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DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-802]

2020 Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) and the Russian Federation's State Atomic Energy Corporation Rosatom (ROSATOM) have signed an amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (Agreement). The amendment extends the Agreement through 2040 and allows the Russian Federation to export Russian uranium products to the United States in accordance with the export limits and other terms detailed in the amended Agreement.

DATES: Applicable October 5, 2020.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Jill Buckles, Bilateral Agreements Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0162 or (202) 482-6230, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1992, Commerce signed an agreement with the Russian Federation's Ministry for Atomic Energy (MINATOM), the predecessor to ROSATOM, under section 734(l) of the Tariff Act of 1930, as amended (the Act), suspending the antidumping duty investigation

on uranium from the Russian Federation.¹ The Agreement was subsequently amended, by agreement of both governments, on March 11, 1994,² October 3, 1996,³ May 7, 1997,⁴ and February 1, 2008.⁵ Pursuant to the 2008 amendment, the Agreement and the underlying antidumping investigation were set to terminate on December 31, 2020.

On February 22, 2019, Commerce formally opened consultations with ROSATOM with respect to a possible extension of the Agreement's term.⁶ On September 11, 2020, Commerce and ROSATOM initialed a draft amendment to the Agreement. On September 16, 2020, Commerce published the draft amendment text in the *Federal Register* and invited comments from interested parties, industrial users, and the public to be submitted by September 28, 2020.⁷ On September 11, 2020, Commerce also released a draft memorandum regarding the prevention of price suppression or undercutting of domestic products pursuant to the draft amendment and requested comments to be submitted by September 28, 2020.⁸

¹ See *Antidumping; Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan; Suspension of Investigations and Amendment of Preliminary Determinations*, 57 FR 49220, 49235 (October 30, 1992).

² See *Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 59 FR 15373 (April 1, 1994).

³ See *Amendments to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 61 FR 56665 (November 4, 1996).

⁴ See *Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 62 FR 37879 (July 15, 1997).

⁵ See *Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 73 FR 7705 (February 11, 2008).

⁶ See Letter to Rosatom from P. Lee Smith, Deputy Assistant Secretary for Policy & Negotiations, "Consultations on the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation," dated February 22, 2019.

⁷ See *Draft Amendment to the Agreement Suspending the Antidumping Investigation on Uranium From the Russian Federation; Request for Comment*, 85 FR 57824 (September 16, 2020).

⁸ See Memorandum to Jeffrey I. Kessler, Assistant Secretary for Enforcement & Compliance, from Joseph A. Laroski, Jr., Deputy Assistant Secretary for Policy & Negotiations, "Prevention of Price Suppression or Undercutting of Price Levels of Domestic Products by the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, as Amended," dated September 11, 2020; see also Memorandum to the File, "Comments on Draft Price Suppression Memorandum," dated September 14, 2020.

On September 25, 2020, Commerce received comments from Strata Energy Inc. On September 28, 2020, Commerce received comments on the draft amendment and draft memorandum from the following parties: Power Resources, Inc. and Crow Butte Resources, Inc.; the Uranium Producers of America; Louisiana Energy Services, LLC; ROSATOM and TENEX, Joint-Stock Company; Exelon Generation Company, LLC, Ameren Missouri, and the Ad Hoc Utilities Group; Centrus Energy Corp. and United States Enrichment Corporation; and Energy Fuels Resources (USA) Inc. and Ur-Energy USA Inc.

Amendment to Agreement

On October 5, 2020, after consideration of the interested party and other comments received, Commerce and ROSATOM signed a finalized amendment to the Agreement.⁹ The text of the finalized amendment is identical to the text released for public comment on September 11, 2020, except for the signature blocks. The amendment extends the Agreement through 2040 and allows for exports of Russian uranium products in the U.S. market in accordance with the export limits and other terms detailed in the amendment. In accordance with section 734(l)(1)(B) of the Act, we have determined that the amended Agreement will prevent the suppression or undercutting of price levels of domestic uranium products by imports of that merchandise from Russia. We have also determined that the amended Agreement is in the public interest and can be monitored effectively, as required under section 734(l)(1)(A) of the Act. The text of the amendment follows in the Annex of this notice with the exception of Appendix 5 which contains business proprietary information and is releasable only under the Administrative Protective Order (APO).

