

XSNM-1281

October 4, 1978

SECY-78-530

COMMISSIONER ACTION

For: The Commissioners

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

Thru: *for* Executive Director for Operations *W J. D. Lee*

Subject: PROPOSED LICENSE TO EXPORT LOW-ENRICHED URANIUM
TO WEST GERMANY (XSNM 1281)

Discussion: In February 1978, Transnuclear, Incorporated applied for a license to export 107,386 kilograms of uranium, enriched to 3.25% U-235, to West Germany for use as the initial core in the GROHNDE Unit 1 reactor. Reaktor Brennelement Union will convert the material and manufacture the fuel. The GROHNDE Unit 1 is a 361 MWe pressurized water reactor scheduled to begin operation in 1981. As this is an initial core loading and not a routine reload it is being forwarded for Commission review.

The staff is of the opinion that EURATOM meets criteria (1), (2) and (3) of section 127 of the Atomic Energy Act of 1954, as amended by the NNPA, or their equivalent. Under section 126(a)(2), exports to EURATOM are exempted from criteria 4 and 5 until March 10, 1980 since EURATOM has agreed to negotiations as called for in section 404(a) of the Nuclear Non-Proliferation Act.

The FRG, as a party to the NPT, has agreed to accept IAEA safeguards on all their nuclear facilities. The staff has requested additional information from the Executive Branch on the status of facility attachments in EURATOM (including the GROHNDE reactor) and this information will be forwarded to the Commission upon receipt. It should be noted that the GROHNDE reactor is scheduled to go critical in mid-1979 and to reach full commercial operation in February, 1981.

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

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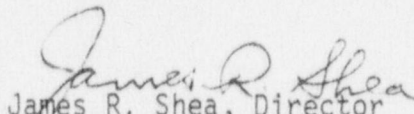
Discussion:
(continued)

The written assurance on physical security required by 10 CFR 110.43(b) has not been obtained from the FRG. Although the physical security program in the FRG is considered adequate to protect the material covered under the proposed license, the US expects to obtain more specific written assurance, pursuant to the requirements of 10 CFR 110.43, from the FRG. 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 May 9, 1978 recommending issuance (Appendix B); (3) application of February 21, 1978 (Appendix C); and (4) copy of proposed license (Appendix D).

Recommendation: That the proposed license be issued to Transnuclear, 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 EURATOM and IAEA material control and accounting safeguards to deter and detect diversions in the Federal Republic of Germany (FRG). With regard to physical security, NMSS has reviewed the program in the FRG 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, October 13, 1978.

Commission staff office comments, if any, should be submitted to the Commissioners NLT October 11, 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
Executive Director for Operations
Secretariat

APPENDIX A



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

SEP 18 1978

MEMORANDUM TO THE FILE

STAFF CONCLUSIONS REGARDING PROPOSED LICENSE TO EXPORT LOW-ENRICHED URANIUM TO WEST GERMANY (XSNM-1281)

In February 1978, Transnuclear, Incorporated applied for a license to export 107,386 kilograms of uranium, enriched to 3.25% U-235 to West Germany. Except for 3 kg samples, the material will be converted and fabricated into fuel by Reaktor Brennelement Union for use as the initial core for the GROHNDE Unit 1 reactor.

The GROHNDE Unit 1 is a 361 MWe pressurized water reactor scheduled to begin operation in 1981.

Shipment of the material is scheduled to begin in September 1978.

In response to our February 28, 1978 request for views, the Executive Branch has (1) 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 (2) confirmed that the material will be subject to all the terms and conditions of the Additional Agreement for Cooperation between the United States and EURATOM.

These views and license application analysis by the Executive Branch were forwarded by the State Department memorandum of May 9, 1978. Confirmation of the applicability of the US-EURATOM Agreement was set forth in a letter of March 3, 1978 from the Delegation of the Commission of European Communities.

