



United States Department of State

Washington, D.C. 20520

January 23, 1997

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 October 23, 1996, 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. XCOM1102 -- Westinghouse Electric Corporation has applied for authorization to export to Brazil zirconium fuel cladding tubes, reactor internals and other components covered in Appendix A(5) through A(9) of 10 CFR Part 110 for the Angra 1 and 2 Nuclear Power Plants and any other commercial nuclear power plants to be built in Brazil.

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, provided that the license is conditioned to cover only those items specified in the Brazilian Government assurances described below.

As a party to the Treaty of Tlatelolco, Brazil has committed itself to maintain IAEA safeguards on all of its peaceful nuclear activities. It is therefore the judgment of the Executive Branch that Criterion (1) for exports of nuclear components, substances and items under Section 109b of the Atomic Energy Act, as amended, is met. Criterion (3) agreement not to retransfer 25 pieces of Zircaloy -4 fuel cladding tubes to any other nation or group of nations or to any territory outside the jurisdiction of Brazil without prior U.S. consent, has been satisfied by the receipt of written assurances dated January 22, 1997 from the Brazilian Ministry of Foreign Affairs, copies of which are enclosed. These assurances also confirm that there will be no military use of the Zircaloy cladding tubes which are intended for product quality verification at the Industrias Nucleares do Brasil S.A. (INB) fuel fabrication plant in Resende. The Brazilian assurances also confirm that the tubes will be used only for product quality verification at the INB plant.

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PDR XPORT
XCOM-1102 PDR

Assurance for export
received in CIA 1/23/97
JAN 24

2A-1 Export &
import

DF03

With regard to Criterion (2), an assurance of no nuclear explosive use, the German-IAEA-Brazil Safeguards Agreement (INFCIRC/237) dated 26 May 1976 confirms in Articles 2 and 4 that no material, including produced material, or facilities subject to the Agreement "shall be used for the manufacture of any nuclear weapon or to further any other military purpose or for the manufacture of any other nuclear explosive device". Article 7(b) specifies that "the Subsidiary Part of each Inventory shall list: (1) Any nuclear facility while it contains any specified equipment or specified material listed in the Main Part of the Inventory". As the foregoing commitments apply to any fuel assemblies fabricated by INB using German-supplied equipment, they also apply to any tubing supplied for production of fuel assemblies. A copy of INFCIRC/237 was provided the NRC as an enclosure to my letter of December 13, 1993 on NRC application XCOM1080.

On the basis of the foregoing, the Executive Branch recommends that the license be issued, subject to the proviso stipulated above. The Executive Branch anticipates being able to provide favorable recommendations regarding other items proposed for export to Brazil in the Westinghouse application, upon receipt of the appropriate assurances from the Government of Brazil.

Sincerely,



Richard J. K. Stratford

Director

Office of Nuclear Energy Affairs

Enclosures: Assurances from Brazilian MFA
with attached certificates.

DDS/DCS/ 08 /ENER-BRAS-EUA

O Ministério das Relações Exteriores cumprimenta a Embaixada dos Estados Unidos da América e tem a honra de informar que as autoridades brasileiras endossam o pedido de aprovação pelo Governo americano de venda, para uso na fábrica de elementos combustíveis das Indústrias Nucleares Brasileiras (INB), de 25 tubos de revestimento de Zircaloy-4, a serem fornecidos pela Westinghouse Electric Corporation, desse país.

2. Nesse sentido, o Ministério das Relações Exteriores solicita sejam aceitas as garantias quanto ao uso final do referido produto, conforme explicitado nos certificados em anexo.

3. O Ministério das Relações Exteriores confia em que, com este procedimento, não haverá impedimentos à liberação do produto de interesse da empresa Indústrias Nucleares Brasileiras (INB).

Brasília, em 22 de janeiro de 1997.

(INFORMAL TRANSLATION):
"DDS/DCS/08/ENER-BRAS/EUA

1). THE MINISTRY OF EXTERNAL RELATIONS PRESENTS ITS COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA AND HAS THE HONOR TO INFORM THAT THE BRAZILIAN AUTHORITIES ENDORSE THE U.S. GOVERNMENT REQUEST OF APPROVAL FOR SALE OF 25 CLADDING TUBES OF ZIRCALOY-4, FOR USE IN FUEL ELEMENTS FABRICATION OF THE INDUSTRIAS NUCLEARES BRASILEIRAS (INB), TO BE FURNISHED BY WESTINGHOUSE ELECTRIC CORPORATION, OF THIS COUNTRY.

2). WITH THIS PURPOSE, THE MINISTRY OF EXTERNAL RELATIONS REQUESTS THE ACCEPTANCE OF THE ASSURANCES CONCERNING THE FINAL USE OF THE REFERRED PRODUCT, AS IT WAS EXPRESSED IN THE ATTACHED CERTIFICATES.

3). THE MINISTRY OF EXTERNAL RELATIONS BELIEVES THAT, WITH THIS PROCEDURE, THERE WILL NOT BE IMPEDIMENTS TO THE LIBERATION OF THE PRODUCT OF INTEREST TO THE INDUSTRIAS NUCLEARES BRASILEIRAS (INB).

BRASILIA, 22 JANUARY, 1997."

