric Technical Services Co., Inc. hereby applies for a license to export special nuclear material, in particular, low enriched uranium (except one gram as high enriched uranium in nuclear detectors) to Kernkraftwerk Leibstadt A.G. (KKL) in Switzerland.

The material to be exported consists of 5,600 kilograms of uranium 235 as further described in the attached form AEC-7 (1-67).

This material will be used for initial loading and three reloads for the Leibstadt reactor located in Canton Aargau, Switzerland. This is a nominal 1,000 MWe General Electric boiling water reactor which is scheduled to begin regular power operation in 1981. It is owned and operated by KKL.

A standard reload for this reactor under normal operating conditions at approximately 12 month intervals without adjustment of spares inventory is about 180 bundles which, in the aggregate contain from 30,000 to 33,000 kilograms of uranium at various percentages of enrichment with a maximum enrichment of 4% U-235.

The special nuclear material is of Canadian origin and will be owned by KKL at the time of export. The General Electric fuel fabrication plant at Wilmington, North Carolina will prepare and package the fuel for shipment.

The first shipment of this material is currently scheduled for June 1, 1980. It is therefore requested that the license be issued on or before that time and be valid for 5 years after issuance.

Continued -

Dr. Guhin

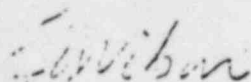
November 10, 1977

BDW-173-77

Page 2.

If additional information would be helpful in considering this application, please do not hesitate to contact me.

Very truly yours,



B. D. Wilson, Manager
Government Relations and Export Licensing
M/C 871 - 925 1380

-ijm

encl.

GENERAL ELECTRIC

NUCLEAR ENERGY

PROGRAMS DIVISION

MARKETING DEPT.

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

BDW-002-78

January 5, 1978

XSNM-1227
70-2745

Dr. Michael A. Guhin
Assistant Director
Export/Import and International Safeguards
Office of International Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Subject: APPLICATION FOR EXPORT LICENSE XSNM 1227

Dear Dr. Guhin:

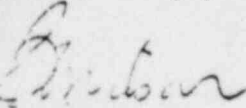
By letter dated November 10, 1977, General Electric requested the subject license for Leibstadt, Switzerland, reactor fuel and detectors.

This letter supplements that application, as follows:

1. The special nuclear material is of U.S. and South African origin; not of Canadian origin.
2. The number of KKL's Department of Energy enrichment contract is E (49-14) UES/SD/100.

We trust this information will be helpful in continued action on the application.

Very truly yours,


B. D. Wilson, Manager
Government Relations and
Export Licensing
M/C 871 - 925 1380

678 JAN 10 1978

-ijm

GENERAL ELECTRIC

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

NUCLEAR ENERGY
PROGRAMS
OPERATIONS
MARKETING DEPARTMENT

BDW-064-78

XSNM-1227

May 26, 1978

70-2745

S-860

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

Subject: APPLICATION FOR LICENSE XSNM 1227
LEIBSTADT SWITZERLAND - INITIAL CORE AND RELOADS

Dear Mr. Shea:

During our brief, informal discussion of the subject case in your office on May 5, 1978, Mr. Charles H. Peterson and I outlined General Electric's concerns over the possibility that the Leibstadt (KKL) fuel export license, XSNM 1227, when issued, authorizing shipment to Switzerland might be limited to only enough uranium to cover instruments, the initial core, and two spare fuel bundles, as recommended in the recent letter from the Department of State, rather than the entire amount ordered by KKL and requested in our application. While it is clear that the U.S. government can terminate an export license at any time, in our experience the refusal to approve only a part of an export license to Switzerland is an extraordinary action.

The purpose of this letter to reiterate our concerns over such a limitation and request additional information about the basis for the Executive Branch views.

As stated during our discussion, KKL and the Government of Switzerland could well regard the failure to issue a license for the full amount requested as a contraindication (not a contradiction) of U.S. nuclear export policy (as set forth in the Nuclear Non-Proliferation Act of 1978) to "act reliably in meeting its commitment to supply nuclear fuel to nations which adhere to effective non-proliferation policies."

An export license limited in quantity might influence the Leibstadt customer to cancel a reload order on the basis of continuing uncertainty about U.S. export licensing actions. Without exception, Mr. Shea, our experience demonstrates that once a European reactor customer accepts a European fuel supplier, GE has never been able to obtain further reload fuel orders. We believe that this is a legitimate concern which should be addressed before the license is issued.

Continued -

R. Shea
W-064-78
page 2.

May 26, 1978

view of these concerns, could you please provide answers to the following questions:

All previous GE applications for multiple core reloads have been granted in accordance with our requests. Would the proposed limitation on amount be the first of a kind for low enriched uranium? Are similar limitations expected as a matter of some new policy or procedure and if so, will this practice be put forth for public comment?

Subsequent to the State Department letter referred to above, has your office received Executive Branch views on any other applications involving reloads (with or without initial cores)? Were those views conditioned by limitations against reloads similar to those recommended in the case of XSNM 1227? If those views were not so conditioned or limited, who were the applicants and to which countries were the exports destined?

What is the current target date for establishing and disseminating procedures for the preparation of Executive Branch judgements on export license applications covering multiple core reloads?

What action could be taken by NRC and/or GE to obtain supplemental views by the Executive Branch enabling timely issuance of the license as requested in the application?

In summary Mr. Shea, we shall appreciate your intervention to permit issuance of an export license for the full quantity for which the application was filed. Such action must be completed reasonably soon to assure that the KKL reactor reloads will be available in a timely manner.

In order to withdraw the reload order from GE and award it to a European fabricator, the customer would be required to act six years prior to the required delivery date. The six years are needed for contract negotiations, fuel design, prototype testing and development, qualification, fabrication and delivery of the reload fuel. Failure to obtain an export authorization in the near future will force our customer to make a decision, which may be adverse to the interest of GE and the U.S. Government. The customer could either shift his order to a European fuel supplier or hold his order with GE and take the risk that an export license would not be granted.

Continued -

R. Shea

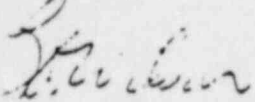
May 26, 1978

W-064-78

ge 3.

are confident that this case can be handled in a mutually satisfactory manner. We are most anxious to cooperate with the Commission and its advisory agencies toward that end. Please tell us how best to proceed.

Very truly yours,



D. Wilson, Manager
Government Relations and
Export Licensing
/C 871 - 925 1380

jrn

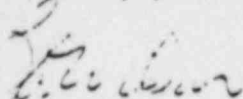
- Mr. Dixon Hoyle DOS
- Mr. Vance Hudgins DOE
- Mr. Richard L. Williamson ACDA

R. Shea
W-064-78
Page 3.

May 26, 1978

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Very truly yours,



D. Wilson, Manager
Government Relations and
Export Licensing
C 871 - 925 1380

Mr. Dixon Hoyle DOS
Mr. Vance Hudgins DOE
Mr. Richard L. Williamson ACDA

APPENDIX D

EXPORT LICENSE

FORM NRC-250
(7-75)

NRC LICENSE NO.

THIS LICENSE EXPIRES 1 May 1983

United States of America
Nuclear Regulatory Commission

XSNM-1227

Pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 and the regulations of the Nuclear Regulatory Commission issued pursuant thereto, and in reliance on statements and representations heretofore made by

the licensee, a license is hereby issued to the licensee authorizing the export of the materials and/or production or utilization facilities listed below, subject to the terms and conditions herein.

LICENSEE		ULTIMATE CONSIGNEE IN FOREIGN COUNTRY	
NAME	General Electric Technical Services Company, Inc.	NAME	Kernkraftwerk Leibstadt AG (KKL)
ADDRESS	175 Curtner Avenue - M/C 871 San Jose, California 95125 Attn: B. D. Wilson	ADDRESS	Postfach 8022 Zurich, Switzerland
INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY		OTHER PARTIES TO EXPORT	
NAME	Fracht Ltd. Austrasse 95 Basel, Switzerland	NONE	
ADDRESS			
APPLICANT'S REF. NO.	KKL	COUNTRY OF ULTIMATE DESTINATION	Switzerland

QUANTITY	DESCRIPTION OF MATERIALS OR FACILITIES
5,500 kilograms uranium-235	Contained in 242,926 kilograms uranium enriched to 4.0 w/o maximum, as fuel bundles.
1 gram uranium-235	Contained in 1.07 grams uranium enriched to 93.5 w/o maximum as detection instruments.
Conditions 3,6, and 8 on page two of this license apply to this export.	
//////////////////////END//////////////////////	

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.

This license is subject to the right of recapture or control by Section 108 of the Atomic Energy Act of 1954, as amended and to all of the other provisions of said Acts, now or hereafter in effect and to all

THIS LICENSE IS INVALID UNLESS SIGNED BELOW
BY AUTHORIZED NRC REPRESENTATIVE

Gerald G. Oplinger, Assistant Director
Export/Import and International
Safeguards
Office of International Programs
DATE OF ISSUANCE

APPENDIX D

U.S. NUCLEAR REGULATORY COMMISSION
EXPORT LICENSE

Conditions

License Number YSNM-1227

Condition 1 — Licensee shall file with the Customs Officer or the Postmaster two copies, in addition to those otherwise required, of the Shipper's Export Declaration covering each export and mark one of such copies for transmittal to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The following declaration should accompany or be placed on the Shipper's Export Declarations for such exports:

"This shipment is being made pursuant to specific license number (specific license number) filed at (location of Customs office where license is filed), on (date license was filed). This license expires on (expiration date of license), and the unshipped balance remaining on this license is sufficient to cover the shipment described on this declaration."

Condition 2 — Exports authorized in any country or destination, except Country Groups Q, S, W, X, Y, and Z in Part 370, Supplement No. 1, of the Comprehensive Export Schedule of the U.S. Department of Commerce.

Condition 3 — This license covers only the nuclear content of the material.

Condition 4 — The material to be exported under this license shall be shipped in accordance with the physical protection requirements for special nuclear material in 10 CFR 73.

Condition 5 — Special nuclear material authorized for export under this license shall not be transported outside the United States in passenger-carrying aircraft in shipments exceeding (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium 233, or (2) 350 grams of uranium 235.

Condition 6 — This license authorizes export only and does not authorize the receipt, physical possession, or use of the nuclear material.

Condition 7 — The licensee shall complete and submit an NRC Form 741 for each shipment of source material exported under this license.

Condition 8 — The licensee shall advise the NRC in the event there is any change in the designation of the company who will package the nuclear material to be exported under this license, or any change in the location of the packaging operation, at least three weeks prior to the scheduled date of export.

September 8, 1978



MEMORANDUM FOR: Lee V. Gossick, Executive Director
_ for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-78-471 - PROPOSED LICENSE TO EXPORT LOW-
ENRICHED URANIUM TO SWITZERLAND (APPLICATION
XSNM-1227) (COMMISSIONER ACTION ITEM)

Attached for your information and required action by the staff is a request from Commissioner Bradford for additional information concerning the subject license.

The Office of International Programs was informed of this request by telephone on September 8, 1978.

It is requested that you provide a response through the Office of the Secretary by c.o.b. September 15, 1978.

Attachment:
As stated

cc: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Bradford
Commissioner Ahearne
Acting General Counsel
Director, Policy Evaluation
Director, International Programs

CONTACT:
E.W. McGregor (SECY)
4-1410



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

September 7, 1978

OFFICE OF THE
COMMISSIONER

MEMO TO: Samuel J. Chilk, SECY

FROM: Peter A. Bradford

SUBJECT: SECY-78-471 PROPOSED LICENSE TO EXPORT LOW-ENRICHED URANIUM
TO SWITZERLAND (APPLICATION XSNM-1227)

Before concurring in the proposed export, I would like the following in order to be assured that Criterion 1 of the NNPA is met:

1. Has the KKL facility attachment been completed?
2. Is the KKL facility currently safeguarded by the IAEA?

cc: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Ahearne
Ken Pedersen
James L. Kelley



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

OFFICE OF THE
COMMISSIONER

September 15, 1978

MEMO TO: Samuel J. Chilk, SECY
FROM: *mg* -Peter A. Bradford
SUBJECT: SECY-78-351 - LEU TO KOREA AND SECY-78-471 - LEU
TO SWITZERLAND

I posed questions to the staff and the Executive Branch in each of the above cases. Because the information sought may be necessary to a decision on the statutory criteria of the Nonproliferation Act, I do not believe that any of these licenses should be approved until the information is provided unless an overriding urgency attaches to the case in question. If the information is provided during my absence next week, my staff will be able to let you know how I would vote.

cc: Chairman Hendrie
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Ahearne
Ken Pedersen
James L. Kelley



NUCLEAR REGULATORY COMMISSION


WASHINGTON, D. C. 20555

OFFICE OF THE
SECRETARY

November 20, 1978

Dircks
Rehm
Shea
Spinger
Smith
Shapar
Haller
Hayden
Hanauer

MEMORANDUM FOR: Lee V. Gossick, Executive
Director for Operations

FROM: Samuel J. Chilk, Secretary 

SUBJECT: SECY-78-471 - PROPOSED LICENSE TO EXPORT LOW-ENRICHED
URANIUM TO SWITZERLAND (APPLICATION XSNM-1227)
(COMMISSIONER ACTION ITEM)

This is to advise you that the Commissioners have reviewed the subject license to General Electric Company. The Commission (with four Commissioners - Hendrie, Gilinsky, Kennedy, and Ahearne - concurring) has accepted your recommendation for export to Switzerland of 243,000 kilograms of uranium, enriched to 4.0% U-235, in the form of fuel bundles, and 1.07 grams of uranium, enriched to 93.5% U-235, as neutron detection instruments. Commissioner Bradford concurred subject to receipt of assurances at the time of the export that the facility attachment will be in effect upon arrival.

The Office of International Programs was informed of this action by telephone on November 17, 1978.

It is requested that you provide written notification of the issuance and delivery of this license to General Electric to the Office of the Secretary by c.o.b. November 21, 1978.

CC:
Commissioners
Commission Staff Offices
Director, International Programs
Public Document Room

CHRONOLOGY OF XR-120

Export of a Westinghouse pressurized water reactor to the Philippines.

<u>ACTION</u>	<u>DATE</u>
Received application of 11/18/76 from Westinghouse Electric Corporation	11/23/76
Sent memo to NRC's Office of Standards Development to determine if the application constitutes a utilization facility	12/07/76
Received 12/09/76 response memo from NRC's Office of Standards Development that application does constitute a utilization facility	12/10/76
Sent notice to Federal Register on receipt of application	12/10/76
Forwarded application to Executive Branch for views	12/26/76
Sent notification letter to Joint Committee on Atomic Energy on receipt of application	12/29/76
Federal Register notice on receipt of application published (Vol. 41, No. 252)	12/30/76
Sent memo to the NRC's Office of Nuclear Material Safety and Safeguards for preliminary review	01/19/77
Received Freedom of Information request of November 23, 1977 for all documents related to the proposed export	11/28/77
Received favorable Executive Branch views of 12/12/77 recommending issuance of license	12/14/77
Received 1/4/78 letter from Congressman Clarence D. Long to Chairman Hendrie which strongly opposes the proposed export and asks questions related to health, safety and environmental aspects of the reactor export	01/06/78
Staff forwarded Commission action paper, SECY-78-39, with a proposed interim reply to Congressman Long, which advised that (1) the staff has in preparation a study of NRC's authority and responsibility with regard to health, safety, and environmental considerations in export licensing, (2) substantive responses to his questions will be forwarded upon Commission review of this study, and (3) we will keep him informed of the status of the license review	01/23/78
Received 1/23/78 (classified) letter from State Department confirming NRC's request for additional information and requesting that no further action be taken until the Executive Branch completes an extended review	01/26/78

<u>ACTION</u>	<u>DATE</u>
Staff forwarded information report, SECY-78-39A (classified) advising Commission of State's January 23 letter	02/02/78
Forwarded interim response to Congressman Long as noted above	02/16/78
Received February 10, 1978 memo from Commissioner Bradford requesting information of a classified nature	02/16/78
Sent memo (classified) to Commissioner Bradford in response to his 2/10 question	02/23/78
Sent 60-day notification letter to Westinghouse which advised that the Executive Branch will be providing additional information upon completion of an IAEA review team report on siting and safety arrangements	07/10/78
Received Westinghouse application of 8/3/78 for a license to export component parts for the Philippine Nuclear Power Plant (XCOM0013)	08/04/78
Received favorable Executive Branch views of November 3, 1978 on XCOM0013	11/03/78
Received many letters of protest on the proposed reactor export	Nov-Dec 1978
Executive Order on Environmental Reviews of Reactor Exports issued.	01/05/79
Staff forwarded a Commission action paper, SECY-79-100, (attached) on a proposed license to export related components for the Philippine reactor (XCOMO-0013) recommending issuance of the license without prejudice to decisions on the reactor itself.	02/08/79
Received Westinghouse application of 2/27/79 to export 121,000 kilograms of low enriched uranium for the initial core and three reloads of the Philippine reactor (XSNM01471)	03/02/79
Commissioner Ahearne notes in a classified memo to the other Commissioners that he would not take action on the component application (XCOM0013) until he received the IAEA Safety Report on the Philippine Project	03/02/79
The Center for Development Policy, Jesus Nicanor P. Perlas III, and the Philippine Movement for Environmental Protection filed a petition with the Commission requesting a public hearing on the proposed export licenses for the Philippines (XCOM0013, XR-120, and XSNM01471). Petitioners requested that the hearing focus on issues related to environmental, health and safety impacts that the proposed reactor would have upon the Philippines including the potential effects on U.S. citizens residing there.	04/19/79

