

# CINTAC

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## Civil Nuclear Trade Advisory Committee

July 19, 2018

The Honorable Wilbur L. Ross  
Secretary  
U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, DC 20230

Dear Mr. Secretary:

The Civil Nuclear Trade Advisory Committee (CINTAC), as an advisor to you on the promotion of nuclear energy exports, would like to bring to your attention a particular issue that significantly impacts the ability of U.S. nuclear energy companies to export equipment to companies within China. As we have previously discussed, the construction of commercial nuclear power plants in China represents a huge market for U.S. companies in the billions of dollars. The U.S. Government (USG), however, continues to delay decisions on export approvals pending the ongoing China nuclear policy assessment, even though many equipment exports represent little or no proliferation or other concerns.

During our meeting with you on March 15 and in our letter to you that same day, we requested assistance in expediting the conclusion of the ongoing China nuclear policy assessment and restarting the reviews of export approvals. Because the situation has not changed, we request your support and action for an interim policy solution to permit the export of certain nuclear equipment of lower potential concern, subject to U.S. Nuclear Regulatory Commission (NRC) export jurisdiction, while the overall policy review is completed. This would balance the economic interest of millions of dollars of exports of the equipment with the USG's concerns about exports of more proliferation-sensitive equipment.

In particular, for equipment requiring an NRC Export License Application under 10 CFR Part 110, there are two distinct categories of equipment. One category, referred to as "Major" Reactor Equipment, includes nuclear reactors, and major reactor components. *See* 10 CFR Part 110, App. A, paragraphs (1) through (4). The second category, referred to as "Minor" Reactor Equipment, includes other reactor equipment such as heat exchangers. *See* 10 CFR Part 110, App. A, paragraphs (5) through (11). We request your support with resuming the issuance of Export Licenses for Minor Reactor Equipment, thus helping prevent the loss of those equipment sales to foreign competitors.

The export licensing criteria for Major Reactor Equipment are provided in 10 CFR 110.42(a) and are more stringent than those for Minor Reactor Equipment, which are provided in 10 CFR 110.42(b). For example, the export of Major Reactor Equipment requires a 123 agreement for cooperation and physical security verification. That difference reflects the higher potential concerns with exporting Major Reactor Equipment over exporting Minor Reactor Equipment.

Additionally, whether they are for Major or Minor equipment, all Export License Applications receive an Interagency Review, thus providing further assurance that no improper exports will occur.

As an example, one of the CINTAC member companies has commercial equipment already sold to a Chinese company for installation at four different nuclear plants. This company has submitted U.S. NRC Form 7 for a 10 CFR Part 110 Export License, has obtained written assurances from the Chinese government, and has previously exported similar equipment to the same Chinese company with an approved Export License Application. The current delays due to the China nuclear policy assessment are preventing this business deal, notwithstanding the lack of any proliferation or other concerns.

In summary, CINTAC is proposing that you undertake personal advocacy within the Administration and direct appropriate Commerce staff to undertake the necessary actions within the USG to effect policy change permitting the NRC to complete its reviews and issue Export Licenses for Minor Reactor Equipment, even though the China nuclear policy review is ongoing. This interim policy change would require coordination among the White House and the U.S. Departments of Commerce, Energy, State, and Defense.

CINTAC would be pleased to support these efforts, including sharing our experiences. The review process for 10 CFR Part 110 Export License Applications has typically taken from one to four months once the foreign government assurances have been received by the State Department. The current Interagency Review with Executive Branch approval of Export License Applications for equipment being exported to China for installation in commercial nuclear power plants appears to be at a standstill and Applications have been pending more than six months. We thank you for your support of CINTAC, and we look forward to working with you and your team on this subject and other issues of mutual concern. U.S. companies stand to lose millions of dollars of business to foreign companies in this growing market if delays continue.

Sincerely, on behalf of the members of CINTAC,



Gary Wolski, Chairman



Chris Colbert, Vice Chairman

Cc: U.S. Secretary of State  
U.S. Secretary of Energy  
National Security Advisor  
Chairman, U.S. Nuclear Regulatory Commission  
Director, National Economic Council  
Chairman, Export-Import Bank of the United States

### CINTAC Members

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