



United States Department of State

Washington, D.C. 20520

October 29, 1999

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DCS/DF02
NIASS
DOE/OR
NAC/NIASS

Ms. Janice Dunn Lee
Director, International Programs
United States Nuclear Regulatory Commission
Rockville, Maryland

XCOM1130
China

Dear Ms. Lee:

I refer to the letter from your office dated August 18, 1999, requesting the views of the Executive Branch as to whether issuance of an export license in accordance with the application hereinafter described meets the applicable criteria of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978:

NRC No. XCOM1130 - Oremet Wah Chang has applied for authorization to export to China nuclear up to 66,000 kilograms of zircaloy-4 trex tubing for manufacture of fuel cladding by Northwest Zircocladding Co. Ltd and fabrication into fuel assemblies by Yibin Nuclear Fuel Plant for use in Qinshan Nuclear Power Station Units 1, 2 and 3 and in Daya Bay Nuclear Power Station Unit 1.

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 requirement for IAEA safeguards under Section III(2) of the NPT does not apply to China as a nuclear-weapon state and therefore Criterion (1) of section 109 b of the Atomic Energy Act, as amended, does not apply. The Chinese Atomic Energy Authority has confirmed in a letter dated October 29, 1999, reported in U.S. Embassy Beijing telegram no. 10115 (copy of relevant section enclosed) that the proposed export will be subject to the terms and conditions of the U.S. - China Agreement for Cooperation, thereby satisfying criteria (2) and (3) of Section 109b of the Atomic Energy Act, as amended, with regard to a pledge of no nuclear explosive use [Article 5(3)] and right of U.S. prior consent to retransfers [Article 5(1)].

On the basis of the foregoing, the Executive Branch recommends that the license be issued.

Sincerely,

Richard J.K. Stratford
Director
Nuclear Energy Affairs

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Enclosure: Extract from Beijing 10115

EXTRACT FROM U.S. EMBASSY BEIJING TELEGRAM
BEIJING 10115 DATED OCTOBER 29, 1999

TEXT OF ASSURANCE LETTER

OCTOBER 28, 1999

DAVID L. BLEYLE
COUNSELOR
ENVIRONMENT, SCIENCE & TECHNOLOGY
EMBASSY OF THE UNITED STATES OF AMERICA

DEAR MR. BLEYLE,

WITH REFERENCE TO YOUR LETTER OF OCTOBER 15, 1999, I, ON
BEHALF OF THE CHINA ATOMIC ENERGY AUTHORITY, HEREBY
CONFIRM THAT THE ZIRCALOY TREX TUBES AND THE ZIRCALOY-4
TUBING TO BE EXPORTED TO CHINA BY OREMET-WAH CHANG OF
ALBANY, FOR USE BY NORTHWEST ZIRCOCLADDING CO.
LTD. (NWZ), WILL BECOME SUBJECT TO THE AGREEMENT FOR
COOPERATION BETWEEN THE GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA AND THE GOVERNMENT OF THE UNITED
STATES CONCERNING THE PEACEFUL USES OF NUCLEAR ENERGY,
SIGNED JULY 23, 1985, UPON RECEIPT AND THAT THE
RECIPIENTS ARE AUTHORIZED TO RECEIVE THE POSSESS THE
TRANSFERRED MATERIAL.

SINCERELY YOURS,

LI DONGHUI
DIRECTOR GENERAL
DEPARTMENT OF INTERNATIONAL COOPERATION
CHINA ATOMIC ENERGY AUTHORITY

END LETTER.