

**Statement of Mr. William H. Tobey
Deputy Administrator for Defense Nuclear Nonproliferation
National Nuclear Security Administration
United States Department of Energy
Before the
Senate Committee on Energy and Natural Resources**

March 5, 2008

Chairman Bingaman, Ranking Member Domenici and members of the Committee, thank you for the opportunity to appear before you today to discuss the nonproliferation aspects and impacts of the *Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation* (Suspension Agreement), signed October 16, 1992. My remarks center on the relationship of the Suspension Agreement to the Department's broader strategy to reduce and eliminate highly enriched uranium (HEU).

Denying countries of concern and terrorists access to weapons-usable materials is a cornerstone of U.S. nonproliferation strategy. To this end, perhaps the most successful nonproliferation threat reduction program ever conceived is the U.S.-Russia HEU Purchase Agreement, which when fully implemented in 2013 will have eliminated 500 metric tons of HEU – material that, according to Russian officials, accounted for roughly 40 percent of the total Soviet nuclear stockpile.

The HEU Agreement is a Government-to-Government arrangement implemented by a commercial contract and monitored by a bilateral transparency program that my office oversees. We have a great interest in ensuring its uninterrupted continuation until its termination in 2013. As most of you know, about ten percent of all electricity produced in the United States is powered by uranium once in Soviet or Russian nuclear weapons that were likely targeted at the United States or its allies. Roughly 320 metric tons of HEU have been eliminated to date under this Agreement.

The Suspension Agreement has been critical in this regard. It has set the legal foundation for Executive control of uranium imports from Russia, facilitating entry of low enriched

uranium (LEU) downblended from Russian weapons-origin HEU, while excluding commercial, non-weapons origin LEU.

We recognize that imports of Russian commercial LEU would compete directly with and could therefore undermine the viability of the HEU Purchase Agreement. For this reason, the September 2007 *Eurodif* ruling by the Court of Appeals is cause for serious concern. Absent a change in the court's ruling or legislative relief, Russia could gain unrestricted access to the U.S. nuclear fuel market.

Unfettered access to the U.S. market before the HEU Agreement is completed could allow Russia to sell commercial LEU ahead of downblended HEU from weapons. It has been our preference therefore to exclude Russian commercial LEU from the U.S. market until after 2013, when the HEU Agreement expires.

Another drawback of the Court's *Eurodif* ruling is that it may also preclude future HEU downblending agreements with Russia. Both the United States and Russia have implemented major nuclear reductions in the period since 1993, when the HEU Purchase Agreement entered into force. It is reasonable to expect, then, that Russia has additional excess HEU, especially as the Moscow Treaty reductions are carried forward, and it is in our nonproliferation interest that all excess HEU be declared and disposed of in ways that are transparent to us and the international community.

While we are committed to facilitating Russia's transition into the U.S. nuclear market as a commercial partner, we believe it should be accomplished in ways that advance our national security, nonproliferation, and energy interests. A reasonable means for doing so would be to continue Executive control over nuclear imports until such time that we conclude the Suspension Agreement. This would protect the gains realized in the existing HEU Agreement and any future agreement providing for the transparent disposition of additional excess Russian HEU.

I don't wish to leave the committee with the impression that negotiation of a new HEU agreement covering materials in excess of the original 500 metric tons would be straightforward or simple. Russia would have to show an interest in pursuing such an agreement, something it has not done in the recent past. Discussions held in 2002 foundered over questions relating to cost, domestic uranium market impacts, and other provisions, with no progress made since that time. And while we can't predict whether Russia will be persuaded to enter into a future HEU Agreement, we can certainly foresee no progress in the absence of incentives – incentives that the *Eurodif* decision effectively undercuts.

It is important that Congress ensure we have the tools needed to pursue such an agreement with Russia.

We believe that disposing of additional HEU from military stocks would serve a number of important goals: it would eliminate weapons-usable materials sought by proliferants and terrorists, reinforcing our material, protection and consolidation efforts; it would complement strategic nuclear warhead reductions required under the U.S.-Russian Moscow Treaty; it would complement our efforts to pursue a global Fissile Material Cutoff Treaty; and it would demonstrate our shared commitment to promote the Non-Proliferation Treaty's Article VI nuclear disarmament goals.

Demonstrating a continued commitment to make progress on Article VI strengthens our ability to improve other parts of the Treaty, including compliance by non-nuclear-weapon states and verification that civilian nuclear programs are not used as a cover to pursue nuclear weapons. I have had the opportunity to travel recently with NNSA Administrator Tom D'Agostino to the United Nations, the International Atomic Energy Agency, and the Conference on Disarmament, where we have highlighted the significant, concrete steps taken by the United States in support of Article VI of the NPT. Part of this dialogue has focused on related nonproliferation achievements and partnerships with Russia, including the HEU Purchase Agreement. It is clear from these discussions that continued and

transparent reductions of nuclear material removed from weapons stocks are regarded as a high priority and help improve international confidence in the Treaty.

Allow me to address one additional issue having to do with our nuclear weapons program. To meet long-term tritium production needs, the United States must have a domestically owned source of nuclear fuel, which would be unburdened by the peaceful-use assurances typically required of foreign-owned suppliers. This in turn requires that the United States have a domestic enrichment supplier capable of providing unobligated fuel for some time. Only one such U.S.-owned supplier exists – the U.S. Enrichment Company, which is also the Executive agent for the HEU Purchase Agreement.

Over the near term, retaining Executive control on LEU imports, regardless of the type of contract under which the material enters the U.S. market, may therefore affect materially our long-term access to unobligated fuel for tritium production.

To conclude, if we are to ensure that the current agreement is successfully completed, it will be necessary to overcome the effects of the *Eurodif* ruling. I also remain hopeful that we can continue the transparent disposition of excess Russian HEU beyond the expiration of the current agreement and reestablish the circumstances that allowed us to grasp the opportunities presented in 1993.

Thank you and I look forward to your questions.