DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–802]

Preliminary Results of Sunset Review of Suspended Antidumping Duty Investigation on Uranium From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 1, 2005, the Department of Commerce (''the Department'') initiated the second sunset review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (''*Suspension Agreement*'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Notice of Initiation of Five-year (''Sunset'') Reviews*, 70 FR 38101 (July 1, 2005) (''*Sunset Initiation*''). On January 17, 2006, the Department determined that it would conduct a full sunset review of the *Suspension Agreement*. As a result of this review, the Department preliminarily finds that revocation of the antidumping duty suspension agreement would likely lead to continuation or recurrence of dumping at the levels indicated in the Preliminary Results of Review section of this notice.

EFFECTIVE DATE: April 3, 2006.

FOR FURTHER INFORMATION CONTACT: Sally Gannon or Aishe Allen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–0162, or 482–0172, respectively.

SUPPLEMENTARY INFORMATION:

History of the Suspension Agreement

On December 5, 1991, the Department published in the **Federal Register** a notice of initiation of the antidumping duty investigation on uranium from the Union of Soviet Socialist Republics (''USSR'') (56 FR 63711). On December 10, 1992, the Department received a letter of appearance on behalf of Techsnabexport Ltd. (''TENEX''), NUEXCO Trading Corporation (''NUEXCO'') and Global Nuclear Services and Supply Ltd. (''GNSS''). On December 23, 1991, the U.S. International Trade Commission (''ITC'') issued an affirmative preliminary injury determination.

On December 25, 1991, the USSR dissolved and the United States subsequently recognized the twelve newly independent states (''NIS'') which emerged: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation (Russia), Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The Department continued the investigations against each of these twelve countries. On June 3, 1992, the Department issued an affirmative preliminary determination that uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan was being sold at less–than-fair–value by a weighted–average dumping margin of 115.82 percent, and a negative determination regarding the sale of uranium from Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan (57 FR 23380).

On October 30, 1992, the Department suspended the antidumping duty investigations involving uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan on the bases of agreements by the countries' respective governments to restrict the volume of direct or indirect exports to the United States in order to prevent the suppression or undercutting of price levels of United States domestic uranium. *See Antidumping; Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan; Suspension of Investigations and Amendment of Preliminary Determinations*, 57 FR 49220 (October 30, 1992). The Department also amended its preliminary determination to include highly–enriched uranium (''HEU'') in the scope of the investigations (57 FR 49220, 49235).

The first amendment to the *Suspension Agreement*, effective on March 11, 1994, authorized matched sales in the United States of Russian–origin and U.S.-origin natural uranium and separative work units (''SWU''). *See Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 59 FR 15373 (April 1, 1994). The amendment also extended the duration of the *Suspension Agreement* to March 31, 2004. *See Id.*

The *Suspension Agreement* was amended a second time, effective on October 3, 1996. The Department and the Government of Russia agreed to: (1) permit the sale in the United States of Russian low–enriched uranium (''LEU'') derived from HEU, making the suspension agreement consistent with the USEC Privatization Act; (2) restore previously unused quotas for SWU, and (3) include within the scope of the *Suspension Agreement*, Russian uranium which has been enriched in a third country. *See Amendments to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 61 FR 56665 (November 4, 1996). According to the amendment, these modifications would remain in effect until the date two years after the effective date of this amendment. *See Id.* 61 FR at 56667.

A third amendment to the *Suspension Agreement*, effective on May 7, 1997, doubled the amount of Russian–origin uranium that may be imported into the United States for further processing prior to re–exportation, and lengthened the period of time uranium may remain in the United States for such processing to up to three years. *See Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 62 FR 37879 (July 15, 1997).

On July 31, 1998, the Department notified interested parties of a change in the administration of matched sales in that the Department would, effective immediately, use a calendar year quota accounting rather than the previously–used delivery year quota accounting. *See Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 63 FR 40879 (July 31, 1998).

