



DEPARTMENT OF STATE

Washington, D. C. 20520

ACC XMAT0088
1100091

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS 8

SEP 05 1980

EXPORT CONTROL SERVICES

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

Dear Mr. Shea:

I refer to Mr. Gossick's letter dated January 10, 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. XMAT0088 -- Application by George Uhe Co., Inc. for authorization to export to The Federal Republic of Germany 2,250 pounds of heavy water for use in nuclear resonance spectroscopy and structural determination.

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 this export is consistent with the provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978.

As an NPT party, the FRG has committed itself to maintaining IAEA safeguards on all of its peaceful nuclear activities and has pledged not to produce or otherwise acquire any nuclear explosive devices.

Moreover, as noted in my letter dated February 1, 1979, the United States received assurances, by letter dated January 25, 1979, from the Delegation of the

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Shea, Devine, Kessler/Cohen, NMSS, Mar-

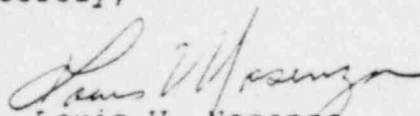
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Commission of the European Communities for all EURATOM Member States. The Delegation letter confirms that U.S. exports to the European Community of nuclear components specially designed or prepared for use in a nuclear facility, deuterium (including heavy water) and reactor grade graphite (as detailed in 10 CFR 110): A) fall within the category of "material, including equipment and devices" in Article XI of the Agreement for Cooperation Between the United States and EURATOM, as amended; B) will be transferred under the U.S.-EURATOM Cooperation Agreement and thus be subject to the guarantees in that article; and C) therefore, the criteria set forth in Section 109 b. of the Atomic Energy Act, as amended, are met. These guarantees include a pledge of no explosive use and no retransfer beyond the jurisdiction of the Community without prior U.S. approval.

In the judgment of the Executive Branch, therefore, the three criteria required for exports of nuclear components and materials under Section 109 of the Atomic Energy Act, as amended, are fully met.

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

Sincerely,



Louis V. Nosenzo
Deputy Assistant Secretary