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

- o Safeguards. The export will be subject to EURATOM safeguards, which may be regarded as equivalent to IAEA safeguards. As a party to the Nonproliferation Treaty (NPT), the FRG has undertaken an obligation to accept IAEA safeguards on all source or special fissionable material in all peaceful nuclear activities within the territory of the FRG, under its jurisdiction, or carried out under its control anywhere. The State Department memorandum of May 9, 1978 notes that (1) the IAEA-EURATOM safeguards agreement has come into force and subsidiary arrangements are now being negotiated to bring IAEA verification into practical effect; and (2) the IAEA has the right to apply the verification procedures of the safeguards agreement prior to completion of the subsidiary arrangements.

Memorandum to the File

The staff is not aware of any problems with application of EURATOM safeguards in the FRG.

- o No Nuclear Explosive Use. As a party to the NPT the FRG has undertaken the obligation not to receive any 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.

In addition, under the US-EURATOM Agreement, the Community guarantees that (1) no material, including equipment and devices transferred pursuant to the agreement, and no source or special nuclear material utilized in, recovered from, or devices transferred pursuant to the agreement, will be used for atomic weapons, or for any other military purpose; and (2) no material transferred pursuant to the agreement will be transferred to unauthorized persons. Therefore, the staff believes Criterion (2) of the NNPA is met.

- o Physical Security. As noted in the State Department memorandum of May 9, the FRG is committed to maintaining a level of protection for their program fully comparable to that set forth in the recommendations in IAEA INFCIRC/225/Rev. 1. Based upon visits of physical security review teams, subsequent exchanges and review, and information provided by the Executive Branch, the staff has concluded that the proposed export would be consistent with the NNPA, including the requirement that the physical security program adequate to protect the material will be maintained in the FRG. In view of this, the staff believes that Criterion (3) of the NNPA is met.

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).

Memorandum to the File

o Retransfer and Reprocessing.

- a. 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.
- b. 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.

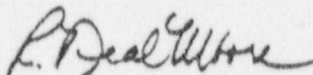
By note dated July 7, 1978 EURATOM agreed to negotiations as called for in Section 404(a) of the NNPA, leading to renegotiation of the US-EURATOM Agreement for Cooperation. The State Department advised the Commission of the receipt of this note and its determination that the note constituted an agreement to renegotiate on July 20, 1978.

Under Section 126(a)(2) of the NNPA, exports to EURATOM are, therefore, exempted from criteria 4 and 5 of the NNPA until March 10, 1980.

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

The staff is of the opinion that EURATOM meets criteria (1), (2), and (3) of Section 127 of the Atomic Energy Act of 1954, as amended by the NNPA, or their equivalent. Under Section 126(a)(2), exports to EURATOM are exempted from criteria (4) and (5) until March 10, 1980. Therefore, the staff concludes that issuance of the proposed license would be consistent with the recently enacted Nuclear Nonproliferation Act.

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 EURATOM, 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

RECEIVED
U.S. MRC

BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

XSNM-1281
70-2801

May 9, 1978

1978 MAY 16 AM 9 53

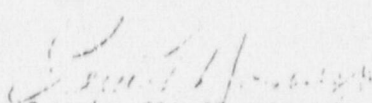
MEMORANDUM FOR JAMES R. SHEA
NUCLEAR REGULATORY COMMISSION

Enclosed is an Executive Branch analysis covering three license applications for the export of low-enriched uranium to various members of the European Atomic Energy Community (EURATOM). In accordance with the requirements of Section 126 a. (1) of the Atomic Energy Act, the analysis addresses the extent to which the specific criteria in Sections 127 and 128 are met, as well as certain additional factors envisaged by Section 126 a. (1).

The Executive Branch, on the basis of its review of these cases, has concluded that the requirements of the Atomic Energy Act and P.L. 95-242 have been met except Criterion (5) of Section 127. Moreover, the members of EURATOM have adhered to the provisions of the Additional Agreement for Cooperation, as amended.

As you know, at such time as EURATOM agrees to negotiations, called for in Section 404(a) of the Nuclear Non-Proliferation Act of 1978, the provisions of Criterion (5) of Section 127 export criteria would not apply to the approval of such exports as covered by the enclosed analysis to EURATOM. In this event, the exports covered in the enclosure would meet all applicable export criteria and would not be inimical to the common defense and security of the United States.

