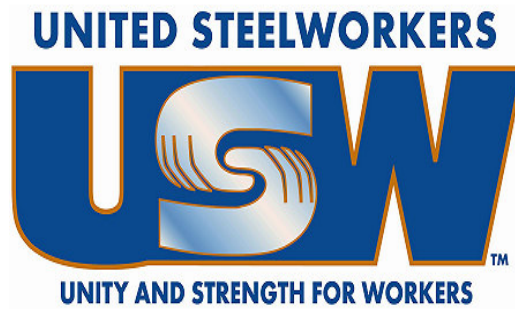




Testimony of

**Robert C. Ervin, Jr.
President, Local 550
United Steelworkers**

before the

**Senate Committee on Energy and Natural
Resources**

on

**Amendment to the Suspension Agreement in the
Antidumping Case on Russian Uranium Imports
between the United States and Russia**

March 5, 2008

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President of United Steelworkers Local 550
Before
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Wednesday, March 5, 2008**

Mr. Chairman and Members of the Committee, I am Rob Ervin, President of Local No. 550 of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union ("USW"). The USW has 850,000 active members and is the largest industrial union in North America. Our union has been fighting on the front lines against foreign governments and companies seeking to gain an unfair competitive advantage by violating the rules of fair trade. The USW represents workers in Paducah, Kentucky at the USEC enrichment plant. This plant is the sole uranium enrichment plant operating in the United States. USW also represents USEC workers in Local No.689 at the Portsmouth, OH nuclear site. Another enrichment plant, previously shut down after USEC's privatization, is now designated as the site for USEC's new American Centrifuge Plant (ACP).

I appreciate the opportunity to testify about the serious concerns of the USW regarding the recent amendment to the suspension agreement in the antidumping case on Russian uranium imports between the United States and Russia ("RSA"). The USW was the original petitioner in the underlying antidumping investigation and sought relief under the trade laws to stop the dumping of uranium products by Russia that were flooding the market and causing harm to the domestic commercial nuclear fuel industry. That preliminary investigation found that Russian uranium was being dumped at over 110 percent. Thereafter, the Russian government and the Department of Commerce entered into a suspension agreement under which entry of Russian uranium was limited to specified annual quota amounts.

However, as a result of a court decision in the *Eurodif* case¹, low-enriched uranium ("LEU") imported from any country, including the Russian Federation, through sales of Separative Work Units ("SWU") contracts would no longer be subject to the trade laws. Consequently, the quotas under the recently amended Russian Suspension Agreement ("RSA") do not cover LEU sold pursuant to SWU contracts. This creates a large gap in coverage that is an imminent threat to the continued operation of the sole remaining domestic enrichment plant at Paducah, Kentucky. This fatal gap in coverage of Russian LEU sold under SWU contracts also threatens the ability of USEC to build the new American Centrifuge Plant at the Portsmouth, Ohio site. Investment will not be forthcoming if LEU may enter unrestricted from the Russian Federation or other countries that enrich commercial uranium. The USW represents over 1000 hourly workers at these two sites -- all of those high-skilled, well-paying jobs are now at serious

¹ *Eurodif v. U.S.*, 411 F.3d 1355 (Fed. Cir. 2005). The CAFC held that LEU imports sold under SWU contracts are not covered by the antidumping or countervailing duty laws of the United States because such transactions are for services and not goods. See Slip Op. 04-1209, p.16.

risk. Moreover, the energy security interests of the United States in maintaining an adequate and competitive commercial uranium enrichment industry are at risk. Finally, and of great importance, the national security and non-proliferation interests of the United States in maintaining a viable domestic military nuclear fuel capacity and the successful completion of the Russian HEU Agreement² also are at serious risk. Something must be done to correct this.

LEU -- alone are sold under SWU contracts - is a commodity. Demand for nuclear fuel is largely fixed and stable, so lowering prices for LEU or SWU will not increase demand significantly. Yet, even a small increase in supply will significantly lower prices. Therefore, while the enrichment plant at Paducah operates very efficiently and recently set an all-time high for production, the plant relies on older gaseous diffusion technology, which requires large amounts of electricity. Given the increases in electricity rates for the Paducah plant, a significant drop in the prices of LEU -- regardless of how it is sold -- likely would force the plant to operate at a loss. When that happens, our union members working at the plant lose their jobs. We are the canary in the mine.