⁹ See Commerce Memorandum, “Placing the 2020 Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation on the Record,” dated October 5, 2020.

Scope of the Agreement

The product covered by the Agreement is 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 compounds; uranium enriched in U^{235} and its compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing uranium enriched in U^{235} or compounds of uranium enriched in U^{235} ; and any other forms of uranium within the same class or kind.

Uranium ore from Russia that is milled into U_3O_8 and/or converted into UF_6 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 this Agreement.

For purposes of this Agreement, uranium enriched in U^{235} or compounds of uranium enriched in U^{235} in Russia are covered by this Agreement, regardless of their subsequent modification or blending. Uranium enriched in U^{235} in another country prior to direct and/or indirect importation into the United States is not considered uranium from Russia and is not subject to the terms of this Agreement.

HEU is within the scope of the underlying investigation, and HEU is covered by this Agreement. For the purpose of this Agreement, HEU means uranium enriched to 20 percent or greater in the isotope uranium-235.

Imports of uranium ores and concentrates, natural uranium compounds, and all forms of enriched uranium are currently classifiable under the Harmonized Tariff Schedule of the United States (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 are currently classifiable under HTSUS subheadings: 2844.10.10 and 2844.10.50. HTSUS subheadings are

provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Administrative Protective Order Access

The APO Commerce granted in the suspension agreement segment of this proceeding remains in place and effective for the amended Agreement. All new interested parties requesting access to business proprietary information submitted during the administration of the amended Agreement, under the APO currently in effect, must submit an APO application in accordance with Commerce's regulations currently in effect.¹⁰

We are issuing and publishing this notice in accordance with section 734(f)(1)(A) of the Act and 19 CFR 351.208(g)(2).

Dated: October 5, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

¹⁰ See Section 777(c)(1) of the Act; *see also* 19 CFR 351.103, 351.304, 351.305, and 351.306.

Annex: 2020 AMENDMENT TO THE AGREEMENT SUSPENDING THE ANTIDUMPING INVESTIGATION ON URANIUM FROM THE RUSSIAN FEDERATION

The Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation is amended as set forth below (2020 Amendment). All other provisions of the Agreement, as amended to date (Agreement), remain in force and apply to this Agreement.

The last paragraph of the Preamble is amended as follows (*changes shown in italics*) and replaces the current paragraph:

The Department and ROSATOM acknowledge that, for purposes of the Agreement, as amended (the “Agreement”), the successor in interest to MINATOM is the Federal Atomic Energy Agency. *The Federal Atomic Energy Agency is now known as the State Atomic Energy Corporation Rosatom (“ROSATOM”).* All references to MINATOM in this Agreement shall be understood to indicate ROSATOM. All exports of Russian Uranium Products are executed through the Russian Government-Owned entity *TENEX, Joint-Stock Company (“TENEX”) (formerly known as Techsnabexport).* All references to TENEX include its successors and its affiliated companies. All references to “Customs” shall be understood to indicate United States Customs and Border Protection.

Section II – Definitions – This section is amended as follows (*changes shown in italics*):

(o) “Effective Date of the 2008 Amendment” means *February 1, 2008, the date the 2008 Amendment was signed by both parties.*¹¹

The following additional sections are amended to replace “Effective Date” with “Effective Date of the 2008 Amendment”:

IV.A

IV.B

IV.B.1.a

IV.B.3

IV.B.4

IV.N

Appendix 3, section 1

Appendix 3, section 2

Insert new definitions following definition (f):

(g) “Effective Date of the 2020 Amendment” means *the date on which this 2020 Amendment is signed by both parties.*

¹¹ See Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (73 FR 7705) (February 11, 2008).

(h) “USEC” means the Delaware corporation known, as of the Effective Date of the 2020 Amendment, as United States Enrichment Corporation, a subsidiary of Centrus Energy Corp., or its successor.