<u>ACTION</u>	<u>DATE</u>
Received letter of 5/17/79 from applicant with regard to a possible cancellation of the project due to the inability to obtain an export license	05/23/79
Staff forwarded Westinghouse's 5/17/79 letter to the Commissioners (SECY-79-100B).	05/24/79
Copies of the IAEA Safety Mission Reports on the Philippine Project were forwarded to the Commission	06/01/79
Notes to the file of phone conversations with Charles Willis, NRC-IAEA advisor to the Philippines, reporting on the work of the consultants to the project, and requesting a copy of the environmental report when completed	06/06/79
Commissioner Bradford notes in a memo to the other Commissioners that he would not approve the component case prior to a decision on the reactor	06/06/79
Forwarded staff notes of the phone conversations with Charles Willis to the Commission (SECY-79-100C).	06/07/79
Staff forwarded a Commission action paper, SECY-79-100E, seeking approval of a proposed letter to Westinghouse on the licensing of several related reactor components	06/11/79
President Marcos of the Philippines suspended construction of the nuclear power plant until issues concerning the safety of the operation could be resolved, in light of concerns that the plant site may be too close to an active earthquake zone and volcanic area and also that the Westinghouse design may be faulty	06/79
Sent letter to the State Department requesting information on a special safety inquiry into questions raised about the safety of the plant as reported in recent news releases	06/21/79
The "Puno Commission", established by the Philippine government, begin public hearings to investigate the concerns regarding construction of the reactor	06/23/79
Staff forwarded classified information to the Commission on the proposed nuclear power plant export, SECY-79-100F	07/17/79
A review and analysis of the documents regarding the geological conditions at the Philippine site was prepared by the NRC's Office of Policy Evaluation for the Commissioners (classified)	07/18/79

<u>ACTION</u>	<u>DATE</u>
Received copies of supplemental safety-related documents from Ebasco, consultants to the Philippine government	07/20/79
Forwarded safety-related documents to the Department of State	08/07/79
Forwarded the Executive Branch's draft environmental review related to the Philippine project to the Commission, SECY 79-100G	09/11/79
Received information from State Department on financial arrangements with the EXIM Bank	09/14/79
Forwarded financial information to the Commissioner assistants on the status of costs incurred by the EXIM Bank for the Philippine reactor	09/18/79
Staff forwarded a Commission action paper on a proposed letter to State concerning environmental discussions for the Philippine reactor project, SECY-79-100H	09/24/79
Staff forwarded classified information paper to the Commission on proposed responses to the Philippine inquires	09/27/79
Received favorable Executive Branch views of 9/28/79 recommending issuance of the license (XR-120)	10/01/79
Forwarded copy of Executive Branch views of 9/28/79 to the Commission for early review, SECY-79-621	10/02/79
Received memo from the NRC's Office of the General Counsel to the Commissioners on a request for public hearing on the pending license applications for the Philippine project	10/03/79
Staff forwarded Commission information paper on allegations of impropriety concerning the proposed reactor, SECY-79-100J	10/09/79
Staff forwarded an information paper to the Commission on a proposed response to the National Safety for Seismology and Earthquake Engineering of the Philippines (NSSEEP) request for technical information, SECY-79-100K	10/09/79
Sent memo to the NRC Executive Director for Operations on allegations of impropriety	10/12/79
Received letter from State Department forwarding the Philippines physical security assurances	10/19/79

ACTIONDATE

The Commission issued an order inviting petitioners and other members of the public to submit written comments to the Commission addressing the issues of:

10/19/79

- (1) Whether the Commission has jurisdiction to examine health, safety, and environmental impacts in a foreign country arising from the construction and operation of an exported nuclear reactor.
- (2) Whether its health, safety or environmental review of export license applications is limited to the consideration of those issues with U.S. common defense and security implications, or whether the legal principles would permit or require the Commission to examine such matters as part of its licensing review.
- (3) What issues arising from the application to export a nuclear reactor to the Philippines should the Commission examine in any future public proceeding.
- (4) What precedural format should be adopted for considering such issues if they are found to lie within NRC jurisdiction.
- (5) If health, safety and environmental aspects of a U.S.-supplied facility are to be evaluated in the NRC export licensing process, in what manner should the review be conducted differently from domestic reactor licensing proceedings.
- (6) Whether there are any factual or legal considerations which would justify different NRC health, safety or environmental reviews for some export license application than for others.

Staff forwarded for Commission review a proposed follow-up response to Congressman Long's questions, SECY-79-585

10/23/79

Forwarded Philippines physical security assurances to the Commission, SECY-79-621

11/19/79

As a result of a 1/29/80 meeting, the Commission issued an order to limit its review in the Philippines and other reactor export cases to health, safety, and environmental factors affecting the global commons or the territory of the US, and the relationship of these effects to the common defense and security of the U.S.

02/08/80

<u>ACTION</u>	<u>DATE</u>
Received memo from the NRC's Office of Nuclear Reactor Regulation on the impact of the proposed export on the global commons	03/10/80
Staff forwarded Commission action paper on proposed export of reactor and components recommending issuance of license (attached)	03/14/80
License No. XR-120 issued	05/06/80
Received copy of memo from SECY to the NRC's Office of the General Counsel regarding Commission vote of 3-2, Chairman Ahearne and Commission Bradford dissenting on health and safety impacts (see attached)	05/07/80
Received copy of memo from SECY to the NRC's Office of the General Counsel discussing the memorandum and order on the Philippine case and the Commission vote (see attached)	05/09/80

February 8, 1979

SECY-79-100

For:

~~The Commissioners~~
COMMISSIONER ACTION

From:

James R. Shea, Director
Office of International Programs

Thru:

Executive Director for Operations *JRS*

Subject:

PROPOSED LICENSE TO EXPORT PARTS AND COMPONENTS
TO THE PHILIPPINE NUCLEAR POWER PLANT UNIT NO. 1
(LICENSE APPLICATION XCOM-0013)

Purpose:

To make a recommendation to the Commission regarding
issuance of the proposed export license.

Review Dates:

60 day period expired January 2, 1979.
120 day period expires March 3, 1979.

Discussion:

Westinghouse Electric Corporation has applied (Appendix A) for a license to export various nuclear power plant components, totaling \$5.2 million in value, to the Philippines for use in the Philippine Nuclear Power Plant Unit No. 1, now in the early construction stages on the Bataan Peninsula. The components proposed for export are listed in Exhibit B of Westinghouse's application. (The components in Exhibit A are not specifically designed for a reactor and Westinghouse has been notified that they are not subject to NRC export licensing requirements.)

Westinghouse has indicated that it wishes to proceed with shipment of the equipment at this time in order to assure continued construction of the plant in an orderly manner, and to avoid an extension of the schedule for operating the reactor by several months, which could increase the costs to the Philippine National Power Corporation by \$3-7.5 million.

Current construction activities have already been disrupted due to the inability to obtain export approval for several key items included in the component application (i.e. the waste hold-up tank, the hot laundry shower tank and the

Contact:

M. R. Peterson, IP (492-8155)
G. G. Oplinger, IP (492-7866)

spent resin hold-up tank). By adjusting construction schedules to "work around" the needed components, it will be possible to continue construction activities at increasingly reduced levels of effectiveness for perhaps several more months. Eventually, however, construction at the reactor site will inevitably come to a complete halt if the component license and the related license for the complete facility (XR-120) are not issued. Westinghouse has indicated that issuance of the component export license will permit construction to proceed at a roughly normal pace until approximately October 1979. By that time a decision may have been made on the facility license application. It is not clear at this time whether Westinghouse would submit another interim component license application should there turn out to be further delays concerning the facility application.

Westinghouse recognizes that issuance of the facility export license remains subject to considerable uncertainty, but is prepared to accept the financial risk inherent in proceeding with export of the components now and installing them at the proposed reactor site. XR-120 is still under Executive Branch review, and it may be an extended period (e.g. perhaps 6-12 months) before Executive Branch views are submitted to NRC. The staff is also examining the implications for this facility application of the President's January 5 Executive Order concerning environmental effects abroad of major federal actions, including actions providing to a foreign nation a production or utilization facility or a nuclear waste management facility.

The staff has reviewed the analysis submitted by State (Appendix B) recommending issuance of the requested component export license, and concurs in State's finding that the requirements of the Atomic Energy Act, as amended by the Nuclear Non-Proliferation Act of 1978, have been met and that the proposed export would not be inimical to the common defense and security or constitute an unreasonable risk to the health and safety of the public.

As the Commission is aware, there has been substantial controversy surrounding the suitability of the selected reactor site and the safety aspects of this project have been reviewed by a group of international experts convened earlier this year by the IAEA at the request of the Philippine authorities. The report of this group has not as yet been received by the USG, and final action by the Executive Branch on this export is awaiting completion of this review. In addition, questions have been raised regarding the Commission's authority and responsibility to take into account

health and safety matters that arise in connection with proposed reactor exports.

The staff believes, however, that it is not necessary to take a position on health and safety aspects of the proposed Philippine reactor export in reaching a decision on this component export, inasmuch as these components (miscellaneous tanks, valves, pumps, etc) in themselves present no H&S concerns. Nevertheless, issuance of the component license is likely to be perceived by some as signaling a Commission intention to approve issuance of XR-120 eventually, as well as imparting a degree of momentum in this direction. Because of this linkage, the staff has informally made clear to Westinghouse that, in the staff's view, if the component license were issued, this would in no way imply a commitment by NRC to approve the reactor export license application. Westinghouse has indicated it is willing to accept the component license on this basis. Should the Commission approve issuance of the component license, the staff believes that such approval should be accompanied by a reiteration of this disclaimer in writing.

As a related matter, the Commission should be aware that issuance of the proposed component license would establish a precedent in that the Commission has never before approved the export of components to a reactor site on which a facility export license application was pending. While NRC has only licensed component exports since July 1978, NRC was consulted by Commerce on applications for component exports prior to this date but did not provide comments on such applications until facility licenses were issued. In the past, facility export license applications have usually been processed in significantly less time than has transpired since Westinghouse first applied for XR-120 in November 1976.

Should the Commission approve the Philippines component export, additional requests for "early" component export licenses in advance of licensing of the facility itself can be expected, especially where lengthy delays in facility licensing occur. This could result in a situation where licensees might, through piecemeal component exports, eventually receive export approval for many of the components of a complete reactor prior to receiving a facility export license. Component licensing in this fashion would tend to increase expectations that the facility licenses would soon be granted and could raise questions as to whether this would be appropriate licensing procedure and would be consistent with the intent of the Nuclear Non-Proliferation Act.

On the other hand, since it would be impossible to construct a complete reactor with only "non-facility" components, the Commission would still retain final control over licensing of the key elements necessary for functioning of a reactor under such an approach. (Part 110 defines facilities as nuclear reactors and the following major components of a nuclear reactor: pressure vessels, primary coolant pumps, fuel charging and discharging machines and control rods.) All proposed facility exports, of course, must be reviewed by the Commission and meet the six NNPA criteria, while proposed component exports only need to meet the three component export criteria and can be approved by the staff. In addition, by issuing the licensee a disclaimer with his component license, as discussed further below, the Commission would be able to place itself clearly on record that issuance of a component export license in no way implies that the Commission will act favorably on any related facility export license application.

The staff sees two basic options with regard to the component export. The first is to issue the component license at this time while making clear that this does not mean the reactor will necessarily be approved. This approach would (1) comply with the statutory requirement (Section 126b(1) of the AEA) to issue export licenses when specified criteria are met, (2) allow continuation of preliminary site construction in an orderly manner, thus avoiding intervening financial penalties, worker layoffs and operational delays (assuming the reactor export were to be later approved) and (3) keep options open with regard to a later decision on XR-120. The disclaimer should help to reduce any expectations regarding approval of XR-120 resulting from approval of this license. On the other hand, approval of the components in advance of a decision on the complete reactor, even with a disclaimer, is likely to be criticized by those opposed to XR-120 as inappropriate licensing procedure and as creating momentum toward approval of XR-120. Approval could also result in even greater financial penalties (assuming XR-120 is eventually denied).

A second option is to deny (or defer action on) the component license at this time on grounds that it would not be appropriate for NRC to start the precedent of licensing components in advance of facilities, even under the circumstances of the present case, and that the health and safety issues surrounding XR-120 were such that all portions of the proposed export, including the components, should be addressed when the Commission considers XR-120 itself. ELD has advised, however, that the Commission does not appear to have discretion to deny a component license on such grounds, since there is nothing in the AEA or the legislative history of section 109 that would support such a course of action.

Denial or deferral could also trigger the Presidential override provisions of the NNPA if the 120-day statutory limit is exceeded without action on the component license application.

Denial or deferral, which amount to having the same effect, would enable the Commission to take its normal course of combining review of component applications with the related reactor application, including consolidating consideration of the novel H&S issues involved. It would also avoid the risk of setting precedents regarding early component licensing and avoid charges of use of inappropriate licensing procedure.

Denial or deferral would be welcomed by opponents of the reactor export, despite any disclaimers, as indicating that XR-120 would eventually be denied. Assuming the reactor application were later to be denied, denial or deferral of the component license at this time would save money, since it would force Westinghouse to stop work earlier on the Philippines project.

Denial or deferral, however, would also be criticized by those favoring the export and could result in charges that the Commission had failed to issue a license when statutory requirements had been met and the components in question presented no H&S concerns in themselves. This approach would also cause construction at the reactor site to be interrupted, with resultant financial penalties, worker layoffs and delays in operating the reactor, if XR-120 were subsequently approved. These results could, in turn, have some effect on the Philippine government's relationship with the U.S.

The staff believes that the central issues on which a decision should be based for this case are compliance with statutory requirements and providing for a proper addressal of health, safety, and environmental matters related to the component and related reactor export. The staff views as a lesser concern the possibility that issuance of the component license may be viewed as establishing a bad precedent and also amount to incorrect licensing procedures. (Any decision among the options available to the Commission may be subject to criticism from various sources, and cost and delay implications depend critically on whether XR-120 is eventually approved, which is uncertain at this time.)

In the view of the staff there are valid considerations favoring both of the above options. On balance, and considering all the factors outlined above, however, the staff recommends issuance of the license with a disclaimer regarding future approval of the reactor export license, rather than the option of deferral or denial. In making this recommendation the staff gives great weight to the fact that such a qualified approval would comply with statutory requirements while, we believe, still adequately preserving the Commission's freedom of action to consider later the merits of the much more significant reactor export and its authority and responsibility to address H&S and environmental issues for nuclear exports in the light of the new Executive Order on Environmental review of exports. As appropriate, in its future review of the reactor export, the Commission will also give careful consideration to the NRC staff's previous comments concerning site suitability for the proposed facility. As far as precedent and appropriateness of licensing procedure are concerned, the staff believes that the circumstances of this case are sufficiently unique so that these would not be major concerns. To ensure this is understood, an approval decision should include a statement that, in the Commission's view, this is an unusual situation and approval does not mean it will be approving component licenses in advance of facility licenses for other cases.

Accordingly, the staff believes that Westinghouse should be allowed to continue construction at this time using these components, if they are willing to assume the financial risks involved when there is an explicit lack of assurances that an export license for the reactor itself will be issued.

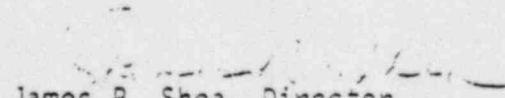
In view of the unique aspects of this case, the staff has required additional time to complete its analysis and obtain the necessary interoffice concurrences. The staff notes, however, that the applicant has contacted IP on several occasions to express their concerns regarding the urgent need for the components in the Philippines. Accordingly, the staff believes the proposed export warrants expeditious Commission review.

Because of the sensitive aspects of this case, this paper will not be placed in the PDR until the Commission has completed its review.

Recommendation: That the Commission:

1. Approve issuance of the proposed export license to Westinghouse; and
2. Approve the proposed letter at Appendix C by which Westinghouse will be informed explicitly of the basis on which the license was issued and that the license does not imply in any way that NRC will issue an export license for the complete nuclear reactor or that other component licenses will be approved by NRC prior to the facility licenses to which they relate.

Coordination: NMSS and NRR concur. ELD has no legal objection.


James R. Shea, Director
Office of International Programs

Enclosures:

1. Appendix A - License Application
2. Appendix B - Executive Branch Analysis
3. Appendix C - Proposed Letter to Westinghouse

Commissioners' comments should be provided directly to the Office of the Secretary by Friday, February 16, 1979.

Commission Staff Office comments, if any, should be submitted to the Commissioners February 14, 1979 with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION:

Commissioners
Commission Staff Offices
Exec. Dir. for Opers.
Secretariat

APPENDIX A

APPLICATION FOR LICENSE TO EXPORT
BYPRODUCT, SOURCE, OR SPECIAL NUCLEAR MATERIAL

Xcom 00513
11600103

Submit in Triplicate

Carefully Read Instructions on Back

1. DATE OF APPLICATION August 8, 1978	2. APPLICANT'S REFERENCE NO. ZENK-10388	3. COUNTRY OF ULTIMATE DESTINATION Philippines
4. APPLICANT'S NAME AND ADDRESS Westinghouse Electric Corporation Power Systems Projects Division 73 Greentree Road - Parkway Center Pittsburgh, Pennsylvania 15220		5. ULTIMATE CONSIGNEE IN FOREIGN COUNTRY (Name and Address) National Power Corporation 161 Bonifacio Drive, Port Area Manila, Philippines
6. IMMEDIATE CONSIGNEE IN FOREIGN COUNTRY (Give name and address. If same as ultimate consignee, state "Same.") Same		7. IF PURCHASER IN FOREIGN COUNTRY IS OTHER THAN ULTIMATE CONSIGNEE, GIVE NAME AND ADDRESS. (If same, state "Same.") Same

8. QUANTITY TO BE SHIPPED (Instructions on back) as attached lists identified as Exhibits A and B	9. COMMODITY DESCRIPTION (Include chemical and physical forms for special nuclear material; byproduct material also specify isotopic content; if in a device, identify the device, manufacturer, and model number.) Other components specially designed or prepared for use in a nuclear reactor. Specially designed or prepared parts and components for use in a nuclear reactor.
---	---

10. SHIPPING AND PACKING PROCEDURES (Required for special nuclear material. See instructions on back.)
N/A

11. USE OF COMMODITIES COVERED BY THIS APPLICATION (Describe fully, stating what will be produced or manufactured, what services will be rendered, or the nature of the research that will be performed. See instructions on back for special nuclear material.)
The components identified in Exhibits A and B are destined for use in the Philippine Nuclear Power Plant Unit No. 1.

