

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	License File	RGoodwyn, NMSS	TRothschild, OGC
DCS/ DE02	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	BLWright	RDHauber	TRothschild	
DATE	10/4/96	10/21/96	10/21/96	1/1

OFFICIAL RECORD COPY

* which then included Viet Nam

** Viet Nam was removed from § 110.28, effective July 31, 1996

240017

9610240128 961021
PDR EXPORT
XB-1291 PDR

These notes were also added to the original.

DF03/1

96-131 14-3-4



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

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Division of Nonproliferation, Exports
and Multilateral Relations
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5. Export License XB001291, dtd 4/4/96

* which then included Viet Nam.

** Viet Nam was removed from §110.28, effective July 31, 1996.

APPLICATION FOR LICENSE TO EXPORT NUCLEAR
MATERIAL AND EQUIPMENT

(See Instructions on Reverse)

ESTIMATE BURDEN PER RESPONSE TO COMPLY WITH THIS
INFORMAL COLLECTION REQUEST: 1 HOUR. FORWARD
COMMENTS REGARDING BURDEN ESTIMATE TO THE INFORMATION
AND RECORDS MANAGEMENT BRANCH (MNBS 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 USE		a. DATE OF APPLICATION 2-21-96		b. APPLICANT'S REFERENCE P21150		2. NRC USE		a. DOCKET NO. 11004874		b. LICENSE NO. XB001291			
3. APPLICANT'S NAME AND ADDRESS a. NAME ABB Industrial Systems Inc. b. STREET ADDRESS 650 Ackerman Road c. CITY Columbus STATE OH ZIP CODE 43202 d. TELEPHONE NUMBER (Area Code - Number - Extension) 614-261-2000 X2337						4. SUPPLIER'S NAME AND ADDRESS (Complete if applicant is not supplier of material) RAS							
5. FIRST SHIPMENT SCHEDULED Appox. 4-20-96		6. FINAL SHIPMENT SCHEDULED TBD		7. APPLICANT'S CONTRACTUAL DELIVERY DATE TBD		8. PROPOSED LICENSE EXPIRATION DATE June 2001		9. U.S. DEPARTMENT OF ENERGY CONTRACT NO. (If Known) N/A					
10. ULTIMATE FOREIGN CONSIGNEE a. NAME Tan Mai Paper Co. b. STREET ADDRESS (Facility Site) Bien Hoa City c. CITY Dong Nai Province d. COUNTRY Vietnam						11. ULTIMATE END USE (Include plant or facility name) USE CODE <i>See 10 measurement of basic weight in the manufacture of paper products</i> 11a. DATE REQUIRED							
12. ULTIMATE FOREIGN CONSIGNEE a. NAME Vinh Phu Paper Mill b. STREET ADDRESS (Facility Site) Bai Bang c. CITY CHXHCN Hanoi d. COUNTRY Vietnam						13. INTERMEDIATE END USE USE CODE <i>See 17 Same as 11</i> 13a. DATE REQUIRED							
14. INTERMEDIATE FOREIGN CONSIGNEE a. NAME b. STREET ADDRESS (Facility Site) c. CITY d. COUNTRY						15. INTERMEDIATE END USE USE CODE 15a. DATE REQUIRED							
16. COM CODE		17. DESCRIPTION (Include chemical and physical form of nuclear material; give dollar value of nuclear equipment and components) Kr-85, Sealed Source (Gas) Pm-147, Sealed Source (Solid) Sr-90, Sealed Source (Solid) <i>Krypton - 85 Promethium - 147 Strontium - 90</i>				18. MAX. ELEMENT WEIGHT		19. MAX. WT. %		20. MAX. ISOTOPE WEIGHT		21. UNIT	
										1000 1000 70		mCi mCi mCi	
22. COUNTRY OF ORIGIN - SOURCE MATERIAL Byproduct Material - USA				23. COUNTRY OF ORIGIN - SNM WHERE ENRICHED OR PRODUCED				24. COUNTRIES WHICH ATTACH SAFEGUARDS (If Known) <i>logged</i>					
25. ADDITIONAL INFORMATION ON CONSIGNEES, END USES, AND PRODUCT DESCRIPTION (Use separate sheet if necessary) See separate sheet <i>up to PDR+DCS</i> 90-11-3 BVM 95													
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 <i>Arvid J. Stephens</i>				b. TITLE 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 : 11A 5 MAR 96

INTERNAL USE ONLY

ABB

301 415 257

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
Pm

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 be no inimical harm for defense, security or other 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,

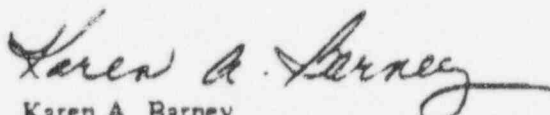

Karen A. Barney
Export Control Administrator

ABB Industrial Systems Inc.

