

EDWARD J. MARKEY  
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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2107**  
August 24, 2004

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The Honorable Nils J. Diaz  
Chairman  
Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD, 20852

Dear Chairman Diaz:

I am writing to you regarding an upcoming shipment of 140 kilograms of weapons-grade plutonium from the U.S. to France. I am concerned that the security planned for this shipment that will consist of enough material for numerous nuclear weapons may not be sufficient to protect it from theft or attack.

As you know, Al Qaeda has long been seeking to commit acts of terrorism using or involving nuclear materials or facilities. In fact, an August 25 2003 article in Le Monde stated that an alleged terrorist who had been arrested had been targeting the trucks used to transport plutonium through France. A very disturbing video obtained by my office from Greenpeace indicated that an attack on such a shipment would not pose much of a challenge, since the trucks were very easily identified, followed and filmed traveling along highways in France, and were only lightly guarded.

Despite the apparent inadequacy of security measures for the shipment in France and petitions by several public interest groups, the Nuclear Regulatory Commission (NRC) approved the export on June 15, 2004, apparently without properly noticing the meeting in advance. Since that time, the Department of Homeland Security (DHS) announced that it believed that terrorists would seek to attack the U.S. this summer in order to disrupt the upcoming election.

Clearly, any terrorist attack on shipments of U.S.-origin weapons-grade plutonium could cause widespread panic, confusion and damage. In the worst-case scenario, however, such an attack could result in the theft of purified plutonium oxide, and/or the successful construction and detonation of a homemade nuclear weapon. Because of the seriousness of such an event, I ask for your prompt response to the following questions:

- 1) Was DHS consulted by the Commission prior to the approval of this export on June 15 2004? If so, please fully describe all such contacts, and provide copies of all correspondence related to these consultations. If not, why not?

- 2) Was DHS consulted by the Commission regarding this shipment after it issued its most recent terror warning? If so, please fully describe all such contacts, and provide copies of all correspondence related to these consultations. If not, why not?
- 3) What role, if any, has the Commission played in the development of the security plan for this shipment?
- 4) Has a threat assessment been prepared for this shipment? If so, has the Commission reviewed it? If not, why not?
- 5) Does the Commission believe that the physical security measures that will be used for the shipment once it reaches France are up to the same standards employed in the U.S.? Has the Commission performed an independent review of the French measures, or is it merely accepting without any independent inquiry or investigation assurances provided by the French Government or other parties?
- 6) Has the Commission reviewed any testing of the FS-47 containers that will be used to ship the plutonium? If so, what were the results? If not, why not?
- 7) The Atomic Energy Act requires the Commission to find that adequate physical security measures exist for any export of special nuclear material before approving an export license for such exports. A videotape obtained by my office as well as photos on the Greenpeace website indicate that not only are the trucks used to transport the plutonium easily identified and followed and only lightly guarded, but they are also easily approached (see [http://greenpeace.datapps.com/stop-plutonium/en/transports\\_en.php3](http://greenpeace.datapps.com/stop-plutonium/en/transports_en.php3)). How could the Commission have made the finding that the security measures were adequate in light of this?
- 8) Will any U.S. Government officials or security personnel accompany the plutonium shipment until it reaches its destination in France? If so, who? If not, then does that mean that the British Government will be in control until the shipment reaches France, with the French Government taking over from there?
- 9) As you know, the Commission voted on June 15 2004 to allow the export of this shipment. Commission regulations state the following:

“5USC552b(e)(1) In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting.”

Evidently, the Commission posted notice of this meeting on its website on June 15 2004 (the day it voted to approve the export), and didn't post it to the Federal Register until 3 days *after* the vote occurred. Please explain why the Commission failed to follow its regulations regarding this matter. What steps are you taking to ensure that this does not happen again?

Thank you very much for your prompt attention to this important matter. Because the shipment is likely to occur in mid-late September, I ask that you respond no later than September 10, 2004. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff of my staff at 202-225-2836.

Sincerely,

A handwritten signature in cursive script that reads "Ed Markey". The signature is written in black ink and is positioned above the printed name.

Edward J. Markey