

OCT 21 1996

MEMORANDUM TO: Diane B. Dandois, Chief  
License Fee and Accounts Receivable Branch  
Division of Accounting & Finance  
Office of the Controller

FROM: Ronald D. Hauber, Director *Original signed by Ronald D. Hauber*  
Division of Nonproliferation, Exports  
and Multilateral Relations  
Office of International Programs

SUBJECT: ABB INDUSTRIAL SYSTEMS, INC., REQUEST FOR REFUND OF  
LICENSING FEE FOR EXPORT LICENSE XB001291

ABB Industrial Systems Inc., applied for a license on February 21, 1996 to export byproduct materials (Krypton-85, Promethium-147 and Strontium-90), to Vietnam. These byproduct materials can be exported under the general license in 10 CFR §110.23 to all countries except those listed in §110.28 as embargoed destinations.\* In a letter dated February 23, 1996 the applicant noted that President Clinton's ruling dated February 3, 1994 had lifted the trade embargo against Vietnam. However, since NRC's regulations had not been updated to reflect the change in §110.28, Vietnam remained on NRC's embargoed list and the company had to apply for a specific export license and had to pay a licensing fee of \$4,600.00.

The company, consequently, requested relief of the licensing costs. Copies of all relevant documents are attached for your review and consideration of the applicant's request.

If you have any questions, please call me or Betty Wright of my staff on 504-2344.

Attachments:

1. Appl. XB001291 dtd 2/21/96
2. ABB ltr to NRC dtd 2/23/96
3. OIP Transmittal sheet & cy of ABB's check dtd 2/21/96
4. Cy of ltr to NRC from DOS dtd 4/1/96
5. Export License XB001291, dtd 4/4/96

DISTRIBUTION:

|                 |              |                      |                  |
|-----------------|--------------|----------------------|------------------|
| PDR <i>DFP3</i> | License File | RGoodwyn, NMSS       | TRothschild, OGC |
| DCS/DFD2        | OIP r/f      | MJMassengill, DOE/OR | BLWright         |
| Central File    | OIP DskOff   | VAnderson, NAC/NMSS  |                  |

FILENAME: A:\LICFEE03.BLW

|        |                 |                 |                    |    |
|--------|-----------------|-----------------|--------------------|----|
| OFFICE | OIP/NEMR        | OIP/NEMR        | OGC                |    |
| NAME   | <i>BLWright</i> | <i>RDHauber</i> | <i>TRothschild</i> |    |
| DATE   | 10/4/96         | 10/21/96        | 10/21/96           | 11 |

OFFICIAL RECORD COPY

- \* which then included Viet Nam
- \*\* Viet Nam was removed from § 110.28, effective July 31, 1996

9610220294 961021  
PDR EXPORT  
XB-1291

PDR

IA-1-1 Export/Imports

*These  
notes  
were  
also  
added  
to the  
original*



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

OCT 21 1996.

MEMORANDUM TO: Diane B. Dandois, Chief  
License Fee and Accounts Receivable Branch  
Division of Accounting & Finance  
Office of the Controller

FROM: *RNK* Ronald D. Hauber, Director  
Division of Nonproliferation, Exports  
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560220294 19

APPLICATION FOR LICENSE TO EXPORT NUCLEAR  
MATERIAL AND EQUIPMENT

(See Instructions on Reverse)

ESTIMATE BURDEN PER RESPONSE TO COMPLY WITH THIS  
INFORM. COLLECTION REQUEST: 1 HOUR. FORWARD  
COMMENTS REGARDING BURDEN ESTIMATE TO THE INFORMATION  
AND RECORDS MANAGEMENT BRANCH (MNBB 7714), U.S.  
NUCLEAR REGULATORY COMMISSION, WASHINGTON, DC 20555,  
AND TO THE PAPERWORK REDUCTION PROJECT (3150-0027),  
OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, DC 20503.

