

April 4, 1978

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20545  
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SECY-78-186

# INFORMATION REPORT

For: The Commissioners

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

Thru: Executive Director for Operations *JRS*

Subject: PROPOSED RETRANSFER FROM SWITZERLAND TO FRANCE FOR REPROCESSING (SECY-78-123)

Purpose: To inform the Commission of staff response.

Discussion: In response to the request of the Commissioners, as forwarded by Mr. Chilka's March 17 memorandum, the staff has confirmed that the Executive Branch did consider the following two factors in making its decision to approve the subject retransfer request: (1) the affected nations are generally cooperative in nonproliferation and nuclear fuel cycle evaluation efforts, and (2) it is US policy not to interrupt foreign advanced reactor programs during the INFCE.

In mentioning these factors in SECY-78-123, however, the staff did not mean to imply that the second consideration formed a new decision criterion or guideline for Executive Branch review of retransfer for reprocessing requests. As noted in SECY-77-634 of December 22, 1977, the Executive Branch has adopted four major criteria for approval of retransfer requests involving reprocessing:

1. General cooperation by both the requesting nation and reprocessor in nonproliferation and fuel cycle evaluation efforts;
2. US control over disposition of recovered plutonium;
3. Clear need for the retransfer (e.g., spent fuel storage capacity limitations); and

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2

Discussion:  
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4. Demonstrated serious effort by the requesting nation to implement relatively near-term spent fuel disposition plans which are dependent neither on reprocessing nor on return to the US.

The approved retransfer met these criteria. In addition, because the proposed retransfer involved a designated or intended end-use for the recovered plutonium in breeder reactor programs, the staff considered it appropriate to highlight Swiss and French cooperation in the fuel cycle evaluation efforts and the US commitment during INFCE not to jeopardize foreign advanced reactor development programs. As stated in the communique released at the INFCE Organizing Conference:

"The evaluation will be carried out in a spirit of objectivity, with mutual respect for each country's choices and decisions in this field, without jeopardizing their respective fuel cycle policies or international cooperation agreements and contracts for the peaceful use of nuclear energy, provided that agreed safeguards measures are applied."

With respect to the Commission's query concerning how the proposed end-use of the plutonium affected initial Executive Branch consideration of the retransfer proposal, it is my understanding that (1) DOE and State initially intended to include approval of the end-use of the plutonium in the retransfer decision, and (2) this was not included because of reservations expressed by ACDA. With respect to approving the end-use of recovered material at the time a retransfer is approved, DOE anticipates that each case will be considered on its merits.

I also understand that, in future approvals of reprocessing retransfers, the DOE intends to assure the foreign countries involved that "the US will not revoke this approval." In our view, this formulation assures others that the US will not unilaterally revoke previously approved retransfer approvals and impose new requirements, but does not introduce a substantive change to US policy concerning these cases. In the context of the approval letters, it is clear

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3

Discussion:  
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that both parties must agree to any future alternative disposition of the spent fuel. This assurance by the US not to revoke its approval has been included in two previous retransfer approvals involving reprocessing [Zorita (Spain) and Beznau (Switzerland)].

Finally, in considering retransfer requests involving reprocessing, I understand that the Executive Branch will continue to rely primarily on the four criteria noted earlier. However, since cases may involve unique aspects, all pertinent information, including factors beyond those specifically addressed in the four basic criteria, will normally be considered by the Executive Branch in reaching a final decision.

*James R. Shea*  
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