

DCS DFO2



United States Department of State

Washington, D.C. 20520

January 31, 1995

Mr. Carlton R. Stoiber  
Director, International Programs  
United States Nuclear Regulatory Commission  
Rockville, Maryland

XCom 1093  
11004736

Dear Mr. Stoiber:

I refer to the letter from your office dated June 7, 1994, requesting the views of the Executive Branch as to whether issuance of an export license in accordance with the application hereinafter described meets the applicable criteria of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978:

**NRC No. XCOM1093** -- Application by Westinghouse Electric Corporation for authorization to export to Ukraine civil nuclear power plant equipment, components, technology and software, with a total value of [redacted] over a 16 year period. Equipment would include items such as an instrumentation and control system to monitor, control and protect the reactor core. Exports under this license would be for use in the Zaporozhye, South Ukraine, Rovno, and Kholmelnitskiy nuclear power stations and any future Ukrainian nuclear power stations.

It is the judgment of the Executive Branch that the proposed export to Ukraine will not be inimical to the common defense and security of the United States and is consistent with the provisions of the Atomic Energy Act of 1954, as amended, subject to receipt of the recipient government assurances described below.

As a party to the NPT, Ukraine has committed itself to maintain IAEA safeguards on all of its peaceful nuclear activities and has pledged not to manufacture or otherwise acquire any nuclear explosive device. It is therefore the judgment of the Executive Branch that criteria (1) and (2) for exports of nuclear components, substances and items under Section 109b of the Atomic Energy Act, as amended, are met. With respect to the remaining criterion, the enclosed telegram from U.S. Embassy Kiev reports receipt of a letter from the Deputy Prime Minister confirming that "the Government of Ukraine guarantees that nuclear components transferred to Ukraine for use at existing or future nuclear power plants will not be transferred to the jurisdiction of any other country without prior agreement of the United States of America."

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

Sincerely,

Richard J. K. Stratford  
Director

REC'D  
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INTL SAFELIA/AD

Enclosure: U.S. Embassy Kiev telegram

9502090018 950131  
PDR XPORT  
XCOM-1093 PDR

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ACTION EB-01

INFO	LOG-00	ACDA-17	ACDE-00	CIAE-00	CIP-01	CTME-00	OASY-00
	ANHR-01	EUR-01	FBIE-00	TEDF-00	INR-00	SAL-00	ADS-00
	NRRC-00	NSAE-00	NSCE-00	OES-09	OMB-01	PM-00	SS-00
	STA-01	TRSE-00	TST-00	T-00	USIE-00	SNIS-00	NISC-01
	SSD-01	PMB-00	/034W				

-----A00004 301752Z /38

R 301609Z JAN 95  
 FM AMEMBASSY KIEV  
 TO NRC WASHDC  
 SECSTATE WASHDC 3518  
 INFO DOE WASHDC  
 SECDEF WASHDC  
 USDOC WASHDC

UNCLAS SECTION 01 OF 02 KIEV 000785

STATE FOR PM, EB, EUR/ISCA

OSD FOR DR. GLORIA DUFFY

DOE FOR OFFICE OF THE SECRETARY - R BERLS

NRC FOR OIP - CARLTON STOIBER

USDOC FOR: 4131/ITA/EUR/OEERIS/RISD/CLUCYK  
 USDOC FOR: 3133/USFCS/OIO/EUR/GKNOWLES  
 USDOC FOR: 4201/ITA/OEERIS/BISNIS/NORTON  
 USDOC FOR: 6310/ITP/TD/TAI/OA/BATH

