



APPENDIX C

~~CONFIDENTIAL~~UNITED STATES
ATOMIC ENERGY COMMISSION

WASHINGTON, D.C. 20545

AUG 12 1974

A. S. Friedman, Director
Division of International Programs

STAFF PAPER ON NSSM 156: INDIAN NUCLEAR DETONATION

We have noted the legal position taken by OGC in its August 9 memorandum to you. We believe it is also desirable from a political standpoint to make an attempt to clarify the situation with respect to the use, or non-use, of U. S.-supplied D₂O in the production of the plutonium used in the Indian device. However, pursuit by the U. S. of the CIRUS question should not complicate the seeking of assurances on Tarapur and should therefore await the conclusion of the exchanges on Tarapur.

An important basis for our position is Secretary of State Kissinger's testimony before a Senate subcommittee on July 24, 1974, in which he indicated that we are now at a crucial point with respect to the Non-Proliferation Treaty and non-proliferation in general, and that the U. S. Government has made non-proliferation one of its highest priority objectives. Potential Nth countries are unquestionably scrutinizing the reactions of the U. S. and others to the Indian nuclear test, and it is therefore essential that we consider the likely impact of any action we may take vis a vis India, not only on India itself, but especially on these potential Nth countries.

It is widely known that the U. S. supplied D₂O for the CIRUS reactor; the Canadians have taken pains to make this point publicly on several occasions since the Indian test. Moreover, the fact that the U. S. specifically referred to the CIRUS facility and the 1960 D₂O sale in its Aide Memoire of November 16, 1970, means, in effect, that the U. S. warned India against taking the very course of action which the Indians have apparently taken. We believe, therefore, that there is a compelling political need to raise the CIRUS issue with the Indians. Not to do so would not only be inconsistent with our original Aide Memoire, but would tend to undermine the very principle we are now seeking to have accepted on a broad basis so as to avoid having all our agreements for cooperation placed in jeopardy. It is especially important at this critical juncture that we not permit an apparent flouting of our policy to go unchallenged.

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March 14, 1973

Date

SEC'Y-R 652

CONSENT CALENDAR ITEM

CONSENT CALENDAR ITEM

Subject:

AMENDMENT TO 10 CFR PART 36, GENERAL LICENSE TO EXPORT TRITIUM TO CERTAIN SOVIET BLOC COUNTRIES

Purpose:

To change the regulations to reduce current restrictions on one-type of generally-licensed export of tritium.

Discussion:

Generally licensed exports of tritium in the form of labeled organic compounds to certain Soviet bloc countries are restricted to a specific activity of 10 curies of tritium per gram of hydrogen in the labeled organic compound, and the total quantity of tritium in a single shipment of such compounds cannot exceed 10 curies. New England Nuclear Corporation has petitioned the Commission to change the rules allowing relief from these restrictions. U.S. Government negotiations with COCOM have resulted in a reduction of the current restrictions.

Recommendations:

Staff recommends the regulations be changed by:
(1) eliminating the tritium specific activity restrictions of "not more than 10 curies per gram of hydrogen in labeled organic compounds"; and
(2) increasing the maximum quantity of tritium allowed in any single shipment of such compounds from 10 to 100 curies.

Coordination:

The Director of Licensing, the Director of Regulatory Standards, the Office of the General Counsel, and the Divisions of International Programs, International Security Affairs, Military Applications, and Nuclear Materials Security concur in the recommendations.

Scheduling:

Commissioners' approvals and/or comments are requested by close of business, Thursday, March 22, 1973.

L. Manning Muntzing

L. Manning Muntzing
Director of Regulation

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restriction of "10 curies per gram of hydrogen in labeled organic compounds" be deleted from 10 CFR 36.24(b). They argued that biochemically useful tritium labeled organic materials now available commercially have specific activities in excess of 1,000 curies of tritium per gram of hydrogen. The petitioner further stated that such compounds are relatively expensive (\$5-50 per millicurie), and are usually sold in millicurie amounts containing only nanogram quantities of tritium. Notice of receipt of this petition was published in the Federal Register, June 29, 1971, (36 F. R. 12247).

5. The Division of International Security Affairs discussed this petition with the Department of State and other interested divisions in the Atomic Energy Commission. All recommended adoption of the rule change. However, no action could be taken by the Commission until the COCOM embargo definition could be revised. At the first opportunity, the biennial COCOM List Review which began in October 1971, the U. S. Government proposed that the tritium embargo definition be modified to exclude from embargo coverage labeled organic compounds not exceeding 100 curies per shipment with no limitation on specific activity. During the final round of the COCOM List Review negotiations which ended in May 1972, all of the participating countries in COCOM agreed to the U. S. proposal. Therefore, New England Nuclear's request for rule change can now be accommodated.

6. In keeping with U. S. Government policy to reduce export controls on East-West trade with respect to non-strategic items, and in order to allow U. S. companies to compete with companies of other COCOM countries, it is recommended that ^S 36.24(b) be amended, as shown in notice of rule making, Appendix "A", to permit export of labeled organic compounds to the specified Soviet bloc destinations when the quantity of tritium contained in such compounds does not exceed 100 curies per shipment.

7. The Divisions of International Security Affairs and Military Applications have concluded that the quantity of tritium and its form as

labeled organic compounds as noted in the amended general license would have no direct military or atomic weapons applications, and that export of this type of material to the specified Soviet bloc countries would have no strategic significance and would not be inimical to the common defense and security.