|  |   |   |  |  |  |                                  |
|--|---|---|--|--|--|----------------------------------|
| 1. APPLICANT'S<br>USE  | a. DATE OF APPLICATION<br>2-21-96   | b. APPLICANT'S REFERENCE<br>P21150                        | 2. NRC<br>USE  | e. DOCKET NO.<br>11004874  | b. LICENSE NO.<br>XB001291                       |                                  |
| 3. APPLICANT'S NAME AND ADDRESS<br>a. NAME<br>ABB Industrial Systems Inc.<br>b. STREET ADDRESS<br>650 Ackerman Road<br>c. CITY<br>Columbus<br>STATE<br>OH<br>ZIP CODE<br>43202<br>d. TELEPHONE NUMBER (Area Code - Number - Extension)<br>614-261-2000 X2337 |   |   | 4. SUPPLIER'S NAME AND ADDRESS<br>(Complete if applicant is not supplier of material)<br>a. NAME<br>b. STREET ADDRESS<br>c. CITY<br>STATE<br>ZIP CODE                        |  |  |                                  |
| 5. FIRST SHIPMENT<br>SCHEDULED<br>Appox. 4-20-96   | 6. FINAL SHIPMENT<br>SCHEDULED<br>TBD   | 7. APPLICANT'S CONTRACTUAL<br>DELIVERY DATE<br>TBD        | 8. PROPOSED LICENSE<br>EXPIRATION DATE<br>June 2001  | 9. U.S. DEPARTMENT OF ENERGY<br>CONTRACT NO. (If Known)<br>N/A       |  |                                  |
| 10. ULTIMATE FOREIGN CONSIGNEE<br>a. NAME<br>Tan Mai Paper Co.<br>b. STREET ADDRESS (Facility Site)<br>Pien Hoa City<br>c. CITY<br>Dong Nai Province<br>d. COUNTRY<br>Vietnam  |   |   | 11. ULTIMATE END USE<br>(Include plant or facility name)<br>USE CODE<br><i>See 10 measurement of basic weight in the manufacture of paper products</i><br>11a. DATE REQUIRED |  |  |                                  |
| 12. ULTIMATE FOREIGN CONSIGNEE<br>a. NAME<br>Vinh Phu Paper Mill<br>b. STREET ADDRESS (Facility Site)<br>Bai Bang<br>c. CITY<br>CHXHCN Hanoi<br>d. COUNTRY<br>Vietnam  |   |   | 13. INTERMEDIATE END USE<br>USE CODE<br><i>See 11 Same as 11</i><br>13a. DATE REQUIRED   |  |  |                                  |
| 14. INTERMEDIATE FOREIGN CONSIGNEE<br>a. NAME<br>b. STREET ADDRESS (Facility Site)<br>c. CITY<br>d. COUNTRY  |   |   | 15. INTERMEDIATE END USE<br>USE CODE<br>15a. DATE REQUIRED   |  |  |                                  |
| 16. COM<br>CODE  | 17. DESCRIPTION<br>(include chemical and physical form of nuclear material; give dollar value of nuclear equipment and components)<br>Kr-85, Sealed Source (Gas)<br>Pm-147, Sealed Source (Solid)<br>Sr-90, Sealed Source (Solid)<br><br>Krypton - 85<br>Promethium - 147<br>Strontium - 90 |   | 18. MAX. ELEMENT<br>WEIGHT   | 19. MAX.<br>WT. %  | 20. MAX. ISOTOPE<br>WEIGHT<br>1000<br>1000<br>70 | 21.<br>UNIT<br>mCi<br>mCi<br>mCi |
| 22. COUNTRY OF ORIGIN -<br>SOURCE MATERIAL<br>Byproduct Material - USA   |   | 23. COUNTRY OF ORIGIN - SNM<br>WHERE ENRICHED OR PRODUCED |  | 24. COUNTRIES WHICH ATTACH<br>SAFEGUARDS (If Known)<br><i>logged</i> |  |                                  |
| 25. ADDITIONAL INFORMATION ON CONSIGNEES, END USES, AND PRODUCT DESCRIPTION (Use separate sheet if necessary)<br>See separate sheet<br>app. to FAR + DCS   |   |   |  |  |  |                                  |
| 26. The applicant certifies that this application is prepared in conformity with Title 10, Code of Federal Regulations, and that all information in this application is correct to the best of his/her knowledge.  |   |   |  |  |  |                                  |
| 27. AUTHORIZED OFFICIAL  |   | a. SIGNATURE<br><i>Arnell Stephens</i>                    |  | b. TITLE<br>Corporate Radiation Safety Officer                       |  |                                  |

