[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[EA-23-009; NRC-2023-0023]

In the Matter of Westinghouse Electric Company LLC;

Order Suspending License to Export to the Republic of South Africa

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an Order to Westinghouse Electric Company LLC suspending NRC license XCOM1252, which authorizes the export of fuel assembly components to Sweden for fabrication of fuel assemblies and subsequent shipment of the completed fuel assemblies to the Republic of South Africa (RSA) for use in Koeberg Nuclear Power Station Units 1 and 2. The suspension is required because the license was issued, in part, based on assurances from the RSA that the components would be made subject to the terms of the Agreement for Cooperation in Peaceful Uses of Nuclear Energy (123 Agreement) between the United States (U.S.) and the Government of South Africa. However, the U.S.-RSA 123 Agreement expired on December 4, 2022, and therefore the assurances that supported issuance of the license are no longer valid.

DATES: The Order was issued on January 13, 2023.

ADDRESSES: Please refer to Docket ID **NRC-2023-0023** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to https://www.regulations.gov and search for Docket ID **NRC-2023-0023**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email:

Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the "For Further Information Contact" section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at https://www.nrc.gov/reading-rm/adams.html. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov. The Order is available in ADAMS under Package Accession No. ML23012A121.
- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gary Langlie, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-287-9076, email: Gary.Langlie@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated: January 25, 2023.

For the Nuclear Regulatory Commission.

/RA/

David L. Skeen, Director,
Office of International Programs.

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	License No. XCOM1252
Westinghouse Electric Company LLC	)	Docket No. 11006040
1000 Westinghouse Drive	)	
Cranberry Township, PA 16066	)	EA-23-009
	)	

ORDER SUSPENDING LICENSE TO EXPORT TO THE REPUBLIC OF SOUTH AFRICA
(EFFECTIVE IMMEDIATELY)

I

Westinghouse Electric Company LLC (Westinghouse or "the licensee") holds a specific license (XCOM1252) issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Sections 53 and 127 of the Atomic Energy Act of 1954, as amended (AEA) and 10 CFR Part 110. This specific license authorizes the export of fuel assembly components to Sweden for fabrication of fuel assemblies and subsequent shipment of the completed fuel assemblies to the Republic of South Africa (RSA) for use in Koeberg Nuclear Power Station Units 1 and 2. The export to the RSA is authorized under the terms of an Agreement for Cooperation in Peaceful Uses of Nuclear Energy (123 Agreement) between the United States (U.S.) and the Government of South Africa. Although the original expiration date for XCOM1252 was December 31, 2020, the licensee submitted an application to renew and amend the license on November 19, 2020. Therefore, in accordance with 10 CFR § 110.51(b)(2), XCOM1252 remains valid until the NRC acts on the pending application.

II

Export license XCOM1252 was issued with nonproliferation assurances from the RSA that the exported components would be placed under the terms and conditions of the U.S.-RSA 123 Agreement. Those assurances were used as the basis to meet the export licensing criteria in 10 CFR § 110.42(b) for export of nuclear equipment other than a production or utilization facility. On December 4, 2022, the U.S.-RSA 123 Agreement expired. Therefore, the assurances from RSA that were used as the basis to approve XCOM1252 are no longer valid.

While assurances that an export will be placed under the terms of a 123 Agreement can be used to satisfy the licensing criteria in 10 CFR § 110.42(b) for export of nuclear equipment other than a production or utilization facility, they are not the only type of assurances that can satisfy these criteria. The criteria in § 110.42(b) can also be met for these types of exports with the following assurances from the RSA: (1) IAEA safeguards as required by Article III (2) of the NPT will be applied to such equipment; (2) No such equipment will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) No such equipment will be retransferred to the jurisdiction of any other country or group of countries without the prior consent of the United States. Unless such assurances are in place, the licensee is not authorized to conduct any further exports to the RSA.

III

Accordingly, pursuant to Sections 53, 54, 57, 123, 127, 161b, 161i, 183, and 186 of the AEA, and 10 CFR §§ 110.50(a)(1) and (2) and 110.52, IT IS HEREBY ORDERED, EFFECTIVE
IMMEDIATELY, THAT LICENSE XCOM1252 IS SUSPENDED AS FOLLOWS:

A. The licensee's authorization under XCOM1252 to export equipment and components to Sweden for fabrication into fuel assemblies and to subsequently ship the completed fuel assemblies to the RSA is suspended, and such exports are prohibited.
B. This Order will expire, without any further action by the NRC, when the NRC acts on the pending application to renew and amend XCOM1252.

The NRC finds that the common defense and security requires this action. Therefore, in accordance with 10 CFR § 110.52(c), the licensee need not be afforded an opportunity to reply and be heard prior to issuance of this Order.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

_____
David L. Skeen, Director
Office of International Programs

Dated at Rockville, Maryland
this 13th day of January 2023