E.O. 12356: N/A  
 TAGS: ETTIC, TRGY, PARM, KNNP, BEXP, UP  
 SUBJECT: GOU ASSURANCES FOR NUCLEAR COMPONENT EXPORTS

REF: (A) 94 STATE 333274, (B) 94 STATE 332077

KIEV 01 OF 02 78E

1. THIS IS AN ACTION REQUEST. SEE PARAGRAPH 4.

SUMMARY

2. REFTELS REQUESTED GOU LETTERS OF ASSURANCE FOR NRC AUTHORIZATION FOR WESTINGHOUSE AND IMAGING AND SENSING TECHNOLOGY CORPORATION TO EXPORT NUCLEAR REACTOR COMPONENTS TO UKRAINE (NRC NO.5 XCOM1093 AND XCOM1096). ON JANUARY 26 AND 27, WE MET WITH ANATOLIY SHCHERBA, CHIEF OF THE EXPORT CONTROL AND NON-PROLIFERATION DIVISION OF THE ARMS CONTROL DEPARTMENT OF THE MINISTRY OF FOREIGN AFFAIRS. SHCHERBA PASSED US A LETTER SIGNED BY DEPUTY PRIME MINISTER SHMAROV WHICH REFERS TO A PREVIOUS LETTER OF GUARANTEE FOR THE "WESTRON" (WESTINGHOUSE-KHARTRON) JOINT-VENTURE (FULL TEXTS FOLLOW BELOW IN PARAGRAPHS 5 AND 6) AND GRANTS A KIND OF BLANKET GUARANTEE NOT TO REEXPORT NUCLEAR REACTOR COMPONENTS AT "EXISTING OR FUTURE NUCLEAR POWER STATIONS" WITHOUT PRIOR USG APPROVAL. SHCHERBA EXPLAINED THAT IT WAS NOT FEASIBLE BUREAUCRATICALLY TO APPROACH SHMAROV, THE OFFICIAL ULTIMATELY RESPONSIBLE FOR ISSUING THESE GUARANTEES, EACH TIME A SEPARATE OCCASION REQUIRES A LETTER OF ASSURANCE. WITH THIS IN MIND, THE MFA PREPARED THE BLANKET ASSURANCES LETTER FOR SHMAROV. SHCHERBA AGREED, HOWEVER, TO PROVIDE A SEPARATE CLARIFICATION ON THE GOU NON-RETRANSFER ASSURANCES ON THE WESTINGHOUSE TECHNOLOGY TO BE

EXPORT CONTROL  
 DIVISION  
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 MFA

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PROVIDED TO THE WESTRON JOINT VENTURE (REPORTED SEPTTEL).

3. SHCHERBA SAID THAT IF SEPARATE LETTERS OF ASSURANCE ARE REQUIRED EACH TIME A BUSINESS DEAL INVOLVING NUCLEAR TECHNOLOGY IS INVOLVED, THE MFA SUGGESTS WORKING OUT A PROCEDURE WHICH WOULD MEET THE LEGAL AND BUREAUCRATIC REQUIREMENTS OF BOTH SIDES. HE SUGGESTED, FOR EXAMPLE, THAT INDIVIDUAL CASES COULD BE REVIEWED AND APPROVED AT A LOWER LEVEL -- FOR EXAMPLE, THE EXPERT-TECHNICAL COMMITTEE AT THE CABINET OF MINISTERS, OR BY THE CHAIRMAN OF THE STATE COMMITTEE FOR NUCLEAR POWER UTILIZATION (WHICH OWNS AND OPERATES UKRAINIAN NUCLEAR POWER PLANTS). SHCHERBA THOUGHT THAT THIS, IN COMBINATION WITH SHMAROV'S BLANKET GUARANTEE, MIGHT BE AN ACCEPTABLE ARRANGEMENT. SHCHERBA ALSO ASKED FOR A LIST OF COMPONENTS, PARTS, AND OTHER ITEMS WHICH REQUIRE THIS KIND OF GUARANTEE (GOV LETTER OF ASSURANCE NOT TO REEXPORT THE ITEMS WITHOUT PRIOR USG APPROVAL).

4. ACTION REQUEST: EMBASSY REQUESTS GUIDANCE REGARDING ACCEPTABILITY OF BLANKET LETTER OF ASSURANCES. WE NOTE THAT THE ORIGINAL WESTRON REQUEST FOR ASSURANCES CAME FROM THE DOE, WHILE THE ASSURANCES REQUESTED REFTELS SEEM TO HAVE COME FROM THE NRC. PLEASE INFORM POST IF THIS UKRAINIAN RESPONSE TO REFTELS IS ADEQUATE. IF NOT, PLEASE INDICATE THE SPECIFIC ADDITIONAL MEASURES REQUIRED. ALSO, PLEASE PROVIDE A LIST OF ITEMS REQUIRING THIS KIND OF GUARANTEE, FOR OUR USE AND TO PASS TO THE UKRAINIAN MFA. END ACTION REQUEST.