STAFF JUDGMENTS

8. The Office of the General Counsel, the Director of Regulatory Standards, and the Divisions of International Programs, International Security Affairs, Military Applications and Nuclear Materials Security concur in the recommendations of this paper. The Office of Congressional Relations concurs in the draft letter to the Joint Committee on Atomic Energy attached as Appendix "B". The Office of Information Services has determined that a public announcement of this amended regulation is unwarranted because of limited public interest.

RECOMMENDATIONS

9. The Director of Regulation recommends that the Commission:

a. Find that the amendment to 10 CFR Part 36 to permit export of tritium labeled organic compounds to certain Soviet bloc countries when the quantity of tritium in such compounds does not exceed 100 curies per shipment would not be inimical to the common defense and security;

b. Approve publication in the Federal Register of an amendment to 10 CFR Part 36, as set forth in Appendix "A", to be effective upon publication, which would reduce the present restrictions imposed on generally-licensed export of tritium in the form of labeled organic compounds to certain Soviet bloc countries by:

(1) eliminating the tritium specific activity restriction of "not more than 10 curies per gram of hydrogen in labeled organic compounds"; and

(2) increasing the maximum quantity of tritium allowed in any single shipment of such compounds from 10 to 100 curies.

c. Note that, because the amendment to Part 36 set forth in Appendix "A" involves the foreign affairs functions of the United States, notice of proposed rule making and public procedure thereon are

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not required by the Administrative Procedure Act and the amendment may be made effective upon publication in the Federal Register without thirty-day notice;

d. Note that the Joint Committee on Atomic Energy will be informed by letter such as Appendix "B";

e. Note that no public announcement will be made on this amendment in view of the lack of public interest in this matter; and

f. Note that an environmental statement need not be prepared in connection with this rule making action since the proposed amendment of Part 36 will not significantly affect the quality of the human environment.

LIST OF ENCLOSURES

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APPENDIX "A"

TITLE 10 -- ATOMIC ENERGY

Chapter I -- Atomic Energy Commission

PART 36 -- EXPORT AND IMPORT OF BYPRODUCT MATERIAL

Reduction of Restrictions on Tritium Exports

The Commission has amended regulation 10 CFR Part 36, "Export and Import of Byproduct Material," to reduce the restrictions on export, under general license, of tritium in labeled organic compounds to certain Soviet bloc countries. This action was taken in response to a petition for rule making by New England Nuclear Corporation. The effect of the amendment is to permit the export, under general license, of tritium in labeled organic compounds, without restriction as to the specific amount of tritium in the compound, to the specified Soviet bloc countries. The restriction of 10 curies of tritium in a single shipment has been replaced by a restriction of 100 curies per shipment.

The Commission has found that the export of tritium, in the form of labeled organic compounds, and in the quantities permitted to be exported in a single shipment, to the specified Soviet bloc destinations would not be inimical to the common defense and security. The amendment will have the effect of reducing export controls on East-West trade with respect to non-strategic items, consistent with government policy, and of enabling United States companies to compete more effectively with other NATO countries.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 16, Chapter I, Code of Federal Regulations, Part 36, is published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER.

Paragraph (b) of § 36.24 is amended to read as follows:

§ 36.24 Export of certain byproduct material to certain Schedule A countries and Poland and Rumania.

* * * * *

(b) A general license designated AEC-GL-3624b is hereby issued authorizing any licensee of the Commission or of an agreement State to export from the United States tritium covered by his license ~~with a specific activity of not more than 10 curies per gram of hydrogen~~ in labeled organic compounds, to Rumania and Poland and to any foreign country or destination listed in § 36.50, Schedule A, except East Germany (Soviet Zone of Germany and the Soviet Sector of Berlin); China, including Manchuria (and excluding Taiwan (Formosa)) (includes Inner Mongolia; the provinces of Tsinghai and Sikang; Sinkiang; Tibet; the former Kwantung Leased Territory; the present Port Arthur Naval Base Area and Liaoning Province); North Korea; Communist-controlled area of

Viet Nam; and Cuba. No single shipment of tritium in labeled organic compounds exported pursuant to the general license of this paragraph shall exceed ~~40~~ 100 curies.

(Sec. 161, 68 Stat. 948; 42 U. S. C. 2201)

Dated at _____ this _____ day of
_____ 1973.

For the Atomic Energy Commission

Paul C. Bender
Secretary of the Commission

APPENDIX "B"

DRAFT LETTER TO THE JOINT COMMITTEE ON ATOMIC ENERGY

1. Enclosed for the information of the Joint Committee on Atomic Energy is a copy of a notice of an amendment to 10 CFR Part 36 of the Atomic Energy Commission's regulations.

2. The amendment to 10 CFR Part 36 will reduce the present restrictions imposed on generally-licensed export of tritium in the form of labeled organic compounds to certain Soviet bloc countries by (1) eliminating the tritium specific activity restriction of "not more than 10 curies per gram of hydrogen in labeled organic compounds"; and (2) increasing the maximum quantity of tritium allowed in any single shipment of such compounds from 10 to 100 curies.

3. This change in regulations represents a reduction of restrictions on the export of tritium labeled organic compounds and is the result of a petition for rule change by New England Nuclear Corporation.

4. The Commission has found that the shipment of such organic compounds containing tritium not to exceed 100 curies would not be inimical to the common defense and security.

5. Inasmuch as this amendment involves the foreign affairs functions of the United States, the amendment may become effective upon publication in the Federal Register.

6. No public announcement is planned due to the lack of public interest in this matter.