A-821-802
Suspension Agreement
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May 19, 2017

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Carole Showers
Executive Director
Office of Policy
Enforcement and Compliance

SUBJECT: Decision Memorandum for the Final 2016 Export Limit Adjustments under the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation

SUMMARY

The Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as amended in 2008 ("Agreement"), requires that the annual export limits in Section IV.B.1 (for direct and indirect sales to U.S. utilities by the Russian Federation) be adjusted in 2016 and 2019 to match the projected nuclear reactor demand for subsequent years.[1] This requirement is codified into law by means of a similar provision in Section 8118 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, codified at 42 U.S.C. § 2297h *et seq.* (2008) ("Domenici Amendment").[2] The U.S. Department of Commerce ("Department") released the preliminary adjustment calculations on September 9, 2016, and provided interested parties with an opportunity to comment. See Letter to All Interested Parties, from Sally C. Gannon, re "Request for Comment on 2016 Export Limit Adjustments; Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation" (September 9, 2016) ("Preliminary Adjustments"). Interested parties submitted comments and rebuttal comments in October and November 2016. We have analyzed the comments and rebuttal comments of interested parties on the Preliminary Adjustments. The Department's analysis and recommendation is contained in this decision memorandum, and the final 2016 export limit calculations are contained in Attachment 1 to this memorandum.

1 See Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 57 FR 49220 (October 30, 1992); see also Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 73 FR 7705 (February 11, 2008).

2 The Domenici Amendment was implemented in order to incentivize further down-blending of highly-enriched uranium ("HEU") by Russia (which did not ultimately agree to this after the expiration of the HEU Agreement at the end of 2013).

BACKGROUND

The Department and the Government of the Russian Federation signed the 2008 amendment to the Agreement in February 2008. Section IV.B.1 of the amended Agreement lists the annual export limits, measured in kilograms of uranium ("KgU") as low-enriched uranium ("LEU"), from 2011 - 2020. The Department derived these export limits from enrichment demand data in the 2005 report issued by the World Nuclear Association ("WNA") entitled "Global Nuclear Fuel Market Supply and Demand 2005-2030" and using certain calculation assumptions, including a product assay of 4.4 percent and a tails assay of 0.30 percent. The import limits in the Domenici Amendment essentially mirror the Agreement's export limits in the years 2014-2020, and the legislation refers to the same product and tails assays as the Agreement. See Domenici Amendment, at 114 and 120. The Department's February 2, 2010, "Statement of Administrative Intent" ("SAI") provided implementation guidance for the 2008 amendment to the Agreement, including notifying parties that the Department's accounting for the Agreement's export limits, and the Domenici Amendment's import limits, would be based on the uranium weight, or Kg U-235 content, of the imported Russian uranium products. See SAI, at Attachment 1.

Regarding the adjustments to the export limits required in 2016 and 2019, Section IV.B.1 of the Agreement states the following:

> These limits were derived from the reference data in the World Nuclear Association's 2005 "Global Nuclear Fuel Market Supply and Demand 2005-2030." The Department shall adjust these export limits in 2016 and 2019 to match the projected reactor demand for subsequent years in that publication or its successor, and also to increase the total export limit for the remaining years by the net amount by which the export limits for previous years have fallen short of the export limits that would have been derived from the revised demand figures for those years, with any additional export allowances being divided equally between the revised export limits for the remaining years. Russian Uranium Products may be exported to the United States under a contract entered into after the Effective Date and approved by the Department under this Agreement, even if such exports exceed the export limits in effect at the time of delivery.[3]

The Domenici Amendment contains a similar provision, requiring Commerce to review and adjust the "import limitations" in 2016 and 2019. See Domenici Amendment, at 117-118. In addition, the Domenici Amendment contains a provision stating that the Department of Commerce ". . . shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry." Id, at 122.

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3 Similarly, Section IV.N of the amended Agreement states that "Russian Uranium Products sold pursuant to a multi-year contract entered into after the Effective Date and approved by the Department may be delivered in accordance with the provisions of this Amendment regardless of any modification to or reduction in the quantity that may be delivered under the export limits or any modification to or any interruption in the effectiveness of, including termination of, this Agreement."