12. I, the applicant, and any official executing this certificate on behalf of the applicant named in Item 4, certify that this application was prepared in conformity with Title 10, Code of Federal Regulations, Parts 90 and 91 (if for byproduct material) or Part 40 (if for source material), or Part 70 (if for special nuclear material), and Part 71 (if for transport of radioactive material, if applicable) and that all information contained herein, including any supplements attached hereto, is true and correct to the best of their knowledge and belief.

Rec'd
8/14/78

Westinghouse Electric Corporation
Power Systems Projects Division
Pittsburgh, Pennsylvania 15220
Attention: [Redacted]
Telephone: [Redacted]
Teletype: [Redacted]
Fax: [Redacted]

Westinghouse
Electric Corporation

Power Systems
Company

RECEIVED
AUG 1 1979

REF. TAG/MSO-1004
AUG 1 1979

Engineering
Department

ATTN: TAG 4 AUG 1979

AUGUST 13, 1979

PHILIPPINE AEC

Assistant Director for Export/Import
and International Safeguards
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Gentlemen:

Subject: Equipment Export License
Philippine Nuclear Power Plant Unit No. 1

Reference: Philippine Nuclear Project Licensing Application XA120

As a result of meetings with Messrs. Peterson and Moore of the U. S. Nuclear Regulatory Commission on July 25, 1979, and again with Mr. Peterson on August 1, 1979, Westinghouse Electric Corporation accordingly requests an equipment export license be issued for the equipment described in the attachments.

This action is requested as a result of an export license being held by the State Department waiting for an IAEA report which is to be issued by the Philippine AEC. Approval for the shipment of the equipment listed in the attachments is required to assure continued construction of the subject plant in an orderly manner and to prevent scheduler delays which could result in extension of the schedule by as much as three to six months and additional financial exposure to National Power Corporation in an order of magnitude of \$0 to \$1.0 million.

Westinghouse Electric Corporation request the Nuclear Regulatory Commission's assistance in expediting approval for shipment of the aforementioned equipment. Should you determine during your review that any of the items incorporated within this list do not require an export license from the Nuclear Regulatory Commission, we would appreciate the dissemination of that information to us so that we may prepare to ship that equipment immediately. Please contact us regarding the awaiting your issuance of the license.

Assistant Director for Export/Import
and International Safeguards

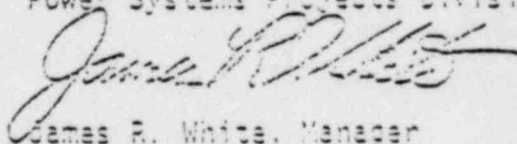
Page Two

August 3, 1978

If further clarification and/or additional information is required,
please do not hesitate to contact the undersigned.

Very truly yours,

WESTINGHOUSE ELECTRIC CORPORATION
Power Systems Projects Division



James R. White, Manager
Transportation

Approved By:



Ralph J. Cinelli, Manager
Purchases & Traffic

Attachments

1972 Philippine Project Shipments

<u>Component</u>	<u>B&R Spec. No.</u>	<u>P.O. No.</u>	<u>*Dollar Value</u>	<u>Vendor</u>
Crane Runway Girder	G305	PLA-064	\$757,235	Morgan Crane
Crane Runway Rails				
Containment Polar Crane				
Embedded Process Piping	G528	PLU-076	500,000	Underhill
Potable Water Transfer Pump	B499	PLU-009	18,081	Ingersoll
Circuit Breakers	Per W Catalog	PLA-059	1,619,727	W Trafford
Auxiliary Boiler	G316	PLA-166	264,375	BOM - Ohio
Stainless Steel Liners	J504	PLA-442	427,020	Jessop Steel
Fire Protection System	B497	PLU-063	300,000	ITT-Grinnell
Conventional Valves	G332	PLA-313	67,323	Crane
Copper-Nickel Pipe	G360	PLU-069	98,709	C
Sewage Treatment Plant	B496	PLA-030	55,194	Canlon
Air Handling Units	B501	PLA-268	630,000	CHI
Misc. Steel	J303/J301 J503/J501	PLA-445	197,342	Pgh. Bridge and Iron
Twisted Cable	B518	PLA-294	926,908	Kerite
Air Compressors	G352	PLA-175	63,495	Gardner Den
Transfer Switches	B521	PLA-207	52,803	Facs Indust Inc.
Water Chillers	B503	PLA-272	464,000	W Staunton
Heat Exchangers (CO)	G513	PLA-131	380,000	Joseph L
Hangers (Partial)	H500	PLA-138	2,500,000	Basico Eng
Piping (Partial)	G523/G360	PLA-076	5,700,000	Tubact

*This price is actual purchase order cost.

Purchase Order PLA-008
 NESS Components Only
1978 Philippine Project Shipments

Waste Holdup Tank	PLA-WPATWH-01
Worm Injection Tank	PLA-WPATWI-01
Spent Basin Storage Tank	PLA-WPATRS-01
Floor Drain Tank	PLA-WPATFD-01
Laundry & Hot Shower Tank	PLA-WPATLT-01
Positive Displacement Pump	PLA-OSAPPD-01
Recyc. Holdup Tank Vent Ejector	PLA-BREUHT-01
Catalytic Hydr. Recomb. Package	PLA-CHRECA-01
Pressurizer Relief Tank	PLA-RCATPR-01
Neutron Dectr. Posting Device	PLA-RONENP-01
Recyc. Evaporator Reagent Tank	PLA-BREATER-01
Recycle Evaporator Cond. Filter	PLA-BREFLC-01
Recycle Evaporator Cond. Filter	PLA-BREFLC-01
Sea Water Injection Filter	PLA-OSWFI-01
Butterfly Valves	PLA-GAHHBT-01
Cont. Valves	PLA-GAHHCV-01
Check Valve	PLA-GAHHCV-01
SW Cont. Valves	PLA-GAHHCV-01
Man Op. Gate & Sw Check Valves	PLA-GAHHCV-01
GR Cont. Valves	PLA-GAHHCV-01
GLV Valves	PLA-GAHHGV-01
Motor Operated Gate Valves	PLA-GAHHMG-01
Press Spray Valves	PLA-GAHHRS-01
Auxiliary Relief Valves	PLA-GAHHRV-01
Pressure Safety Valves	PLA-GAHHSV-01
Waste Gas Decay Tank (6)	PLA-GAHHGD-01
S.I.G. Accumulator (2)	PLA-SIGTAT-01
Waste Evaporator Reagent Tank	PLA-WPATRT-01

Estimated Total Cost

\$5,200,000

APPENDIX B

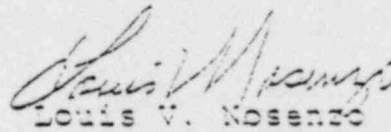
BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS 5 PM 1 24

November 1, 1978

EXPORT/IMPORT
AND
INTERNATIONAL STAFFSMEMORANDUM FOR JAMES R. SHEA
NUCLEAR REGULATORY COMMISSION

Enclosed is an Executive Branch analysis covering a license application for the export of nuclear power plant components to the Philippines. In accordance with E.O. 98-242, the analysis explicitly addresses how the requirements of Section 109 b. of the Atomic Energy Act, as amended, are met.

The Executive Branch, on the basis of its review of this application, has concluded that the requirements of the Atomic Energy Act, as amended, and E.O. 98-242 have been met and that the proposed export would not be inimical to the common defense and security of the United States. Moreover, the Philippines has adhered to the provisions of the Agreement for Cooperation with the United States. Therefore, the Executive Branch recommends issuance of the requested export license.

Louis V. Rosencro
Deputy Assistant SecretaryEnclosure:
As stated

ATTACHMENT C

September 29, 1978

Mr. Louis V. Nocenzo
Deputy Assistant Secretary for
Nuclear Engineers & Technological Affairs
Department of State
Washington, D.C. 20520
U. S. A.

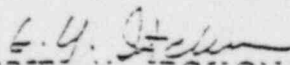
Dear Mr. Nocenzo:

Subject: Letter of Assurance

The Republic of the Philippines hereby gives assurance that any imported Nuclear Facility components furnished from the United States of America will not be transferred outside the jurisdiction of the Republic of the Philippines. The same assurance has been given two years earlier in connection with the loan agreement with the United States of America Export-Import Bank. It is also a commitment of the Republic of the Philippines under the provisions of Article XI paragraph 3 of the "AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES CONCERNING THE CIVIL USES OF ATOMIC ENERGY", signed in Washington on June 13, 1968, which reads as follows:

- " (3) No material, including equipment and devices, transferred to the Government of the Republic of the Philippines or to authorized persons under its jurisdiction pursuant to this Agreement or the superseded Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of the Philippines except as the Commission may agree to such a transfer to another nation or group of nations, and then only if, in the opinion of the Commission, the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and the other nation or group of nations."

Very truly yours,


GABRIEL Y. ICHOON

Deputy Minister of Energy
and concurrently, President,
National Power Corporation

RECEIVED
EXPORT LICENSE APPLICATION ANALYSIS

XCOM0013 1978 NOV 6 AM 8 12

Country: Philippines EXPORT/IMPORT
Transaction: AND
INTERNATIONAL SPARES
The exports of parts and components specially designed or prepared for use in a nuclear reactor. (See attached list of NNCs Components.)
Applicant: Westinghouse Electric Corporation.
Applicant's Reference: ZENX-10335
Date of Application: August 3, 1978

Purpose of Export

These components, totalling \$5,200,000 in value, are to be supplied to the Philippines for use in the Philippine Nuclear Power Plant Unit No. 1 now under construction at Magoo Point, Marikina, Manila, 45 miles west of Manila on the Manila-Coron Road. These parts and components are required to allow continued construction of the power plant in an orderly manner and to prevent costly delays while Executive Order consideration of the export application for the reactor itself (NNC No. XR-120) continues.

NSSS Components Only
1978 Philippine Project Shipments

Waste Holdup Tank	PLA-WPATWA-01
Iron Injection Tank	PLA-SIATSI-01
Spent Resin Storage Tank	PLA-WPATRS-01
Floor Drain Tank	PLA-WPATFD-01
Laundry & Hot Shower Tank	PLA-WPATLT-01
Positive Displacement Pump	PLA-CSAPPD-01
Recyc. Holdup Tank Vent Ejector	PLA-BRECHT-01
Catalytic Hydr. Recomb. Package	PLA-CHRECA-01
Pressurizer Relief Tank	PLA-RCATPR-01
Neutron Dectr. Posting Device	PLA-RCMEND-01
Recyc. Evaporator Reagent Tank	PLA-BRATER-01
Recycle Evaporator Cond. Filter	PLA-BRFLCH-01
Recycle Evaporator Cond. Filter	PLA-BRFLFC-01
Seal Water Injection Filter	PLA-CSFLSI-01
Butterfly Valves	PLA-GAHEBF-01
Cont. Valves	PLA-GAHECV-01
Diaphragm Valves	PLA-GAHEDV-01
FW Cont. Valves	PLA-GAHEFC-01
Man Op. Gate & Sw Check Valves	PLA-GAHEGC-01
GR Cont. Valves	PLA-GAHEGR-01
GLB Valves	PLA-GAHEGV-01
Motor Operated Gate Valves	PLA-GAHEMG-01
Press Spray Valves	PLA-GAHEPS-01
Auxiliary Relief Valves	PLA-GAHERV-01
Pressure Safety Valves	PLA-GAHEPV-01
Waste Gas Decay Tank (6)	PLA-GRATGD-01
S.I.S. Accumulator (2)	PLA-SIATAT-01
Waste Evaporator Reagent Tank	PLA-WPATRT-01

Estimated Total Cost

\$5,200,000

1. EXTENSION TO NATIONAL EXPORT CERTIFICATE THE MAT

2. SECTION 109 CANCELLATION

The purpose of this section is to provide for the extension of the validity of a National Export Certificate (NEC) issued by the Department of Commerce, Bureau of Economic Warfare, in the event of a change of ownership of the underlying goods. The extension shall be granted upon application to the Bureau by the new owner of the goods, provided that the original NEC was issued by the Bureau and that the goods are the same as those described in the original NEC.

Citation (1)

"The extension shall be granted as required by Article III(2) of the Treaty, and shall be subject to such conditions as may be determined by the Bureau."

The extension shall be granted as a matter of course to the holder of the NEC in the event of a change of ownership of the underlying goods, provided that the original NEC was issued by the Bureau and that the goods are the same as those described in the original NEC. This extension shall be granted upon application to the Bureau by the new owner of the goods, provided that the original NEC was issued by the Bureau and that the goods are the same as those described in the original NEC. The extension shall be granted as a matter of course to the holder of the NEC in the event of a change of ownership of the underlying goods, provided that the original NEC was issued by the Bureau and that the goods are the same as those described in the original NEC.

Criterion (2)

"No such component, substance or item will be used for any nuclear explosive device or for research or development of any nuclear explosive device;"

In conformity to the NPT, the Government of the United States is committed not to develop or use nuclear explosive devices for any purpose. Therefore, it is the Executive Branch's policy that Criterion (2) is met.

SECRET

1. The following information was obtained from a confidential source
 who has provided reliable information in the past. It is being
 furnished to you for your information only. It is not to be
 disseminated outside your agency without the express approval
 of the source from whom it was obtained.

APPENDIX C

Vertical text on the right edge of the page, likely a page number or margin indicator, appearing as a series of small, faint characters.

Westinghouse Electric Corporation
Power Systems Projects Division
875 Greentree Road - Parkway Center
Pittsburgh, Pennsylvania 15220

Attention: James P. Rodi

Dear Mr. Rodi:

In response to your application of August 3, 1978, enclosed is an export license permitting Westinghouse to export various nuclear reactor components for use in the proposed Philippine Nuclear Power Plant Unit No. 1. Issuance of this license was recently authorized by the Commission after careful review and is subject to the understandings contained in this letter.

First, issuance of this license in no way implies favorable Commission action on Westinghouse's related export license application for the complete Philippines facility (XR-120). The Commission intends to consider significant additional factors in its review of XR-120 that were not addressed in the review of the component application.

Second, issuance of this license should not be taken as an indication that the Commission has established a new policy of favorably considering component export license applications in advance of final action on a related facility application. The Commission continues to believe that facility export license applications should be considered as discrete cases and not be diluted by piecemeal component applications. In this component case, however, the Commission believes that unique circumstances justified an exception to normal licensing policies.

James P. Rodi

- 2 -

The basis for the Commission's decision is further explained in the attached Commission Action Paper. I would also like to take this opportunity to express my appreciation for the excellent cooperation you and your staff have provided in facilitating the Commission's review of this case.

Sincerely,

James R. Shea, Director
Office of International Programs

Enclosure:
Commission Action Paper

March 14, 1980

SECY-80-142

COMMISSIONER ACTION

For: The Commissioners

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

Thru: Executive Director for Operations

Subject: PROPOSED LICENSES TO EXPORT A REACTOR AND ASSOCIATED COMPONENTS TO THE PHILIPPINES (XR-120, XCOM-0013)

Purpose: Commission review of proposed issuance of subject licenses to Westinghouse Electric Corporation.

Discussion: In November 1976, Westinghouse filed an application for a license to export a nuclear power reactor to the Philippines. This pressurized water nuclear steam supply system would be incorporated into an electric power generation facility to be owned and operated by the Philippine National Power Corporation. The reactor, with a design power level of 620 megawatts (electric), would be located at a facility under construction at Napot Point, (Morong), Bataan Peninsula, 45 miles west of Manila on the island of Luzon in the Philippines. The export is valued at approximately 118 million dollars.

A favorable Executive Branch judgment on XR-120 was originally submitted to the Commission by memorandum dated December 12, 1977. We were subsequently requested by the Executive Branch to defer action on XR-120 pending further Executive Branch review and provision of additional information. On September 28, 1979, NRC received the final favorable Executive Branch judgment on the reactor export application. This was forwarded to the Commission in SECY-79-557. The Commission also has under review a proposed export by Westinghouse of components (XCOM-0013) intended for use in the Philippine Nuclear Power Plant (PNPP-1) (see SECY-79-100 and subsequent papers). Since the components covered by XCOM-0013 are also covered by the facility license XR-120, only one license, XR-120, need be considered.* Therefore, the discussion and findings apply to both the components and the reactor.

Contact:
H. B. Schechter, IP (49-28155)
W. R. Peterson, IP (49-28155)
J. D. Lee, IP (49-28155)

*SECY NOTE: Since the two licenses are now covered by this paper, no further action is required on SECY-79-100.

Discussion:
(Continued)

Shipments of equipment and components are scheduled to begin as soon as possible upon issuance of the license and are expected to continue until 1985 (this includes a two-year warranty period).