5. BEGIN UNOFFICIAL EMBASSY TRANSLATION OF BLANKET LETTER OF GUARANTEE:  
23 JANUARY 1995 NO. 37-191/7

TO THE AMBASSADOR OF THE UNITED STATES OF AMERICA  
MR. WILLIAM GREEN MILLER

ESTEEMED MR. MILLER,

AS AN ADDENDUM TO THE OBLIGATIONS, INDICATED IN NOTE NO. 37-1481/7 FROM SEPTEMBER 6, 1994, THE GOVERNMENT OF UKRAINE GUARANTEES THAT NUCLEAR COMPONENTS TRANSFERRED TO UKRAINE FOR USE AT EXISTING OR FUTURE NUCLEAR POWER PLANTS WILL NOT BE TRANSFERRED TO THE JURISDICTION OF ANY OTHER COUNTRY WITHOUT PRIOR AGREEMENT OF THE UNITED STATES OF AMERICA.

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WITH RESPECT

VICE PRIME MINISTER OF UKRAINE  
V. SHMAROV

END TEXT.

6. BEGIN UNOFFICIAL EMBASSY TRANSLATION OF TEXT OF NOTE REGARDING "WESTRON":

6 SEPTEMBER 1994 NO. 37-1481/7

TO THE AMBASSADOR OF THE UNITED STATES OF AMERICA  
MR. WILLIAM GREEN MILLER

ESTEEMED MR. MILLER,

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INTEL SAFETY/SECURITY

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I AM GRATEFUL FOR YOUR LETTER OF 21 AUGUST 1994 INFORMING ME THAT THE DEPARTMENT OF ENERGY OF THE USA HAS FULFILLED THE REQUEST OF THE FIRM "WESTINGHOUSE" CONCERNING THE TRANSFER TO UKRAINE OF TECHNOLOGY OF PREPARATION OF SYSTEMS OF INSTRUMENTATION AND CONTROL OF NUCLEAR REACTORS.

THIS TECHNOLOGY WILL BE USED WITH THE JOINT VENTURE "WESTRON", WHICH IS BEING CREATED BY THE STATE COMMITTEE FOR NUCLEAR POWER OF UKRAINE, THE SCIENTIFIC-PRODUCTION ENTERPRISE "KHARTRON" AND THE AMERICAN CONCERN "WESTINGHOUSE" FOR THE PREPARATION OF A NEW SYSTEM OF INSTRUMENTATION AND CONTROL OF NUCLEAR POWER STATIONS IN UKRAINE, THAT SHOULD SIGNIFICANTLY INCREASE THE LEVEL OF SAFETY OF THEIR USE.  
FROM ITS SIDE, THE GOVERNMENT OF UKRAINE GUARANTEES:

--- TECHNOLOGY THAT IS TRANSFERRED WILL BE UTILIZED ONLY FOR THE PRODUCTION OF NUCLEAR ENERGY FOR PEACEFUL ENDS;

--- TECHNOLOGY THAT IS TRANSFERRED WILL BE UTILIZED ONLY BY THE JOINT VENTURE "WESTRON" AND NOT BE RETRANSFERRED TO OTHER COUNTRIES WITHOUT PRIOR WRITTEN AGREEMENT OF THE GOVERNMENT OF UKRAINE;

--- TECHNOLOGY THAT IS TRANSFERRED WILL BE UTILIZED ACCORDING TO THE SAFETY DEMANDS OF THE IAEA.

IN EXCEPTIONAL CIRCUMSTANCES THE WORK BEING UNDERTAKEN MAY REQUIRE JOINT ANALYSIS OF SPECIALISTS OF UKRAINE AND THE USA.

WITH RESPECT,

VALERIY SHMAROV  
VICE PRIME MINISTER OF UKRAINE

END TEXT.

MILLER

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