PRELIMINARY 2016 ADJUSTED EXPORT LIMIT CALCULATIONS

The Department released the Preliminary Adjustments to interested parties for comment on September 9, 2016. For purposes of these adjustments, the Department used the 2015 report issued by the WNA entitled "The Nuclear Fuel Report, Global Scenarios for Demand and Supply Availability 2015-2035" World Nuclear Association (September 2015) and the same assumptions and calculation methodologies that were used in the initial Section IV.B.1 export limit calculations, as follows:

- The WNA projects enrichment requirements, as measured in separative work units ("SWU"), by country under "Lower," "Reference" and "Upper" scenarios; the Department used the Reference scenario for both the 2008 calculations and the Preliminary Adjustments.
- The export limits in the 2008 amendment approximated 20 percent of U.S. enrichment demand;[4] the Department used this same percentage to derive the preliminary 2016 adjusted export limits.
- The 2008 amendment to the Agreement expresses the export limits in KgU as LEU using a 4.4 percent product assay and 0.30 percent tails assay; the Department used these same product and tails assays to calculate the Preliminary Adjustments. In its 2005 report, the WNA used a tails assay assumption of 0.27 percent, and, in its 2015 report, the WNA used a tails assay assumption of 0.22 percent.[5]
- The above-noted language from the 2008 amendment states that the Department should increase the export limits in the remaining years of the Agreement by any net amounts by which the adjusted export limits exceed the initial export limits. The 2015 WNA report begins its projections in 2015; therefore, the only year in which such a net amount existed was in 2015. Thus, in our Preliminary Adjustments, we divided the net amount for that quota year over the remaining quota years of the Agreement (2016-2020).

See Preliminary Adjustments.

INTERESTED PARTY COMMENTS

The following parties submitted comments on the Preliminary Adjustments: Ur-Energy USA, Inc. ("Ur-Energy");[6] Uranium Producers of America ("UPA");[7] and Power Resources, Inc.

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4 See Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Ronald K. Lorentzen, Deputy Assistant Secretary for Policy and Negotiations, re "Prevention of Price Suppression or Undercutting of Price Levels of Domestic Products by the Amended Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation" ("2008 Price Suppression Memorandum"), at 4.
5 See the WNA's 2005 report, at 76, and the WNA's 2015 report, at 122.
6 See Letter to United States Department of Commerce, from Ur-Energy, re "Response to Request for Comments on 2016 Export Limit Adjustments; Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation" (October 11, 2016).
7 See Letter to United States Department of Commerce, from Comeau, Maldegen, Templeman & Indall, LLP, on behalf of the UPA, re "Request for Comments on 2016 Export Limit Adjustments; Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation" (October 12, 2016).

("PRI"), and Crow Butte Resources, Inc. ("CBR").[8] The following parties subsequently submitted rebuttal and/or response comments: Joint Stock Company "TENEX" ("TENEX");[9] Exelon Generation Company, LLC ("Exelon"), Ameren Missouri ("Ameren"), and the Ad Hoc Utilities Group ("AHUG")[10];[11] Centrus Energy Corp. and Untied States Enrichment Corporation (collectively, "Centrus");[12] UPA;[13] and PRI and CBR.[14]

The following is a summary of the key issues raised by the interested parties in their comments.

UPA and Ur-Energy

- The uranium and conversion industries are struggling with significant price drops, persistent oversupply, severe workforce reductions and halted production at various mine sites; thus, any additional uranium entering the market will have a devastating impact on the domestic industry.

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8 See Letter to the Honorable Penny Pritzker, Secretary of Commerce, from Akin Gump Strauss Hauer & Feld LLP, on behalf of PRI and CBR, re "Uranium from the Russian Federation: Comments on the Department's Proposed 2016 Adjustment of the Export Limits" (October 12, 2016).

9 See Letter to the Honorable Penny S. Pritzker, Secretary of Commerce, on behalf of TENEX, re "Uranium from the Russian Federation – Rebuttal Comments to Comments on Preliminary 2016 Export Limits Adjustment" (October 31, 2016); see also Letter to the Honorable Penny S. Pritzker, Secretary of Commerce, on behalf of TENEX, re "Uranium from the Russian Federation – Second Rebuttal Comments on the 2016 Export Limits Adjustment Matter" (November 30, 2016).

