



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-427-818

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

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216 and 351.221(c)(3), the Department of Commerce (Department) is conducting a changed circumstances review (CCR) of the antidumping duty (AD) order on low-enriched uranium (LEU) from France with respect to Global Nuclear Fuel – Americas, LLC (GNF-A). The Department preliminarily determines that changed circumstances exist which have affected the ability of GNF-A to manage its inventory and re-exports of LEU in compliance with the AD order. Furthermore, we preliminarily determine that these changed circumstances warrant: 1) authorizing GNF-A to make certain entries of LEU from France under the provision in the scope that excludes LEU from the AD order when it enters solely for purposes of fabrication into fuel rods and re-exportation to a third country customer; and 2) determining that certain entries of LEU by GNF-A have satisfied the conditions for exclusion from the AD order. We invite interested parties to comment on these preliminary results.

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

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4261.

## SUPPLEMENTARY INFORMATION:

### Background

On February 13, 2002, the Department published an AD order on LEU from France.<sup>1</sup>

The scope of 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 (UO<sub>2</sub>) 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.<sup>2</sup>

On December 23, 2013, GNF-A submitted a request that the Department initiate a CCR to determine that changed circumstances (the Tohoku earthquake and other external events in Japan) exist which have affected GNF-A's ability to manage its inventory and comply with the 18-month re-export provision of the scope. GNF-A further requested that this review be conducted on an expedited basis, combining the initiation and preliminary results in a single notice. On February 7, 2014, the Department published the initiation of the CCR on a non-expedited basis.<sup>3</sup>

### Scope of the Order

The product covered by the order is all low-enriched uranium. Low-enriched uranium is enriched uranium hexafluoride (UF<sub>6</sub>) with a U<sup>235</sup> product assay of less than 20 percent that has not been converted into another chemical form, such as UO<sub>2</sub>, or fabricated into nuclear fuel

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<sup>1</sup> See Notice of Amended Final Determination and Notice of Antidumping Duty Order: Low Enriched Uranium From France, 67 FR 6680 (February 13, 2002).

<sup>2</sup> Id.

<sup>3</sup> See Low Enriched Uranium From France: Initiation of Changed Circumstances Review, 79 FR 7462 (February 7, 2014).

assemblies, regardless of the means by which the LEU is produced (including low-enriched uranium 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  $U^{235}$  assay of 20 percent or greater, also known as highly-enriched uranium. In addition, fabricated low-enriched uranium is not covered by the scope of the order. For purposes of the order, fabricated uranium is defined as enriched uranium dioxide ( $UO_2$ ), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates ( $U_3O_8$ ) with a  $U^{235}$  concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a  $U^{235}$  concentration of no greater than 0.711 percent are not covered by the scope of the order.

Also excluded from the order is low-enriched uranium 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 ( $UO_2$ ) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported low-enriched uranium (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 low-enriched uranium 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 information provided by GNF-A with its request for CCR, and in its August 1 and 15, 2014 responses to the Department's July 11, 2014 questionnaire and July 15, 2014 questionnaire revision, in accordance with 19 CFR 351.216, we preliminarily determine that changed circumstances (earthquakes and other external events) exist which have affected GNF-A's ability to manage its inventory and comply with the 18-month re-export requirement. As such, it is appropriate for the Department to allow GNF-A to make certain future entries of LEU under the provision for exclusion from the scope of the order and to find that certain past entries by GNF-A of LEU from France satisfy the conditions for exclusion from the order. Because the Department's full analysis of the details of GNF-A's request for CCR and the information provided by GNF-A in its questionnaire response requires a discussion of business proprietary information, the full analysis can be found in the proprietary Memorandum for Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Preliminary Results of Changed Circumstances Review: Analysis of GNF-A Business Proprietary Information," available on Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS) (<http://iaaccess.trade.gov>) to parties who have been granted access to business proprietary information under Administrative Protective Order. A public version of this memorandum is also available on IA ACCESS, and it is available to all parties in the Central Records Unit of the main Commerce Building, room 7046. In addition, a complete public version of this memorandum is accessible on the internet at <http://enforcement.trade.gov/frn/index.html>. The

Department will issue revised certifications and instructions to U.S. Customs and Border Protection regarding GNF-A's compliance with the 18-month re-export requirement.

#### Notification Regarding Revised Entry Requirements

The Department recently revised the entry requirements for LEU from France. The Department determined that it is appropriate to suspend liquidation for shipments of LEU from France that may be conditionally excluded from the scope of the AD order. Such entries will be suspended and cash deposits of estimated AD duties will be required, at a rate of zero percent ad valorem.<sup>4</sup>

#### Public Comment

Interested parties are invited to comment on these preliminary results in accordance with 19 CFR 351.309(c)(1)(ii). Case briefs from interested parties may be submitted not later than seven days after the date of the announcement of these preliminary results. 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. Any interested party may request a hearing within seven days of the announcement of these preliminary results. Any hearing, if requested, will be held no later than 15 days after the date of publication of this notice, or the first business day thereafter. Persons interested in attending the hearing, if one is requested, should contact the Department for the location, date and time of the hearing.

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 IA ACCESS.<sup>5</sup> An electronically filed document

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<sup>4</sup> See "Low-Enriched Uranium from France: Final Results of Antidumping Duty Administrative Review; 2012-2013," dated September 22, 2014, unpublished as of the date of these preliminary results. This document is accessible on the internet at <http://enforcement.trade.gov/frn/index.html>.

<sup>5</sup> For additional information on IA ACCESS, visit <https://iaaccess.trade.gov/help.aspx>.

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 day of the deadline.

The Department intends to issue the final results of this CCR no later than October 27, 2014. This date may not be extended. 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 Act and 19 CFR 351.216.

Dated: September 25, 2014.

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Paul Piquado,  
Assistant Secretary  
for Enforcement and Compliance.

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