



September 10, 2020
NRC:20:021

Mr. George Wilson, Director
Office of Enforcement
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2763

Response to Confirmatory Order, EA-16-016 – Independent Consultant Review

- Ref. 1: Letter, Patricia K. Holahan (NRC) to David M. Royer (AREVA Inc.), "AREVA Inc. Confirmatory Order," EA-16-016, August 4, 2016.
- Ref. 2: Letter, Gary Peters (Framatome Inc.) to Ms. Anne Boland (NRC), "Response to Confirmatory Order, EA-16-016 – Independent Consultant Review," July 27, 2018.
- Ref. 3: Letter, Gary Peters (Framatome Inc.) to Mr. George Wilson (NRC), "Response to Confirmatory Order, EA-16-016 – Independent Consultant Review," August 14, 2019.

The NRC issued a Confirmatory Order (CO) to Framatome Inc. (Framatome, formerly AREVA Inc.) as a result of a successful Alternative Dispute Resolution (ADR) session (Reference 1).

One of the CO requirements (Action 8) was that Framatome engage an independent third-party consultant to conduct a review and provide a written assessment of Framatome's written import/export compliance program and training activities. Further, within 30 calendar days of the receipt of the final audit report, Framatome is required to share the consultant's written assessment with the NRC. The consultant's initial written assessment was submitted to the NRC as an attachment in Reference 2. The consultant's second written assessment was submitted to the NRC as an attachment in Reference 3.

Enclosure 1 to this letter is the third written assessment of Framatome's import/export compliance program and training activities. This addresses the requirement of Action 9 of the CO. This assessment was performed by Mr. William H. Ruland, currently of Steelhead Consulting, LLC, and former NRC Director, NRR Division of Safety Systems. The audit was performed with satisfactory results.

Framatome confirms its continued compliance with the CO by:

- Providing quarterly reports to the NRC for export reports of reactor equipment and components for each calendar year.
- Maintaining written procedures related to NRC requirements contained in 10 CFR Parts 75 and 110. These written procedures include a corporate focus and apply to all Framatome facilities.

- Conducting training with management and staff responsible for the import/export activities within Framatome to outline the requirements contained in 10 CFR Parts 75 and 110. This training emphasizes and reinforces NRC compliance expectations.
- Providing annual refresher training for management and staff responsible for the import/export activities including training on any developed or updated written procedures.
- Providing initial training for new management and staff responsible for import/export activities, including training on any developed or updated written procedures.
- Maintaining documentation of management and staff that attends all import/export training.

Framatome has documented Mr. Ruland's assessment in our Corrective Action Program. We are working to address the recommendations provided within the written assessment by Mr. Ruland.

Based on the results of Mr. Ruland's third audit as discussed in the enclosed written assessment and Framatome's continued compliance with the CO, Framatome requests the NRC rescind the annual independent audit requirement as discussed in Reference 1.

If you have any questions related to this submittal, please contact Ms. Gayle Elliott, Deputy Director, Licensing & Regulatory Affairs, by telephone at 434-832-3347, or by e-mail at Gayle.Elliott@framatome.com.

Sincerely,



Gary Peters, Director
Licensing & Regulatory Affairs
Framatome Inc.

cc: Nader Mamish, Director, Office of International Programs, NRC
N. Otto
K. M. Ramsey
W.H. Ruland – Steelhead Consulting, LLC
Project 728

Enclosures:

1. Letter, William H. Ruland (Steelhead Consulting, LLC) to David Royer (Framatome Inc.), "Review of Import/Export Compliance Program and Training Activities," August 14, 2020.

Enclosure 1

**Letter, William H. Ruland
(Steelhead Consulting, LLC) to
David Royer (Framatome Inc.),
“Review of Import/Export
Compliance Program and Training
Activities,” August 14, 2020**

William H. Ruland
Steelhead Consulting, LLC
10800 Honeyfield Road
Williamsport, MD 21795-4045

August 14, 2020

Mr. David Royer
Vice President and General Counsel
Framatome, Inc.

Subject: Review of Import/Export Compliance Program and Training Activities

Dear Mr. Royer:

In accordance with the NRC's Confirmatory Order, dated August 4, 2016, and discussions held with Ms. Gayle Elliott, I conducted a review and assessment of the above program as an independent third party consultant. An exit interview was conducted via conference call with Mr. Gary Peters, Vice-President, Design Authority and Licensing, and staff, on August 10, 2020. The results are attached.

On August 4, 2016, NRC issued a Confirmatory Order (CO) to Framatome (then AREVA), as a result of a successful Alternate Dispute Resolution (ADR) session. The ADR session was prompted by apparent violations of the NRC's import/export control regulations. No similar problems that led to the Confirmatory Order or violations were identified during this assessment or the previous two assessments performed in 2018 and 2019.