10 Additional AHUG members include: Dominion Resources Services, Inc., on behalf of Virginia Electric and Power Company and Dominion Nuclear Connecticut, Inc.; Duke Energy Carolinas, LLC and Duke Energy Progress, LLC; Florida Power & Light Company and NextEra Energy Resources; Pacific Gas and Electric Company; PSEG Nuclear LLC; South Carolina Electric & Gas Company; Southern Nuclear Operating Company, Inc.; and Xcel Energy Services Inc.

11 See Letter to the Honorable Penny Pritzker, Secretary of Commerce, from Pillsbury Winthrop Shaw Pittman LLP, on behalf of Exelon, Ameren, and AHUG, re "Uranium from the Russian Federation: Quota Review Rebuttal Comments" (October 31, 2016); see also Letter to the Honorable Penny Pritzker, Secretary of Commerce, from Pillsbury Winthrop Shaw Pittman LLP, on behalf of Exelon, Ameren, and AHUG, re "Uranium from the Russian Federation: Quota Review Additional Response Comments" (November 30, 2016).

12 See Letter to The Hon. Penny Pritzker, Secretary of Commerce, from Steptoe & Johnson LLP, on behalf of Centrus, re "Uranium from the Russian Federation: Response to Industry Comments on the Department's Proposed 2016 Adjustment of the Export Limits under Section IV.B.1 of the Russian Suspension Agreement" (October 31, 2016); see also Letter to The Hon. Penny Pritzker, Secretary of Commerce, from Steptoe & Johnson LLP, on behalf of Centrus, re "Uranium from the Russian Federation: Response to Additional Industry Comments on the Department's Proposed 2016 Adjustment of the Export Limits under Section IV.B.1 of the Russian Suspension Agreement" (November 30, 2016).

13 See Letter to the Honorable Penny Pritzker, Secretary of Commerce, from Comeau, Maldegen, Templeman & Indall, LLP, on behalf of the UPA, re "Uranium Producer of America (UPA) rebuttal to the Oct. 31, 2016 responses from TENEX, the Ad Hoc Utilities Group (AHUG), Centrus Energy Corp. and United States Enrichment Corporation (USEC), concerning their collective comments to the October 12th UPA letter responding to the: Department of Commerce (DOC) Request for Comments on 2016 Export Limit Adjustments; Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (Suspension Agreement or Agreement)" (November 16, 2016).

14 See Letter to the Honorable Penny Pritzker, Secretary of Commerce, from Akin Gump Strauss Hauer & Feld LLP, on behalf of PRI and CBR, re "Uranium from the Russian Federation: Response to Interested Party Rebuttal Comments Concerning the Department's Proposed 2016 Adjustment of the Export Limits" (November 17, 2016).

- Using a 0.30 percent tails assay yields a greater quantity of LEU from the same quantity of SWU (calculated at a 4.4 percent product assay), and results in an increase in the export limits, compared to using the WNA's 0.22 percent tails assay assumption which results in a decrease in the export limits. In terms of the natural uranium (U_3O_8) contained in the LEU, using the higher tails assay would allow an additional export quantity from Russia into the United States through 2020.
- An additional five reactors have announced closures in the 2015-2020 period that were not assessed as a part of the WNA's 2015 report: Fort Calhoun (OPPD), NE; Clinton (Exelon), IL; Quad Cities 1 (Exelon), IL; Quad Cities 2 (Exelon), IL; Pilgrim (Entergy), MA.[15]

