



DEPARTMENT OF STATE

Washington, D.C. 20520

ACC XCOM0035

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BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

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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 letters from your office dated August 30, 1978, October 29, 1979 and October 17, 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 of the Atomic Energy Act as amended by the Nuclear Non-Proliferation Act of 1978:

**NRC No. XCOM0035** — Application by Carpenter Technology Corporation for authorization to export to Argentina via the Federal Republic of Germany a total of 1065 zircaloy tubes, 897 kilograms of zircaloy wrapper foil and 24 hafnium control rod drive tubes to be used in the Atucha II nuclear power plant in Argentina. In addition, 48 zircaloy-4 test calandria shroud tubes are to be exported to the FRG for testing use only by Kraftwerk Union (KWU). Total value of the export is approximately \$5,730,000.

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

The United States has received assurances from the Government of Argentina by note dated January 30, 1981 addressed to the U.S. Embassy, Buenos Aires, that at the time the material is subject to Argentine jurisdiction: 1) the proposed export will be used exclusively in the Atucha II nuclear plant and will not be used for the fabrication, development or research of (sic) nuclear explosive devices; 2) the Atucha II nuclear plant is being subjected to a system of IAEA safeguards based on documents INFCIRC/66 Rev.2 and GOV/1621; and 3) such material will not be transferred outside its jurisdiction without the prior consent of the United States Government.

In a letter from the Embassy of the Federal Republic of Germany dated February 27, 1981, a copy of which is enclosed, the Government of the FRG confirmed U.S. understandings that: 1) no exports for Atucha II would be made

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from the FRG until completion and entry in force of an IAEA safeguards agreement applicable to Atucha II facility; and 2) the assurances and guarantees conveyed in the letter of assurance dated January 25, 1979 from the Delegation of the Commission of the European Communities with respect to U.S. exports to the European Community of nuclear components, substances and items will apply to the proposed export.

Therefore, it is the view of the Executive Branch that the requirements of Section 109 of the Nuclear Non-Proliferation Act have been met with respect to this export to Argentina via the FRG.

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

Sincerely,

  
Louis V. Nosenzo  
Deputy Assistant Secretary

Enclosures:

Text of Argentine Assurance  
Copy of FRG Embassy letter

## TEXT OF ARGENTINE ASSURANCE

"The Ministry of Foreign Relations and Worship — Department of International Organizations — presents its compliments to the Embassy of the United States of America and has the honor to refer to the Embassy's note No. 18 of January 19, 1981 to inform that, with respect to the material described in the mentioned note and at the time that the material is subject to Argentine jurisdiction, the Government of the Argentine Republic offers the following safeguards:

- "1) The material in question will be used exclusively in the Atucha II nuclear plant and will not be used for the fabrication, development or research of nuclear explosive devices.
- "2) The Atucha II nuclear plant is being subjected to a system of IAEA safeguards based on documents INFCIRC/66 Rev. 2 and GOV/1621.
- "3) Such material will not be transferred outside its jurisdiction without the prior consent of the United States Government.

"The Ministry of Foreign Affairs and Worship — Department of International Organizations — renews to the Embassy of the United States the expressions of its highest consideration.

"Buenos Aires, January 28, 1981."

Botschaft  
der Bundesrepublik Deutschland  
Embassy  
of the Federal Republic of Germany

Wiss 491.09 ARG

Washington D. C., den 27.2.81  
4645 Reservoir Road, N. W.  
Telephone ~~202-692-2980~~ 298-4330

February 27, 1981  
vW/hs

Mr. Louis V. Nosenzo  
Deputy Assistant Secretary  
Department of State  
Washington, D.C. 20520

Dear Mr. Nosenzo:

Reference is made to your letter dated February 25, 1981 and previous discussions regarding the application (NRC No. XCOM 0035) by Carpenter Technology Corporation of San Diego, California, for authorization to export to Argentina, via the Federal Republic of Germany, a total of 1065 zircaloy tubes, 697 kilograms of zircaloy wrapper foil, and 24 hafnium control rod drive tubes to be used in the construction of the Atucha II nuclear power plant.

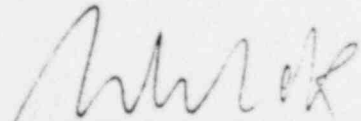
The Government of the Federal Republic of Germany assures that

1. it will not authorize the export of any materials or equipment for the construction or operation of the Atucha II nuclear power plant including the proposed export until the conclusion and entry into force of a safeguards agreement with the International Atomic Energy Agency applicable to that facility;
2. the assurances and guarantees conveyed in the letter of assurance dated January 25, 1979, from the Delegation of the Commission of the European Communities with respect to nuclear components,

substances, and items exported from the United States to the European Community will apply to the proposed export.

According to previous discussions regarding the subject matter it is our understanding that the export license to be issued by the U.S. Nuclear Regulatory Commission will cover not only the export of the U.S.-supplied material to the Federal Republic of Germany, but also the re-export of said material to the ultimate consignee in Argentina.

Sincerely,



Dr. Stephan F. von Welck  
Counselor, Scientific and  
Technological Affairs