

A Study for the Review of Export License through the NSG Denial Notification

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1. Introduce

All NSG participating members that have rejected applications of export licenses for nuclear export control items within their respective countries must give notice of this to the point of contact at NSG. This is referred to as the Denial Notification, and each of the participating members must respect the denial notifications of the other member nations. [1]

When participating members seek to obtain approval for an export license that is essentially identical to the denial notification of other member nations, they must necessarily go through the process of prior discussion with the nation that gave the denial notification. Also, it is regulated that the export license must not be approved without the sufficient exchange of information. Thus, these records of denial notifications must be constantly checked and maintained as the latest updated information and these records must be utilized in related approval examinations.

This study analyzes the denial notifications that have been recorded in the past 20 years and it describes the areas that must be mainly examined at the export and import licensing.

2. Analysis of Denial Notifications

During the past 20 years, a total of 440 cases of denial notifications were given.

2.1. Export Countries

There are a total of 20 countries that are export countries have become aware of nuclear items and technology that hold potential danger in regards to nuclear proliferation and deny export licenses. Among these countries, Germany has circulated the most, a total of 153 cases, of denial notifications to NSG participating members. The United States and Great Britain have denied exports in 70 instances as well. ROK has provided 2 cases of denial notifications in 2005 to member nations. The 2 cases which ROK denied were related to nuclear items with dual use items and there have never been any cases of denying exports of Trigger list items.

2.2. Import Countries

There are a total of 22 countries that are attempting to import items or technology that carry the danger of the potential of nuclear proliferation. Over 80% of the total cases involved countries that are in the process of developing nuclear weapons or are suspected of doing so: India (142 cases), Iran (127 cases), Pakistan (52 cases) and Israel (45 cases). China, who is assisting in the continuation of nuclear export and import activity with Pakistan, was the target of 14 denial notifications. United Arab Emirates, where ROK will be building a nuclear power plant, was subjected to 8 cases of denial notifications. It is analyzed that U.A.E. is not a country of final destination for use based on its geographical location but there is a high probability that attempts were made to import using U.A.E. as a hub for illegal transfers to Iran, Israel and other Middle Eastern countries of potential concern. North Korea received a total of 3 denial notifications.

2.3. Yearly

From 1993 until the present, approximately 20 cases of denial notifications were recorded per year. 2007 and 2008 were the years when the most denial notifications were recorded, at 43 cases and 47 cases respectively. Last year, there were 17 cases and there have been a total of 7 cases of denial notifications recorded as of June, 2012.

2.4. Reasons for denial

The majority of the reasons for exporting nations denying the export of goods and technology was due to the concern over usage in the development of nuclear weapons (257 cases). Concerns over not being used facilities for safety measures (77 cases) and concern over the potential for being used for military purposes contain fundamental reasons for concern of the potential for the development of nuclear weapons. The third most cases recorded involved being on the illegal transaction list of countries of final destination of usage (63 cases). These are instances of having been previously recorded as being denied exports due to illegal transactions. This

involves being aware of the NSG, the U.S. Department of Commerce and the European Commission illegal transaction lists. In addition, the uncertainty of the purpose of final use (11 cases) and the concern over the transfer to a third country (7 cases) can be seen as instances when attempts to utilize another country as a middle ground for illegal transactions were uncovered.

NSG recommends the following contents to be examined to exporting countries at the export licensing. [2]

- (a) Whether the recipient state is a party to the Nuclear Non-Proliferation Treaty (NPT) or to a similar international legally-binding nuclear non-proliferation agreement
- (b) Whether the equipment, materials, software, or related technology to be transferred is appropriate for the stated end-use and whether that stated end-use is appropriate for the end user;
- (c) Whether governmental actions, statements, and policies of the recipient state are supportive of nuclear non-proliferation and whether the recipient state is in compliance with its international obligations in the field of non-proliferation;
- (d) Whether the recipients have been engaged in clandestine or illegal procurement activities; and
- (e) Whether a transfer has not been authorized to the end-user or whether the end-user has diverted for purposes inconsistent with the Guidelines any transfer previously authorized.

Thus, it is determined that the reasons for denial notifications of the 440 cases were an appropriate application of the NSG Guideline.

2.5. Controlled items

The item that the most attempts of illegal transactions were milling machine (57 cases) which is a machine tool. There are other machine tools other than the milling machine including the turning machine and the grinding machine and these three machines composed a total of 121 cases of denial notifications, which is 27.5% of the entire 440 cases. It was identified that filament winding equipment (31), the hydrostatic pressure press (24) and the vacuum induction furnace (18) were controlled items that had the next most denial notifications after the machine tools. These items must be more carefully screened at the time of export than other items.

3. Conclusion

The NSG point of contact prepares NSG letters whenever there is a relevant matter and registers this with NISS and notifies all NISS users on the related information by email. NISS users can log on to NISS and view the contents of the NSG letters. NISS users need to check this NSG letters and examined as quickly as possible and they must be actively utilized in export approval inspections.

This study analyzed the denial notifications that were given to NSG members over the past 20 years by the categories of export country, import country, year, reason for denial and controlled items.

NSG denial notifications must absolutely be examined when the members nations export nuclear power related items. Through awareness of countries suspected of development of nuclear weapons, greater caution must be taken when exporting to countries of potential concern. Also, when a country of final destination of usage can be identified, the information on the export denial and denial notifications must be circulated to member nations. Furthermore, there is the need to thoroughly examine whether or not the goods that were the objects of illegal transactions will actually be used by the nations of final destination for usage.

It is anticipated that the result of this study will assist those who are in charge of inspecting export approvals in the future by reducing disreputable export and import activity through prior recognition of illegal transactions.

REFERENCES

- [1] 전략물자 수출입고시, 지식경제부, 2009
- [2] Practical Research: Information Utilization for Reviewing Export License, KINAC, 2012