PRI and CBR

- When converting a quantity of enrichment, or SWU, representing a percentage of forecasted SWU requirements in the United States, to a quantity of LEU, which is also supposed to represent the same percentage of enriched uranium product requirements in the United States, the tails assay must remain constant.
- Thus, the Department should use the WNA's tails assay of 0.22 percent in its calculations, resulting in the export limits being much lower than those preliminarily calculated by the Department—indeed lower than the existing quota levels; the Department has the authority to increase or reduce the export limits, as appropriate to match projected reactor demand.
- The Department's preliminary calculation results in setting the quota limits at 28 percent of demand, not the intended 20 percent, because using the higher tails assay of 0.30 percent overstates the WNA's demand figures; when U.S. demand is declining, the Department cannot increase the market share for Russian producers and then assert that the Agreement continues to prevent price suppression.
- The WNA's projection of total U.S. nuclear generating capacity (in megawatts) is the starting point for its natural uranium feed and SWU forecasts; further, a certain quantity of LEU at a given product assay is required per operating megawatt, although the quantities of SWU and U_3O_8 used to produce this quantity of LEU may vary since one component can be used to displace the other.
- The WNA's 2015 report projects lower total U.S. nuclear generating capacity for the period 2016-2020 than demand projected in its 2005 report, and, thus, the overall quantity of LEU at a product assay of 4.4 percent product assay would be projected to be less.
- The WNA's 2005 and 2015 reports collectively projected only one reactor shutdown in the United States, whereas eleven U.S. reactor closures have been announced between 2010 and 2016. See PRI's and CBR's October 12, 2016, comments at 10-11 and Attachment 5.[16]

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15 In early December 2016, the State of Illinois passed, and the governor signed, legislation that resulted in the Clinton and Quad Cities' nuclear plants remaining open. See http://www.powermag.com/exelon-gets-its-christmas-wish-illinois-legislation-will-save-nuclear-plants/ and https://www.forbes.com/sites/jamesconca/2016/12/04/illinois-sees-the-light-retains-nuclear-power/#405e1adb3e7b.

16 Id.

TENEX

- Using a 0.30 percent tails assay represents an approach to establishing both the initial and revised quotas which was agreed to in the Agreement by the U.S. and Russian signatories. The Department may not unilaterally alter the quota calculation methodology but would need to first invite ROSATOM to negotiate an amendment to the Agreement.
- U.S. electric utilities rely in their procurement planning on consistency in the Department's approach to the export limit adjustment, and a deviation from the original methodology would adversely affect the utilities' planning (as well as the U.S. conversion, enrichment and fabrication industries' planning), causing an unnecessary burden on the U.S. commercial nuclear industry.
- TENEX's sales in the U.S. market do not injure the U.S. mining industry or suppress prices for natural uranium because TENEX is selling LEU and SWU, not natural uranium, in the United States and because the vast majority of the U.S. utilities' uranium requirements are covered by supplies of natural uranium (U_3O_8 and UF_6), not LEU.
- The miners' references to announcements of premature retirement of certain U.S. reactors are not relevant for purposes of the Suspension Agreement export limits' adjustment; the Agreement and the Domenici Amendment expressly refer to particular data contained in the specific WNA publication or its successor that should be used for the purposes of the quota adjustment. In addition, tentative expectations of premature retirement or continuation of the operation of certain reactors are influenced by many changing circumstances and could be reversed in the future.

Exelon, Ameren, and AHUG

- The Department is required by the Agreement and Domenici Amendment to "match the projected reactor demand" in the WNA's report, and the noted 4.4 percent product and 0.30 percent tails assays assumptions are directly stated in both the Agreement and Domenici Amendment, as well as referenced in the 2008 Price Suppression Memorandum; the latter made clear that "reactor demand" meant "enrichment demand" and that the analysis was based on applying a 20 percent market share factor and a 0.30 percent tails assay to the SWU requirements in the 2005 WNA report.[17]
- PRI's and CBR's emphasis on reduced requirements for natural uranium is misplaced since the demand underlying the quotas is based on demand for enrichment; further, under a SWU sale, an equivalent quantity of contained uranium is either returned to Russia or, under an LEU sale, represents a limited amount of LEU purchased by utilities given their desire to sure diverse supply sources.
- The SWU requirements increased from the 2005 to 2015 WNA reports, and the Department's application of the same Agreement and statutory methodology as used in 2008 appropriately leads to increased quotas; changing the assumptions and parameters as requested by PRI and CBR would be arbitrary, confusing and inconsistent, thus imposing a burden on the U.S. commercial nuclear industry.

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17 See 2008 Price Suppression Memorandum, at 4.