On August 2, 1999, the Department published a notice of initiation of the first five-year sunset review of the *Suspension Agreement. See Notice of Initiation of Five-year (''Sunset'') Reviews*, 64 FR 41915 (August 2, 1999). On July 5, 2000, the Department published its notice of the final results of the full sunset review, finding that revocation of the antidumping duty suspension agreement would likely lead to continuation or recurrence of dumping at a percentage weighted–average margin of 115.82 percent for all Russian manufacturers/exporters. *See Notice of Final Results of Full Sunset Review: Uranium from Russia*, 65 FR 41439 (July 5, 2000). On August 22, 2000, the Department published a notice of continuation of the suspended antidumping duty investigation on uranium from Russia pursuant to the Department's affirmative determination and the ITC's affirmative determination that termination of the *Suspension Agreement* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Notice of Continuation of Suspended Antidumping Duty Investigation: Uranium from Russia*, 65 FR 50958 (August 22, 2000).

There have been no completed administrative reviews of the *Suspension Agreement*. The *Suspension Agreement* remains in effect for all

manufacturers, producers, and exporters of uranium from Russia.

Scope of the Review

According to the June 3, 1992, preliminary determination, the suspended investigation of uranium from Russia encompassed one class or kind of merchandise.[1] The merchandise included natural uranium in the form of uranium ores and concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing natural uranium or natural uranium compound; uranium enriched in U235 and its compounds; alloys dispersions (including cermets), ceramic products and mixtures containing uranium enriched in U235 or compounds or uranium enriched in U235; and any other forms of uranium within the same class or kind. The uranium subject to this investigation was provided for under subheadings 2612.10.00.00, 2844.10.10.00, 2844.10.20.10, 2844.10.20.25, 2844.10.20.50, 2844.10.20.55, 2844.10.50, 2844.20.00.10, 2844.20.00.20, 2844.20.00.30, and 2844.20.00.50 of the Harmonized Tariff Schedule of the United States (''HTSUS'').[2] In addition, the Department preliminarily determined that HEU (uranium enriched to 20 percent or greater in the isotope uranium–235) is not within the scope of the investigation. On October 30, 1992, the Department issued a suspension of the antidumping duty investigation of uranium from Russia and an amendment of the preliminary determination.[3] The notice amended the scope of the investigation to include HEU.[4] Imports of uranium ores and concentrates, natural uranium compounds, and all other forms of enriched uranium were classifiable under HTSUS subheadings 2612.10.00, 2844.10.20, 2844.20.00, respectively. Imports of natural uranium metal and forms of natural uranium other than compounds were classifiable under HTSUS subheadings 2844.10.10 and 2844.10.50.[5]

In addition, Section III of the *Suspension Agreement* provides that uranium ore from Russia that is milled into U3O8 and/or converted into UF6 in another country prior to direct and/or indirect importation into the United States is considered uranium from Russia and is subject to the terms of the Suspension Agreement, regardless of any subsequent modification or blending. In addition, Section M.1 of the *Suspension Agreement* in no way prevents Russia from selling directly or indirectly any or all of the HEU in existence at the time of the signing of the agreement and/or LEU produced in Russia from HEU to the Department of Energy (''DOE''), its governmental successor, its contractors, or U.S. private parties acting in association with DOE or the USEC and in a manner not inconsistent with the Suspension Agreement between the United States and Russia concerning the disposition of HEU resulting from the dismantlement of nuclear weapons in Russia.

There were three amendments to the *Suspension Agreement* on Russian uranium. In particular, the second amendment to the *Suspension Agreement*, on November 4, 1996, permitted, among other things, the sale in the United States of Russian LEU derived from HEU and included within the scope of the *Suspension Agreement* Russian uranium which has been enriched in a third country prior to importation into the United States.[7] According to the amendment, these modifications remained in effect until October 3, 1998.[8]

On August 6, 1999, USEC, Inc. and its subsidiary, United States Enrichment Corporation (collectively, ''USEC'') requested that the Department issue a scope ruling to clarify that enriched uranium located in Kazakhstan at the time of the dissolution of the Soviet Union is within the scope of the Russian suspension agreement. Respondent interested parties filed an opposition to the scope request on August 27, 1999. That scope request is pending before the Department at this time.