(i) - (k) (reserved)

Section IV.B.1 – Export Limits – Paragraph 1 is amended (*changes shown in italics*) by changing the numbering of paragraph 1 to sub-paragraph “1.a” and by adding additional sub-paragraphs as follows. The purpose of the amended section IV.B.1 is to insert export limits, and certain caps within those export limits, during the period from January 1, 2021 through December 31, 2040:

1.b The annual export limits for 2021-2040 are as follows (expressed in KgU as LEU, at a product assay of 4.4 percent and a tails assay of 0.3 percent, and in Kg U-235 content). In addition, caps for LEU exports pursuant to sales of EUP (which may include sales of SWU plus conversion), as well as caps for additional LEU exports pursuant to sales of SWU plus conversion only, are as follows.

<u>Export Limit Year</u>	<u>Percentage of U.S. Enrichment Demand</u>	<u>Total Export Limit in KgU as LEU (A)</u>	<u>Total Export Limit in Kg U-235 Content (B)</u>	<u>Cap for LEU Exports Pursuant to Sales of EUP (may include Sales of SWU plus Conversion) in Kg U-235 (C) (Subset of B)</u>	<u>Cap for Additional LEU Exports Pursuant to Sales of SWU plus Conversion Only in Kg U-235 (D) (Subset of B)</u>	<u>USEC Export Limit Allocation in Kg U-235¹² (E) (Subset of B)</u>
2021	24%	596,682	26,254	16,409	1,094	7,780
2022	20%	489,617	21,543	10,556	3,231	7,430
2023	24%	578,877	25,471	10,825	3,277	10,700
2024	20%	476,536	20,968	5,976	2,834	10,200
2025	20%	470,376	20,697	5,485	2,834	10,300
2026	20%	464,183	20,424	5,106	0	10,700
2027	20%	459,083	20,200	5,050	0	10,600
2028	15%	344,312	15,150	5,050	0	4,100
2029	15%	340,114	14,965	4,988	0	0
2030	15%	332,141	14,614	4,871	0	0
2031	15%	328,862	14,470	4,823	0	0
2032	15%	322,255	14,179	4,726	0	0
2033	15%	317,536	13,972	4,657	0	0
2034	15%	298,088	13,116	4,372	0	0
2035	15%	294,511	12,958	4,319	0	0
2036	15%	286,066	12,587	4,196	0	0
2037	15%	281,272	12,376	4,125	0	0

¹² These numbers have been ranged. See Appendix 5, which contains a business proprietary version of Column E.

2038	15%	277,124	12,193	4,064	0	0
2039	15%	277,124	12,193	4,064	0	0
2040	15%	267,685	11,778	3,926	0	0

These limits were derived from the Lower scenario U.S. enrichment demand projection data in the World Nuclear Association’s 2019 “The Nuclear Fuel Report, Global Scenarios for Demand and Supply Availability 2019-2040.” To match the projected reactor demand for subsequent years the Department shall, within 3 months following the update of that publication or its successor in 2023, 2029, and 2035, update these export limits by adjusting them to the new projections using 4.4% product assay and 0.3% tails assay based upon the Lower scenario. With each update, the Department shall also increase the total export limits 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 approved by the Department under this Agreement, even if such exports exceed the export limits in effect at the time of delivery.

Column B represents the maximum export limit quantity in Kg U-235 content for each Year of this Agreement. The following additional requirements apply:

- i. Of the quantities in Column B, the quantities in Column C may be exported pursuant to sales of EUP (which may include sales of SWU plus conversion);*
- ii. Of the quantities in Column B, the quantities in Column D may be exported pursuant to additional sales of SWU plus conversion only, in addition to the quantities in Column C;*
- iii. The remaining export quantities (= B - (C + D)) must be exported pursuant to sales of enrichment (i.e., SWU) only;*
- iv. For 2021-2028: of the quantities in Column B, the quantities in Column E may be imported into the United States by USEC pursuant to sales by TENEX to USEC of enrichment (i.e., SWU) in LEU, with return of natural uranium feed material to TENEX.*

All contracts and contract amendments, as appropriate, for deliveries under the annual export limits must be approved by the Department under sections V.C.(1) and V.F of this Agreement.