In anticipation of such agreement, we are forwarding the attached analysis so that preliminary processing, prior to any Commission action, may begin. The Executive Branch recommends that the referenced export license applications be approved at such time as the Department of State notifies the Commission that EURATOM agrees to negotiations.


Louis V. Nosenzo
Deputy Assistant Secretary

Enclosure
As stated

EXPORT LICENSE APPLICATION ANALYSIS

XSNM-1281

Country:	Federal Republic of Germany
Transaction:	The export of 2,730,246 kilograms of U-235 contained in 107,383.0 kilograms of uranium in the form of uranium hexafluoride enriched to a maximum of 3.25 percent plus 3 kilograms of uranium containing .098 kilogram of U-235 for sample analysis.
Applicant:	Transnuclear, Inc.
Applicant's Reference:	RBV 215 EU/103 78-045/01
Date of Application:	February 21, 1978

Purpose of Export

This quantity of low-enriched uranium will be shipped to Reaktor Brennelement Union GmbH (RBV), FRG, for conversion and fabrication into fuel elements for the Grohnde Unit 1, a 1,361 megawatt electric pressurized water reactor owned and operated by the Gemeinschaftskernkraftwerk Grohnde GmbH Emmerthal, FRG. Three kilograms of this material will be used as the shipper of record sample by the Nuclear Audit and Testing Co. of Vienna, Virginia.

DELEGATION OF THE COMMISSION OF THE EUROPEAN COMMUNITIES

March 3, 1978

JM/mc

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

Subject: XSNM#1281 - S# 948 - Application from Transnuclear
Inc. No. RBU 215 EU/103 78-045/01 dated February
21, 1978 for West Germany

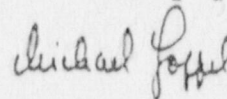
Dear Mr. Hudgins:

We certify that the material mentioned in this application,
namely 2730.246 Kg of U-235 contained in 107,383.0 Kg of U
plus 3.0 Kg of sampling material containing 0.098 Kg of U-235
and the transfer of this material will be subject to all terms
and conditions of the Additional Agreement for Cooperation.

Further we certify that RBU, Hanau, West Germany, and NATCO,
Vienna, Virginia, for the sampling material only, as
intermediate consignees, and Gemeinschaftskernkraftwerk
Grohnde GmbH, Emmerthal 1, West Germany, as ultimate consignee,
are authorized by EURATOM to receive and possess this material
pursuant to the aforementioned Agreement for Cooperation.

The above material will be used in the RBU facilities for the
manufacture of fuel elements for reactor Grohnde, Unit 1.

Sincerely yours,



for F. SPAAK
Head of Delegation

cc: ✓ Mr. William Moffitt, State Dept.
Ms. Janice Dunn, NRC
Ms. Vicki Matson, Transnuclear Inc.

EUROPEAN COMMUNITY (EURATOM) EXPORT
LICENSE APPLICATION ANALYSIS

1. Applicable Agreement for Cooperation

The material covered by the export license application is subject to all of the terms and conditions of the Additional Agreement for Cooperation Between the United States and the European Atomic Energy Commission (EURATOM), as amended. This fact has been confirmed by letter from the Delegation of the Commission of the European Communities, a copy of which follows the description of the transaction. The Additional Agreement entered into force on July 25, 1960.

The European Atomic Energy Community has adhered to all provisions of this 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."

Under Article V of the Additional Agreement for Cooperation of 1960, as amended, which incorporates Article XI, XII and Annex B of the November 8, 1958 Joint Program Agreement, as amended, the Community undertakes the responsibility of establishing and implementing a safeguards and control system designed to give maximum assurance that any material supplied by the US or generated from such supply will be used solely for peaceful purposes ("EURATOM Safeguards System"). The Community is bound to consult and exchange experiences with the IAEA with the objective of establishing a system reasonably compatible with that of the latter. The Community is responsible for establishing and maintaining a mutually (with respect to the US) satisfactory and effective safeguards and controls system in accordance with stated principles.

EURATOM safeguards are being applied to material and facilities previously exported and subject to the US-EURATOM Cooperation Agreements and to special nuclear material used in or produced through the use thereof. These agreements require these safeguards to be applied to such material and facilities and to the proposed export and special nuclear material produced through its use.

