

February 4, 1998

SECY-98-018

FOR: The Commissioners

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

SUBJECT: PROPOSED LICENSE TO EXPORT SPECIAL NUCLEAR MATERIAL
(XSNM02999) TO BRAZIL

PURPOSE:

To request Commission review of the proposed issuance of a license to Siemens Power Corporation for the export of low-enriched uranium fuel to Brazil. The application is being referred to the Commission in accordance with 10 CFR §110.40(b)(5). If approved, the proposed export would be the initial export to Brazil of special nuclear material for nuclear end use under the terms of the Nuclear Non-Proliferation Act of 1978.

DISCUSSION:

On June 24, 1997, Siemens Power Corporation applied for a license (Attachment 1) to export to Brazil 2,000 kilograms of uranium-235 contained in 40,000 kilograms of uranium, enriched to a maximum of 5.0 percent, as uranium dioxide pellets for use as reload fuel in the Angra Unit 1 nuclear power reactor. The application was amended on August 22, September 8, and September 12, 1997 to increase the quantity of uranium for export to 5,000 kilograms of uranium-235 contained in 100,000 kilograms uranium and to change the end use to include an initial core loading for Angra Unit 2.

In response to NRC's request for views on the proposed export, the Executive Branch, in a letter dated December 2, 1997 (Attachment 2), recommends that the license be issued to Siemens Power Corporation.

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The Executive Branch notes Brazil has waived the Treaty of Tlatelolco into force and has entered into an agreement with the International Atomic Energy Agency (IAEA) to maintain safeguards on all of its peaceful nuclear activities. The Chairman of the Brazilian Nuclear Energy Commission has provided written assurances, dated October 30, 1997, that the supplied nuclear material will: 1) not be retransferred without the consent of the U.S. Government; 2) not be used to produce nuclear explosive devices; and 3) be subject to the 1972 U.S.-Brazil Agreement for Cooperation¹. The assurance statement was forwarded to U.S. Embassy, Brasilia, by a note from the Brazilian Ministry of Foreign Affairs, dated November 25, 1997. Assurances regarding maintenance of physical protection of nuclear materials in Brazil were provided by the Brazilian Embassy in Washington by letter dated September 27, 1978.

It is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security of the United States, and is consistent with the provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978.

The most recent physical protection evaluation by the U.S. was performed during a visit to Brazil in July 1996. That review found that Brazil's physical protection program is consistent with the recommendations of IAEA INFCIRC/225/Rev. 3 (the accepted international standard) for Category III nuclear material.

The Executive Branch, in a memorandum dated December 15, 1997 (Attachment 3), provided a complete country analysis for Brazil. The analysis addresses how the requirements of Section 126 a.(1) of the Atomic Energy Act are met, including the specific criteria of Sections 127 and 128, as well as certain additional factors envisaged by Section 126 a.(1).

CONCLUSION:

The staff concurs with the Executive Branch judgment that the proposed export would not be inimical to the common defense and security of the United States and concludes that all criteria required for the issuance of license XSNM02999 are met. The Office of the Executive Director for Operations concurs. The Office of General Counsel has no legal objections.

¹ A new U.S.-Brazil Agreement for Cooperation was signed by the U.S and Brazil in early October 1997 and was sent to the U.S. Congress on October 20, 1997 for review. In the meantime, as presented in this paper, the proposed export can be exported under the still-active 1972 U.S.-Brazil Agreement because Brazil has placed its nuclear program under full-scope IAEA safeguards and has provided other NNPA guarantees to the U.S.

RECOMMENDATION:

That the Commission authorize the issuance of export license XSNM02999 to Siemens Power Corporation.

Carlton R. Stoiber, Director
Office of International Programs

Attachments: 1. 06/24/97 Siemens License Application (XSNM02999)
 08/22/97 Siemens License Application Amendment
 09/08/97 Siemens License Application Amendment
 09/12/97 Siemens License Application Amendment
2. 12/02/97 Executive Branch views RJKStratford to CRStoiber
3. 12/15/97 Executive Branch country analysis

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