1.c For 2021-2025:

- i. Any delivery quantities under contracts or contract amendments concluded after March 31, 2020 must be pursuant to sales of enrichment (i.e., SWU) only and not sales of EUP or SWU plus conversion;
- ii. If the EUP and/or SWU plus conversion caps exceed the actual imported shipment quantities, then the excess EUP and/or SWU plus conversion quantities will expire; and
- iii. EUP and/or SWU plus conversion quantities may only be used for delivery quantities under contracts or contract amendments concluded prior to March 31, 2020 and may not be transferred from one contract to another.

1.d Where Russian LEU is sold into the United States under a contract for the sale of enrichment (SWU), or the sale of enrichment (SWU) plus conversion, the natural uranium feed quantity (UF₆ or U₃O₈, as applicable) equal to the feed component of the LEU to be delivered must be returned or provided by the U.S. customer to TENEX at approximately the same time as the Russian LEU is delivered to the U.S. utility end-user (unless the Department has approved an extension), and, regardless of the location of the return or provision of natural uranium feed to TENEX (i.e., whether inside or outside of the United States), TENEX must certify to the following upon the importation of the Russian LEU:

- i. The natural uranium feed returned or provided to TENEX by its U.S. customer shall be deemed to be of Russian origin (if it is not, in fact, already designated as being of Russian origin) for purposes of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation at the time of deposit, exchange, or return, and shall clearly be identified as being of Russian origin in all book accounting and all accompanying documentation and packaging;
- ii. The natural uranium feed returned or provided to TENEX by its U.S. customer shall be immediately quarantined in a dedicated account exclusively for the accounting of this material at the relevant facility and shall not be sold, loaned, swapped, used as loan repayments or working stock, or utilized in any way other than in accordance with the terms of the Agreement;¹³ and
- iii. The natural uranium feed (U₃O₈, alone or as contained in UF₆) returned or provided to TENEX by its U.S. customer and held in a dedicated account shall be either (i) exported to the Russian Federation within 18 months of the date that it is returned or provided to TENEX (whether inside of the United States or in a third country), or (ii) if returned or provided to TENEX in a third country, it may be sold and/or enriched in that or other third country with the following

¹³ The requirement that returned feed must be credited to a dedicated account does not include the necessity to physically store such material separately from like uranium products of other customers or for other purposes; such material may be physically commingled at the storage location with any other like uranium products.

restrictions: (a) if the natural uranium feed contains U_3O_8 that was not mined in the United States, then it shall retain its deemed-Russian origin subsequent to third-country enrichment and shall be subject to the terms of this Agreement, and (b) if the natural uranium feed contains U_3O_8 that was mined in the United States, then its origin will be conferred by the place of third-country enrichment. For purposes of the preceding sentence, "mined in the United States" means that the uranium is produced on or after the Effective Date of the 2020 Amendment at, or previously produced by and held in inventory of, a uranium mine or mill located in the United States; was not produced at a mine or mill directly or indirectly owned or controlled by the Government of the Russian Federation or an agency or agent thereof; and was not produced as a result of enrichment underfeeding or re-enrichment of depleted tails.

Section IV.D – is amended as follows (*changes shown in italics*), including by adding subparagraphs 1 through 4, and replaces the current section:

D.1 Carry-back: Except for any increase added pursuant to section IV.C, if, in any particular Year, the Department permits any Russian Uranium Products to enter the United States in excess of the export limit for that Year, the amount of the excess added to that Year may not exceed 10 percent of the export limit for that particular Year, and shall be ~~charged against~~ deducted from the export limit for the first subsequent Year or Years in which the export limit has not been contractually obligated in full. Carry-back is not permitted from any Year that is more than three years away.

D.2 Carry-forward: If the amount entered in any particular Year falls below the export limit for that Year, the amount of the shortfall may be added to the export limit for the subsequent Year or a Year that is not more than three years away only, up to 10 percent of the export limit for the particular Year in which the shortfall occurs.

D.3 The total amount carried back and carried forward to any particular Year may not increase the export limit for that Year by more than 10 percent. Any carry-back or carry-forward shall be contingent upon specific requests by TENEX and upon the Department's express approval of such requests.

D.4 The carry-back and carry-forward provisions may only be applied to Department-approved contracts for sales of enrichment (i.e., SWU) only.