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

All of the member states of the Community, with the exception of France (a nuclear-weapons state), are parties to

the NPT. An agreement for the IAEA application of safeguards pursuant to the NPT was signed by the IAEA and Belgium, Denmark, the FRG, Ireland, Italy, Luxembourg, the Netherlands, and the European Atomic Energy Community (EURATOM), on April 5, 1973. (As a nuclear-weapons state, the United Kingdom permits the application of IAEA safeguards pursuant to the NPT under a voluntary offer which was signed on September 6, 1976. Similarly, France has agreed to application of the IAEA safeguards verification system at all of its civil facilities under a France-EURATOM-IAEA trilateral approved by the IAEA's Board of Governors on February 21, 1978.)

The EURATOM accountability system was adapted to that of the IAEA through the publication of Commission Regulation 322/76, which came into force during January 1977. On February 17, 1977, the Commission of the European Communities notified the IAEA that all of the necessary steps had been taken for the IAEA-EURATOM Safeguards Verification Agreement pursuant to the NPT to come into force and the Agreement came into force on February 21, 1977.

Currently, EURATOM and the IAEA are negotiating the Subsidiary Arrangements and Facility Attachments which are necessary to bring IAEA verification of EURATOM safeguards into practical effect. Pending the completion of these negotiations, the IAEA has been conducting ad hoc inspections under Article 48 and 71A of the Verification Agreement. Through late 1977, it had conducted more than 80 such inspections at approximately 70 percent of all EURATOM-safeguarded facilities.

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."

Each non-nuclear-weapons state (NNWS) of the Community is a party to the Nuclear Non-Proliferation Treaty (NPT). As such, it is pledged not to develop nuclear explosive devices for any purpose. This pledge applies to any material, facilities and sensitive nuclear technology previously exported to such state by the US and subject to the US-EURATOM Agreements for Cooperation and to special nuclear material used in or produced through the use thereof.

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 with respect to the NNWS of the Community.

With regard to the two nuclear-weapons states (NWS) of the Community, the UK and France, the proposed export and any special nuclear material produced through its use, if transferred to a NWS member, is subject to the continuing applicability of the US-EURATOM Agreement for Cooperation. Article XI(1) and (3) of the November 8, 1958 Joint Program Agreement, as amended, which is incorporated into the Additional Agreement for Cooperation by virtue of Article V of the Additional Agreement, provide that "no material, including equipment and devices, transferred pursuant to this Agreement" and "no source or special nuclear material utilized in, recovered from, or produced as a result of the use of material, equipment or devices transferred pursuant to this agreement... will be used for atomic weapons, or for research or development of atomic weapons or for any other military purpose." The US--with the support of most other major nuclear supplier states--has taken the position that nuclear explosive devices are "atomic weapons", within the meaning of this guarantee, regardless of the intended end use of such devices. Both the UK and France have accepted this interpretation, as members of the Nuclear Suppliers Group, have agreed as a

matter of national policy to authorize the export of trigger list items "only upon formal governmental assurances from recipients explicitly excluding uses which would result in any-nuclear explosive device" (underlining supplied) and have each notified the IAEA to this effect.

Therefore, it is the Executive Branch view that the equivalent of criterion (2) is met with respect to NWS of the Community.

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.

Each member state of the Community 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 addition, all states in the Community (except Denmark, Ireland and Luxembourg) also are members of the Nuclear Suppliers Group and, as such, have agreed to levels of protection consistent with INFCIRC/225/Rev. 1, to be ensured with respect to nuclear materials and equipment and facilities containing these materials, which are detailed in transmissions of the Nuclear Suppliers Guidelines to the IAEA.

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 XI(2) of the November 8, 1958 Joint Program Agreement, as amended, which is incorporated in the Additional Agreement for Cooperation, as amended, by Article V of the latter Agreement, provides that no material (including equipment and devices) may be transferred beyond the control of the EURATOM Community, unless the United States agrees.