ABB Industrial Systems Inc.

Attachment to NRC Form 7, APPLICATION FOR LICENSE TO EXPORT NUCLEAR MATERIAL AND EQUIPMENT

Item 25:

The byproduct material referenced in this application is in the form of sealed sources used for the measurement of basis weight in the manufacture of paper products. Each source will be installed in a device registered with the USNRC as model TG-4, No. NR-109-D-121-B, and approved for distribution to specific or general licensees of the USNRC or an Agreement State. We operate under USNRC Material Licenses 34-00255-03 and 34-00255-06G.

This sensor is part of a large automated process control system, the balance of which has been approved for export to Vietnam by both the State Department and Commerce Department.

The ultimate consignees shown in items 10 and 12 are current firm orders. We anticipate further orders from other facilities in Vietnam in the future.

00 : 11v 5 MAR 96

INTERNAL SECURITY

ABB

301 4/5 2395

23 February 1996

Director for Nonproliferation, Exports,  
and Multilateral Relations  
Office of International Programs  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Betty -  
please provide this  
and other info  
to OGC -  
also copies to  
me & Elaine

Thanks  
Rm

Reference: Application for License to export to Vietnam

As provided in Part 110 (Code of Regulations, Title 10, Chapter 1) a specific license is required to export to the embargoed countries listed in 110.28. Therefore an application has been submitted in compliance with the regulations. However, concurrently, this letter is to petition to the Commission on our own initiative, for a general license to export to Vietnam.

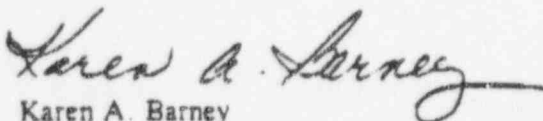
The basis for petitioning this amendment is due to President's Clinton's ruling dated February 3, 1994 lifting the trade embargo against Vietnam, thus, removing Vietnam from the embargoed countries list. Despite this ruling, the "embargoed countries" do not appear consistent within the various U.S. regulatory agencies and has created confusion. The President's ruling specifically cites that the regulation was issued in final form without notice of proposed rulemaking, opportunity for public participation, or delay in effective date. Since this regulation involves a foreign and military affairs function of the United States, provisions for Administrative Procedures under 5 USC 553 are inapplicable. Therefore, "no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule."

Subsequently, licensing policies and procedures referenced above in Part 110 (Code of Regulations, Title 10, Chapter 1) dated September 1995 are contrary to the President's February 1994 ruling and create additional burden for this business transaction if notice for rulemaking is required and a license fee is assessed.

Additionally, the specific license application identifies that the product involved is a source which is a part of the industrial control equipment used in the paper making process (a civil end-use) at this customer's mill (Tan Mai Paper). There would no inimical harm for defense, security or others risks as stated in Part 110.20.b (Code of Federal Regulations, Title 10, Chapter 1).

Therefore, consideration is requested for relief of the specific license requirement and associated licensing costs for this application as well as the authority to use a general license.

Sincerely,



Karen A. Barney  
Export Control Administrator

ABB Industrial Systems Inc.

650 Ackerman Road  
P.O. Box 62050  
Columbus, Ohio 43202-1502

Telephone:  
614/261-2000

Telex  
246675

Telex  
614/261-2172

1 FHL

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