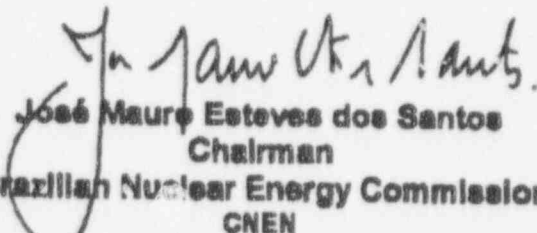
UNCLASSIFIED

STATEMENT

Brazilian Nuclear Energy Commission (Comissão Nacional de Energia Nuclear) - CNEN, federal agency, under the responsibilities of the Brazilian Secretary of Strategic Affairs (Secretaria de Assuntos Estratégicos da Presidência da República) - SAE/PR, states that the Brazilian Nuclear Industries S/A (Indústrias Nucleares do Brasil S/A) - INB will comply the terms of the contract signed with Westinghouse Electric Corporation, on August 15, 1996, for the supply of the 25 pcs of Zircaloy-4 cladding tubes.

CNEN is the main shareholder of the INB and on behalf of the Brazilian Government assures that the above mentioned material that will be supplied by Westinghouse will not be re-transferred, re-exported or used for military purposes.

Rio de Janeiro, December 04nd, 1996.

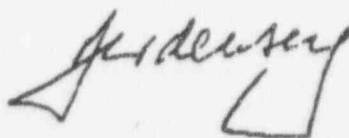

José Mauro Esteves dos Santos
Chairman
Brazilian Nuclear Energy Commission
CNEN

CERTIFICAÇÃO

Certifico junto ao Governo dos Estados Unidos da América que o Importador, Indústrias Nucleares do Brasil S/A - INB, dos 25 tubos de revestimentos de Zircaloy-4 que serão utilizados na Fábrica de Elementos Combustíveis daquela Empresa, localizada no Município de Resende, Rio de Janeiro - Brasil, fornecidos pela Westinghouse Electric Corporation desse País, declarou a esta Secretaria de Assuntos Estratégicos da Presidência da República - SAE/PR, que o referido material será usado somente para o propósito especificado e segundo os termos do Certificado de Uso Final, em anexo.

Esta Secretaria de Assuntos Estratégicos da Presidência da República - SAE/PR, garante que aquela empresa controlada pela Comissão Nacional de Energia Nuclear - CNEN é acionista majoritária, em nome da União Federal, das ações daquela estatal, assegurando, desta forma, que aquela INB, importadora dos 25 tubos de Zircaloy-4 cumprirá todos os compromissos constantes nos certificados que ora ratifico e encontram-se, em anexo.

Brasília, 6 de dezembro de 1996



Ronaldo Mota Sardenberg
Secretário de Assuntos Estratégicos da
Presidência da República

(INFORMAL TRANSLATION OF ENCLOSED CERTIFICATE)

"CERTIFICATION

I CERTIFY TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA THAT THE IMPORTER, INDUSTRIAS NUCLEARES DO BRASIL S/A - INB, OF THE 25 CLADDING TUBES OF ZIRCALOY-4 WHICH WILL BE USED IN FABRICATION OF FUEL ELEMENTS OF THAT COMPANY, LOCATED IN THE MUNICIPALITY OF RESENDE, RIO DE JANEIRO, RJ, BRASIL, PROVIDED BY THE WESTINGHOUSE ELECTRIC CORPORATION OF THIS COUNTRY, DECLARED TO THIS SECRETARIAT OF STRATEGIC AFFAIRS OF THE PRESIDENCY OF THE REPUBLIC - SAE/PR, THAT THE REFERRED MATERIAL WILL BE USED ONLY WITH THE SPECIFIED PURPOSE AND ACCORDING WITH THE TERMS OF THE END-USE CERTIFICATE, IN ANNEX.

THIS SECRETARIAT OF STRATEGIC AFFAIRS OF THE PRESIDENCY OF THE REPUBLIC - SAE/PR, GUARANTEES THAT THIS COMPANY CONTROLLED BY THE BRAZILIAN NUCLEAR ENERGY COMMISSION - CNEN, IS THE MAJORITY STOCKHOLDER, IN THE NAME OF THE FEDERAL UNION, OF THE STOCKS OF THAT STATE COMPANY, CERTIFYING, THIS WAY, THAT INB, IMPORTER OF 25 TUBES OF ZYRCALOY-4 WILL COMPLY WITH ALL THE COMMITMENTS INCLUDED IN THE CERTIFICATES THAT NOW I RATIFY AND ARE ATTACHED.

BRASILIA, 6 DECEMBER, 1996.

RONALDO MOTA SARDENBERG
SECRETARY OF STRATEGIC AFFAIRS
OF PRESIDENCY OF THE REPUBLIC"

UNCLASSIFIED

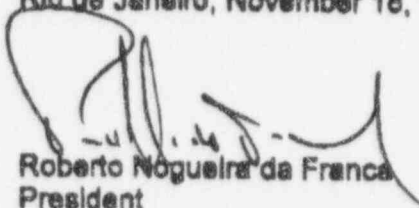


INDÚSTRIAS NUCLEARES
DO BRASIL S.A.

END USE STATEMENT

INDÚSTRIAS NUCLEARES DO BRASIL S.A. - INB hereby confirms that the 25 pcs. of Zircaloy-4 cladding tubes purchased from Westinghouse Electric Corporation, when exported to Brazil will not be retransferred to any other nation or group of nations or to any territory outside the jurisdiction of Brazil without the consent of the United States Government and that the cladding tubes will be used only for product quality verification at INB's Fuel Fabrication Plant in Resende, Rio de Janeiro and will not be used for any military purpose.

Rio de Janeiro, November 18, 1996.



Roberto Nogueira da Franca
President