

JOHN W. WARNER
VIRGINIA

United States Senate
WASHINGTON, D.C. 20510

October 23, 1980

Mr. Carlton Kammerer
Nuclear Regulatory Commission
Commissioner
1717 H Street, N.W.
Washington, D.C. 20555

Dear Commissioner Kammerer:

I am writing to bring to your attention the enclosed comments from my constituent, Mr. H. L. Schmitz.

I shall appreciate your reviewing this correspondence and preparing a report on the stated problems. Please send your reply in duplicate to the following address:

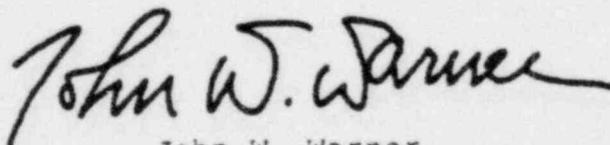
Office of Senator John W. Warner
805 Federal Building
Norfolk, Virginia 23501

My constituent and I appreciate your assistance in this matter. I am grateful for all you can do to solve this matter within the existing laws, rules and regulations of the Nuclear Regulatory Commission.

Thank you for your time and courtesy.

With best wishes,

Sincerely,



John W. Warner

JWW/slc
Enclosure

8012080 719

Combustion Engineering, Inc.
1101 Fifteenth Street, N.W.
Washington, D.C. 20005
Tel 202/296-1235

HERBERT K. SCHMITZ
Vice President
Government Affairs



Roger FYI / Dennis O Larek

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May 27, 1980

A JUN RECD

The Honorable John W. Warner
United States Senate
6239 DSOB
Washington, DC 20510

Dear Senator Warner:

Over the past eighteen months, C-E has been intensely pursuing contracts for design and fabrication of major components for the Atucha II nuclear power plant in Argentina. This effort represents the opportunity for USA employment for approximately 600 man years of skilled American craftsmen as well as the opportunity to utilize the vital and highly developed U.S. nuclear component design and fabrication industry which is currently threatened with extinction. Our efforts have included direct discussions with the Argentine Comision Nacional de Energia Atomica (CNEA) who will own Atucha II, as well as with the prime contractor, Kraftwerk Union AG of West Germany. Substantial progress has been made in all areas, with the exception of questions raised by the failure of the United States government, for reasons related to nuclear safeguards, to issue export licenses for the components.

CNEA issued a letter of intent on Atucha II to KWU early in the fall of last year. KWU has since used a portion of the funding associated with the letter of intent to procure long lead material items for the primary components and has been active in preliminary design efforts with European component suppliers. The CNEA has indicated that they would prefer C-E components, but could not risk such a venture due to C-E's inability to obtain and possibly retain technology transfer and export licenses. The Atucha II plant is going to be built and operated regardless of where these components are fabricated. If components are not built in the United States, a business and technological penalty will be incurred without serving a useful purpose.

C-E applied to the Nuclear Regulatory Commission for the export licenses on November 7, 1979. The Executive Branch has not yet completed preparation of the judgment required by the Nuclear Non-Proliferation Act of 1978 ("NNPA"), although C-E believes that sufficient information is available to render a favorable judgment. The NNPA provides that the Executive Branch judgment is to be forwarded to the NRC within 60 days of receipt of the export license application unless the Secretary of State expressly authorizes additional time because it is in the national interest to allow such time. About 200 days have passed since C-E's license applications were submitted, more than three times the period provided by the NNPA.

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No Executive Branch judgment has been completed nor has C-E been informed whether the additional time has been authorized or whether the committees of the House and Senate, which are required to be notified of such authorization, have been so notified. If it is in the national interest to take additional time to review the applications, rather than reject them, then it is even more in the national interest to act with sufficient speed that the opportunity to sell export products for Atucha II is not irretrievably lost. I cannot emphasize too strongly that time is of the essence in this matter; if we are stalled much longer, C-E will surely lose the opportunity to participate in this program.

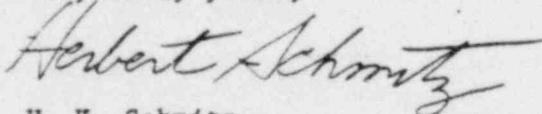
C-E has been advised that the German and Argentine safeguard agreement made in March 1980 is in accordance with the guidelines of the London Nuclear Suppliers' Club and goes beyond the normal International Atomic Energy Agency's safeguard requirements. However, we understand that it does not contain an explicit commitment to "full-scope" safeguards. We also understand that Argentine officials have told representatives of both the Canadian and German governments that the Argentine government intends that any future reactors in Argentina which are based on heavy water technology received from either country will be subjected to IAEA safeguards. All current nuclear activities in Argentina are also said to be subject to safeguards. Thus, the end result is a safeguards program which meets the requirements of the NNPA and equivalent to one resulting from a single commitment to a full-scope safeguard program.

There is an existing Agreement for Cooperation between the government of the United States of America and the government of the Argentine Republic concerning civil issues of atomic energy. Nothing in that agreement prohibits C-E from making the export or technology transfers contemplated.