Initial fueling of this reactor would be scheduled for 1981. The fuel utilizes low enriched uranium provided under the terms of a long-term fixed commitment contract between the National Power Corporation and the U.S. Department of Energy. Export license application XSNM-1471 for the initial core and three reloads was filed by Westinghouse on February 27, 1979. Executive Branch views on XSNM-1471 were received on October 18, 1979 (see SECY-79-166). IP will send a separate paper to the Commission on XSNM-1471.

Applications XR-120 and XCOM-0013 were consolidated in the proceedings on procedural and jurisdictional issues called for by the Commission Order of October 19, 1979, in response to a Petition for Leave to Intervene and Request for Hearing on issues related to the Philippine Nuclear Power Plant. The NRC Staff response to the Commission Order was filed on November 19, 1979. At its January 29, 1980, meeting the Commission decided that the Commission would consider health, safety and environmental effects of exported facilities only on U.S. territory and the global commons and by order dated February 8, 1980, requested views on (1) the health, safety or environmental effects the proposed exports would have on the global commons or U.S. territory, and (2) the relationship of these effects to the common defense and security of the United States. The staff filed a submission in response on February 29.

In response to our request for views on the proposed exports, the Executive Branch has (1) determined that the proposed exports meet the criteria of the Atomic Energy Act of 1954, as amended, and that issuance of the proposed licenses would not be inimical to the common defense and security of the United States; (2) confirmed that the equipment and material will be subject to the terms and conditions of the US-Philippine Agreement for Cooperation; and (3) noted that the Philippines has adhered to the provisions of its Agreement for Cooperation with the United States.

It is IP's view that the five applicable criteria in Section 127 of the Atomic Energy Act have been met for the proposed facility export (XR-120). Specifically:

- Discussion: --The Government of the Philippines is a party to the NPT and has accepted IAEA safeguards for all its nuclear installations under its NPT safeguards agreement with the IAEA. We are informed by the Executive Branch that a facility attachment for the reactor has not yet been completed in view of the early stage of construction of the reactor. The staff believes that criterion (1) of Section 127 is met.
- As a party to the NPT, the Government of the Philippines is committed not to develop or use nuclear explosive devices for any purpose. This, of course, applies to materials, facilities, sensitive technology, and special nuclear materials used in and produced through the use thereof. Therefore, the staff believes that criterion (2) of Section 127 is met.
- With respect to the physical security program in the Philippines, the Executive Branch has concluded that the U.S. has assurance that the Philippines is committed to providing adequate physical security for its nuclear programs, including a level of protection compatible with that recommended in IAEA Publication INFCIRC/225/Rev.1. This Executive Branch conclusion is based on site visits conducted in 1975 and 1976 by teams of U.S. Government experts, and on discussions held at that time with officials of the Philippines National Power Corporation regarding particular arrangements for protecting the Westinghouse power reactor covered by this license application. During these discussions the National Power Corporation demonstrated a keen appreciation of the importance of physical security for their plant during the construction phase as well as its subsequent operation.

The staff concludes that the specific written assurances relating to physical security protection obtained from the Philippines Government are sufficient to satisfy the requirements of 10 CFR 110.43(c) for a facility using Category III nuclear material. Accordingly, the staff believes that criterion (3) of Section 127 is met.

As an item of further interest with respect to physical security considerations, the staff has received recently a communication (Appendix A) from one of the Philippine intervenor groups (Mr. Nicky Perlas of the Philippine Movement for Environmental Protection) alleging that the continued repression in the Philippines makes for a highly unstable environment for nuclear power plants, and that at some point in time the people (presumably the New

Discussion:
(Continued)

People's Army, NPA) may take matters into their own hands. Mr. Perlas then alludes to the potential ramifications such a course of events could have on the physical security of the nuclear plant. Mr. Perlas' letter was taken into account in the preparation of the NMSS technical review.

- The US-Philippines Agreement for Cooperation stipulates that U.S. approval is required for any retransfer of US-supplied material, including equipment and devices, and special nuclear material produced through the use of US-supplied material. Thus, it is the staff view that criterion (4) of the NNPA is met.
- With regard to reprocessing, the US-Philippines Agreement stipulates that US-supplied material may be reprocessed and irradiated fuel containing US-supplied fuel material may be altered only in facilities acceptable to the U.S. Therefore, the staff believes that criterion (5) of the NNPA is met.

NMSS Technical
Review:

NMSS has no information regarding the Philippine National Power Corporation physical security plan for protection of the reactor. The Philippines is scheduled for a revisit by an NRC/DOE physical security review team in mid-1980.

Further, NMSS has no information regarding a direct threat by indigenous groups to the reactor facility.

NMSS has no information on the state system of accounting and control in the Philippines, or how the IAEA plans to implement safeguards for the subsequent export of nuclear material.

Health and
Safety

The staff and several others submitted comments in response to the Commission's order of February 8. In its comments, the staff reported on an analysis by NRR of the potential health, safety and environmental consequences of a core meltdown accident for the global commons and US territory. A core meltdown, with immediate containment failure, was evaluated in this case because of the staff's belief that it represents a reasonable upper limit of possible radiological consequences attributable to the exported reactor and its associated fuel.

Health and
Safety
Aspects:
(Continued)

The NRR analysis indicates that, in the event that this accident occurred (however unlikely this is), certain adverse effects on the environment of the global commons could not be ruled out. However, IP is unable to identify a resulting scenario that would have consequences serious enough to lead to a judgment that the export would be inimical to the public health and safety or the common defense and security of the U.S.

With respect to the nuclear waste management issue, raised in other submissions, NMSS notes that the NRC is conducting a generic rulemaking proceeding to reassess the Commission's degree of confidence that waste can and will be safely disposed of. This proceeding is also being conducted to determine when such disposal will be available and whether such waste can be safely stored until then. The Commission initiated this rulemaking proceeding in response to a decision by the U.S. Court of Appeals for the District of Columbia Circuit in Minnesota vs. NRC, 602 F.2d 412 (D.C. Cir. 1979) and to fulfill a previous Commission commitment to reassess from time to time its confidence regarding safe waste disposal.

IP notes that the Commission has not suspended domestic reactor licensing actions pending resolution of the domestic waste management issue. IP also notes that in the global context, various countries and groups are studying spent fuel and waste management on a national or regional basis. IP believes that the incremental health, safety and environmental effects of the waste arising from this reactor are minor compared to those of all of the waste being generated worldwide, plus that which already exists, and that these incremental effects would not be such as to result in an impact inimical to the U.S. common defense and security. We, therefore, believe this export should not be delayed for further analysis of waste disposal.

Conclusion:

After considering the various health, safety and environmental factors discussed by the staff and others in their submissions in response to the February 8 order, and the nonproliferation factors discussed earlier, IP believes that the proposed export would not be inimical to the U.S. common defense and security and that no reason exists to delay issuance of the proposed export license to Westinghouse Corporation.

Recommendation: That the Commission authorize the staff to issue export license XR-120 to Westinghouse Corporation. *

Coordination: ELD has no legal objection. NMSS comments are as stated. NRR provided the assessment of the potential consequences of a core meltdown accident described above.


James R. Shea, Director
Office of International Programs

Enclosure:
Appendix A - Letter from
Nicky Perlas to James Shea
dated 1/27/80

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Monday, March 24, 1980.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT March 20, 1980, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION
Commissioners
Commission Staff Offices
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ACRS
Secretariat

*SECY NOTE: OGC has advised SECY that a formal order (to be prepared by OGC and related to the Commission's current action on SECY-80-20B) should be issued by the Commission on the merits of the license applications prior to the implementation of any decision on this paper.

PHILIPPINE MOVEMENT FOR Environmental Protection

WASHINGTON DC OFFICE

2721 Connecticut Ave. NW
Washington D.C. 20008

RECEIVED
USNRC

January 27, 1980

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James Shea
Director
Office of International Programs
Nuclear Regulatory Commission
1717 H St. NW
Washington D.C. 20555

OFFICE OF
INTERNATIONAL
PROGRAMS

Dear Mr. Shea,

As head of the NRC office which is currently processing the license application of Westinghouse to export a nuclear reactor to the Philippines, we want to bring to your attention an unfortunate and alarming development:

1. In 1978, we brought to your attention the presumed death of an energy activist, Ernesto Nazareno, who was picked up by the Philippine military last June 1978 and was never seen again.
2. Recently, Diosdado Dimaano, another energy activist residing in the Bataan site of the Philippine reactor, was killed by the Philippine military. This senseless killing has forced at least five other energy activists in the area to join the New Peoples' Army (NPA), the military arm of the Communist Party of the Philippines.

We think that this development affects the nuclear project in many ways like human rights, among others. Of particular interest to the NRC are the ramifications of this incident to the physical security of the nuclear plant.

The southern portion of the Philippines is presently in a state of civil war. Furthermore, the NPA have also grown stronger through the years. They are now found in more than half of the provinces of the Philippines. (For more specific information, kindly see the attached article from Mother Jones, December 1979.) Reports from Manila claim that the NPA is particularly strong in the province of Zambales, which is near the reactor site. I can confirm this from my own experience when I was still working for the Philippine government. People did not want to lease upland areas in Zambales because they knew that these areas are one of the strongholds of the NPA.

The point is that continued repression in the Philippines, including those of energy activists, makes for a highly unstable environment for such a vulnerable and complicated technology like nuclear power plants, among others. One day, people will get fed

up with all these repressions and take things into their hands.

Now, one can say that the NRC should consider the adequacy of protection of the plant from masses of people who may eventually make the reactor a political target. In this context, the NRC may get an assurance from the Philippine government that they have adequate military forces to safeguard the reactor.

However, what about long-term considerations? Within this longer time frame, short-term criteria which find it convenient to separate human rights problems and direct physical security considerations can become meaningless. What if there is an escalation of civil war in the Philippines and the NPA obtain access to the use of sophisticated artillery? Can the plant still be considered secure?

This is not an academic problem. The recent developments in Iran and Afganistan clearly show the strong interest of the U.S. in the security of its military bases near the site of the reactor. What would happen to these interests if continued repression produces, as a backlash, strong anti-American feelings? What would be NRC's role in trying to prevent this development as well as any direct threats to the plant itself?

From the above discussions, it is clear that the NRC has to consider this recent development not only in terms of its ramifications for the physical security of the plant but should also be actively involved in getting its input about long-term problems derived from repression considered.

Hoping for your urgent attention to this matter.

Sincerely Yours

Nicky Perlas

Nicky Perlas
Executive Director

P.S. Kindly make available for the public record. Thank you.

Time Bomb In The U.S. Empire

Our Reporter Travels With
Guerrillas In The Philippines

Text and photos by Lawrence T. Johnson

Editor's Note: In 1957, Herbert Matthews of *The New York Times* traveled into the rugged forest of the Sierra Maestra and brought back an interview with an obscure guerrilla leader named Fidel Castro. The story and pictures on the following pages are an equally difficult achievement. For, until now, no American reporter we know of has spent time in the Philippines with both of the guerrilla armies now battling the U.S.-sponsored dictatorship in the Philippines. The reporter who tried (see pages 42-44) did not make it.

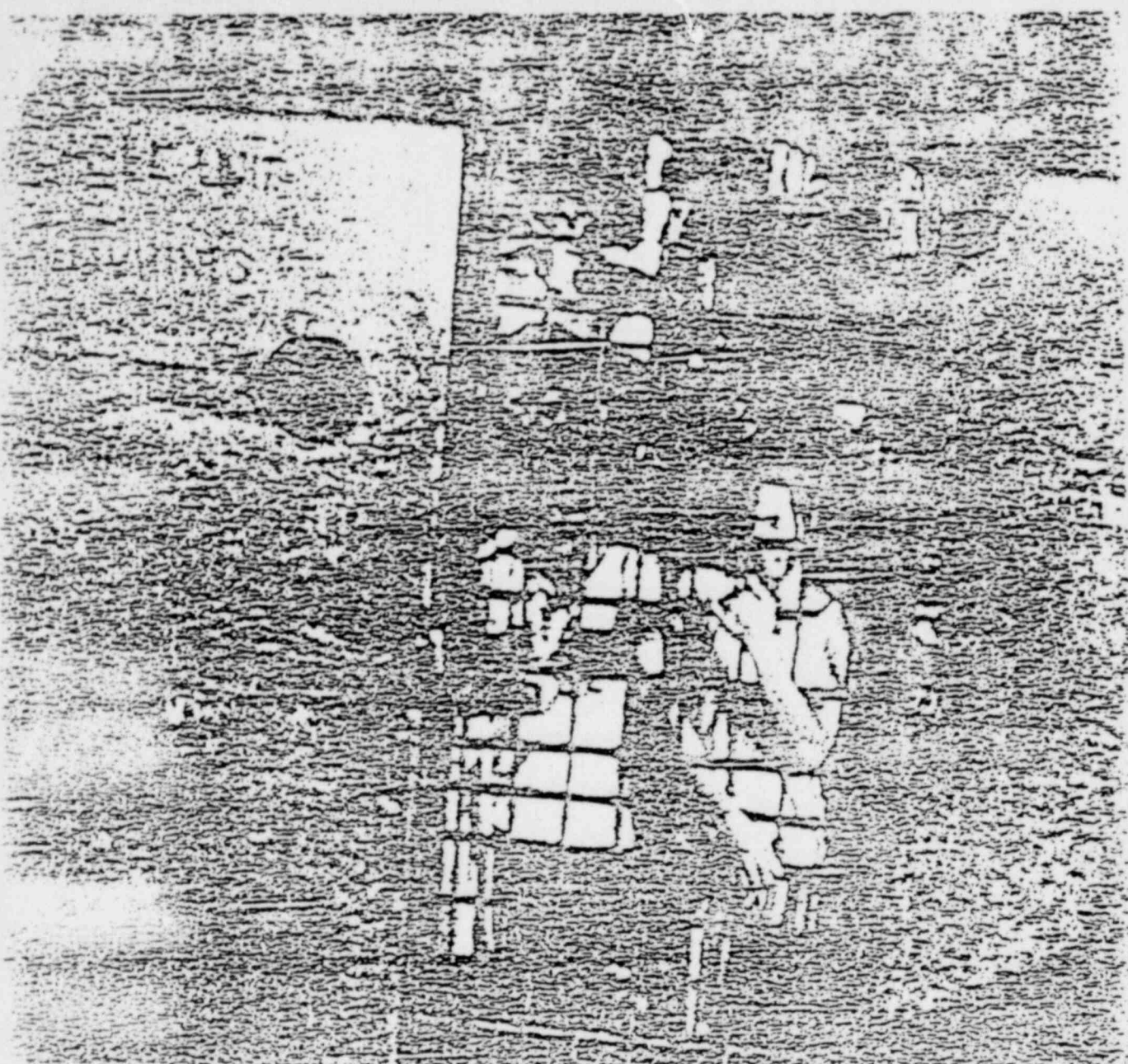
Books tell us that the United States' relationship with the Philippines began when we took over the islands after the 1898 war with Spain. In fact, it was something of an American economic colony from the start—and has become even more of one today, since being declared independent in 1946. "Colonies do not cease to be colonies when they are independent," said a U.S. official. "The Philippines, the largest country in the Third World has an

economy so closely tied to a major power on the other side of the globe. U.S. corporations control more than 50 percent of all Philippine manufacturing firms' assets. The Philippines is a source of raw materials for the U.S., a trove of rich tropical farmland where American agribusiness companies, such as Del Monte, can grow pineapples and bananas at a 30 percent annual profit, and a haven for U.S. investors who want low taxes and docile labor—strikes are banned.

This dependence, combined with the corrupt, dictatorial rule of President Ferdinand Marcos, has forged a society where 30 percent of all children are malnourished, real wages of unskilled laborers have declined a shocking 31 percent since 1972 and textile workers earn \$1.76 a day. The whole structure is shored up by American aid: "Only 22 percent of total U.S. economic and financial aid is reaching the needy," reported the *San Francisco Chronicle* recently. "This amounts to less than a penny per person per day. The rest goes for tobacco loans, for insurance for a Con-

Political prisoners in the provincial jail in Cotabato. There are more than 40 per cell; 85 of the 121 male political prisoners at this jail say they have been tortured.

Red lines show route of reporter Johnson's travels. Dark areas are where Muslim rebels are fighting; the New People's Army (NPA) is active in most of the rest of the country.



tinental Illinois bank office in Manila, for a nuclear power plant that may never be built [see "Radiation Roulette," *MJ*, August '79], for rural electrification priced out of reach of the rural poor and for balance-of-payments loans conditioned on a reduction of wages for the poor."

The U.S. has an additional stake in the Philippines as well. The islands house a vast complex of American military bases, occupying a half-million acres and staffed by 15,000 U.S. servicemen and -women. Except for Guam and the tiny Indian Ocean island of Diego Garcia, the Philippine bases are the only major U.S. outposts between Hawaii and the Mediterranean. "Clark Air Base," reports *The New York Times*, "would be of special importance in any future Middle East war. If the United States were denied the use of European airports to move supplies to the Middle East, officials say, the Air Force could ferry equipment through the 'back door' from the Philippines."

MAINAINING AN EMPIRE is rarely ever cheap. "We have bought ten million Malays at two dollars a head unpicked, and nobody knows what it will cost to pick them," observed Thomas B. Reed, the crusty Maine isolationist who, as Speaker of the House, opposed annexation of the Philippines in 1898. The first cost to the U.S. came the next year: when islanders realized that their Spanish masters had merely been replaced by American ones, they rose in revolt. The bloody U.S. response—a three-year war involving 126,000 U.S. troops that left some 4,000 Americans and 200,000 Filipinos dead—was America's first experience of fighting guerrillas in Asia.

Today's rebels are well organized and spread

throughout the islands. The U.S. is scheduled to give the Philippines \$300 million worth of military aid over the next five years. The vast bulk of it is targeted toward fighting the guerrillas; even the Pentagon acknowledges that the Philippines faces no external military threat from anyone.