Centrus

- The original quota figures in the 2008 amendment were approximations of enrichment market share using the WNA report as a frame of reference and an assumed 0.30 percent tails assay, which the amendment and Domenici Amendment both used as a standard expression of the quota limits; using the tails assay assumption in the latest WNA report (0.22 percent) ignores contracting realities and would lead to a significant reduction in the existing quotas, contrary to the expectations of market participants and inconsistent with the negotiated amendment.
- While the miners suggest that actual and planned U.S. reactor shutdowns presage a lower uranium demand, they do not take into account factors such as power uprates or new reactor deployments that could support higher uranium demand, or actions being taken by the industry to reverse some of the planned shutdowns. See Centrus' October 31, comments, at 9-10 and Attachments 1 and 2.
- The miners offer the WNA's 2015 nuclear generating capacity figures to show a reduction from the WNA's 2005 capacity figures; however, these figures are not relevant to the calculation used in the Agreement or Domenici Amendment. Moreover, capacity predictions are not precise, capacity must be evaluated against capacity utilization, and other evidence indicates that the generation of nuclear power has increased compared to 2005. See Centrus' November 30, 3016, comments, at 7 and Attachment.
- The Domenici Amendment explicitly requires the Department to enforce its import limitations ". . . in a manner that imposes a minimal burden on the commercial nuclear industry." An unexpected, unilateral change in the calculation methodology is not consistent with this provision, and any change at most should not result in a reduction to the existing quotas (i.e., at a minimum, the existing quotas should remain in place, and any change in methodology should be negotiated with the Russian Federation).

ANALYSIS OF THE ISSUES

The interested parties present arguments and supporting evidence both in support of and opposing the Department's Preliminary Adjustments. Key areas of consideration include the specific parameters used by the Department in the calculations of the adjusted export limits, including the product assay of 4.4 percent and tails assay of 0.30 percent, as well as an examination of whether U.S. nuclear reactor demand has declined since the 2008 amendment's export limit calculations. The Department's continued use of 20 percent of estimated demand in the calculations was not contested by the parties and is consistent with the methodology used in the 2008 amendment calculations, as supported by the Price Suppression Memorandum.

The U.S. miners argue that the Department should use the WNA's 0.22 percent tails assay assumption in converting the projected enrichment demand in its 2015 report to an LEU basis in its calculations. The Department acknowledges that the WNA used a tails assay assumption of 0.22 percent in its enrichment demand projections, based on its assessment of current market characteristics. See the WNA's 2015 report, at 122. However, as discussed above, the specific 4.4 percent product and 0.30 percent tails assays used in the 2008 amendment calculations and, accordingly, in the Preliminary Adjustments are explicitly expressed in the text of the Agreement

and in the Domenici Amendment. The Agreement states in Section IV.B.1 that "{t}hese limits are expressed in KgU as LEU, at a product assay of 4.4 and a tails assay of 0.3 percent." The Domenici Amendment states that "{t}he import limitations . . . are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent." Further, we note that in calculating the original export limits in the 2008 amendment, the Department used the 0.30 percent tails assay even though the WNA had used a 0.27 percent tails assay assumption for purposes of its 2005 report's enrichment demand projections. Continuing to use the 4.4 percent product and 0.30 percent tails assay parameters for the final 2016 export limit calculations, thus provides continuity in the implementation of the Agreement and follows the plain language of the 2008 amendment and the Domenici Amendment.

The U.S. miners also make arguments with respect to an overall decline in U.S. nuclear generating capacity from the WNA's 2005 report, used for the 2008 amendment calculations of the export limits, to its 2015 report, to be used for the current adjustments to the export limits. The miners suggest that the WNA's 2015 report does not fully take into account reports of certain pending nuclear reactor closures (although subsequent news reports indicate that certain of these reactors will now remain open, as noted above). TENEX, Centrus, and AHUG argue that the nuclear capacity figures are not relevant to these export limit adjustments because the Agreement and the Domenici Amendment expressly refer to the data to be used in these calculations and the Department may not unilaterally change this methodology. TENEX contends that expectations of premature retirement or continuation of the operation of certain reactors are influenced by many changing circumstances and could be reversed in the future. Centrus asserts that capacity predictions are not precise and that capacity must be evaluated against capacity utilization. AHUG and Centrus further contend that changing the calculation methodology is not consistent with the Domenici Amendment's requirement that the Department enforce the import limitations ". . . in a manner that imposes a minimal burden on the commercial nuclear industry."

