

DEPARTMENT OF COMMERCE

**International Trade Administration
A-821-802**

**Final Results of Five-Year 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 finds that revocation of the Suspension Agreement on uranium from the Russian Federation (“Russia”) would likely lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*).

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:

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

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).

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.⁶ 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.

³ 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).

⁴ See Id. at 49235.

⁵ See Id.

⁶ See Id. at 49235.

There were three amendments to the Suspension Agreement on Russian uranium. In particular, the second amendment to the Suspension Agreement, published on November 4, 1996, provided for, among other things, the sale in the United States of the natural uranium feed associated with the 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

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.

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 April 3, 2006, the Department of Commerce ("Department") published in the *Federal Register* a notice of preliminary results of the full sunset review of the Suspension Agreement

⁷ 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, the latter modification remained in effect until October 3, 1998.

pursuant to Section 751(c) of the Tariff Act of 1930, as amended (“the Act”) (63 FR 16560) (Preliminary Sunset Notice). This notice was accompanied by the “Issues and Decision Memo for the Sunset Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation; Preliminary Results,” from Joseph A. Spetrini, Deputy Assistant Secretary for Policy and Negotiations, to David M. Spooner, Assistant Secretary for Import Administration, (March 24, 2006), which can be found at <http://ia.ita.doc.gov/frn/summary/russia/E6-4738-1.pdf>. In our preliminary results, we found that revocation of the antidumping duty Suspension Agreement on uranium from Russia would likely lead to a continuation or recurrence of dumping at the weighted-average margin of 115.82 percent for all producers/exporters from Russia.

On April 17, 2006, we received case briefs on behalf of Power Resources, Inc. (“PRI”) and Crow Butte Resources, Inc. (“Crow Butte”); USEC Inc. and United States Enrichment Corporation (collectively, “USEC”); the Ad Hoc Utilities Group (“AHUG”); and AO Techsnabexport (“Tenex”).⁸ On April 24, 2006, we received rebuttal briefs on behalf of Power Resources and Crow Butte, USEC, and AHUG. On April 26, 2006, USEC requested that the Department reject AHUG’s rebuttal brief because it contained new information not permissible under the Department’s regulations. On May 24, 2006, the Department notified AHUG that it was returning AHUG’s rebuttal brief because it contained information not timely filed under the regulations and offered AHUG the opportunity to redact the new information and to re-submit the brief to the Department within two days. On May 26, 2006, AHUG re-submitted

⁸ We note that Tenex did not file either a waiver of intent to participate in this sunset review pursuant to Section 351.218(d)(2) of the Department’s sunset regulations or a complete substantive response to the notice of initiation pursuant to Section 351.218(d)(3).

its rebuttal brief; however it failed to redact all references to the new information that appeared in its May 24, 2006 rebuttal brief. We requested again that AHUG re-submit its rebuttal brief without the references to the new information, by the close-of-business on May 30, 2006. On, May 30, 2006, AHUG filed its rebuttal brief and redacted all new information. Additionally, on May 26, 2006, AHUG submitted a letter to the Department which also contained new and untimely filed information. On May 30, 2006, the Department notified AHUG that it was returning this additional May 26, 2006 letter because it contained information not timely filed under the Department's regulations. No interested party requested a hearing in this sunset review.

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; Final Results" from Joseph A. Spetrini, Deputy Assistant Secretary for Policy and Negotiations, to David M. Spooner, Assistant Secretary for Import Administration (May 30, 2006) ("Final Results Decision Memorandum"), which is adopted by this notice. The issues discussed in the Final Results Decision Memorandum include the likelihood of continuation or recurrence of dumping, scope of the subject merchandise, and the magnitude of the margins likely to prevail were the Suspension Agreement 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 Final Results Decision Memorandum can be accessed directly

on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Final Results Decision Memorandum are identical in content.

Final Results of Review

We determine that termination of the Suspension Agreement 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

This notice also serves as the only reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department’s regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

David M. Spooner
Assistant Secretary
for Import Administration

Date