What next? Many observers of the Philippines expect a U.S.-supported coup within the next year or two, replacing the shaky Marcos regime with one that appears more democratic and might do a more efficient job of fighting the rebels. This coup could be either a bloody one (Marcos recently arrested one group of military officers he suspected of plotting) or could be along the lines of the shah's departure from Iran, in which Marcos would be allowed to leave the country and take with him the millions of dollars he has accumulated while in office. Philippine progressives believe the CIA is backing the semiunderground Social Democratic Party and that the preferred U.S. candidate for the presidency is the imprisoned Senator Benigno Aquino. Both the party and Aquino make left-of-center noises but are safely pro-American.

In short, welcome to the next Vietnam. The plot and characters are all too familiar: the corrupt dictator, the talk of replacing him (remember the ouster of Diem?), the increasing U.S. involvement, the spreading popular revolt—even the light-at-the-end-of-the-tunnel statements: "The NPA [New People's Army] is decimated," President Marcos told an American reporter recently. "If I fielded one or two battalions in that area at any given time, I could clean [them] out." It was with those "decimated" soldiers that *Mother Jones* correspondent Lawrence Johnson spent many weeks recently. Here is his report. —Adam Hochschild

Manila, December 16, 1981--A general strike paralyzes the capital. From the Philippine countryside, the guerrilla army of the National Democratic Front advances on the city. In the southern islands of Mindanao, Basilan, Sulu, Palawan and Tawi-Tawi, the newly formed Muslim autonomous state declares its support of the guerrillas. Government forces put up limited resistance. Many soldiers and officers side openly with the rebels.

President Ferdinand Marcos flees the country with his wife and family. Some American military personnel are captured at isolated radar sites on Mindanao and Cebu islands.

In the United States, the government, the public and the news media are taken completely by surprise. The President blames the CIA for not providing adequate intelligence reports. The public blames the news media for not providing adequate coverage of the Philippines. The news media blame...

The Philippines is a country that, as Iran was, is considered one of the United States' closest allies; a country that, as Iran was, is closely bound up with American economic and military interests and a country whose inner conflicts, like those of prerevolution Iran, are largely ignored by the American press.

From December 1978 through March 1979, and again in August and September 1979, armed with tape recorder and camera, I went looking for those inner conflicts. I was also armed with an interest in Asia that began when I was a combat soldier in the Vietnam War. I later came to view that war as wrong. Seeing friends die on the wrong side of a guerrilla war left me with many feelings; one of them was a determination to see if the same pattern was happening elsewhere in Asia. A Filipino friend told me of the struggles taking place in his country. At first I found it hard to believe that such a revolution was not being reported. I wanted to know whether it was really happening, and the only way to find out was to go into the guerrilla zone and see for myself.

Foreign journalists are, to understate the matter, discouraged by the Marcos regime, and I had been warned by Filipino friends in the U.S. that I should travel as a tourist rather than as a journalist. Just before leaving, I learned about another American journalist, a freelancer named Frank Gould, who had attempted in 1974 to cover the war in the Philippines. A Methodist missionary talked with him on September 27 of that year on Mindanao, one of the islands involved in the fierce fighting of the Muslim rebellion. No one has heard from him since.

I had come up with one lead for making contact with the guerrillas: the name and address of a woman in Manila, Lette Guerrero.* I had been told only that she might be able to help me.

In my mind the lingering chauvinist baggage was packed for the meeting with Lette Guerrero. She would be slender, dark-skinned, intense, beautiful and slightly mysterious. When we met in her garden, in the bright, open-air sauna that is typical Manila weather, I was surprised to find that she was all I had imagined. She was also, at 73, the mother of ten children and the grandmother of 37.

Lette didn't waste words. She said that friends in the United States had asked her to help me. Like others I was to meet in the Philippines, she wanted me to get the opposition's story for one simple reason: to help convince Americans to stop supplying Marcos with arms.

The Philippines is embroiled in two wars: a war for autonomy in 13 provinces in the southern islands, under the leadership of the Moro National Liberation Front (MNLF), a predominantly Muslim coalition; and a war to overthrow the government fought throughout the rest of the country by the New People's Army (NPA) under the direction of the National Democratic Front (NDF), a coalition of Communist, labor and Christian groups. But when I asked Lette about establishing contacts with the guerrillas of either the MNLF or the NPA she just laughed and shook her head.

"Do you think I would have lived so long as I have if I were involved with people like that?" she asked. Later, however, after she had asked me questions that took me all



Reporter Lawrence T. Johnson with guerrillas from the Moro National Liberation Front. The tiger on one soldier's shirt is the emblem of the MNLF battalion fighting in the Cotabato area. Pagal (the soldier standing second from left in front row), a three-year veteran, is 15 years old (see p. 44). Rifles at left with curved 'banana clip' magazines are Soviet AK-47s; rifles at right are Belgian FALs and U.S. M-16s captured from the Philippine army.

*The names and some identifying features of certain persons in this article have been changed.

the way back to the tenant farm in Arkansas where I was born, she became quiet for a long while.

"The people I introduce you to will like a journalist from the working class," she said to me, finally. "Perhaps one of them may be able to put you in touch with either the MNLF or the NPA."

* * *

Cotabato City, Mindanao--The provincial jail is near the top of what the local people call P. C. Hill. The Philippine Constabulary (P.C.) for the area is headquartered around the summit. The guard at the sandbagged checkpoint outside the jail eyed my ragged clothes and very bushy beard with suspicion. Two months of low-budget, almost nonstop travel had left me looking like I'd taken a vow of poverty. Which, I decided, might work greatly to my advantage.

"I'm a Franciscan monk," I said to the guard. "I work with prisoners in the United States and I'd like to visit the prisoners here."

I was wearing a small gold cross pinned on my shirt over my heart. The existence of a well-known school in central Mindanao run by another order of monks gave some credence to my story. The Catholic majority in the Philippines has great respect for priests because they are well educated and play such an important role in a Catholic society. I was depending on that respect. The guard, a Catholic, barely glanced at my passport.

"They are divided into two groups here, Brother," he said. "Criminal and political. Which of the groups would you like to see?"

"It really doesn't matter," I told him, trying to sound as casual as possible, "but perhaps the political prisoners would be a rewarding visit."

Without another word or a look at the contents of my bag, he led me to what was virtually a dungeon (see photo, page 38). The cells were approximately 15 by 20 feet. There was very little lighting or ventilation. The guards said that the prisoners were never allowed outside for exercise. The prisoners' skin was generally yellowish and clammy; tuberculosis was rampant. Most of the political prisoners here had been arrested as MNLF members or supporters; a few were NPA suspects. The alliances between the MNLF and the NPA units in the field, in many cases, were first established in prisons like this one.

After learning who the leaders were in each cell, I let them know that I was a journalist and enlisted their aid in distracting the guards while I went into the cells and conducted interviews and took photographs. I repeated these procedures at the Awang Stockade for political prisoners at a nearby military camp and at the city jail with similar success.

Some of the people in these detention centers for political prisoners had been held for as long as three years. None had ever been tried for a crime. The 45 political prisoners at Awang Stockade, all male, said that they had been tortured: many exhibited the scars. The tortures reported included beatings with fists and rifle butts, having a cloth bag tied over the head and a mixture of rum and water poured over the face—the water treatment—and having electric wires held to the tongue, fingers, nipples and genitals—the shock treatment. One man said that they forced his head into a hole in a block of ice and held him there until he passed out.

Catbalogan, Samar--In the central Philippines, this island is the nation's most economically depressed. Big business, including the huge Japanese fishing industry, is taking over the livelihood of the small fishing villages that dot its coastline. Logging and mining companies and corporate agribusiness are forcing out the small farmer. The island has become a major stronghold of the NPA.

My contact in Catbalogan was Father Timmy, a 30-year-old Roman Catholic priest. He was about six feet tall, around 240 pounds. If he'd had horns he could have passed for a *carabao*, the Philippines' water buffalo. Lette had said that he would be expecting me, but her message had not gotten through. For two very uncomfortable hours, he and two other young priests grilled me about my reasons for coming to the Philippines.

The priests finally loosened up enough to tell me that 90 percent of the clergy of Samar support, in one way or another, the National Democratic Front. Some have gone so far as to join the NPA as organizers or fighters.

The official position of the church has been tacit approval of Marcos' "legally" instituted government, but there are recent indications that Catholic approval has been forcefully withdrawn. In the six years following September 21, 1972, the date martial law was declared, 125 members of the clergy were arrested. Some are still in prison. This past July, 50-year-old Cardinal Jaime Sin, the architect of church policy in the Philippines, began openly urging Marcos to step down from the presidency.

The letter from Lette, introducing me to Father Timmy, finally arrived with a young priest the next day. The priest had left Manila the same day I had, but had stopped by his parish before coming to Father Timmy. Now they were willing to make arrangements for me to go into the NPA guerrilla zone. But it would take six weeks to set up.

* * *

The island of Mindanao--While waiting for the NPA contacts to work out, I headed south. A tourist can travel the Philippines' northern islands unaware of the fighting in the mountains and jungles, but such innocence is impossible in the south. The southern Philippine islands are clearly at war.

The fighting to the west of Davao City—between the army and the MNLF, for the most part—grows more intense. There are government checkpoints at five- or ten-kilometer intervals along the main road crossing the island. The war against the Moro National Liberation Front has become a war against the Muslim population in general. It is a war of genocide. Many villages have been attacked merely on suspicion of supporting Moro guerrillas. Some survivors have later proven that no one in their village had been involved in any antigovernment activities.

Whenever I was asked who I was or what I was doing, I replied that I was a priest or a Franciscan monk, observing the work of my coreligionists in the Philippines. My contacts in Davao City had recommended this as the safest course. As a warning, they repeated the story of Frank Gould's disappearance in 1974.

Frank Gould had left his mark on Mindanao. Everywhere I traveled I seemed to be following his trail from years earlier. In Kidapawan, a young priest had introduced Gould to the tribal Filipinos in the nearby mountains.

"You couldn't help but admire him," the priest said. "I don't think he was particularly religious, but he had great courage. He wouldn't accept government accounts of the situation, nor would he rely on opposition propaganda. He had to document everything personally. I can tell you, that kind of journalism isn't very popular with the Philippine government."

In Talunan, a Filipino priest also expressed his admiration for the young journalist: "Frank was very nervous when he visited here. I believe it was in September of 1974. The military had already confiscated his travel papers and notes and had advised him to return to Manila. But Frank wouldn't go. He knew more about the MNLF and the Moro war than anyone else, but he had never been in the Cotabato guerrilla zone. No one had. And he thought it was important to go in there." The priest had heard varying rumors of what happened to Gould after he left Talunan, but had no certain information.

* * *

Cotabato City, Mindanao-- One of my contacts led me to a large secluded house on the outskirts of the city. I had been told that we were to meet someone very knowledgeable about the Cotabato area. When the door was opened, I was startled to see a man in the uniform of the Integrated National Police moving quickly into one of the outer rooms. The old woman who opened the door led us about a word to seats around a small table near a window. I was calculating the time necessary to run from the table and leap out the window when the uniformed man returned. On his thigh, he wore a Smith and Wesson .44 magnum revolver in a holster. He was carrying a tray of sliced mangoes and Coca-Colas.

"I've been watching you for days," the high-ranking officer said. "But don't worry, I am anti-Marcos."

As if by signal, my contact left the room and the officer sat down across from me. After some mango with talk of the savage fighting around the city and after glasses of Coke with discussion of the repressive nature of the Marcos government, there was an uncomfortable pause. Through the window I watched a column of deuce-and-a-halves [two-and-a-half-ton army trucks] filled with young Catholic boy/soldiers from Luzon moving slowly out of the Muslim city.

"I work in the intelligence branch," the officer said finally. "I'm out in the U-5 section. We're an information-gathering unit. The other section is the U-2. Their only function is the secret kidnapping, torture and murder of subversives or troublemakers—what we call 'salvaging.'"

The man was sweating despite the cool breeze from the window. His big hands, resting on the table, clenched and came apart and clenched again like fat brown spiders waiting.

"It was a U-2 squad from the Integrated National Police of Cotabato City that did the salvaging of Frank Gould," he said. Gould and his two Muslim guides were killed and buried in a common grave in the jungle, a few miles north of the city, according to the officer. He said he didn't know who had directly ordered Gould's assassination, but, he said, "to kill an American would have to have come from a high place. His information about the murders came from a member of the U-2 squad that had carried them out."

Later, I contacted a priest who was conducting an investi-



A Moro National Liberation Front field commander.

* * *

The Philippine army is fighting the MNLF with many of the tactics the U.S. used in Vietnam: free-fire zones, strategic hamlets, herbicides. Moreover, we foot the bill: the U.S. is scheduled to give dictator Marcos \$300 million in military aid over the next five years.



After me, the deluge: Philippine President Ferdinand Marcos presides over an increasingly shaky dictatorship. Marcos closed down the Philippine Congress seven years ago and routinely imprisons or kills political opponents. His powerful wife, Imelda, gives speeches on nutrition, but recently had to be talked out of a plan to build a \$100 million 14-chapel cathedral. Both have made millions on business dealings while in office.

gation of Gould's disappearance and the request of the journalist's parents. Though he was unaware of the officer in Cotabato City, their stories matched—that a U-2 squad had killed Gould and his guides. Through other sources I learned that their common grave may also contain the bodies of hundreds of Cotabato-area victims of salvaging, buried there since martial law was declared in 1972.

"We waited and worried about Frank for over four years," said Gould's mother, Jean Gould, of Oak Park, Michigan, "hoping against hope that somehow he would be alive. Now all we want to do is show our country who's responsible for his death and what kind of government it is that we're sending millions of dollars of military aid to. Then, maybe, our son's death won't seem such a waste."

* * *

A 'free-fire' zone-- When Pagal, a 15-year-old MNLF guerrilla, spoke, his lips trembled and his gold teeth shone dully in the early morning light, like the flecks of color in the eyes of the dead. Other guerrillas had given me very political reasons for joining the rebels; Pagal's reason was very personal.

"When I was 12, the army raided my village, arrested all the men and raped many of the women," he said. After some hesitation, and after some prodding from me, he added that among the men arrested was his uncle, whose battered, lifeless body was found later at the side of the road. Among those raped was his 14-year-old sister, who died of internal hemorrhaging.

He had joined the MNLF immediately. Now, after three years with the guerrillas, he had been through two major campaigns and had been wounded once in the leg by shrapnel.

An artillery spotter plane passed over us, heading for the jungle three kilometers to the north, where other units of the MNLF had been chewing up army units for the past two weeks. The squad of 15 guerrillas who were holding me or protecting me—I was never quite sure which—crowded inside the bamboo hut to avoid being seen. Pagal, taking the opportunity to end our interview, moved to the other side of the hut. He wouldn't talk to me the rest of the time I was in the guerrilla zone.

"He is embarrassed and maybe a little angry," explained Ben, one of the guerrillas who were acting as my interpreters, "because it is against Muslim custom to speak of personal sufferings and humiliations we have endured at the hands of our enemies."

Later that day, my third day in the guerrilla camp, I was told that a meeting had been set up with the leaders of the MNLF for central Mindanao. Just after dark we crossed the stream that separated our camp from the thick jungle. After walking only a few hundred yards through the tangled foliage, we came to a clearing filled with 400-500 people, their bodies only faintly visible in the glow of kerosene lamps scattered here and there on the ground.

After lengthy introductions, the Kurawato Revolutionary Committee opened the meeting to my questions. The majority of my interviews were conducted in English or interpreted for me. Even though there are more than a hundred Philippine dialects, many people here speak English, primarily because the country was an American colony from 1898 to 1946.

After initial suspicion, the guerrillas accepted me, ironically because of my combat service in Vietnam. They thought of me as a soldier, but more important to them was that after being a U.S. soldier fighting the Vietnamese, I had turned around and was willing to come and cover their story.

Political Affairs Vice Chairman Ghazali Ga-afar supplied most of the answers. Ga-afar, an affable and eloquent politician, apologized for the absence of the political affairs chairman and explained that he was leading the MNLF units that were battling the Philippine army less than three kilometers away. During the meeting howitzer shells shook the jungle, and the rumble and chatter of .50-caliber machine guns, M-16s and AK-47s were constantly in the background.

The MNLF leaders told me that the front is made up of "all sectors of the population, including traditional kinship and both Christian and Muslim religious groups and the Bangsa Moro Army." They said there are "invisible" governments, which closely parallel the existing official governments, operating in each of 13 southern provinces. The MNLF's goal is to establish in these provinces an autonomous region for the Moro people.

The name "Moro" was given to the people of the southern Philippines by the Spanish when they began colonizing the area in the mid-sixteenth century. Their only previous contact with dark-skinned Islamic people had been with the Moors of North Africa. Information Chairman Mohaghan Iqbal, a thin, serious young man, said, "We use 'Moro' rather than 'Muslim' or 'Islamic' to show that this is not a religious war, but is, instead, a war for a homeland for Muslim and non-Muslim alike."

Sources outside the MNLF estimate the number of its guerrillas at 30,000. Al Haj Murad, the tense, dark-skinned military chairman, claims twice that many troops. Murad names the countries that are aiding the MNLF militarily, but other sources have named Malaysia, Iraq, Pakistan, Syria, Saudi Arabia and, above all, Libya.

It had taken 18 hours of walking and boating through swamps and quicksand, with mud and water and leeches up to our crotches, to reach the guerrilla camp. Going in we had no encounters with government troops. Going out we are not so lucky.