Statute and Regulations

This review is being conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''Sunset Regulations'') and in CFR Part 351 (1999) in general.

Background

On July 1, 2005, the Department initiated the second sunset review of the *Suspension Agreement* pursuant to section 751(c) of the Tariff Act of 1930. *See Sunset Initiation*. We invited parties to comment. On July 18, 2005, we received Notices of Intent to Participate on behalf of Power Resources, Inc. (''PRI'') and Crow Butte Resources, Inc. (''Crow Butte''), U.S. producers of natural uranium; USEC, a U.S. producer of uranium products covered by the scope of the suspended investigation and the only U.S. enricher; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied–Industrial and Service Workers International Union, AFL–CIO, CLC (''USW''), a domestic interested party.[9]

On July 26, 2005, the Department extended the deadline for all interested parties to submit substantive responses from July 31, 2005 to August 30, 2005 and the deadline for rebuttal comments to September 6, 2005. *See Memorandum from Sally C. Gannon to Interested Parties dated July 26, 2005*.

On August 30, 2005, the Department received complete substantive responses to the *Sunset Initiation* from USEC, a U.S. producer primarily of enriched uranium hexafluoride (*i.e.*, LEU), and PRI and Crow Butte, U.S. producers of natural uranium. On August 30, 2005, the Department also received a complete substantive response to the *Sunset Initiation* from the Ad Hoc Utilities Group (''AHUG''), which is comprised of owners and operators of nuclear power plants that procure Russian

[1] The Department based its analysis of the comments on class or kind submitted during the proceeding and determined that the product under investigation constitutes a single class or kind of merchandise. The Department based its analysis on the ''Diversified'' criteria (see Diversified Products Corp. v. United States, 6 CIT 1555 (1983); see also Preliminary Determination of Sales at Less Than Fair Value: Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan; and Preliminary Determination of Sales at Not Less Than Fair Value: Uranium from Armenia, Azerbaijan, Byelarus, Georgia, Moldova and Turkmenistan, 57 FR 23380, 23382 (June 3, 1992).

[2] *See Preliminary Determination of Sales at Less Than Fair Value: Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine and Uzbekistan; and Preliminary Determination of Sales at Not Less Than Fair Value: Uranium from Armenia, Azerbaijan, Byelarus, Georgia, Moldova and Turkmenistan*, 57 FR 23380, 23381 (June 3, 1992).

[3] *See Antidumping; Uranium from Kazakhstan, Kyrgyszstan, Russia, Tajikistan, Ukraine, and Uzbekistan; Suspension of Investigations and Amendment of Preliminary Determinations*, 57 FR 49220 (October 30, 1992).

[4] *See* Id. at 49235.

[5] *See* Id.

[6] *See* Id. at 49235.

[7] *See Amendments to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 61 FR 56665 (November 4, 1996).

[8] *See* Id at 56667.

[9] USW notes that it is the successor-in-interest to the Paper, Allied-Industrial, Chemical & Energy Workers International Union, AFL-CIO, CLC (PACE), following a merger of the two unions on April 12, 2005. Furthermore, USW notes that PACE was the successor-in-interest to the Oil, Chemical and Atomic Workers International Union (OCAW), the original co-petitioner in the antidumping duty investigation, following a merger with the Paperworkers International Union in January 1999.

uranium feed and contract for uranium enrichment services (*i.e.*, SWU).[10]

The Department did not receive a substantive response to the Sunset Initiation from the Ministry of the Russian Federation for Atomic Energy (''MINATOM''), the original Russian government signatory to the *Suspension Agreement*, its successor agency, the Russian Federal Atomic Energy Agency (''Rosatom''), or any Russian exporter of subject merchandise. On September 9, 2005, USEC and AHUG submitted rebuttal comments regarding the August 30, 2005 substantive responses.