Article 1 bis D of the Additional Agreement for Cooperation, as amended, provides that special nuclear material produced through the use of US-supplied material may be exported to any nation outside the Community or to a group of nations, provided that such nation or group of nations has an appropriate Agreement for Cooperation with the United States or guarantees the peaceful use of the produced material under safeguards acceptable to the Community and the United States. The European Community's interpretation of this language--as set out in a April 15 letter to the Department of State from Fernand Spaak, Head of the Delegation of the Commission of the European Communities--is that the European Community Supply Agency prior to any proposed transfer will consult with the United States to find out whether, in the view of the US, the proposed recipient of such produced special nuclear material has an Agreement for Cooperation with the United States which is "appropriate". A letter of February 11, 1977 ^{1/} from Fernand Spaak to the Department of Energy (then ERDA) makes clear that this provides the US a consent right, since the US has the exclusive ability to decide whether an agreement is appropriate". This letter states that:

"It is our understanding that any transfer of recovered materials from the Community to a third country is subject, in accordance with the terms of the EURATOM-US Agreement for Cooperation, to prior US authorization."

^{1/} A copy of this letter was provided by the Delegation of the Commission of the European Communities to the Nuclear Regulatory Commission by transmittal letter dated February 14, 1977.

Therefore, it is the Executive Branch view that, with regard to the proposed export and special nuclear material produced through its use, criterion (4) is met.

With respect to transfers within the Community, it should be noted that the use of the words "group of nations" in criterion (4) makes clear that no retransfer consent right is required within a group of nations under this criteria. With respect to this provision, the Senate report states:

"It should be noted that under the US-EURATOM Agreements, the US does have a right of prior approval on retransfers of certain material outside of the EURATOM Community. It should also be noted that paragraph 4 does not require prior approval with respect to transfers within the EURATOM Community, consistent with US policy of treating that Community as a (single) entity."

The Congressional intent not to require US consent rights for transfers within the Community is also clear in Section 123 a.(5) of the Atomic Energy Act, as amended, since it requires that the US seek a guarantee "by the cooperating party" (which in this case is EURATOM as a whole).

Criterion (5)

"No such material proposed to be exported and no special nuclear material produced through the use of such material will be processed, 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."

Criterion (5) of Section 127 of the Atomic Energy Act is not met. Pursuant to the first proviso in Section 126 a.(2) of the Atomic Energy Act, continued cooperation under the US-EURATOM Agreements for Cooperation shall not be prevented by failure to meet criteria (4) or (5) of Section 127 for a period of 30 days after enactment of this Section (March 10, 1978), and for a period of 23 months thereafter if the Secretary of State notifies the Commission that the nations or group of nations bound by the US-EURATOM Agreements for Cooperation have agreed to negotiations as called for in Section 404(a) of P.L. 95-242.

The Executive Branch is currently seeking such agreement to negotiate from EURATOM. Upon notification of the Commission by the Department of State that EURATOM, has agreed to these negotiations, the provisions of criterion (5) of the Section 127 export criterion would not apply and the Commission may continue to issue export licenses until March 10, 1980, pursuant to the authority in the first proviso in Section 126 a.(2).

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 Parties to the NPT, all non-nuclear weapon states that are members of the European Atomic Energy Community have agreed to accept IAEA safeguards on all their nuclear activities.

Therefore it is the Executive Branch view that the equivalent of this criterion is met with respect to the FRG, a non-nuclear weapon state member of the Community.

Since France is a nuclear weapons state, this criterion is not applicable to license application XU-8408.

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. 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 these exports.

- B. Special Non-Proliferation and Other Foreign Policy Implications

As the Commission is aware, there is a long history of cooperation and strong bonds between the member states of the Community and the United States in the economic and security areas. The Community countries have worked closely with the United States in efforts to further common non-proliferation objectives, through bilateral cooperative efforts and in such forums as the United Nations, IAEA and Nuclear Suppliers Group. More recently, Community countries have agreed to participate in the International Fuel Cycle Evaluation and are actively participating in this program in order to develop more proliferation-resistant means to help meet future world energy needs with nuclear power. Maintaining these essential relationships and cooperative arrangements is a primary US foreign policy objective.