The Russian Federation is the largest enricher of uranium in the world and has capacity well beyond its domestic demand. As the Department of Commerce found in its sunset review of the suspension agreement, the Russian federation has publicly made known its intent to target its excess capacity to the U.S. market now that the law under Eurodif prevents the amended RSA from covering LEU sold under SWU contracts. So long as that legal gap in coverage exists, our domestic industry and workers will be under serious threat. This means that the Russian Federal Atomic Energy Agency, "Rosatom" and U.S. nuclear utilities are now free to structure their sales of LEU under SWU contracts thereby easily circumventing the reasonable annual quota limits (20 percent) agreed to under the amended RSA. There is not prohibition against them oversupplying the U.S. market and depress prices to our grave detriment.

The nuclear utilities and their trade association, the Nuclear Energy Institute (NEI) say they have no interest or intent to use SWU contracts to avoid the quotas and flood the market, and we should just trust them. The United Steelworkers are not willing to entrust over 1000 jobs of its members to the good intentions and the commercial interests of the NEI and U.S. utilities, much less the Russian government. We also think that both the Administration and the Congress should not be willing to entrust the critical energy and national security interests of the United States to the good will of the utility industry and the Russian government.

The USW strongly urges the Congress to act to limit the amount of LEU that the Russians can sell into the U.S. market, and SWU contracts must be included in those limits. We are especially vulnerable to excessive Russian LEU imports from now to the end of the Russian HEU Agreement in 2013. The LEU derived from Highly Enriched Uranium ("HEU") from dismantled nuclear warheads from the arsenal of the former

² The Russian HEU Agreement is formally known as the "Agreement Between the Government of the United States and the Government of the Russian Federation concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons", dated February 19, 1993.

Soviet Union, under that agreement currently accounts for over 40% of U.S. supply. It is marketed by USEC as the agent for the U.S. government, and while that is helpful to USEC's profits, it does not directly provide jobs for our workers and members. After the end of the Russian HEU Agreement, starting in January 2014, the RSA allows LEU quotas for the Russians of approximately 20% of U.S. demand through 2020 to provide a transition from the HEU Agreement. By 2014 it is expected that there will be at least two new enrichment plants in operation by USEC and LES, and Paducah can continue operations so long as necessary to provide sufficient supply. That can all be defeated by excess supply from Russian SWU contracts not covered by the quotas.

S. 2531, legislation introduced by Senators McConnell and Bunning, and H.R. 4929 by Rep. Whitfield, would fix the decision in the *Eurodif* case to make LEU sold under SWU contracts subject to the U.S. trade laws. The USW strongly supports such legislation. These companion bills amend the Tariff Act of 1930 so that all imports of LEU – including LEU sold under SWU contracts -- would be subject to our trade laws. That would mean that any country dumping or taking prohibited subsidies for LEU products exported here would be held accountable for such unfair trade practices. Certainly, the USW is very appreciative of the efforts to make sure that our domestic industry and workers can compete on a level playing field in the uranium industry. The Administration also strongly supports that legislation³. We have attached a copy of that letter as an exhibit to our testimony and ask that it be included in the record.

In conclusion, the USW urges Congress to limit the amount of LEU, in any form - including sold under SWU contracts - to a reasonable quota level now and after the conclusion of the Russian HEU Agreement. We suggest that quota level be no more than twenty (20) percent of U.S. demand for commercial nuclear fuel. SWU contracts must be included within these limits for any effort to be effective. The USW will support legislation if it also attains the following objectives of the Administration:

“full implementation of the 1993 Agreement between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons (the HEU Agreement);

“continued production of nuclear fuel at the remaining domestic uranium enrichment plant and maintaining stability in the U.S. uranium market;

“and timely completion of new and modernized facilities for the production of nuclear fuel in the United States”.⁴

³ See letter to Sen. McConnell, Sen. Bunning and Rep. Whitfield dated December 21, 2007 signed by the Departments of State, Commerce, Defense and National Nuclear Security Agency of the Department of Energy. (Attach as an Exhibit.)

⁴ Id.