The U.S. government at very high levels must demonstrate to the Argentine government that we are seriously interested in the overall Argentine nuclear program by issuing C-E the necessary export licenses for the Atucha II nuclear components and assuring Argentina that future withdrawal of the licenses will not occur.

C-E, therefore, urgently requests prompt support from the U.S. government in granting approval for the export of components for Atucha II and convincing the Argentine government that the United States is a reliable nuclear supplier. We stand ready, willing, and able to lend any and all assistance necessary to support your efforts. I will be in touch with your office this week to learn how you might be able to assist us.

Very truly yours,



H. K. Schmitz
Vice President - Government Affairs

Enclosure: Fact Sheet

COMBUSTION ENGINEERING, INC.
EFFORTS TO SELL NUCLEAR COMPONENTS
FOR ARGENTINA NUCLEAR STEAM SUPPLY SYSTEM
FACT SHEET AS OF MAY 15, 1980

OBJECTIVES AND PARTIES INVOLVED:

Siemens/Kraftwerk Union (KWU) of Erlangen, West Germany, has received a letter of intent from Comision Nacional Energia Atomica (CNEA) to serve as the overall systems supplier for the Atucha II plant. Combustion Engineering, Inc. (C-E) desires to enter into a contract to supply the Argentina CNEA in conjunction with an Argentine fabricator - IMPSA (Industrias Metalurgicas Pescarmona S.A.), the major primary components for the Atucha II 600 MWe, Pressurized Heavy Water Moderated, Nuclear Steam Supply System. IMPSA would, under this arrangement, receive C-E's technology for design and fabrication of these components.

KWU, as the overall systems contractor, would normally procure these primary components directly and C-E has offered to sell them to KWU. However, KWU intends to minimize the Argentine work content in order to place this work with their normal German/Austrian fabricators. Therefore, CNEA has contemplated procuring this equipment separately from a contract with KWU so as to maximize Argentine content and attain American Society of Mechanical Engineers (ASME) design and fabrication experience for their future nuclear activities.

The German/Austrian fabricators utilize the German DIN Code criteria for design and fabrication. The ASME codes are applied to eighty percent (80%) of the free world's nuclear power plants. CNEA stated that they would prefer to have C-E supply ASME components, since this is definitely more attractive from technical, schedules, Argentine localization, and economic viewpoints. However, CNEA has indicated that it simply cannot afford to rely upon the U. S. Government to grant C-E approval to export the necessary nuclear hardware. CNEA is also concerned about the potential for overseas technology transfer restrictions. In addition, CNEA stated that even if such permission were granted that Argentina could not totally depend upon retention of such permission throughout the life of the contract period (1980-1984). It is, therefore, their current opinion that they must accept the less desirable supplies of KWU in exchange for long-range dependability and reliability of nuclear component supply.

It appears that the German-Argentine nuclear safeguards agreement, together with the reported application of IAEA safeguards to all other peaceful nuclear activities in Argentina at this time, is sufficient to meet the export criteria of the Nuclear Non-Proliferation Act. The existing Agreement of Cooperation between Argentina and the United States would not prohibit the export of components by C-E. Consequently, the legal criteria for issuing an export license are met and there should be no reason for delay. Further delay heightens the doubts of other countries concerning the United States' role as a reliable nuclear supplier country.

COMPONENTS:

Present Offering:

Reactor Vessel
Reactor Vessel Internals
Steam Generators (two each)
Pressurizer
Pressure Relief Tank

Other Possibilities:

Primary Piping
Primary Coolant Pumps
Moderator Coolers
Misc. Tankage and Heat Exchangers

CONTRACT SUMMARY:

Hardware Value:	Over 60 million U. S. Dollars
Personnel:	200 jobs for three years in Chattanooga
Performance Period:	1980-1984

U.S. POLICY AND LEGAL CONSIDERATIONS:

- U.S. Nuclear Non-Proliferation Act (NNPA)
- IAEA Non-Proliferation Treaty (NPT)
- German/Argentina/IAEA Agreements
- United States/Argentina Agreement for Cooperation

USA BENEFITS:

- Balance of payments.
- Retain USA nuclear design and fabrication expertise.
- Provide better insight by U.S. Government as to Argentina nuclear activities.

IMMEDIATE ACTION REQUIRED:

Although we have the superior component package, the Argentine CNEA in effect has informed C-E that it does not desire to do business with C-E because of our inability to obtain hardware export licenses and technology transfer approvals. C-E has been explaining the USA export situation to the CNEA for six months; it is very late to revive this business.

Immediate action is necessary if C-E is to obtain reversal of the CNEA decision to proceed with major components from the regular KWU German/Austrian vendors. The U. S. Government needs to issue hardware export licenses for the C-E component parts and a high level government delegation should be sent to Argentina.

The delegation should seek to convince the CNEA that the U.S.A. and C-E are reliable/dependable suppliers for nuclear components. Such an effort requires strong commitments at high levels for success. C-E is prepared to furnish full support for such an effort.