In view of the significant foreign policy implications of any prolonged interruption in the US-EURATOM supply arrangement, the Executive Branch strongly urges that the Commission consider and issue the proposed export license at such time as the Department of State notifies the Commission that

EURATOM has agreed to negotiations as called for in Section 404 (a) of the P.L. 95-242. Once EURATOM agrees to negotiations, it is the view of the Executive Branch that the license applications described herein would meet all applicable export criteria.

4. Inimicality Judgment

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

APPENDIX C

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

Submit in Triplicate

Carefully Read Instructions on Back

XSNM-1281
70-2821
5-948
I.C. 14612
M/C 78-053

1 DATE OF APPLICATION February 21, 1978		2 APPLICANT'S REFERENCE NO. RBU 215 EU/103 78-045/01	3 COUNTRY OF ULTIMATE DESTINATION W. Germany
4 NAME OF APPLICANT Transnuclear, Inc. STREET ADDRESS 5205 Leesburg Pike CITY, STATE, AND ZIP CODE Falls Church, Va. 22041		5 ULTIMATE CONSIGNEE IN FOREIGN COUNTRY (Name and address) Gemeinschaftskernkraftwerk Grohnde GmbH 3254 Emmerthal 1, Hauptstrabe 52 Federal Republic of Germany	
6 INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY (Give name and address. If same as ultimate consignee, state "Same.") RBU-Reaktor Brennelement Union GmbH D-6450 Hanau 11 Postfach 110060, W. Germany		7 IF PURCHASER IN FOREIGN COUNTRY IS OTHER THAN ULTIMATE CONSIGNEE, GIVE NAME AND ADDRESS (If same, state "Same.") Shipper of Record for Sample Nuclear Audit & Testing Co. Quantity Only 8206 Leesburg Pike Vienna, Virginia 22180	
8 (a) QUANTITY TO BE SHIPPED (See instructions on back) 107,383.0 Kg U 2730.246 KgU235 Samples (NATCO) 3.0 Kg U 0.098 Kg U235		(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.) Uranium in the form of uranium hexafluoride enriched to a maximum 3.25 percent U235. This material will be supplied and packaged by Goodyear Atomic Corp., Piketon, Ohio and Union Carbide Corp., Oak Ridge, Tn. for shipment beginning in September 1978.	

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

I.A.E.A. Certificate of Competent Authority 4909 in accordance with 10 CFR Part 71.

9 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.)

Material will be used in the RBU facilities for the manufacture of fuel elements for reactor Grohnde, Unit 1. (See attached End Use Statement)

10 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.

This material is privately owned.
Please issue for period of one year.

Transnuclear, Inc.

(Applicant named in Item 4)

By: Vicki Matson

Traffic Coordinator

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

1978 FEB 22 PM 33

GEMEINSCHAFTSKERNKRAFTWERK GROHNDE G. M. B. H.

Gemeinschaftskernkraftwerk Grohnde GmbH, 3254 Emmerthal 1, Hauptstraße 52

Postfach: Emmerthal 1 Nr. 1230

Bankkonto:

Kreissparkasse Hameln-Pyrmont Kto. 315

Antwort an:

TO WHOM IT MAY CONCERN

Ihr Zeichen

Ihre Nachricht vom

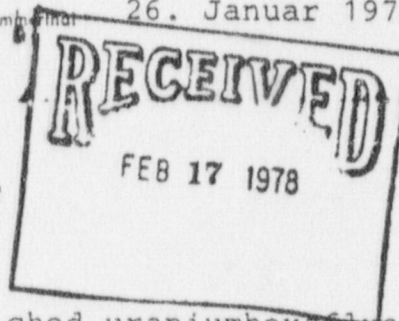
Unser Zeichen

Emmerthal

26. Januar 1978

Betrifft:

END USE STATEMENT



We hereby certify that the quantity of enriched uraniumhexafluoride as follows:

- | | | | |
|----|--------------|-----------------|---------------------|
| 1. | 37,612 kgs U | 1.92 % enriched | 722.150 kgs U-235 |
| 2. | 37,066 kgs U | 2.55 % enriched | 945.183 kgs U-235 |
| 3. | 32,705 kgs U | 3.25 % enriched | 1,062.913 kgs U-235 |

and as also specified by Transnuclear Inc., Falls Church/Va., in their application to export special nuclear material to our company

under contract E - (49-14) - UES/EU/103

will be used in the RBU facilities for manufacture of fuel elements of our reactor GROHNDE, Unit 1.