We start for Cotabato City about three in the afternoon of the day following the meeting. We leave in three *banca*s, long dugout canoes—one *banca* of guerrillas in front, one behind. The leader of this squad, Commander Dino; the two guerrillas, Sonny and Bhen, who have been my interpreters; three other guerrillas; and I are in the middle *banca*.

On the way, we take several detours to photograph bombed houses, mosques and schools. I see large tracts of land that are covered with brown, twisted, dried-up vegetation. The commander says that nothing has grown there since the bombing. The people have come down with skin diseases; their hair has fallen out; they've suffered fits of nausea and some have been temporarily paralyzed. At another time, in another country perhaps, the use of chemical warfare—in this case possibly Agent Orange from U.S. stockpiles left over from Vietnam—would have been a shocking revelation. Added to the almost endless accounts of rape, torture and genocide—acts that amount to an accepted method of operation for the Philippine military—this tale becomes merely another dry entry in my journal, another fact catalogued.



This woman, Roni (see p. 47), is a member of the New People's Army, the left-wing group active in 41 of the Philippines' 72 provinces. Unlike the Muslim rebels in the south, the NPA is committed to equality of the sexes. Many of its 4,000 soldiers are former student activists, but the majority are peasants. Catholics and labor also form part of the coalition behind the NPA.

After dark, walking through a deserted plantation, we hear voices. On the path coming toward us we see flashlight beams. As we move off the path and take cover behind the palms, Sonny, Bhen and Pagal crowd around me, shielding me until the patrol passes.

Later, while we are crossing a rice paddy, we hear the clatter of metal. Since we are out in the open, there is nothing to do but crouch down in the mud and water. This time Sonny, Bhen, Pagal and two other guerrillas crawl over and huddle around me. When the patrol has gone I become aware of pain in my chest and throat and a tremendous pressure in my head. I realize I have been holding my breath.

In the *bancas* again, we come to a place where the river branches in several directions. From the branch closest to our left comes the sound of paddles splashing in the water—a boat coming toward us. The guerrillas in my *banca* stop rowing and click their weapons off safety. The metallic clicks sound like shots on the quiet river. From the approaching *banca* we can now faintly see comes an answering sound of released safeties. Commander Dino stands up in our *banca*, braces himself and aims his AK-47 at the oncoming *banca*. He shouts a challenge.

The reply is in English and is addressed to me: "Lawrence, what is your coconut?" It's the guerrilla called Tarsan. (He is the soldier sitting cross-legged in the bow of the boat, in the photo on the opposite page.) His command of English consists of the words "your" and "coconut" and the phrase "What is," used as he points to an object.

Within hours, I'm on a Philippine Airlines' flight out of

the war zone, and the stewardess is telling me of her plans to transfer to international flights and to see the United States.

* * *

Catbalogan, Samar--Having seen the MNLF in action, I now wanted even more to make contact with the NPA—whose soldiers are fighting over a much larger expanse of Philippine territory. I arrived several days early for my meeting with Father Timmy. He arrived several days late. After I waited for ten long, nervous days, he came with word that the NPA would not be able to take me into their guerrilla zone. The fighting was too intense; the government, too suspicious of all foreigners in the area. And, despite my argument that when the fighting was intense was the time for a journalist to be in the area, the New People's Army was adamant. I had to wait until the situation cooled. At least a month, they said, perhaps longer.

* * *

Manila, Luzon--Several days after leaving Samar, I dumped my anger and disappointment on Lette Guerrero. My return flight to the U.S. was scheduled to leave in two weeks. My financial condition and what I felt must be the government's growing suspicion of my activities decreed that I be on it. But I still had not yet made the contact that I wanted with the NPA.

Lette finally got me into their guerrilla zone 70 kilometers north of Manila, one week before my scheduled flight. The zone is close to Clark Air Force Base and Subic Bay Naval Base. The people in the area are farmers, as are the great

Homemade Guns -- Nails for Bullets

While the Philippine government has won international praise for its efforts on behalf of the Vietnamese boat people, it has created over 50,000 refugees of its own, on Samar Island alone, in the last few months. Refugee sites have been established by the military, but, despite rampant starvation and disease, local military commanders have turned down offers of aid from the Catholic Church.

The refugees are the result of operations conducted mainly in the northern part of Samar, where the majority of the government's 7,000 troops on the island are centered. Several areas in the north have been designated "free-fire" zones. Hundreds of unarmed civilians have been killed.

Residents are told to evacuate the targeted area, but many are too afraid of the government troops to follow them, as ordered, down to the coastal towns. Instead, they flee farther into the forests and mountains. When the government patrols stumble on them during subsequent sweeps, these people are identified as NPA. Helicopters are called in for strafing; then soldiers rampage through, killing everything that moves. Women are commonly raped before they are put to death. As was the fashion for American troops in Vietnam, government troops cut off the ears of the dead and keep them as souvenirs.

From August 22 to September 6, 1979, I traveled throughout Samar. To avoid detection and surveillance in the coastal areas, I traveled only at night. In the interior, which is considered a liberated zone (approximately three-fifths of the island), I walked from barno to barno. After seeing the weapons of the peasants, I realized that only desperation could

have brought them to resist the government troops. Their only weapons, besides their *bolo* knives, are homemade single-round shotguns. The stocks are hand-carved; the barrels, made from simple steel pipes. The powder charge is made from the heads of matches. The bullets, too, are makeshift: nails are cut up or molten lead is hardened in cold water. These weapons' effective range is less than 20 meters. One woman joked that it might be more effective to hit the soldiers over the head with the shotgun instead of shooting at them.

Many sources say that the current government military operations here have more than just a military objective. It is no coincidence, they say, that the lands being evacuated in northern Samar are rich in uranium, bauxite and timber. They say it is also no coincidence that the Australian government and the U.S.-dominated World Bank are loaning over \$75 million to various projects in the east and north of Samar Island. These areas have been the focus of the military's operations since June.

Some 28 years ago, an American general, Brig. Gen. Jacob H. "Hell Roaring Jake" Smith, was made commander of the Sixth Separate Brigade, whose task it was to suppress a revolt on Samar against U.S. colonialization. The orders he gave to his men were explicit: "I want no prisoners. I wish you to kill and burn. The more you kill and burn, the better you will please me. . . . The interior of Samar must be made a howling wilderness."

Today the U.S.-trained and -financed troops of the Marcos government would make "Hell Roaring Jake" very pleased. ☐

majority of Filipinos. The focus of the NPA organizing is land reform.

First, some history. The NPA began in December 1968, when young militant activists within the Communist Party, which had existed in the Philippines since 1930, repudiated the old leadership for its conciliatory attitude toward the government and established a new party. On March 29, 1969, this new party founded its military arm, the New People's Army, with 60 members and 35 weapons. The year following the declaration of martial law saw the emergence of the National Democratic Front, a coalition similar to that of Nicaragua's Sandinistas. Its primary goal, it says, is to establish a genuine coalition government to replace Marcos and to hold "popular, free and honest elections" within a year of such a takeover.

Since its formation in the central Luzon province of Tarlac, the NPA has expanded to 41 of the Philippines' 72 provinces. It claims a full-time armed strength of 4,000 guerrillas.

With the Moro rebels on Mindanao I had observed and come to appreciate the importance of popular support to a guerrilla movement. On my last day in the NPA zone, two days before I left the Philippines, I realized that such popular support is the difference between life and death.

I was talking quietly with a group of guerrillas in a house in a barrio. A young NPA woman, Roni, suddenly had to interrupt her statement on the equality of the sexes enjoyed within the NPA; she was called for a hurried conference with the commander of her unit. Another guerrilla, Omar, told me to get my things ready to move out.

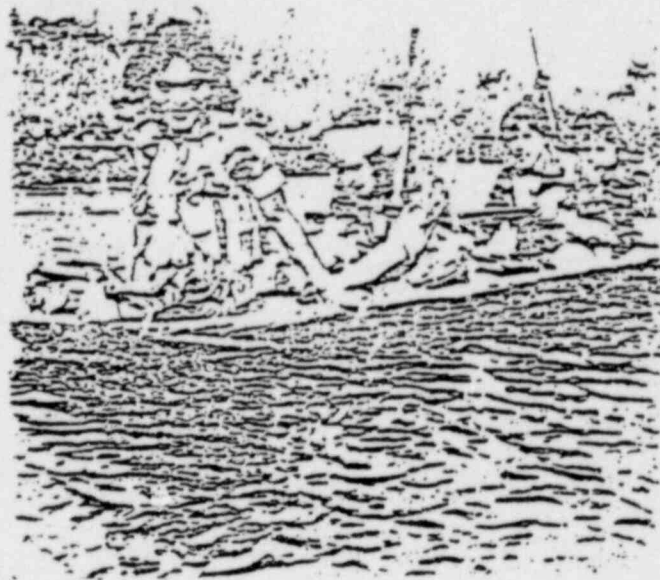
"Don't let yourself be afraid," he said, "but while we've been talking upstairs, the brother of a known informer visited downstairs; he knows there are comrades here."

The commander told me to wait upstairs, and the unit of eight guerrillas gathered their packs and weapons and took up firing positions by the windows and doors downstairs. One left by the back door. A motorbike with a sidecar arrived, and Omar, armed only with a .45 caliber pistol, hustled me into it. Together with the civilian driver, we went deeper into the guerrilla zone, where supposedly, it would be much safer. The people who live in and farm the area call it a "liberated" zone, but the NPA says it isn't so yet.

As we entered the nearby barrio, the people waved as if they wanted us to stop, and, as we approached the center of the barrio, a young boy Omar knew ran in front of the motorbike, forcing the driver to stop. Omar spoke briefly with the boy, then directed the driver back the way we had come. We stopped at a nearby house, and they told me to run inside; Omar and the boy soon followed. The driver gunned his motorbike away.

The boy had told Omar that there were three jeeps, loaded with soldiers of the Philippine Constabulary, waiting in ambush only 100 meters from where he had stopped the motorbike. Omar sent a warning to the rest of the squad. He sent a message to the barrio captain, asking him to supply the soldiers with beer to divert their attention. He also sent word to the barrio organizing committee, so they could plan for exit from the barrio and my return to Manila.

Later in the afternoon, other members of the guerrilla squad joined us. I spent the rest of the day conducting interviews, holding photo sessions and moving from house to house to keep ahead of the government troops. Thanks to



A platoon of Moro National Liberation Front guerrillas travels through a rice paddy in a banca, or dugout canoe.

* * *

These soldiers are among an estimated 30,000 who are fighting for autonomy for 13 provinces in the Philippines' predominantly Muslim southwestern islands. The war is fierce; the government has obliterated entire villages in this area with napalm or by saturation bombing.

A DECADE OF DECADENCE IS ENOUGH.

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the support of the barrio, another government ambush attempt had failed.

But, if the NPA is so popular, the question that arises immediately is: Why is the Philippines entering its eighth year of martial law with Marcos still firmly entrenched? The leaders of the anti-Marcos groups are unanimous in their answer: U.S. support.

According to the State Department, from 1972 to 1979 the Philippines received \$846.8 million in military and economic aid from the United States. The Carter administration, despite its talk of human rights, is currently seeking \$95.7 million in military aid and \$59 million in economic aid to the Philippines for fiscal year 1980. If approved, this will be the first time since 1970 that military aid from the U.S. to the Philippines has exceeded economic aid.

Where the Iran-Philippines analogy breaks down is in the type of postrevolutionary government likely to be established. Although it is impossible to say with much certainty what this regime would be like, current statements by revolutionary leaders describe a society less rigid than Iran or, in a different way, Vietnam.

The National Democratic Front says it wants an egalitarian society, to be achieved through a coalition government similar to that of Nicaragua. Throughout their underground organization, including their army, women and men have equal responsibilities. The NDF recognizes the rights of the Moro National Liberation Front in the areas where it is fighting for autonomy; the two guerrilla groups have friendly relations now, although, of course, that is no guarantee the same would continue after they take power.

As for the Moro National Liberation Front: although the MNLF has religion as its base, the kind of government the group says it would establish is "Islamic socialism"—everything would be decided on a democratic basis, not by religious leaders. Women have been given a share of the responsibility in the MNLF, although the organization is not egalitarian; they are not pressed to conform to strict Muslim codes as in Iran.

* * *

Manila, Luzon--At least half of the contents of my luggage would have been considered "subversive material" by customs agents at the international airport: underground literature, bomb fragments, photographs of guerrillas, cassette tapes of interviews, my notebooks, my journal. But because of my white skin and American passport, my bags weren't even opened.

As I was checking through customs, a door suddenly opened off to my left, and a disheveled young Filipino man darted out and ran toward the main exit. Just as suddenly, two guards came through the door and overtook the young man. With a guard on either arm, he was dragged back inside the room, and the door was kicked shut. He had fought them every step back to the room, his face contorted, walled from anger and fear.

A few people in the crowded customs area laughed. Most of the people acted as if it had never happened. So did I. It was my last memory of the Philippines.

Lawrence T. Johnson is a freelance reporter who has written for the Associated Press and for the San Francisco Examiner and other newspapers.



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

May 7, 1980

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: Leonard Bickwit, Jr., General Counsel
FROM: Samuel J. Chilk, Secretary
SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION
80-19, 5:35 P.M., TUESDAY, MAY 6, 1980,
COMMISSIONERS' CONFERENCE ROOM, D.C. OFFICE
(OPEN TO PUBLIC ATTENDANCE)

Memorandum and Order in the Matter of Westinghouse Electric Corporation (Exports to the Philippines)

The Commission*, by a vote of 3-2 (Chairman Ahearne and Commissioner Bradford dissenting):

Approved the proposed Memorandum and Order concerning Commission consideration of health, safety and environmental impacts arising from exports of nuclear reactors.

(OGC)

(The Secretary signed the Memorandum and Order on May 6, 1980).

cc:
Chairman Ahearne
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Hendrie
Commissioner Bradford
Acting EDO
Commission Staff Offices

* 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. Commissioner Kennedy had previously indicated his approval of this Order in an earlier session on the same date. To enable the Commission to proceed with this matter without delay, Commissioner Bradford, who was a member of the minority on the question up for decision, did not participate in the formal vote. He would have dissented. Accordingly, the formal vote of the Commission is 2-1.



NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555

May 9, 1980

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: Leonard Bickwit, Jr., General Counsel
FROM: Samuel J. Chilk, Secretary
SUBJECT: STAFF REQUIREMENTS - DISCUSSION AND VOTE
ON PHILIPPINE EXPORT, 2:10 P.M., TUESDAY,
MAY 6, 1980, COMMISSIONERS' CONFERENCE
ROOM, D.C. OFFICE (OPEN TO PUBLIC ATTENDANCE)

The Commission discussed the proposed Memorandum and Order in the Matter of Westinghouse Electric Corporation (Exports to the Philippines).

The Commission, by a vote of 3-1, with Chairman Ahearne abstaining from the decision on the Philippine applications and dissenting from the Commission's jurisdictional determinations, and Commissioner Bradford voting against the issuance of the Philippine licenses and dissenting on the jurisdictional issues:

1. Approved the Memorandum and Order, as revised to remove the paragraph and footnote concerning the Commission's health, safety and environmental jurisdiction in export matters, directing the Assistant Director for Export-Import and International Safeguards, Office of International Programs, to issue the licenses requested in applications XR-120 and XCOM-0013. (OGC)
(The Secretary signed the Memorandum and Order on May 6, 1980).

The Commission requested:

2. That OGC draft a Memorandum and Order reflecting the Commission's decision on its health, safety and environmental jurisdiction in export matters. (OGC)
(This Memorandum and Order was drafted and considered later that day).

cc:

Chairman Ahearne
Commissioner Gilinsky
Commissioner Kennedy
Commissioner Hendrie
Commissioner Bradford
Acting EDO
Commission Staff Offices

CHRONOLOGY OF XSNM01379

Edlow International Company application to export 19,858.8 kilograms uranium to India for use in the Tarapur reactors.