650 Ackerman Road
P.O. Box 02057
Columbus, Ohio 43202-1502

Telephone
614/261-2000

Telex
246875

Telefax
614/261-2172



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545-0001

1996 MAR 15 11:07

TO: R. Messier
Linda Mitchell, OC/DAF/LFDCB

SUBJECT: EXPORT/IMPORT APPLICATIONS - FEE PROCESSING

DOCKET NO.: 11064874 APPLICATION/LICENSE NO.: XB001291

APPLICANT/LICENSEE: ABB Industrial Systems

APPLICATION DATE: 3/4/96 DATE RECEIVED: 3/5/96

The above license request has been reviewed by OIP in accordance with 10 CFR Part 170, and is described below as:

ACTION TYPE: ☒ New License ☐ Amendment

REFERENCE:

10 CFR 170.21 K. _____

\$ _____

10 CFR 170.31 15. B

\$ 4600

? The check is
made out for
\$4600
Rem

DESCRIPTION:

☐ High enriched uranium [XSNM]

☒ Low enriched uranium, source material, byproduct material, heavy water (D₂O) or nuclear grade graphite [XSNM, XSOU, XB, XMAT]

☐ Other Export/Import Licenses

☐ Production and utilization facility or major component [XR]

☐ Other production and utilization facility component [XCOM]

Log	<u>Mr. L. E. F.</u>
Remitter	<u>ABB</u>
Check No.	<u>282370</u>
Amount	<u>44600</u>
Fee Category	<u>15B</u>
Type of Fee	<u>Graph</u>
Date Check Rec'd.	<u>3/15/96</u>
Date Completed	<u>3/15/96</u>
By:	<u>R. Messier</u>

Signature:

Arnold D. / [Signature]
OIP/NEMR Director or Licensing Officer

Date:

March, 1996

Forwarded by: [Signature]

Telephone: 415-2344

Mail Stop: 0/3-H-5

4610220327 2 pp.

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER



ABB INDUSTRIAL SYSTEMS INC.
650 ACKERMAN ROAD
COLUMBUS OHIO 43202

Citibank Delaware
A subsidiary of Citicorp
One Penn's Way
New Castle, DE 19720

282870

2/21/90

62-20
311

*****4600.00*

FOUR THOUSAND, SIX HUNDRED AND 00/100 DOLLARS

ABB INDUSTRIAL SYSTEMS INC.

PAY TO THE ORDER OF:

U.S. NUCLEAR REGULATORY
COMM./DIV. OF FUEL CYCLES MAT
SAFETY-MATERIAL LIC. BRANCH
WASHINGTON D.C. 20555

NOT VALID OVER \$50,000 UNLESS DUAL SIGNATURES

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

⑈00282870⑈

⑈031100209⑈

38830982⑈



United States Department of State
Bureau of Political-Military Affairs
Washington, D.C. 20520-6817

April 1, 1996

XB001291
11004874
Vietnam

Mr. Carlton R. Stoiber
Director, International Programs
United States Nuclear Regulatory Commission
Rockville, Maryland

Dear Mr. Stoiber:

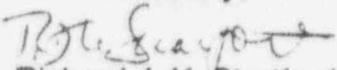
I refer to the letter from your office dated March 19, 1996, requesting Executive Branch views as to whether issuance of an export license in accordance with the application hereinafter described meets the applicable criteria of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978:

XB001291--ABB Industrial Systems Inc. has applied for a license to authorize the export to Vietnam of 1000 millicuries of krypton-85 in the form of gas, 1000 millicuries of promethium-147 in solid form and 70 millicuries of strontium-90 in solid form, all in sealed sources, to be used for measurement of weight of paper products produced by the Vinh Phu Paper Mill in Bai Bang, Hanoi.

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. It is also the view of the Executive Branch that Vietnam should be removed from the list of Embargoed destinations under 10 CFR 110.28 since Vietnam is no longer an embargoed country.

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

Sincerely,


Richard J. K. Stratford
Director
Nuclear Energy Affairs

6 APR 2 11:51

INTERNATIONAL PROGRAMS

RDH & EOH
1/3/96 copy to PDR, DIS/DFOD,
NMSS, NAC/NMSS, DOE/OR,
Therichild, OGC BAW
9607240004 IP.

THIS LICENSE EXPIRES 30 June 2001

United States of America

Nuclear Regulatory Commission

XB001291

Pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 and the regulations of the Nuclear Regulatory Commission issued pursuant thereto, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued

to the licensee authorizing the export of the materials and/or production or utilization facilities listed below, subject to the terms and conditions herein.

LICENSEE

ABB Industrial Systems, Inc.
650 Ackerman Road
Columbus, OH 43202

ATTN: D. Stephens

ULTIMATE CONSIGNEE IN FOREIGN COUNTRY

1) Tan Mai Paper Co.
Bien Hoa City
Dong Nai Province
Vietnam

2) Vinh Phu Paper Mill
Bai Bang
CHXHCN Hanoi
Vietnam

(Measurement of basic weight in the
manufacture of paper products)

INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY

NONE

OTHER PARTIES TO EXPORT

NONE

APPLICANT'S REF. NO. P21150

COUNTRY OF ULTIMATE DESTINATION Vietnam

QUANTITY

DESCRIPTION OF MATERIALS OR FACILITIES

1,000 millicuries	Krypton-85	Contained in sealed source (gas).
1,000 millicuries	Promethium-147	Contained in sealed source (solid).
70 millicuries	Strontium-90	Contained in sealed source (solid).