Please note that Nuclear Audit and Testing Co., (NATCO) Vienna, Va. should be listed as shipper of record on Transnuclear Inc's license to export, only for the sample quantities of 3.0 kg U containing 0.098 kgs U-235 enriched to a maximum 3.25 percent.

Therefore, the intermediate consignee for the UF₆ will be

RBU Reaktor-Brennelement Union GmbH

P.O. Box 110060

D-6450 Hanau 11/West Germany

1978 FEB 22 PM 4 35

It is not possible to refer to the date of the Transnuclear application at this time as it will not be initiated until Transnuclear receives this document

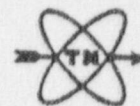
Place and date of issue; Emmersthal January 26, 1978.

Signatures of ultimate consignee:

Gemeinschaftskernkraftwerk
Grohnde GmbH

ppa. G. V. Sottler

TRANSNUCLEAR, INC.



February 21, 1978

Mr. N. Moore
Nuclear Regulatory Commission
Office of International Programs
7735 Old Georgetown Road
Bethesda, Maryland 20014

Re; UES/EU/103 - 78-045/01 (RBU-215)

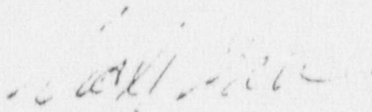
Dear Mr. Moore;

Enclosed is an application for Export License, in triplicate,
for your handling on the following material:

107,383 Kg U (plus 3 Kg U) containing 2730.246 Kg U235
(plus .098 Kg U235) enriched to a maximum 3.25 percent U235

Thanking you in advance for your help and cooperation.

Sincerely,


Vicki Matson
Traffic Coordinator

VM/ak

Enclosures: Export License Application
Original End Use Statement

1978 FEB 22 PM 4 32

EXPORT/IMPORT
AND
INTERNATIONAL SFGRDS

APPENDIX D

EXPORT LICENSE

FORM NRC-250
(7-75)

NRC LICENSE NO.

THIS LICENSE EXPIRES _____

United States of America
Nuclear Regulatory Commission

XSNM01281

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 style="text-align: center;">LICENSEE</p> <p>NAME Transnuclear, Incorporated 5205 Leesburg Pike ADDRESS Falls Church, Virginia 22041 Attn: Vicki Matson</p>	<p style="text-align: center;">ULTIMATE CONSIGNEE IN FOREIGN COUNTRY</p> <p>NAME Gemeinschaftskernkraftwerk Grohnde GmbH ADDRESS 3254 Emmerthal 1, Hauptstrabe 52 Federal Republic of Germany</p>
<p style="text-align: center;">INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY</p> <p>NAME RBU-Reaktor Brennelement Union GmbH D-6450 Hanau II Postfach 110060, W. Germany</p> <p>ADDRESS _____</p>	<p style="text-align: center;">OTHER PARTIES TO EXPORT</p> <p>Nuclear Audit & Testing Company 8206 Leesburg Pike Vienna, Virginia 22180</p> <p><u>Shipper of Record for Sample Quantity</u> <u>Only</u></p>
<p>APPLICANT'S REF. NO. RBU 215 EU/103 78-045/01</p>	<p>COUNTRY OF ULTIMATE DESTINATION W. Germany</p>

QUANTITY	DESCRIPTION OF MATERIALS OR FACILITIES	
2,730.246 kilograms uranium-235		Contained in 107,383 kilograms uranium, as uranium hexafluoride, enriched to 3.25 w/o maximum.
0.098 kilograms uranium-235		Contained in 3 kilograms uranium, as uranium hexafluoride, enriched to 3.25 w/o maximum (as NATC samples)
<p>Conditions 6 and 8 on page two of this license apply to this export.</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

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 XSNM01281

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.