Section XII. – Duration – This section is amended as follows (*changes shown in italics*):

As of the Effective Date of this Amendment, each of the petitioners in the suspended investigation, or their legal successors, has filed with the Department an irrevocable letters expressly withdrawing the petition in the antidumping investigation, effective December 31, 2020. These letters are attached to this Amendment as Appendix 4. The Agreement will terminate on December 31, 2020. Upon its termination on December 31, 2020, the Department shall terminate the antidumping investigation effective on that date.

*The Department, before February 1, 2008, the Effective Date of the 2008 Amendment, acknowledges the remand of the U.S. Court of International Trade of September 26, 2007, in *Techsnabexport v. United States*, Ct. No. 06-00228, including the Court's direction that "Commerce follow the precedent by which it is bound, articulated in the *Eurodif* cases." As directed by the Court of International Trade, the Department will abide by the *Eurodif* decisions in its determination of the likelihood of continued or recurring dumping. Therefore, on the Effective Date, *Techsnabexport* will file a motion in *Techsnabexport v. United States* under Rule 41 of the U.S. Court of International Trade Rules. The United States will not appeal the September 26th decision in *Techsnabexport v. United States*.*

A. *In addition,* ~~†~~The Department shall conduct sunset reviews under 19 U.S.C. § 1675(c) in the years 2011, ~~and~~2016, 2022, 2028, and 2034. All parties agree that ~~these~~ sunset reviews shall be expedited, pursuant to 19 U.S.C. §§ 1675(C)(4) and (C)(3)(B), respectively, at both the Department of Commerce and the International Trade Commission. *Thereafter, the Department shall conduct sunset reviews under 19 U.S.C. § 1675(c) that follow the normal course (i.e., whether expedited or full, as applicable).*

B. *At the request of either party to this Agreement, the Department and ROSATOM shall enter into good-faith consultations on potential extension of this Agreement beyond its term, including through 2045 or beyond, and the parties will use their reasonable efforts to agree on extension of this Agreement and the associated terms within one year after the mentioned request for consultations.*

C. *MINATOM ROSATOM may terminate provide notice of intent to terminate this Agreement at any time upon notice to the Department. Termination shall be effective 60 365 days after such notice is given to the Department. Upon termination at the request of MINATOM ROSATOM, the provisions of Section 734(i) of the Act shall apply, as though the Department made a finding that the Agreement no longer meets the statutory requirements or a violation had occurred.*

D. If the Department has determined that a sufficient amount of time has elapsed between the effective date of this Agreement and the date of termination, the Department will follow the provisions of ~~Sections XIII.(b)-XIII.A(b) or XIII.(e)-XIII.A(c)~~ of this Agreement.

Section XIV.B – Other Provisions – Paragraph B is amended as follows (*changes shown in italics*) and replaces the current paragraph:

B. For all purposes relating to the Agreement, the Department and ROSATOM shall be represented by, and all communications and notices shall be given and addressed to:

Department Contact:
United States Department of Commerce
Assistant Secretary
for ~~Import Administration~~ Enforcement
& Compliance
International Trade Administration

ROSATOM Contact:
State Atomic Energy Corporation Rosatom
~~State Secretary~~, Deputy Director General for
International Cooperation
24 Bolshaya Ordynka St., 119017 Moscow,
Russian Federation ~~Federal Atomic Energy~~

1401 Constitution Ave., N.W.
Washington, D.C. 20230

*Agency (ROSATOM)
Staromonetnyy per., 26, 119180*

Appendix 1 – This appendix is amended as follows (*changes shown in italics*).

“1992 Sections IV.E-IV.G – remain in effect” **is changed to:**

“1992 Sections IV.E and IV.F are changed to Sections IV.O and IV.P, respectively, and remain in effect.

1992 Section IV.G –remains in effect.”

Appendix 4 – This appendix is deleted in its entirety.

Appendix 5 – This appendix is added and contains business proprietary information.

Signed on this 5 day of October, 2020.

For the U.S. Department of Commerce:

**For the State Atomic Energy Corporation
Rosatom:**

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

Alexey Likhachev
Director General of ROSATOM

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