This review was focused primarily on review of: your focused self-assessment 2020-1000, "I&C Export Control – Effectiveness Review of Actions Planned and Taken by Self-Assessment 2018-10207;" corrective action reports issued and taken within the last year; training records; import/export control Sharepoint site, including selected data contained in the Export Control Approval Forms; and quarterly reports issued in accordance with the Additional Protocol. The above was accomplished remotely through telephone interviews with personnel, e-mail and record review.

Framatome's import/export program demonstrated a rigor appropriate to the circumstances. This is particularly challenging given the international nature of the company.

My 2019 report included two recommendations: Framatome conduct a self-assessment within about six months of issuance of the Export Control Manual to determine the effectiveness of the manual and its implementation, solidify the procedures and responsibilities of the Import/Export Control Administrator in Richland with the personnel responsible for carrying them out, since it was a work in progress at the time of the last audit. The audit was performed with satisfactory results. The Import/Export Administrator issue has yet to be resolved but there was no evidence that it has resulted in a degradation of the program.

Based on the results of this audit, I recommend that Framatome, in accordance with the Confirmatory Order Action nine, request the Director, Office of Enforcement, to rescind the audit requirement in their forthcoming compliance letter. Framatome should also resolve the discrepancy between the described program and its implementation regarding the Import/Export Administrator in Richland, WA. To that end, Framatome should conduct a focused self-assessment of the implementation of the import/export control program in Richland, WA (Horn Rapids Road site) at least three months after this discrepancy is resolved.

Framatome should also consider whether or not they meet the good cause test to request the NRC to rescind the Confirmatory Order and then act accordingly.

A draft report was provided to obtain Framatome's comments. No substantive comments were made. I had the final say on the report contents.

Feel free to contact me if you would like to discuss this matter. I can be reached at steelheadllc@outlook.com.

Sincerely,



William H. Ruland
Technical and Regulatory Consultant

cc via email:

Gary Mignogna – President and CEO

Ron Land, Senior Vice-President, Richland Fuel Operations

Gary Peters – Vice President, Design Authority and Licensing

Tim Tate, Manager, Environmental, Health, Safety and Licensing

Herb Winegard - Principal Counsel – Engineering and Projects - North America

Gayle Elliott – Deputy Director, Licensing and Regulatory Affairs

Phil Opsal – Technical Consultant and Regulatory Programs Director

Steven Bullock – Deputy Import/Export Control Officer

Assessment Report of Import/Export Program and Training Activities of Framatome Inc.

1. Background

On August 4, 2016, NRC issued a Confirmatory Order (CO) to Framatome (then AREVA), as a result of a successful Alternate Dispute Resolution (ADR) session. The ADR session was prompted by apparent violations of the NRC's import/export control regulations. The first violation involved failure to submit quarterly reports to the NRC and the Department of Commerce (DOC) in accordance with 10 CFR 110.54(a)(1), of exports of certain components listed in Appendix A of Part 110 (and in Annex II of the Additional Protocol). The second violation involved Framatome's failure to apply for and obtain a specific license to export a Reactor Coolant Pump (RCP) without a motor to France.

In the CO, Framatome was ordered to perform 11 actions. Action eight required Framatome to "...engage an independent third-party consultant to conduct a review and provide a written assessment of AREVA's (now Framatome) written import/export compliance program and training activities." Action nine required Framatome to "Following the initial audit, the audits will continue on an annual basis." This audit is the third audit. This report is a written assessment required by Action nine.¹

2. Scope of Review

The review started with an entrance meeting on June 22, 2020, when I outlined the scope of the review. The review included:

- a. Review of focused self-assessment 2020-1000, I&C Export Control – Effectiveness Review of Actions Planned and Taken by Self-Assessment 2018-10207.” ;

¹ The CO required that the consultant, "...possess NRC regulatory experience." The consultant performing the review and writing the assessment has over 30 years of NRC regulatory experience, both in inspection and licensing, in the regions and in NRC headquarters. The consultant's last position in the NRC was as Director, Division of Safety Systems, Office of Nuclear Reactor Regulation, retiring in January 2013.

- b. Review of a set of quarterly and annual reports made in accordance with the Additional Protocol;
- c. Review of submitted Export Control Approval forms database in Sharepoint. Several items selected at random were reviewed to determine Framatome's compliance with export requirements;
- d. Review of Framatome's Corrective Action reports issued within the last year to determine the appropriateness of the actions taken, if completed or planned.
- e. Review the annual refresher training materials and the training database required by the CO, as updated.
- f. Review of "work-in-progress" for the Import/Export Control Administrator in Richland, WA.