The Department has examined the parties' arguments and evidence submitted regarding nuclear capacity, including the miners' claims that the WNA's nuclear generating capacity figures are the starting point for its projections of enrichment and uranium requirements. See PRI's and CBR's November 17, 2016, comments, at 4. In its 2015 report, the WNA explains its methodology in considering Lower, Reference and Upper scenarios for its nuclear capacity projections which it then combines with certain reactor operating assumptions and other factors to produce its additional requirements' projections, including those for enrichment demand. See WNA's 2015 report, at 8. The Department compared the WNA's projections for nuclear generating capacity, in the years 2015 through 2020, in both its 2005 and 2015 reports and found that the reports evidence overall declining nuclear reactor demand from the 2005 projected capacity figures to the corresponding 2015 projected capacity figures for all three scenarios (Lower, Reference and Upper). See the WNA's 2005 report, at Appendix I, and the WNA's 2015 report, at Appendix I.

The Department believes that to ignore the evidence that overall nuclear reactor demand has declined, as supported by the information placed on the record by interested parties and the Department's examination of the WNA's capacity projections in its 2005 and 2015 reports,

would call into question its final calculations of these adjustments to the Section IV.B.1 export limits.[18] The Department is required by both the Agreement and the Domenici Amendment to make an adjustment to the export limits to "match projected reactor demand for subsequent years," as projected in the WNA's publication. Therefore, the Department must determine how best to adjust these export limits, while continuing to abide by its methodology and imposing only a minimal burden on the commercial nuclear industry. Based on the Department's examination of the WNA's methodology, its Lower scenario appears to be a more conservative estimate of projected reactor demand than the Reference (or Upper) scenario. See the WNA's 2015 report, at 25-26. For example, the WNA explains that the Lower scenario accounts only for five specified new U.S. nuclear reactors that are expected to come online during 2016 to 2024, whereas the Reference and Upper scenarios include additional new reactors, respectively, that are projected to come online in certain time periods, in addition to those five reactors. See the WNA's 2015 report, at 37-40. Thus, for purposes of the final export limit calculations, the Department finds that the most appropriate modification to account for the evidence of a decline in U.S. nuclear generating capacity is to use the WNA's 2015 enrichment requirements' projection for the Lower scenario.

RECOMMENDATION

We recommend proceeding with the methodology used for the Preliminary Adjustments, with the following modification: using the WNA's 2015 enrichment requirements in its Lower scenario, as projected in its 2015 report, instead of using the Reference scenario. The interested parties have presented arguments and supporting evidence for the finding that overall U.S. nuclear reactor demand, as measured by nuclear generating capacity, is lower than such capacity as projected at the time of the calculation of the Section IV.B.1 export limits in the 2008 amendment to the Agreement. The Department's obligation in 2016 (and 2019) is to examine the projected nuclear reactor demand and to adjust the export limits to match that demand, based on the latest WNA projections. By using the WNA's 2015 Lower scenario enrichment demand projections, the Department accounts for the evidence submitted by the parties and examined in the context of the 2005 and 2015 WNA reports that reactor demand in the United States has declined relative to the WNA's projections in its 2005 report. The remainder of the calculation parameters remain the same, including using 20 percent of estimated demand and the 4.4 percent product assay and 0.30 percent tails assay, as expressed in both the Agreement and the Domenici Amendment.

Further, as required by the Agreement's terms, we recommend accounting for the shortfall in quota in the year 2015 and spreading that amount over the remaining years of the Agreement (2017-2020). In addition, we recommend accounting for the expiration of quota year 2016 by likewise spreading that additional quota amount over the remaining years of the Agreement (2017-2020). Finally, in the quota years 2019 and 2020, where the export limits decrease, no approved contract quantities to date shall be jeopardized, in accordance with Sections IV.B.1 and

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18 See Ur-Energy's October 11, 2016, comments, at 1-2; the UPA's October 12, 2016, comments, at 1-2; PRI's and CBR's October 12, 2016, comments, at 10-11 and Attachment 5; PRI's and CBR's November 17, 2016, comments, at 3-8; the WNA's 2005 report, at Appendix I; and the WNA's 2015 report, at Appendix I.

