

Department of Energy

(6) Reprocessing of irradiated nuclear fuel or targets containing special nuclear material.

§ 810.8 Restrictions on general and specific authorization.

A general or specific authorization granted by the Secretary under this part:

(a) Is limited to activities involving only unclassified information and does not permit furnishing classified information;

(b) Does not relieve a person from complying with the relevant laws or the regulations of other U.S. Government agencies applicable to exports; and

(c) Does not authorize a person to engage in any activity when the person knows or has reason to know that the activity is intended to provide assistance in designing, developing, fabricating, or testing a nuclear explosive device.

§ 810.9 Grant of specific authorization.

(a) An application for authorization to engage in activities for which specific authorization is required under § 810.7 should be made to the U.S. Department of Energy, National Nuclear Security Administration, Washington, DC 20585, Attention: Senior Policy Advisor, Office of Nonproliferation and Arms Control (NPAC).

(b) The Secretary will approve an application for specific authorization if it is determined, with the concurrence of the Department of State and after consultation with the Nuclear Regulatory Commission, Department of Commerce, and Department of Defense, that the activity will not be inimical to the interest of the United States. In making such a determination, the Secretary will take into account the following factors:

(1) Whether the United States has an agreement for cooperation in force covering exports to the country or entity involved;

(2) Whether the country is a party to, or has otherwise adhered to, the NPT;

(3) Whether the country is in good standing with its acknowledged non-proliferation commitments;

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(4) Whether the country is in full compliance with its obligations under the NPT;

(5) Whether the country has accepted IAEA safeguards obligations on all nuclear materials used for peaceful purposes and has them in force;

(6) Whether other nonproliferation controls or conditions exist on the proposed activity, including that the recipient is duly authorized by the country to receive and use the technology sought to be transferred;

(7) Significance of the assistance or transferred technology relative to the existing nuclear capabilities of the country;

(8) Whether the transferred technology is part of an existing cooperative enrichment enterprise or the supply chain of such an enterprise;

(9) The availability of comparable assistance or technology from other sources; and

(10) Any other factors that may bear upon the political, economic, competitiveness, or security interests of the United States, including the obligations of the United States under treaties or other international agreements, and the obligations of the country under treaties or other international agreements.

(c) If the proposed activity involves the export of sensitive nuclear technology, the requirements of sections 127 and 128 of the Atomic Energy Act and of any applicable United States international commitments must also be met. For the export of sensitive nuclear technology, in addition to the factors in paragraph (b) of this section, the Secretary will take into account:

(1) Whether the country has signed, ratified, and is implementing a comprehensive safeguards agreement with the IAEA and has in force an Additional Protocol based on the Model Additional Protocol, or, pending this, in the case of a regional accounting and control arrangement for nuclear materials, is implementing, in cooperation with the IAEA, a safeguards agreement approved by the IAEA Board of Governors prior to the publication of INFCIRC/540 (September 1997); or alternatively whether comprehensive safeguards, including the measures of the