

NOTATION VOTE

RESPONSE SHEET

TO: John C. Hoyle, Secretary

FROM: COMMISSIONER MCGAFFIGAN

SUBJECT: SECY-97-085 - PROPOSED AGREEMENT FOR
COOPERATION BETWEEN THE U.S. AND SWITZERLAND

Approved X (with comment) Disapproved _____ Abstain _____

Not Participating _____ Request Discussion _____

COMMENTS:

See attached comments.

Edward M. McGaffigan Jr.

SIGNATURE

6/6/97

DATE

Release Vote /X/

Withhold Vote / /

Entered on "AS" Yes X No _____

Commissioner McGaffigan's comments on SECY-97-085 - Proposed Agreement for Cooperation between the U.S. and Switzerland

I approve this agreement with great reluctance. Like the EURATOM and Japanese agreements, the proposed Swiss agreement would provide advance, long-term approval of both reprocessing and fabrication and use of MOX from U.S.-origin fuel. It was not the intent of Congress in 1978 that such blanket consent features would be incorporated into new Agreements for Cooperation. Quite the contrary, the drafters of the Nuclear Non-Proliferation Act of 1978 intended that such approval be granted on a case-by-case basis, if at all. The Executive Branch recognized that and generally insisted on a case-by-case prior approval approach. It requires a tortuous legal analysis to come to the conclusion that the Japanese, EURATOM, or Swiss agreements (including their agreed minutes and annexes) meet the terms of Section 123 of the Atomic Energy Act.

I recognize, however, that the Congress did approve the Japan Agreement in 1988 despite the opposition of the Commission at that time. I recognize that the EURATOM agreement with even broader programmatic consents and more limited revocation rights than the Japan agreement was not challenged in the Congress in 1996, and that the Swiss agreement is effectively a corollary of the EURATOM agreement. But as the exceptions multiply, I believe that they undermine the U.S. Government policy not to encourage civilian reprocessing and use of plutonium in MOX fuel. I would hope that the Swiss agreement would be the last agreement of this type to come before the Commission.

It is striking that the EURATOM and Swiss agreements have been concluded at precisely the time new governments in France and the United Kingdom are questioning the wisdom of the totally uneconomic reprocessing, MOX and breeder reactor programs with which British and French taxpayers have been saddled. Hopefully, these agreements will prove to be the "last hurrah" of the old guard closed fuel cycle fraternity.



OFFICE OF THE
SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

June 17, 1997

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Out -*

MEMORANDUM TO: Carlton R. Stoiber, Director
Office of International Programs

FROM: *John C. Hoyle*
John C. Hoyle, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-97-085 - PROPOSED
AGREEMENT FOR COOPERATION BETWEEN THE U.S.
AND SWITZERLAND

The Commission has approved the proposed letter to the President with the following addition. The words 'and supporting draft documents' should be added at the end of the first sentence.

cc: Chairman Jackson
Commissioner Rogers
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
EDO
OGC
CIO
CFO
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR
DCS

SECY NOTE:

THIS SRM, SECY-97-085, AND THE COMMISSION VOTING RECORD CONTAINING THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 5 WORKING DAYS FROM THE DATE OF THIS SRM.

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