<u>ACTION</u>	<u>DATE</u>
Application dated	09/20/78
Application received by NRC	09/25/78
Application forwarded for Executive Branch views	10/11/78
Application noticed in <u>Federal Register</u>	10/31/78
Executive Branch views recommending issuance of license dated	03/28/78
Executive Branch comments were forwarded to NRC Commissioners by staff for early review (SECY-79-233)	03/30/79
NRC staff forwarded its preliminary comments on the case to the Commissioners. This paper (classified) summarized the background of the application, the Executive Branch views, and developments since the issuance of license XSNM01222 for India on March 23, 1979, including developments with respect to Pakistan. The staff recommended the Commission seek an Executive Branch briefing on U.S./India full-scope safeguards negotiations and related matters and recommended deferral of further action on XSNM01379 pending the briefing (SECY-79-233A).	04/24/79
Commissioner Ahearne requested the staff to ask the Executive Branch to update its response on the proposed export in light of recent activity concerning Pakistan's alleged clandestine enrichment project and the resulting cutoff of U.S. aid to Pakistan. Commissioner Ahearne considered that Executive Branch conclusions as to the impact of the alleged activities on the Indian situation would be helpful.	05/16/79
Commissioner Ahearne wrote to Louis Nosenzo, Deputy Assistant Secretary for Nuclear Energy and Energy Technology Affairs, Department of State, requesting an update of the Executive Branch response in light of the recent Pakistan developments.	05/23/79
NRC staff forwarded five questions to Louis Nosenzo, Department of State, on subjects of: (1) implications of the Pakistan actions (2) accuracy and significance of Prime Minister Desai's statements concerning termination of safeguards on Tarapur fuel, (3) attempts by the Executive Branch to insure continuing safeguards over U.S. supplied fuel, (4) plans to remove fuel from India and, (5) whether approval of XSNM01379 would be inconsistent with the policies underlying the NI&PA.	05/25/79

<u>ACTION</u>	<u>DATE</u>
NRC staff provided a revised analysis of the fuel requirements and schedule for the Tarapur reactor which concluded, among other things, that fuel covered by XSNM01379 would be sufficient to permit operation of Tarapur I until August, 1984 and Tarapur II until March, 1984, taking into account fuel on hand at Tarapur.	06/05/79
The June 5 updated analysis (see above) was sent to the Executive Branch for informational purposes.	06/07/79
Executive Branch responded to NRC request for information regarding India's nuclear programs and policies.	07/05/79
Executive Branch, (L. Nosenzo, DOS), in response to an NRC request of June 27, provided NRC information regarding Tarapur fuel needs and inventory. Information was contained in a classified cable, Bombay 2297.	07/27/79
NRC forwarded letter to Executive Branch (DOS) requesting an assessment of the uncertain impact of changes in leadership of the Indian Government following fall of the Desai government.	08/15/79
Executive Branch (DOS) responded to NRC request of August 15, 1979 to the effect that the new Indian Government had provided assurances it will continue to meet its obligations under the U.S.-Indian agreement and related understandings so long as the U.S. meets its obligations under the agreement. With regard to nuclear explosives, Prime Minister Gandhi stated that the India program is devoted to peaceful purposes but the option of peaceful nuclear experiments was not ruled out. Nevertheless, the Executive Branch continued to hold that the export would meet the NNPA requirements, would not be inimical to the common defense and security, and recommended that the license be issued.	05/07/80
Executive Branch amplified its unclassified views on the issuance of XSNM01379 in a separate classified (Secret) letter to NRC.	05/07/80
Executive Branch favorable views on related license application for India, XSNM01569, were transmitted to NRC.	05/07/80
NRC staff views on proposed exports of fuel and components to Tarapur (XSNM01379, XSNM01569, XCOM0240, XCOM0250) were forwarded to the Commission with the conclusion that the Commission should determine that it is unable to make the statutory determinations required under the Atomic Energy Act and should submit the license applications to the President. (SECY 80-238, attached).	05/09/80

<u>ACTION</u>	<u>DATE</u>
Three additional applications for components (XCOM0376, XCOM0381, and XCOM0395) for India were submitted by the staff to the Commissioners with the recommendation that they be consolidated with cases already before the Commission for consideration (SECY 80-2388).	05/15/80
Commission issued memorandum and order CL1 80-18 stating it could not find that applications XSNM01379, XSNM01569, XCOM0240, XCOM0250, XCOM0376, XCOM0381 and XCOM0395 meet the criteria set forth in the Atomic Energy Act, and referred the applications to the President.	05/16/80
SECY memo issued concerning Commission discussion of Tarapur cases held on 05/13/80 (see attached).	05/16/80
SECY memo to General Counsel on Commission affirmation session of 05/16/80 which resulted in recommendation to refer Tarapur cases to President (see attached).	05/19/80

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 *TRG 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.

NOTE: This topic is tentatively scheduled for discussion on Tuesday, May 13, 1980.

Contact:
M.R. Peterson, IP (49-28155)

2. XCOM0250 - Six traversing in-core probe detector assemblies (TIPS). Ref: SECY-79-338 and SECY-674 and 674A.

As noted in the referenced Commission papers, favorable Executive Branch views were initially received by NRC in 1979 for XSNM01379 and XCOM0240 and 250. However, on August 15, 1979, the Commission informed the Executive Branch that final action on these three cases was being deferred pending receipt of certain clarifications regarding the changes in Indian government leadership. The Executive Branch's unclassified response to this request is dated May 7 and is attached at Appendix A.

Classified Executive Branch comments were also provided and are attached at Appendix B. Simultaneously, the Executive Branch has provided the Commission with its final views on XSNM01569 (Appendix C).

Discussion:

The Executive Branch responses recommend that the Commission issue export licenses for the two pending fuel cases (XSNM01379 and 1569). In addition, the staff notes that the receipt of the Executive Branch's answer to the Commission's August 15, 1979 letter also responds to the Commission's request for further information with respect to XCOM0240 and 250. The Executive Branch's earlier recommendations to approve these two cases still stand.

The new information provided by the Executive Branch in support of approving the Tarapur exports is not sufficient to change the position the staff took in SECY-79-574A with regard to XCOM0240 and 250, in that it fails to provide adequate additional Indian assurances concerning the Section 127 criteria. There remains an insufficient basis for finding that all of these criteria are met. (NOTE: While SECY-79-674A dealt solely with component exports subject to Section 109, the criteria involved are equally applicable to the two pending fuel applications which in addition must also meet the physical security and reprocessing criteria.)

In addition, since the proposed fuel exports would now take place after March 10, 1980, there is the problem of meeting the full-scope safeguards criterion of Section 128 of the Atomic Energy Act, as amended. While there are differing views on the application of Section 128 to these applications, which were received before September 10, 1979 and which involved material intended for shipment before March 10, 1980, ELD has concluded that the better legal view is that Section 128 would apply to both of the pending Tarapur fuel cases. ELD's legal analysis of this matter is contained in Howard Shapar's March 6, 1980 memorandum to the Commissioners.

Conclusion:

As a result of the above considerations, the staff believes that the Commission should conclude that it is unable to make the statutory determinations required under the Atomic Energy Act and should submit the license applications to the President pursuant to Section 126 of the Atomic Energy Act. The staff notes the Executive Branch requests that expeditious action be taken on XSNM01379. We support this request, and believe that XSNM01569 and XCOM0240 and 250 should also be processed in tandem with XSNM01379. In view of the urgency involved, and since we believe all relevant issues have been addressed adequately in previous staff submissions on Tarapur applications, we have chosen not to develop a lengthy and time-consuming criterion-by-criterion analysis for these cases or prepare a series of options for handling them. However, if any Commissioner desires such an analysis, we would be pleased to prepare it.

NMSS Technical Review:

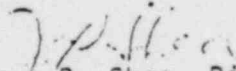
NMSS has not had an opportunity to complete a technical review. When completed, it will be forwarded separately.

Recommendation:

That the Commission affirm the staff's conclusion and direct the Office of the General Counsel to prepare the necessary Commission order and covering letter to the President, noting that we are unable to find that all of the applicable export criteria are met with respect to the pending export applications for Tarapur. The license applications are enclosed at Appendix D.

Coordination:

ELD has no legal objection. NMSS views will be submitted separately.


James R. Shea, Director

APR 9 1980

Office of International Programs

Appendices:

- A. EB views dtd. 5/7/80 (UNCL.)
- B. EB views dtd. 5/7/80 (CLASS.) Distributed under separate cover on 5/8/80
- C. EB views on XSNM1569 dtd. 5/7/80 (UNCL.)
- D. Subject export license applications

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Friday, May 16, 1980.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT May 14, 1980, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION

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Secretariat

APPENDIX A



DEPARTMENT OF STATE

Washington, D.C. 20520

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'80 MAY -8 A8:07

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

OFFICE 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.

2. 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

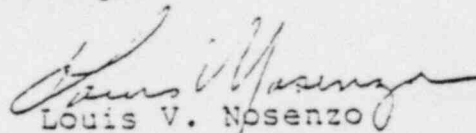
APPENDIX A

explosives, and continue to believe that restraint in this regard is key to international stability. However, we do not 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

DISTRIBUTED UNDER SEPARATE COVER ON 5/8/80

APPENDIX C



DEPARTMENT OF STATE

Washington, D.C. 20520

RECEIVED
USSR/MC 1569

'80 MAY -8 A8:07

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

OFFICE OF
INTERNATIONAL
AFFAIRS

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. Rosenzo
Deputy Assistant Secretary

Enclosure:
As stated

APPENDIX C

EXPORT LICENSE APPLICATION ANALYSIS

XSNM01569

Country: India

Transaction: 487.3 kilograms of U-235 contained in 19,858.8 kilograms of uranium, enriched to a maximum of 2.71% U-235. This material is to be delivered to the Nuclear Fuel Complex (NFC) at Hyderabad for the fabrication of reload fuel assemblies for the Tarapur Atomic Power Station (TAPS)

Applicant: Edlow International Company, as agent for the Government of India

Applicant's Reference: INDS-3

Date of Application: August 1, 1979

Purpose of Export

The Tarapur Atomic Power Station (TAPS) consists of two 200 MWe boiling-water reactors, sited near Bombay, India. The proposed export represents approximately the normal annual fuel requirement for TAPS.

The supply of fresh slightly enriched uranium feed for the Nuclear Fuel Complex (NFC) in Hyderabad, at which the TAPS fuel is fabricated, was exhausted in mid-December, 1978. A fuel export license for TAPS, XSNM-1222, for 16,804 kilograms of uranium, was issued March 23, 1979.

Application XSNM01379, also for 19,858.8 kilograms of low-enriched uranium, sufficient to fuel TAPS for one year, was filed with the NRC on November 1, 1977 and returned to the NRC with favorable Executive Branch views on March 28, 1979.

XSNM01379, if approved, would allow operation of TAPS Unit I until August 1984 and Unit II until March 1984, assuming less than optimum loading of approximately 60 assemblies per unit per annum and no serious operational problems such as fuel leakage. XSNM01569, if approved, would allow another refueling and an additional year of operation for both Units, i.e., until November 1985 for Unit I and June for Unit II. Early approval of both XSNM01379 and 1569 by the Commission is recommended to permit shipments by sea and to avoid disruptive shutdowns of fuel fabrication operations by the Nuclear Fuel Complex.

Gurdip S. Bedi,
First Secretary



U: > NM 1564
भारतीय राजदूतावास
वाशिंगटन, डी. सी.
EMBASSY OF INDIA
WASHINGTON, D. C.

No.: WAS/POL/110/6/79

September 11, 1979

Dear Mr. Hudgins,

Reference Edlow International Company's application No. IN/DS-3 of August 20th, 1979 to the NRC for a license to export nuclear material to India for the Tarapur Atomic Power Station. On behalf of the Government of India I hereby certify that :-

- a) the material which will be transferred under this application for use at the Tarapur Atomic Power Station will be subject to all the terms and conditions of the Agreement for Cooperation between the US Govt. and the Govt. of India concerning civil uses of atomic energy which entered into force on October 24, 1963;
- b) the NFC Complex of the Deptt. of Atomic Energy, Maula Ali, Hyderabad 40, Andhra Pradesh (India) is authorised to receive the material for conversion into fuel assemblies for the Tarapur Atomic Power Station;
- c) Edlow International Company, an agent of the Govt. of India, is authorised to apply for an export license for the shipment of 487.3 kgs. of U-235 contained in 19,858.8 kgs. of uranium enriched to a maximum of 2.71 %;
- d) physical security measures will be maintained at a level comparable with that set forth in IAEA INFCIRC 225 Rev. I.

Yours sincerely,

(Gurdip S. Bedi)

Mr. Vance H. Hudgins,
Assistant Director for
Politico-Military Security Affairs,
Division of International Security Affairs,
U.S. Deptt. of Energy,
20 Mass. Ave. NW,
Washington D. C. 20545

EXPORT LICENSE APPLICATION ANALYSIS

1. Applicable Agreement for Cooperation

This supply of low-enriched uranium is subject to all of the terms and conditions of the Agreement for Cooperation for Civil Uses of Atomic Energy Between the United States and India. This was confirmed in a letter from the Government of India, a copy of which is enclosed. The Agreement for Cooperation came into effect on October 25, 1963.

India has adhered to the provisions of this Agreement for Cooperation with the United States.

2. Extent to Which Export Criteria Are Met

A. Section 127 Criteria

As provided in Section 127 of the Atomic Energy Act, the following criteria govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

Criterion (1)

"IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable Agreement for Cooperation, and to any special nuclear material used in or produced through the use thereof."

The United States, India and the International Atomic Energy Agency entered into a trilateral agreement, signed January 27, 1971, for Application of Safeguards by the IAEA. IAEA safeguards provided in this Agreement are in accordance with guidelines provided in INFCIRC/66/Rev. 2. This Agreement covers material and facilities exported to India pursuant to the U.S.-India Cooperation Agreement and to special nuclear material used in or produced through the use thereof.

Therefore, it is the Executive Branch view that criterion (1) is met.

Criterion (2)

"No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable Agreement for Cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device."

The Government of India has given the United States written assurance that "...the special nuclear material that has been or is hereafter made available for, or used, or produced in the Tarapur Atomic Power Station located at Tarapur will be devoted exclusively to the needs of that Station unless our two Governments hereafter specifically agree that such material be used for other purposes." Obviously, the U.S. would not agree to use of such material in any nuclear explosive device.

Since this assurance applies to material, facilities and sensitive nuclear technology previously exported and subject to the U.S.-India Agreement for Cooperation and to special nuclear material used in or produced through the use thereof, and will apply to the proposed export and any special nuclear material produced through its use, it is the view of the Executive Branch that criterion (2) is met.

Criterion (3)

"Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to Section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations."

India has established physical security measures at Tarapur which, as a minimum meet those recommended by the IAEA in INFCIRC/225/Rev.1, "The Physical Protection of Nuclear Material". This fact has been confirmed by letter from the Embassy of India, a copy of which is enclosed with this analysis.

A U.S. Physical Security Review Team, including an NRC member, which visited India in November 1975, judged the security measures observed at the Tarapur Atomic Power Station to be in accordance with physical security guidelines recommended by the IAEA in INFCIRC/225/Rev.1 and adequate to protect the nuclear material at the Station.

Therefore it is the view of the Executive Branch that criterion (3) is met.

Criterion (4)

"No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section."

Article VII A.(2) of the U.S.-India Agreement for Cooperation provides that no material, equipment or device transferred to the Government of India pursuant to this Agreement will be transferred beyond the jurisdiction of the Government of India without the agreement of the United States. Article II F. of this Agreement provides that any special nuclear material produced in the Tarapur Atomic Power Station which is not to be retained in India for use in its civil nuclear program may only be transferred beyond the jurisdiction of the Government of India with the approval of the United States.

Therefore, it is the Executive Branch view that criterion (4) is met.

Criterion (5)

"No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration."

Article II E. of the U.S.-India Agreement for Cooperation provides: "that when any special nuclear material utilized in the Tarapur Atomic Power Station requires reprocessing, and recourse is not taken by the Government of India to the provisions of Article VI C. of this Agreement, such reprocessing may be performed in Indian facilities upon a joint determination of the Parties that the provisions of Article VI (Safeguards) may be mutually agreed. It is understood, except as may be otherwise agreed, that the form and content of any irradiated fuel element removed from the reactors shall not be altered before delivery to any such reprocessing facility." The proposed export is only for use at Tarapur.

Since no joint determination under Article II E. can be made without the agreement of the United States, it is the view of the Executive Branch that criterion (5) is met.

The Government of India has been advised that the U.S. is not able at this time to make a determination that the provisions of Article VI can be effectively applied with respect to the existing Tarapur reprocessing facility (PREFRE).

Criterion (6)

"No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology."

The proposed export does not involve the transfer of sensitive nuclear technology. Criterion (6) is, therefore, not applicable.

B. Section 128 Criterion

Section 128 a.(1) of the Atomic Energy Act establishes the following additional criterion: "As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology 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."

As provided in Section 128 b., this criterion only applies to export license applications filed after 18 months or for which the first export would occur at least 24 months after the date of enactment of P.L. 95-242 (i.e., following March 10, 1980).

It is the view of the Executive Branch that the Section 128 criterion does not apply to this application because it was submitted prior to September 10, 1979 and the initial shipment of the material was to occur prior to March 10, 1980.

3. Additional Factors

A. Safeguards Implementation

The IAEA Secretariat has noted in its Special Safeguards Implementation Report that with regard to nuclear material subject to IAEA safeguards, while some deficiencies exist in the system, no diversion of a significant quantity of nuclear material was detected in any of the 43 states in which inspections were carried out. Although recognizing the need to correct existing deficiencies in safeguards implementation, the Executive Branch has no reason to believe that the IAEA Secretariat's conclusion is not a valid one with specific regard to nuclear material subject to the U.S.-India Agreement for Cooperation. In the light of this and other factors associated with the proposed export, the Executive Branch believes the framework of commitments, assurances, and safeguards is adequate for the purposes of this export.

Questions previously have been raised by the NRC and others as to the use of cameras and seals in safeguarding TAPS fuel. The Executive Branch has made information in this regard available to the NRC in Mr. Nosenzo's September 12, 1978 letter to Mr. Shea, which is incorporated in this analysis by reference.

B. Indian Policy on Non-Proliferation

Since winning the January 1980 election, Prime Minister Gandhi has made several statements about India's nuclear policy. During a January 10 radio interview, Mrs. Gandhi was asked if India would "equip itself with a nuclear weapon" if Pakistan detonated a nuclear explosive device. Mrs. Gandhi responded negatively and said that India would want to use nuclear energy "only for peaceful ends and for economic development." On March 13, Mrs. Gandhi was asked in the Indian Parliament whether she planned to change the nuclear policies of the two previous governments. Mrs. Gandhi responded that the "Government of India remains committed to its policy of utilizing atomic energy for peaceful purposes." Under further questioning the Prime Minister stated "We remain committed to the uses of atomic energy, whether for peaceful purposes or we have to have explosions or implosions. Whatever is necessary for our development and other peaceful purposes; this will be done in the national interest."

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 explosives, and continue to believe that restraint in this regard is key to international stability. However, we do not believe that withholding the pending export would advance U.S. interests in this regard.

