



August 14, 2019
NRC:19:022

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.

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 in Reference 2.

Enclosure 1 to this letter is the second 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. As noted in the report, "All recommendations from the last audit have been considered and, where appropriate, implemented."

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

If you have any questions related to this submittal, please contact me by telephone at 434-832-3945, or by e-mail at Gary.Peters@framatome.com.

Sincerely,



Gary Peters, Director
Licensing & Regulatory Affairs
Framatome Inc.

cc: Nader Mamish, Director, Office of International Programs, NRC
J. G. Rowley
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," July 26, 2019.

Enclosure 1

**Letter, William H. Ruland
(Steelhead Consulting, LLC) to
David Royer (Framatome Inc.),
“Review of Import/Export
Compliance Program and Training
Activities,” July 26, 2019.**

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

July 26, 2019

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 at Framatome's Old Forest Road office with Mr. Gary Peters, Vice-President, Design Authority and Licensing, and staff, on June 28, 2019. The results of the assessment 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 were identified during this assessment or the previous assessment performed in 2018.

This review was focused primarily on reviewing Framatome's actions in response to the eleven recommendations that were made in my previous audit report dated July 2, 2018. In addition, the audit consisted of interviews of staff that attended the required training, review of revised policy and procedures including the new Export Control Program Manual (ECPM), and interviews of Import/Export Control Administrators.

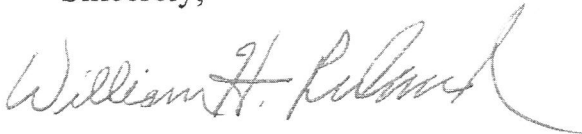
The current import/export program shows a marked improvement since the last audit. All recommendations from the last audit have been considered and, where appropriate, implemented. Additional enhancements have been implemented in the new ECPM.

My report includes two recommendations for your staff to consider. Framatome issued the above ECPM to consolidate all their import/export policies and requirements in a single place. This manual was issued on May 31, 2019. It includes reference to using a Framatome SharePoint site as a repository of information related to import/export controls. While the manual appears to appropriately cover the relevant requirements, due to the limited time that the manual has been in effect, no final judgment on its effectiveness could be rendered. I recommend that Framatome conduct a self-assessment within about six months of issuance to determine the effectiveness of the manual and its implementation. Also, 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.

A draft report was provided to obtain your comments. No substantive comments were made. I had the final say on its 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

Gary Peters – Vice President, Design Authority and Licensing

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

Steven Bullock – Deputy Import/Export Control Officer

Gayle Elliott – Deputy Director, Licensing and Regulatory Affairs

Attachment 1— Assessment Report of Import/Export Program and Training Activities of Framatome Inc.

Attachment 2—Interview Questions for Framatome Import/Export Audit

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 second audit. This report is a written assessment required by Action nine.¹

2. Scope of Review

The review started with an entrance meeting on May 13, 2019, when I outlined the scope of the review. The review included:

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.

- a. Review of a limited number of exports to determine whether or not any additional violations occurred similar to the RCP and failure to report in accordance with the Additional Protocol (AP);
- b. Review of a set of quarterly and annual reports made in accordance with the Additional Protocol;
- c. Review of a list maintained by an Import/Export Administrator of exports. Several items were reviewed to determine Framatome's compliance with export requirements;
- d. A review of all Framatome's actions in response to the eleven recommendations made in the 2018 audit report. See No. 3, Results of Review, below;
- e. Review the annual refresher training materials that were used to perform the training required by the CO, dated July 17, 2018;
- f. Interviews of eight staff on the training that they received. (see Attachment 2, Interview Question Sheet.)

3. Actions taken to address recommendations of 2018 audit report

- a. Recommendation 1: To strengthen the program, a periodic third party audit or similar additional oversight should be added. If such oversight is implemented, it should be included in the procedures.

The consultant verified that the self-assessment requirement was added to procedures and is included in the new Export Control Program Manual (ECPM). The self-assessment performed to meet this requirement was reviewed in WebCAP 2018-10207. Appropriate findings were documented and dispositioned.

- b. Recommendation 2: To make any additional oversight more effective and efficient, Framatome should require in its procedures that a log of relevant exports be maintained by the Export Administrators.

The consultant reviewed a list of exports from an Import/Export Administrator. The list will be added to the SharePoint site.

- c. Recommendation 3: Revise the Export Control Policy to address several weaknesses.

The consultant verified that qualifications and responsibilities were added to the policy, periodic training was addressed, and, as seen above, self-assessment records were maintained.

- d. Recommendation 4: Framatome should provide additional information about what is significant, and change the “should” to “shall.”

The consultant verified that Framatome considered this comment and included a letter in the ECPM from the CEO that clearly identified the expectations of management regarding following the ECPM.

- e. Recommendation 5: Include training on 10 CFR 110.7a(a), Completeness and Accuracy of Information, in future training.

The consultant verified the inclusion of the above in the 2018 training presentation.

- f. Recommendation 6: As part of on-boarding/promotion process, there should be a requirement that export control training be provided to new managers and staff within 30 days of assignment, or prior to their first activity associated with import/export, whichever comes first.

The consultant verified through discussions with training personnel that the automated training program insures that personnel in the appropriate positions are required to read updated procedures and policies at the necessary periodicity.

- g. Recommendation 7: Amend training materials to include Key Learning Objectives so employees understand the key take-aways from the import/export training.

The consultant verified that key learning objectives were included in the training. Also, during interviews, all staff understood what an export was, a key learning objective.

- h. Recommendation 8: Identify and document management and staff responsible for import/export activities within Framatome and/or develop specific criteria for management and staff that should attend the training and provide the training.

The consultant verified that chapter 4 of the ECPM establishes this requirement.

- i. Recommendation 9: Consider whether or not a quiz at the end of the training is appropriate to check understanding and improve information retention.

This was considered by Framatome. Also, the small set of interviews did not reveal any significant deficiencies.

- j. Recommendation 10: Review this Spot Observation and reply to the originator on the resolution of the comment.

This Spot Observation was a concern related to the transfer of documents outside the US. The consultant interviewed the person who submitted the observation. She reported that she was satisfied with the resolution. In addition, the revised system to track similar observations requires a documented disposition.

- k. Recommendation 11: Address areas of weakness and non-compliance with the Confirmatory Order using the Corrective Action Program and the appropriate evaluation tools.

The consultant verified that the Regulator Action List, as described in Framatome's response, was being used.

4. Recommendations

- a. During the audit, the new Export Control Program Manual was issued for use on May 31, 2019. This new manual, together with the affiliated SharePoint site, places all the import/export control information and policy in one location. In my view, this is a marked improvement over the previous procedures and policies. However, since the manual is new, Framatome should conduct a self-assessment on the implementation of the new manual about six months after it was approved, likely after the start of 2020.
- b. During my interviews of the Richland, WA, Import/Export Administrator (I/E Admin) and the Deputy Import/Export Control Officer, I found that the I/E Admin position in Richland was a “work in progress.” At least one of the responsibilities listed in the ECPM was not performed by the I/E Admin. Also, the scope of the job in Richland appears significantly different than that in Lynchburg. I recommend that Framatome solidify the procedures and responsibilities in Richland with the personnel responsible for carrying them out.

Attachment 2

2019 Interview Questions for Framatome Import/Export Audit

Name:

Job Title:

Years in the position:

Role in Import/Export activities:

Describe training that you have had regarding import/export controls since mid-year 2018:

What do you remember about the training?

What procedures or policies govern the import/export activities?

What is an export?

Anything else you would like to say or that I should know to make my audit more effective?