On November 10, 2005, the Department determined that the sunset review of the *Suspension Agreement* was extraordinarily complicated and required additional time for the Department to complete its analysis. Therefore, the Department extended the deadlines in this proceeding, stating that it intended to issue either the preliminary results of the full sunset review on January 17, 2006, and the final results on May 30, 2006, or the final results of the expedited review on January 27, 2006. *See Extension of Time Limit for Sunset Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 70 FR 68397 (November 10, 2005) (*Review Extension*).

On January 13, 2006, AHUG submitted a letter to the Department with respect to recent court actions which occurred in the case of *Eurodif v. United States* (U.S. Court of Appeals for the Federal Circuit (''CAFC'') Case Nos. 01–1209, -1210). In its letter, AHUG states that the Department should remove SWU transactions from the scope of this Russian sunset review and the underlying restrictions imposed on uranium from Russia to be consistent with the CAFC's legal holdings in *Eurodif v. United States* and the direction of the U.S. Court of International Trade (CIT) on remand to the Department.

On January 17, 2006, the Department determined that it would conduct a full sunset review in this case. *See* Memorandum from Sally C. Gannon to Ronald K. Lorentzen entitled ''Sunset Review of Uranium from the Russian Federation: Adequacy of Domestic and Respondent Interested Party Responses to the Notice of Initiation and Decision to Conduct Full Sunset Review'' (January 17, 2006). The Department also determined on January 17, 2006, that it needed an additional 30 days to complete the preliminary results of this full sunset review. *See Extension of Time Limit for Sunset Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 71 FR 3824 (January 24, 2006). On January 26, 2006, the Department notified the ITC of its decision to conduct a full review. *See* Letter from Sally C. Gannon to Robert Carpenter (January 26, 2006). On February 24, 2006, the Department extended the deadline for the preliminary results of this sunset review by an additional 35 days, until no later than March 24, 2006. *See Extension of Time Limit for Sunset Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 71 FR 9522 (February 24, 2006).

Analysis of Comments Received

All issues raised by parties to this sunset review are addressed in the *Issues and Decision Memorandum for the Sunset Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation; Preliminary Results (''Decision Memorandum'')* from Joseph A. Spetrini, Deputy Assistant Secretary for Policy and Negotiations, Import Administration, to David Spooner, Assistant Secretary, Import Administration, dated March 24, 2006, which is adopted by this notice. The issues discussed in the *Decision Memorandum* include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the suspended antidumping duty investigation to be terminated. Parties may find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn, under the heading ''April 2006.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Preliminary Results of Review

We preliminarily determine that termination of the suspended antidumping duty investigation on uranium from Russia would likely lead to a continuation or recurrence of dumping at the following percentage weighted–average margin:

Exporter/manufacturer	Weighted–average margin (percent)
Russia–Wide	115.82

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Interested parties may submit case briefs no later than April 17, 2006, in accordance with section 351.309(c)(1)(i) of the Department's regulations. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than April 24, 2006. Any hearing, if requested, will be held on April 26, 2006, in accordance with section 351.310(d) of the Department's regulations. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than May 30, 2006.

This sunset review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: March 24, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

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[10] The following companies are members of AHUG: Ameren UE, Arizona Public Service, Constellation Energy Group, Inc., Dominion Energy Kewaunee, Inc., Dominion Nuclear Connecticut, Inc., Duke Energy Corp., Entergy Services, Inc., Exelon Corp., Florida Power & Light Co., FPL Energy Seabrook, LLC, Nebraska Public Power District, Nuclear Management Company, Pacific Gas & Electric Company, PPL Susquehanna, LLC, Progress Energy Carolinas, Inc., Progress Energy Florida, Inc., Southern California Edison Co., Southern Nuclear Operating Co., and TXU Generation Company LP, Virginia Electric & Power Co.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 030602141–6087–37; I.D. 061505A]

RIN 0648–ZB55

Availability of Grant Funds for Fiscal Year 2006; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice; availability of grant funds; correction.

SUMMARY: This notice corrects two errors contained in the notice of availability of funds published in the **Federal Register** on March 27, 2006. That notice announced two project competitions: the National Sea Grant