//////////////////////////////////////END//////////////////////////////////////

bcc (fm original):

Licensee
Embassy
PDR
DCS/DF02
Licen's dFile

Distribution:

Licensee File	CKircald, D/DE	VAnderson, NAC/NMSS
Lic les'd File	RGoorevich, DOE	RMessier, OC
OWP r/f	RDeLaBerre, DOS	MJMassengill, DOE/OR
OWP Desk Off	JChuchis, DOC	TRothechild, OGC
	RGoodwyn, NMSS	

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.

This license is subject to the right of recapture or control by Section 106 of the Atomic Energy Act of 1954, as amended and to all of the other provisions of said Acts, now or hereafter in effect and to all valid rules and regulations of the Nuclear Regulatory Commission.

THIS LICENSE IS INVALID UNLESS SIGNED BELOW
BY AUTHORIZED NRC REPRESENTATIVE

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

DATE OF ISSUANCE

APR 4 1995

EXPORT LICENSE

9604080285 3pp.

THIS LICENSE EXPIRES 30 June 2001

United States of America
Nuclear Regulatory Commission

XB001291

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LICENSEE

ABB Industrial Systems, Inc.
650 Ackerman Road
Columbus, OH 43202

ATTN: D. Stephens

ULTIMATE CONSIGNEE IN FOREIGN COUNTRY

- 1) Tan Mai Paper Co.
Bien Hoa City
Dong Nai Province
Vietnam
- 2) Vinh Phu Paper Mill
Bai Bang
CHUXHON Monol
Vietnam

(Measurement of basic weight in the manufacture of paper products)

INTERMEDIATE CONSIGNEE IN FOREIGN COUNTRY

NONE

OTHER PARTIES TO EXPORT

NONE

APPLICANT'S REF. NO.

P21150

COUNTRY OF ULTIMATE DESTINATION

Vietnam

QUANTITY

DESCRIPTION OF MATERIALS OR FACILITIES

- | | | |
|-------------------|----------------|-------------------------------------|
| 1,000 millicuries | Krypton-85 | Contained in sealed source (gas). |
| 1,000 millicuries | Promethium-147 | Contained in sealed source (solid). |
| 70 millicuries | Strontium-90 | Contained in sealed source (solid). |

////////////////////// END //////////////////////////////////////

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954, as amended and the Energy Reorganization Act of 1974.

This license is subject to the right of recapture or control by Section 108 of the Atomic Energy Act of 1954, as amended and to all of the other provisions of said Acts, now or hereafter in effect and to all valid rules and regulations of the Nuclear Regulatory Commission.

THIS LICENSE IS INVALID UNLESS SIGNED BELOW BY AUTHORIZED NRC REPRESENTATIVE

Ronald D. Hauber
Ronald D. Hauber, Director
Division of Nonproliferation, Exports
and Multilateral Relations
Office of International Programs

DATE OF ISSUANCE

APR 4 1996

U.S. NUCLEAR REGULATORY COMMISSION
EXPORT LICENSE

Conditions

License Number XB001291

Condition 1 — Licensee shall file with the Customs Officer or the Postmaster two copies, in addition to those otherwise required, of the Shipper's Export Declaration covering each export and mark one of such copies for transmittal to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The following declaration should accompany or be placed on the Shipper's Export Declarations for such exports:

"This shipment is being made pursuant to specific license number (**specific license number**) filed at (**location of Customs office where license is filed**), on (**date license was filed**). This license expires on (**expiration date of license**), and the unshipped balance remaining on this license is sufficient to cover the shipment described on this declaration."

Condition 2 — Exports authorized in any country or destination, except Country Groups Q, S, W, X, Y, and Z in Part 370, Supplement No. 1, of the Comprehensive Export Schedule of the U.S. Department of Commerce.

Condition 3 — This license covers only the nuclear content of the material.

Condition 4 — The material to be exported under this license shall be shipped in accordance with the physical protection requirements for special nuclear material in 10 CFR 73.

Condition 5 — Special nuclear material authorized for export under this license shall not be transported outside the United States in passenger carrying aircraft in shipments exceeding (1) 20 grams or 20 curies, whichever is less, of plutonium or uranium 233, or (2) 350 grams of uranium 235.

Condition 6 — This license authorizes export only and does not authorize the receipt, physical possession, or use of the nuclear material.

Condition 7 — The licensee shall complete and submit an NRC Form 741 for each shipment of source material exported under this license.

Condition 8 — The licensee shall advise the NRC in the event there is any change in the designation of the company who will package the nuclear material to be exported under this license, or any change in the location of the packaging operation, at least three weeks prior to the scheduled date of export.