



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-818]

Low Enriched Uranium from France: Preliminary Results of Antidumping Duty Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: In response to a request from an interested party, Eurodif S.A. and AREVA NP Inc. (collectively, AREVA), the Department of Commerce (Department) initiated a changed circumstances review (CCR) of the antidumping duty order of low enriched uranium (LEU) from France.¹ We preliminarily determine that it is appropriate to issue a one-time amendment to the scope of the order to extend by 18 months the deadline otherwise applicable to AREVA for the re-exportation of one entry of LEU. We invite interested parties to comment on these preliminary results. Parties who submit comments in these reviews are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Emily Halle or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230;

telephone: (202) 482-0176 or (202) 482- 1391, respectively.

¹ See Low Enriched Uranium from France: Initiation of Antidumping Duty Changed Circumstances Review, 77 FR 1059 (January 9, 2012) (CCR Initiation Notice).

SUPPLEMENTARY INFORMATION:

Background

On February 13, 2002, the Department published an order on LEU from France.² The order contains a provision to exclude from the scope LEU owned by a “foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO₂) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.”

On December 5, 2011, AREVA requested that the Department initiate and conduct an expedited changed circumstances review to amend the scope of the order to extend by 18 months the deadline for re-exporting an entry of LEU for which AREVA reported it would not be able to meet the deadline for re-exportation.³ At the time of entry, the LEU at issue met the requirements for exclusion from the scope outlined above. On December 13, 2011, AREVA provided additional factual information supporting its request. On December 14, 2011, USEC Inc., and its subsidiary, United States Enrichment Corporation (collectively, USEC), responded to AREVA’s request that it had no objection to the 18-month extension of time requested by AREVA for the re-exportation of the LEU entry discussed by AREVA.

² See Notice of Amended Final Determination and Notice of Countervailing Duty Order: Low Enriched Uranium From France, 67 FR 6689 (February 13, 2002).

³ See Letter from AREVA, “Low Enriched Uranium from France,” dated December 5, 2011.

In response to AREVA's request, the Department initiated a changed circumstances review of the antidumping duty order on LEU from France,⁴ and requested that any parties wishing to provide factual information for the Department's consideration do so within 15 days of the publication of the initiation notice, i.e., January 24, 2012. On January 23, USEC filed a letter in which it again expressed that it has no objection to the extension requested by AREVA.

Scope of the Order

The product covered by the order is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF₆) with a U²³⁵ product assay of less than 20 percent that has not been converted into another chemical form, such as UO₂, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of the order. Specifically, the order does not cover enriched uranium hexafluoride with a U²³⁵ assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of the order. For purposes of the order, fabricated uranium is defined as enriched uranium dioxide (UO₂), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U₃O₈) with a U²³⁵ concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U²³⁵ concentration of no greater than 0.711 percent are not covered by the scope of the order.

Also excluded from the order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO₂) and/or fabrication into fuel assemblies so long as the

⁴ See CCR Initiation Notice.

uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Preliminary Results of Changed Circumstances Review

Based on the Department's analysis of the submissions on the record, in accordance with 19 CFR 351.216, we preliminarily determine to amend the scope of the order to extend by 18 months the deadline for re-exporting the LEU entry at issue. AREVA imported the entry of LEU at issue into the United States on November 1, 2010, for fabrication and subsequent re-exportation to the end-user, the Japanese customer. The entry met the conditions in the scope of the order for exclusion from the order. Both the importer and the end-user filed with U.S. Customs and Border Protection (CBP) the required certifications that the LEU was owned by a "foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO₂) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign

end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States.” The 18-month period for this entry expires May 1, 2012. AREVA’s December 5, 2011, request explains that following the March 11, 2011, earthquake and tsunami that struck Japan, AREVA’s Japanese end-use customer was required by the Japanese government to shut down its nuclear power facility pending necessary remediation of the situation. In light of the disaster that struck Japan after entry of this merchandise into the United States, AREVA’s end-user is not able to take delivery of the LEU within the 18-month period, as required by the certifications that AREVA and the end-user filed at the time of entry.

AREVA provided documentation supporting this claim, including: (1) a letter from the Japanese Minister of Economy, Trade and Industry, dated May 6, 2011, regarding the shutdown by Chubu Electric Power Co., Inc. of the operation of one of its nuclear power plants until safety measures are completed and confirmed by the Nuclear and Industrial Safety Agency; (2) a letter from Chubu Electric Power Co., Inc., dated May 9, 2011, confirming that the board had decided to shut down the power plant requested; (3) a notice from Mitsubishi Nuclear Fuel discussing a timeline of the nuclear power plant shutdown and forecasts for its reopening; (4) entry summary and related entry documents for entry number W96-3576942-O; and, (5) importer and end-user certifications to U.S. Customs and Border Protection (CBP) (referenced in the certifications as “U.S. Customs Service”).⁵

We find that the evidence provided by AREVA is sufficient to establish that the circumstances of its request are extraordinary, and beyond the control of AREVA and the Japanese end-user. Therefore, we preliminarily determine that it is appropriate, for this entry

⁵ See Letter from AREVA, “Low Enriched Uranium from France,” dated December 13, 2011.

only, to amend the scope of the order and to extend the deadline for the re-exportation of this sole LEU entry from 18 months to 36 months. Should these preliminary results remain unchanged in the final results, we will extend the deadline for re-exportation of this entry to no later than November 1, 2013. AREVA and the end-user will be required to provide new certifications to CBP prior to the original deadline for re-exportation of this entry, i.e., May 1, 2012.

Public Comment

Any interested party may request a hearing within 15 days of publication of this notice. Any hearing, if requested, will be held no later than 27 days after the date of publication of this notice, or the first workday thereafter. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. Case briefs from interested parties may be submitted not later than 15 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in the case briefs, may be filed no later than five days after the submission of case briefs. All written comments shall be submitted in accordance with 19 CFR 351.303. Parties are reminded that as of August 5, 2011, with certain, limited exceptions, all submissions for all proceedings must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS).⁶ An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time (ET) on the deadline.

⁶ For additional information on IA ACCESS, please visit <https://iaaccess.trade.gov/help.aspx>.

The Department intends to issue the final results of this CCR no later than April 10, 2012. This date may be extended in accordance with 19 CFR 351.216(e). The final results will include the Department's analysis of issues raised in any written comments.

We are issuing and publishing these preliminary results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Tariff Act of 1930, as amended, and 19 CFR 351.216.

Paul Piquado
Assistant Secretary
for Import Administration

__February 3, 2012_____
Date

[FR Doc. 2012-3166 Filed 02/09/2012 at 8:45 am; Publication Date: 02/10/2012]