3. Review of Focused Self-Assessment

- a. The self-assessment was performed by a senior engineer, the Regulatory Programs Director, with extensive regulatory and utility experience. Among the issues resolved were: developing an overarching import/export procedure, import/export administrator (not in Fuels since the focus was on I&C), Tricon export license, expert listings, marking of documents as export controlled, among others.
- b. All of the above issues were resolved appropriately.

4. Review of Quarterly and Annual Reports Submitted per the Additional Protocol

- a. The above reports were reviewed to determine whether or not they were completed as required or, in some cases, that no report was required for a specific quarter.
- b. No discrepancies were identified.

5. Review of Export Control Approval Forms in Sharepoint

- a. Framatome has established a comprehensive Sharepoint site, "Export Control Knowledge Base," that contains links to: Export Control Manual, training information, applicable regulations and definitions, export information to specific countries where applicable, information for travelers, contact information for questions, and the database of all Export Control Approval Forms. As of July 31st, there were over 400 forms that were submitted regarding questions/approval requests about exports. In some cases, follow-up questions and answers were made to determine the appropriate action to take, i.e., to export the item.
- b. Several individual items were reviewed with the Deputy Export Control Officer and no discrepancies were identified. Also the database was reviewed on a sampling basis to see the breadth and scope of the issues raised by the staff and resolved. Again, no discrepancies were identified.

6. Review of Corrective Action Reports

- a. Twelve Correction Action reports were issued related to import/export controls during approximately the last 12 months. The review focused on how the issue was resolved.
- b. The CR documentation was reviewed, interviews with relevant staff were conducted, and the CAP was discussed with the Manager, Corrective Action Program (CAP) Installed Base. The CAP administrative procedure, 1717-06, in Attachment 1 and in the body of the procedure, requires Framatome employees to write a CR if, among other requirements:
 - i. "A need exists to identify Company products, services, or equipment that are problematic, do not meet Company or

customer expectations, and require improvement and/or management attention;”

- ii. “A problem, if not addressed, could lead to a noncompliance;”
 - iii. “There is a customer or regulator concern, complaint, surveillance or audit finding;” and
 - iv. “An adverse business or business process event or a condition or trend that requires evaluation, management attention, and/or corrective/preventive actions occurs.”
- c. In the CRs reviewed, Framatome demonstrated that their CAP was sufficiently robust to identify and correct issues associated with the Import/Export Control Program.

7. Review of Training Materials and Training Database

- a. The revised training materials were reviewed and the training database was examined to ensure that Framatome was maintaining “...documentation of management and staff attending such training” as required by Confirmatory Order actions 6 & 7. In addition, individual new hires and the timeliness of their training were reviewed with the individuals via email to verify that training was accomplished per Confirmatory Order action 7.
- b. Framatome provided documentation for about 1000 employees that completed the annual training, which is about one-half of the staff. New staff received the training in a timely manner. No discrepancies were identified.

8. Review of “work-in-progress” for the Import/Export Control Administrator in Richland, WA.

- a. In last year’s audit report, one of the recommendations was, “...my interviews revealed that the processes and requirements established for the Import/Export Control Administrator in Richland, WA, were a work in progress. I recommend that Framatome solidify the

procedures and responsibilities in Richland with the personnel responsible for carrying them out.”

- b. Since making that recommendation, Framatome has not solidified the procedures and responsibilities in Richland. Chapter 11 of the Export Control Program Manual describes the responsibilities of the Administrator. They are listed:
 - i. Maintaining shipping logs for exports,
 - ii. Processing imports and exports and conferring with the ECO as to whether a license is required,
 - iii. Assisting the ECO in obtaining the necessary regulatory licenses and forms,
 - iv. Providing input needed by the ECO for the filing of certain reports required by the various agencies of the United States Government, and
 - v. Assisting Exporters with proposing preliminary license determinations to the ECO for validation
 - vi. The Manual also states that their responsibilities are not limited to the above.
- c. Framatome asserts that the above responsibilities are being carried out albeit by different personnel and not a single individual. No evidence was found that this is not the case. Framatome also states that this issue was not resolved because of other import/export tasks warranted attention and since the function was being adequately performed.
- d. Recommendation One: Framatome should resolve this discrepancy between the described program and its implementation. To that end, Framatome should conduct a focused self-assessment of the implementation of the import/export control program in Richland, WA (Horn Rapids Road site) at least three months after this discrepancy is resolved.

9. Recommendation Two: Action nine of the Confirmatory Order states, in part, “After the third annual audit, upon request by AREVA and a showing of good cause, the Director, Office of Enforcement shall rescind the audit requirements.” Given the significant improvement in Framatome’s Import/Export Control Program that have been demonstrated over the three independent audits, they should make the request to rescind the audit requirements in the 2020 Compliance Letter to the NRC.