C. Non-Proliferation and Other Foreign Policy Implications

As noted above, we believe this license meets all relevant criteria in the Non-Proliferation Act of 1978, and the Executive Branch believes that U.S. non-proliferation objectives would not be advanced by withholding these licenses. We further believe that failure to supply fuel to India at this time would be inimical to broader U.S. interests in India and the region. In our view, this would seriously strain relations with India and present opportunities that could be exploited by our adversaries in a manner contrary to our interests. Events in the area over the last few months make it essential that we make every effort to avoid actions, if at all possible, which might complicate our relations with key states in the area.

D. Other Considerations

The Commission has been kept currently advised of non-proliferation and related developments with India, including the status of all negotiations, through a series of classified briefings. Similar briefings will be given as subsequent substantive developments warrant.

4. Inimicality Judgment

Based on review of the proposed export, it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security, and that the license should be issued.

APPENDIX D-

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

1. APPLICANT'S NAME AND ADDRESS (RIS 000-111) A. NAME B. STREET C. CITY (STATE) ZIP CODE		4. SUPPLIER'S NAME AND ADDRESS (RIS 112) Complete 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000		3. APPLICANT'S REFERENCE (100)		7. LICENSE NO. (100)		8. SOCKET NO. (100)			
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) (100)			
10. ULTIMATE CONSIGNEE (RIS 123) A. NAME B. STREET C. CITY - STATE - COUNTRY				11. ULTIMATE END USE (RIS 124) (Include Plant or Facility Name) To be used for research purposes for the production of the isotope ¹⁰³ Co-60 for medical applications.							
12. INTERMEDIATE CONSIGNEE (RIS 125-01) A. NAME B. STREET C. CITY - STATE - COUNTRY				11a. EST. DATE OF FIRST USE 01							
14. INTERMEDIATE CONSIGNEE (RIS 125-02) A. NAME B. STREET C. CITY - STATE - COUNTRY				12. INTERMEDIATE END USE (RIS 125-01)							
16. FORN COUNTRY (RIS 125-03) 18. NO.				13a. EST. DATE OF FIRST USE							
17. MATERIAL TYPE AND DESCRIPTION (RIS 125-04) (Include chemical and physical form and gross wt.) Inclusion of uranium hexafluoride 103-Compound				15. MAX. ELEMENT WEIGHT (20)		18. MAX. WT. % (21)		20. MAX. U-235 ISOTOPE WT. (22)		21. UNIT (23)	
				19,553.8		1.71		497.3			
22. COUNTRY OF ORIGIN - SOURCE MATERIAL				23. COUNTRY OF ORIGIN - ENR 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 PERSONAL SIGNATURE			

APPENDIX D

TELEPHONE: 25 03 01

TELETYPE: "ATOMPOWER"
MUMBAI

173 SEP 25 AM 11 07

EXPORT/IMPORT
AND
INTERNATIONAL SFGRDS



छत्रपति शिवाजी महाराज मार्ग, बम्बई-४०० ०३९.
CHATRAPATI SHIVAJI MAHARAJ MARG,
B O M B A Y - 400 039.

भारत सरकार

GOVERNMENT OF INDIA

परमाणु विद्युत प्राधिकरण
ATOMIC POWER AUTHORITY

September 11, 1978.

No.E/TAPS/10-E-XVI

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 IV/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. SNM-1222, the quantity received may go up to 3450 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,

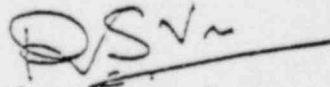
Sd/-

(R.S. Verma)
Commercial Manager

Ref: E/TAPS/10-E-XVI

September 11, 1973.

- 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. Anandakrishnan, 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 NAME AND ADDRESS General Electric Co., Attn: B. D. Wilson MC 838 175 Cushman Avenue San Jose, CA 95125 TELEPHONE NUMBER (Area Code - Number - Extension) 408-925-1380		2. NRC USE		3. LICENSE NO. 20000240		5. DOCKET NO. 11050123	
4. APPLICANT'S REFERENCE BDW-79108		4. SUPPLIER'S NAME AND ADDRESS (Complete if applicant is not supplier of material)		RIS			
5. FINAL SHIPMENT SCHEDULED By 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					
11. ULTIMATE END USE (Include plant or facility name)		11a. EST. DATE OF FIRST USE		12. INTERMEDIATE END USE		12a. EST. DATE OF FIRST USE	
Government of India Department of Atomic Energy Bombay 400 001 India		Replacement in Tarapur reactor Units 1 and 2					
13. INTERMEDIATE END USE		13a. EST. DATE OF FIRST USE		14. INTERMEDIATE END USE		14a. EST. DATE OF FIRST USE	
15. INTERMEDIATE END USE		15a. EST. DATE OF FIRST USE		16. INTERMEDIATE END USE		16a. EST. DATE OF FIRST 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.	
Replacement parts for use during period of operation covered by issued XSNM licenses. See attached list. Value approximately \$180,000.							
21. UNIT							
23. COUNTRY OF ORIGIN-SNM WHERE ENRICHED OR PRODUCED N/A		24. COUNTRIES WHICH ATTACH SAFEGUARDS (If Known) N/A					

ADDITIONAL INFORMATION (Use separate sheet if necessary)

MOBBY to FOR... 5/4/79

APPENDIX D

00025

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.

AUTHORIZED OFFICIAL: [Signature] a. 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

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
State & 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.

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.

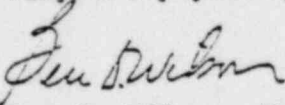
A single set of spare probes, in our view, could scarcely be characterized as excessive stockpiling; indeed, it is merely prudent operating practice.

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 have 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 42

January 11, 1980

BDW 80005

EXPORT/IMPORT
AND
INTERNATIONAL SERVICES

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.

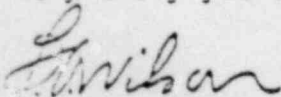
This leaves absolutely no available spares for the scheduled replacements of the two TIPs in Unit One. That unit was shut down for refueling and maintenance on November 28, 1979. It is scheduled for return to service on February 28, 1980.

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

May 15, 1980

SECY-80-2388

COMMISSIONER ACTION

For: The Commissioners

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

Thru: Acting Executive Director for Operations *TTR for W.J.D.*

Subject: COMPONENT EXPORTS TO TARAPUR (XCOM0240, XCOM0376, XCOM0381
AND XCOM0395)

Purpose: To (1) recommend the consolidation of three additional component cases with the fuel and component cases covered by SECY-80-238, and (2) provide the Commission with a request by General Electric to amend application XCOM0240.

Discussion: In SECY-80-238, the staff provided its recommendations with respect to four pending fuel and component export license applications for the Tarapur Atomic Power Station in India. Subsequently, on May 13, the Executive Branch provided its final views on three additional component applications (XCOM0376, XCOM0381 and XCOM0395), which are attached at Appendix A. These additional cases were discussed at the Commission meeting on Tarapur on May 13, during which the staff recommended and Commission agreed that the new cases be consolidated for the purposes of Commission review with the other cases covered in SECY-80-238.

The staff notes that an analysis of the safety significance of the components covered by XCOM0376 and XCOM0381 was contained in our May 8 memorandum to Commissioner Ahearne, which is attached at Appendix B. A similar analysis has not been prepared with respect to XCOM0395, but it is the staff's view that the considerations in this case are similar to those with respect to XCOM0376, in that similar pump components are involved. (While the memorandum to Chairman Ahearne also addressed XCOM0377, the Executive Branch chose not to recommend approval of this case in view of the applicant's requested 10-year expiration date).

As a final matter, we are attaching at Appendix C a request by General Electric to amend application XCOM0240. We have discussed this amendment request with the Executive Branch and

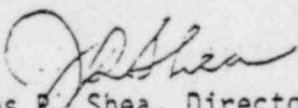
Contact:
M. R. Peterson, IP (49-28155)

have been informed that it will not be necessary to obtain revised Executive Branch views with respect to this amendment request (i.e. the June 11, 1979 Executive Branch views on XCOM0240 are fully applicable to the amended application).

Recommendation: That the Commission:

1. Consolidate, for Commission review purposes, applications XCOM0376, XCOM0381 and XCOM0395 with those applications covered in SECY-80-238. The new license applications are enclosed at Appendix D.
2. Note the receipt of General Electric's request to amend XCOM0240, which should be substituted for the earlier version of XCOM0240 forwarded in SECY-80-238.

Coordination: ELD has no legal objection.

 MAY 14 1980
James R. Shea, Director
Office of International Programs

Appendices:
As stated

DISTRIBUTION:
Commissioners
Commission Staff Offices
Acting Exec. Dir. for Opers.
Secretariat

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Friday, May 23, 1980.

Commission Staff Office comments, if any, should be submitted to the Commissioners MLT by Friday, May 21, 1980, with an information copy to the Office of the Secretary. If the paper is of a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.



DEPARTMENT OF STATE
Washington, D.C. 20520

XCOM0376

11001078

RECEIVED
USNPC

'80 MAY 13 P1:36

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

OFFICE OF
INTERNATIONAL
PROGRAMS

May 13, 1980

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

Dear Mr. Shea:

I refer to the letter from your office dated March 14, 1980, 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. XCOM0376 -- Application by Byron Jackson Pump Division for authorization to export to India various components and parts specially designed and prepared for primary coolant and other pumps for the Tarapur nuclear power reactors. Total value of these parts and components is approximately \$20,000.

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 the export is consistent with the provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978.

Moreover, as stated in my letter to you dated March 27, 1979, it is the view of the Executive Branch that the generic assurances provided by the Embassy of India by letter dated March 23, 1979 meet the criteria under Section 109 b. for exports of reactor components by confirming that the following provisions apply to such exports:
1) IAEA safeguards will be applied to the special nuclear material produced through the use of supplied equipment

Copy to FDR and ACC 5-13-80

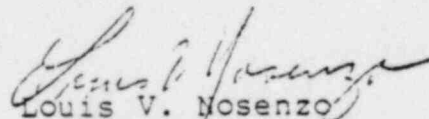
+ to Peterson, Shea, J. Becker
Advance copy to
Commissioners 5/13/80

00410
051380

or material for the Tarapur Atomic Power Station (TAPS);
2) the special nuclear material or equipment supplied for
use in TAPS or produced through the use of such material
or equipment will be devoted exclusively to the needs of
TAPS (and therefore not utilized for the production or
research and development of any nuclear explosive device);
and 3) no equipment, material or device supplied by the
U.S. for use at the TAPS will be transferred to unautho-
rized persons or beyond the jurisdiction of the Government
of India.

On the basis of the foregoing and the considerations
set forth in my letters and memorandum of May 7, 1980, re-
garding export cases Nos. XSNM01379 and XSNM01569, the
Executive Branch recommends that the license be issued.

Sincerely,



Louis V. Nosenzo
Deputy Assistant Secretary

MAY 08 1980

RECORDED, EDO
TAREhm, EDO
HKShapar, ELD
NMSS
JRShea, IP
MRPeterson, IP
JBDevine, IP
Gertter, EDO #8770
IP r/f
IPEI r/f

MEMORANDUM FOR: Chairman Ahearne
FROM: James R. Shea, Director
Office of International Programs
THRU: Acting Executive Director for Operations
SUBJECT: SAFETY SIGNIFICANCE OF PENDING COMPONENT EXPORTS TO INDIA

In connection with IP's memorandum of March 19 to the Commissioners' assistants which enclosed copies of three pending component export license applications for Tarapur (XCOM0376, 377 and 381), you raised a question regarding the significance of the proposed Tarapur component exports for the safe operation of Tarapur Nuclear Power Station (TAPS). The fourth application listed on the IP memorandum (XCOM0382) is for the Bhabha Atomic Research Center and, therefore, will not be addressed here.

The components covered by XCOM0376 and XCOM0377 are spare parts intended for use in various coolant pumps in the Tarapur reactors. They are all standard pump components which are part of the normal spare parts complement for reactors similar to those at Tarapur. The applicant, Byron Jackson Pump Division, has advised that the Indian authorities have not expressed any urgency in connection with their order for these pump components. While there does not appear at this time to be an urgent need for these particular spares, this situation could, of course, change. NRR staff advises that it is possible that the Tarapur reactors could be operated at lower power levels without any significant increase in safety risks should these spares not be approved for export. Eventually the reactors would have to be shut down if the pumps became inoperable due to lack of spare parts. Without obtaining further information from the Indian authorities, it is impossible to determine when the lack of spare pump parts would affect normal reactor operations.

License application XCOM0381 involves the proposed export of 150 Zircaloy-4 fuel channels to Tarapur. The applicant, Carpenter Technology, has advised that serious safety problems could develop if the fuel channels are not replaced on a timely basis. The fuel bundles are clustered in the reactors in groups of four and in between the fuel channels, which encase the fuel bundles, are the control rod blades. When the fuel bundles are first inserted into the reactors, the fuel channels are very straight and square. However, as the reactor operates, the channels become rounded and bowed from top to bottom. They may eventually become so distorted that they "pinch" the control rod blades and consequently affect the speed at which the control rods can be inserted into the reactor.

OFFICE				
NAME				
DATE				

If the channels are not replaced on a timely basis, this pinching could become severe enough to jeopardize the reactor's capability to safely shut down when required by emergency situations, or even in the course of normal reactor operations. As with the coolant pump spare parts, it is difficult to predict the dates when the fuel channel distortions become so numerous and serious that continued reactor operations become unsafe. According to Carpenter's information, the last supply of approximately 150 fuel channels for Tarapur was provided two years ago by a German manufacturer. The total number of channels required at Tarapur is 284 per core (a total of 568 fuel channels for both units at Tarapur). Since the fuel channels have a life of approximately 5 years, after which there is a systematic replacement of all fuel channels, Carpenter believes that the stock of German-supplied channels has been depleted and therefore the proposed export is appropriate and it can be assumed that this order is for reload purposes and not an attempt to stockpile the material. Carpenter Technology's contract is conditioned on the receipt of an export license. After the license is issued, the Company will require approximately 8 to 9 months before the fuel channels are ready for shipment.

As a final comment on the safety significance of component exports, the staff notes that if licensing action on all of the several pending Tarapur component applications continues to be withheld, this could lead to an earlier or more adverse interrelated safety impact than that which could be caused by any single export treated in isolation.

James R. Shea, Director
Office of International Programs

cc: Commissioner Gilinsky
Commissioner Kennedy
Commissioner Hendrie
Commissioner Bradford
S.Chilk, SECY
E.Hanrahan, OPE
L.Bickwit, OGC

bcc: HDenton, NRR

MP
MR Peterson
for JC in draft

OFFICE	<i>MP</i>	IP	NRR	IP: BIA	A/EDO
PERSONNEL	MR Peterson:bjkd	JBB	Carter	JRShea	WJDircks
DATE	5/6/80	5/6/80	5/5/80	5/6/80	5/ /80

GENERAL ELECTRIC



RECEIVED CLEAR POWER
EIS/RC

SYSTEMS DIVISION

'80 MAY 13 A10:31

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

OFFICE OF
INTERNATIONAL
PROGRAMS

XCOM 240

11000623

BDW-80048
May 8, 1980

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

Subject: Application Amendment - XCOM 240

Dear Mr. Shea:

On April 25, 1979, General Electric filed an application for a license to export to the Tarapur Atomic Power Station (TAPS) certain replacement parts and components. Attached to the application was a list of the names and values of the components for which orders were pending at that time.

The application is still under review and, in the intervening year, we have received new orders. Also, we have been able to export some of the items under XCOM 20, a previously issued license covering unspecified parts up to \$100,000 in value.

In addition to those changes, we have more closely identified some of the components as not "specially designed or specially prepared" for reactor use. For example, nuts, bolts, bushings, bearings, lamps, wire rope, rectifiers, resistors, relays and similar ordinary hardware and electrical items which could be used interchangeably in non-nuclear as well as nuclear installations are now being exported under U.S. Department of Commerce regulations, as discussed with your staff from time to time.

* Copy to EDR and ACC 5-14-80 r^w

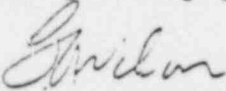
All of these changes are reflected in the enclosed revised list which shall amend, replace and supersede, in its entirety, that included with the April 25, 1979 application.

Through frequent Washington visits, numerous phone calls and letters, we are sure you are aware that General Electric is greatly concerned and disappointed at the Commission's delay in issuing XCOM 240 (and XCOM 250) for components -- most of which are safety-related -- urgently needed at TAPS to maintain plant equipment in a safe and effective condition.

It is hard to see how our proposed exports of replacements for worn or defective and potentially unsafe, TAPS parts could adversely affect nuclear safeguards objectives so long as TAPS operates on previously exported fuel enriched in the U.S. using nuclear safety technology also, in large part, of U.S. origin.

Please let us know if we can provide other information that could bring about Commission reconsideration and issuance of XCOM 240 and XCOM 250.

Very truly yours,



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

/clk

cc: L. V. Nosenzo

Enclosure

GENERAL ELECTRIC ORDERS
FOR
TARAPUR REPLACEMENT PARTS

XCOM 240

<u>QTY</u>	<u>DESCRIPTION</u>	<u>APPROX. VALUE</u>
6	Thermal Sleeve for Control Rod	\$ 12,450
2	Ion Chambers	17,500
5	Magnet Housing for Control Rod Drives	2,950
1	Ion Chamber Drive Assembly	9,630
Various	Control Rod Drive Parts	57,800
2	LRM Drive System Mount & Gear Box	7,250
1	Log Radiation Monitor	3,500
	Total Remaining	\$ 111,130

XCOM 250

6	Traversing Incore Probes	\$ 112,000
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5/8/80
BDW 80048 - Attachment
(Replaces BDW 79109-Attachment April, 1979)

XCOMO 240

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,
XCOMO240, AND XCOMO250) (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

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



May 13, 1980

MEMORANDUM FOR: Samuel J. CHLIK
Office of the Secretary

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

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

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

It 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.

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