

January 12, 1998

SECY-98-006

FOR: The Commissioners

FROM: Carlton R. Stoiber, Director /s/
Office of International Programs

SUBJECT: PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE U.S. AND
ROMANIA

PURPOSE:

To advise the Commission of staff's review of the above agreement, and recommend Commission concurrence.

BACKGROUND:

U.S. and Romanian negotiators initialed the text of a proposed bilateral agreement for peaceful nuclear cooperation in April 1992. In SECY-92-180 (May 1992) the Commission concurred in the staff analysis that the Agreement included all provisions specifically required by Section 123 of the Atomic Energy Act, as amended, and approved a letter to the President (May 27, 1992), recommending that the requisite statutory determination be made to approve the Agreement and authorize its execution.

The interagency review process was nearly complete when in 1992 the Romanian government informed the Department of State (DOS) and the International Atomic Energy Agency (IAEA) of a violation of IAEA safeguards during the Ceausescu era. (In 1985 staff at the Institute for Nuclear Power Reactors in Pitesti, Romania, carried out laboratory-scale reprocessing of nuclear material in a single fuel rod clandestinely irradiated in Romania's U.S. - supplied TRIGA research reactor. This resulted in the separation of two milligrams of plutonium.)

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Following this revelation, the Executive Branch consulted with Romanian officials and the IAEA to confirm that steps were taken to prevent any recurrence. Following U.S. Congressional hearings in 1992-1993, two Presidential waivers of provisions of U.S. law were issued, making Romania again eligible for Ex-Im Bank support and for U.S. nuclear exports. Once the waivers were finalized, the government of Romania was able to receive U.S. nuclear exports under a trilateral U.S.-Romania-IAEA supply agreement (trilateral agreement).

In May 1995, the DOS requested a "fresh" interagency review to bring the proposed bilateral agreement into force. In SECY-95-117 (May 1995), the Commission again concurred that the Agreement included all provisions specifically required by Section 123 of the Atomic Energy Act, as amended, and approved a letter to the President (June 8, 1995), again recommending that the requisite statutory determination be made to approve the Agreement and authorize its execution. The Romanians, however, recognized that their immediate needs (namely the reloading of fuel for their research reactor) were being met with the trilateral agreement and consequently the political impetus driving the bilateral agreement dissipated and it was never signed.

DISCUSSION:

The DOS is serious in its desire to be in a position to sign the Agreement (Attachment 1) during the visit to Washington of Romania's President scheduled in March 1998. (With the entry into force of the U.S.-Bulgaria agreement in March 1996, Romania is the only former East Bloc country the U.S. does not have an Agreement with.) A draft DOS summary of basic provisions (Tab A), a DOS Section 123 analysis in the form of a memorandum from Thomas McNamara of PM to the Secretary of State (Tab B), a draft memorandum from the Secretary of State and Secretary of Energy to the President (Tab C), a draft memorandum from the President to the Secretaries of State and Energy (Tab D), and a transmittal letter from President Clinton to the Congress (Tab E) are attached to this paper.

Romania's first nuclear power plant was connected to the national grid in July 1996. It is one of five Candu reactors to be constructed at Cernavoda. The staff has been informed by DOS that there has been no other change of circumstance in Romania's nuclear program since 1992 (when the 1985 safeguards violation was reported to cognizant authorities). Sensitive nuclear technology is not transferable under the proposed agreement unless an amendment is negotiated (Article 3). Highly enriched uranium is excluded from the scope of the Agreement, except for small quantities for use as samples, standards, detectors, targets and such other purposes as may be agreed (Article 4). Romania's actions and statements since 1989 have been supportive of U.S. nonproliferation objectives and are consistent with undertakings in the proposed U.S.- Romania agreement.

The Arms Control and Disarmament Agency (ACDA) will revise and update as necessary the Nuclear Proliferation Assessment Statement reviewing the Romanian program. ACDA staff has informed NRC staff that they know of no material change of circumstance since their 1995 assessment and that the Statement will be favorable (draft expected early January).

The Office of the General Counsel has no legal objection and the Office of the Executive Director for Operations concurs in this paper.

RECOMMENDATION:

That the Commission approve dispatch to the Department of State of the letter at Attachment 2, indicating concurrence in the subject agreement.

Carlton R. Stoiber, Director
Office of International Programs

Attachments: 1. 12/3/97 DOS Interagency Memorandum, w/att
2. Draft of Proposed Letter to the President

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The President
The White House
Washington, DC 20500

Dear Mr. President:

In accordance with the provisions of Section 123 of the Atomic Energy Act, as amended, the Nuclear Regulatory Commission has reviewed the proposed Agreement for Cooperation with Romania as forwarded to it by the Department of State on December 3, 1997. It is the view of the Commission that the proposed Agreement includes all the provisions required by Section 123 of the Atomic Energy Act, as amended. The Commission therefore recommends that you make the requisite statutory determination, approve the Agreement, and authorize its execution.

Respectfully,

Shirley Ann Jackson

The President
 The White House
 Washington, DC 20500

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Shirley Ann Jackson

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