

March 22, 1978

SECY-78-167

~~CONFIDENTIAL~~

COMMISSIONER ACTION

For: The Commissioners

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

Thru: Executive Director for Operations *JR*

Subject: PROPOSED LETTER TO STATE ON BRAZIL EXPORTS

Purpose: Commission review of proposed letter.

Discussion: SECY-77-601A, dated March 6, 1978, forwarded to the Commission:

- o The staff's favorable recommendation on Application XSNM-909 for the export of low-enriched fuel to Brazil; and
- o A proposed letter to State designed to facilitate its seeking reconfirmation by Brazil of its acceptance of the US understanding on "no nuclear explosive use" for US-supplied material or equipment and for material derived from the use of US-supplied material or equipment.

On March 9, the Commission concurred in the staff's recommendation on the license and it was issued the same day. In concurring on the export, Commissioners Gilinsky and Bradford expressed the view that, for future exports to Brazil, there should be a more explicit confirmation by Brazil of its acceptance of US understandings on "no nuclear explosive use" and on US reprocessing controls.

We informed State of this matter in subsequent discussions and, in reviewing a draft cable concerning the issuance of the license, cleared the following language with State to inform the US Embassy in Brasilia of the matter:

"While NRC has approved this export, the Commission has drawn attention to the Government

RECEIVED UNDER
THIS DOCUMENT HAS
BEEN PROVIDED TO
THE PROVISIONAL
AUTHORITY OF
By Authority of
Date of Declassification
Jan. 6, 2006
4/17/95

Contact:
M.A. Guhin (492-7866)

~~CONFIDENTIAL~~

Handwritten initials

U.S. NRC Declassification Review

1ST REVIEW - DATE: 20250721

REVIEWER: 3591
AUTHORITY: ☐ DC ☒ DD

2ND REVIEW - DATE: _____

REVIEWER: _____
AUTHORITY: DD

DETERMINATION [CIRCLE NUMBER(S)]

1. CLASSIFICATION RETAINED
2. CLASSIFICATION CHANGED TO: _____
- ☒ 3. CONTAINS NO NRC CLASSIFIED INFO
4. COORDINATE WITH: _____
- ☒ 5. DECLASSIFIED
6. CLASSIFIED INFO BRACKETED
7. OTHER (SPECIFY): _____

~~CONFIDENTIAL~~

-2-

Discussion:
(continued)

of Brazil's note concerning the US requirement on "no nuclear explosive use" and two Commissioners have explicitly taken the view that reconfirmation of certain understandings should be obtained for future exports. Department plans to seek reconfirmation or clarifications relevant to any future exports. Details will follow shortly."

State is awaiting a confirming letter from us prior to seeking further assurances from Brazil.

A proposed letter to State is attached for the Commission's consideration. Except for the additions to incorporate the views expressed by Commissioners Gilinsky and Bradford, it is substantively the same as that forwarded with SECY-77-601A.

I understand that Commissioner Gilinsky proposed a "Commission letter" covering the views expressed in his concurrence. In the interest of forwarding a revised draft as soon as possible for the Commission's consideration, we have not attempted to determine to what extent, if any, the Commission may wish to express a "Commission view" with respect to reconfirmation by Brazil of either (1) the US understanding on "no nuclear explosive use" and/or (2) the US understanding on US reprocessing control. While the attached reflects individual Commissioner views, it could easily be converted to reflect a Commission view to the extent the Commission desired such. At any rate, I believe a letter should be sent to State promptly.

For the reasons detailed in my March 16 memorandum to Commissioner Bradford, I believe that the letter to State involves classified information and the draft is accordingly classified. Among other things, that memorandum noted State's view that publication of views on seeking further assurances for future exports would, in all likelihood, have an adverse impact on US nonproliferation and foreign policy

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

-3-

objectives and, more specifically, lessen the chances of achieving the reconfirmations which are being sought from Brazil.

Recommendation: That the attached letter be sent to State.

Coordination: OELD has no legal objection.


James R. Shea, Director
Office of International Programs

Attachment:
Draft letter to State

NOTE: Commissioner comments should be provided directly to the Office of the Secretary by c.o.b. April 3, 1978.

Commission staff office comments, if any, should be submitted to the Commissioners NLT March 28, 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
Exec. Dir. for Ops.
Secretariat

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

DRAFT

Mr. Louis V. Nosenzo
Deputy Assistant Secretary for Nuclear
Energy and Energy Technology Affairs
Department of State
Washington, D.C. 20520

Dear Mr. Nosenzo:

As you know, the Commission approved the staff's recommendation that the proposed license for the export of low-enriched fuel to Brazil, for the initial core of the ANGRA I reactor, be issued and license XSNM-909 was issued to Westinghouse Electric Corporation on March 9. In addition, the staff has reviewed the two applications for the export of the material contained in the in-core instrumentation for the reactor and issued licenses pursuant to these applications.

The purpose of this letter is to confirm my office's recent discussions with you concerning certain aspects of the Commission's review of the export of the ANGRA I fuel.

In its review, the Commission focused particular attention on Brazil's acceptance of the U.S. understanding inherent in all U.S. agreements for cooperation in the civil uses of atomic energy that no U.S.-supplied nuclear material or equipment, and no material produced through the use of U.S.-supplied nuclear material or equipment, may be used for any nuclear explosive purpose. While the Commission has relied on Brazil's March 8, 1972 communication to the IAEA for assurance regarding Brazil's acceptance of this fundamental U.S.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

-2-

understanding, to avoid any possible ambiguity the Commission has requested that the basis for its action in this regard be brought to the attention of the Executive Branch and, in ongoing nonproliferation discussions, the Government of Brazil.

In addition, Commissioners Gilinsky and Bradford have explicitly expressed the view that, for future exports to Brazil, there should be (1) a more formal and precise understanding with respect to Brazil's acceptance of the U.S. requirement on "no nuclear explosive use," and (2), particularly in view of Brazil's current reprocessing plans, a reconfirmation by Brazil of its acceptance of the U.S. view with respect to U.S. reprocessing controls contained in the U.S.-Brazil Agreement for Cooperation. With respect to the U.S. requirement on "no nuclear explosive use," they have noted that a similar procedure was followed with Spain which is also not a party to the Nonproliferation Treaty.

Sincerely,

James R. Shea, Director
Office of International Programs

~~CONFIDENTIAL~~