IV.N of the Agreement (i.e., if applicable, any imports of Russian uranium products for deliveries under contracts approved by the Department as of today's date will be allowed entry under the Agreement's terms in those quota years). The result is a minimal change overall in the total export limit quantity over the remaining life of the Agreement (a less than one percent increase over the total export limit quantity instituted in the 2008 amendment) which the Department finds will not impose a burden on the commercial nuclear industry.

Based on our analysis of the comments received, we recommend adopting the above position. Accordingly, we recommend making the changes detailed above for the final 2016 adjustments to the Section IV.B.1 export limits. See Attachment 1.

✓ Agree _____ Disagree _____ Let's Discuss

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

May 19, 2017
Date

ATTACHMENT 1:

RUSSIAN URANIUM SUSPENSION AGREEMENT: FINAL CALCULATION OF 2016 ADJUSTMENTS TO SECTION IV.B.1 EXPORT LIMITS

A-821-802
~~Proprietary Document~~
PUBLIC VERSION

YEAR	WNA Enrichment Requirements Forecast for USA (SWU) - Lower Scenario (1) A	Suspension Agreement Export Limit Share (SWU) (20% of Enrichment Requirements (2)) B = A * 20%	Adjusted Section IV.B.1 Export Limits - KgU as LEU (Industry Calculator) (3) C = B ÷ Industry Calculator (2)	Adjusted Section IV.B.1 Export Limits - Kg U-235 (at 4.4% product assay) D = C * 4.4%	Current Section IV.B.1 Export Limits - Kg U-235 (2008 Amendment) (4) E	Previous Quota Year Shortfall (2015 Only) - Kg U-235 F = D - E	Additional Export Limit Adjustment - Kg U-235 (2015 Shortfall Quantity/ Remaining Quota Years) G = F/4	Export Limit Adjustment Increase for 2016 - Kg U-235 H = (D - E)	Additional Export Limit Adjustment - Kg U-235 (2016 Quantity Increase/ Remaining Quota Years) I = H/4	2016 Adjusted Section IV.B.1 Export Limits - Kg U-235 (at 4.4% product assay) J = D + G + I (5)	Total Export Limit Increase from 2008 to 2016 - Kg U-235 K = J - E
2015			498,361	21,927.8840	20,026.2480	1,901.6360	N/A		N/A	N/A	N/A
2016			492,797	21,683.0680	21,126.4240		N/A	556.6440	N/A	21,126.4240	0.0000
2017			477,364	21,004.0160	21,591.2400		475.409		139.161	21,618.5860	27.3460
2018			514,655	22,644.8200	21,680.1640		475.409		139.161	23,259.3900	1,579.2260
2019			487,200	21,436.8000	22,398.5520		475.409		139.161	22,051.3700	-347.1820
2020			480,543	21,143.8920	22,649.1760		475.409		139.161	21,758.4620	-890.7140
TOTALS:			2,950,920	129,840.4800	129,471.8040	1,901.6360	1,901.6360		556.6440	109,814.2320	368.6760

(1) Source: World Nuclear Association's 2015 "The Nuclear Fuel Report, Global Scenarios for Demand and Supply Availability 2015-2035" (Table IV.3 Enrichment Requirements - Lower Scenario)

(2) See the Department's 2008 Memorandum to David M. Spooner, from Ronald K. Lorentzen, re "Prevention of Price Suppression or Undercutting of Price Levels of Domestic Products by the Amended Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation," at page 4.

(3) Industry Calculator, Using 4.4% Product Assay/0.30% Tails Assay as per Suspension Agreement

(4) See also the Department's February 2, 2010 "Statement of Administrative Intent," at Attachment 1.

(5) This formula does not apply to 2016 which remains at Current Export Limit Quantity (Column E Figure).