



A-427-818
Changed Circumstances Review
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Office VII: AH

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Final Results of Changed
Circumstances Review of Low Enriched Uranium from France

I. Summary

We have analyzed the comments of the interested parties in the changed circumstances review (CCR) of low enriched uranium (LEU) from France. As a result we have made changes to the determination found in the Initiation and Preliminary Results.¹ We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

II. Background

In the Initiation and Preliminary Results, the Department preliminarily determined that changed circumstances did not exist, and that Eurodif SA AREVA SA and AREVA Inc. (collectively AREVA) would not be granted an extension of time to re-export a specified entry of LEU. In accordance with 19 CFR 351.309(c)(ii), the Department of Commerce (the Department) invited parties to comment on our Initiation and Preliminary Results. AREVA, Centrus Energy Corporation (Petitioners), and the Nuclear Energy Institute, submitted comments on March 17, 2015. Chubu Electric Power Company, Inc. (Chubu) submitted comments on March 24, 2015. No rebuttal comments were filed.

III. Scope of the Order

The product covered by the order is all 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

¹ See Low Enriched Uranium from France: Initiation of Expedited Changed Circumstances Review, and Preliminary Results of Changed Circumstances Review, 80 FR 8285 (February 17, 2015) (Initiation and Preliminary Results).



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 U^{235} 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 (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 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_2) 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.

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.

IV. Discussion of the Issues

Allowing Further Extension of the Deadline for Re-Exportation

AREVA's Comments

- The circumstances impeding exportation have changed since the last CCR, namely the new regulatory requirements of Japan's Nuclear Regulatory Authority (JNRA) and enhanced safety measures imposed on the end-user.
- Re-export of LEU would cause serious difficulties and expenses to AREVA.
- The Department has allowed re-export of Russian LEU to be delayed for an indefinite period to address difficulties faced by Japanese utilities.
- AREVA's importation of French LEU, unlike Russian LEU imported by others, preceded the March 2011 earthquake and tsunami.

Centrus' Comments

- The Department should reconsider AREVA's request for an extension of time to re-export.
- Entries imported for re-export do not affect U.S. market prices, and, therefore do not concern Centrus.

- Requiring Japanese utilities to take delivery would subject them to a significant burden during a difficult period for their industry.

Chubu Electric Power Company, Inc.'s Comments

- Chubu is the owner of the single entry under consideration.
- As a result of new safety regulations issued by the JNRA, power plants were required to adopt new enhanced safety measures. The process for implementing these new safety measures and obtaining necessary approvals has changed and the anticipated completion date of these measures has also changed.
- In response to the new regulations and the ongoing JNRA safety review, Chubu was required in October 2014 to undertake unforeseen enhanced safety measures.
- An indefinite extension of time to re-export the subject LEU is consistent with actions taken under the Russian suspension agreement.
- Imposing duties would not further the objectives of the antidumping laws, as the LEU in question will not enter U.S. commerce.
- It is in the public interest to implement new safety standards for nuclear power plants.

Nuclear Energy Institute's Comments

- Unless reversed, the Department's decision would impose unnecessary costs on parties and risks on the public.
- The success of the commercial nuclear industry, and its ability to compete internationally, is tied to how government agencies administer its interests. Nuclear trade creates a broad range of economic benefits, enhances the nonproliferation regime, and enhances nuclear safety practices.

V. Department's Position:

Having analyzed the case briefs of interested parties, the Department finds that the new regulatory requirements of JNRA imposed after the initiation of the previous CCR, and enhanced safety measures required after the completion of the previous CCR, constitute new circumstances. Chubu has been waiting for more than one year for the JNRA to approve one of its Hamaoka facilities and is still preparing its application for approval of a second facility. The JNRA had previously advised Chubu that the review process would take only six months. In 2014, after the previous CCR was completed, Chubu was required by the JNRA to adopt additional safety measures that Chubu estimates will not be completed until September 2017.

The Department, therefore, is extending the date of re-export of this sole entry of LEU until January 31, 2018. The Department will determine whether to grant any future extension requests that may be filed based on our assessment of the conditions which would allow the Japanese end-user to take possession of the specified entry. If the Department determines that delivery will not take place within a reasonable time period, the Department may determine not to grant future extension requests. In the event that the deadline for re-export expires and the subject uranium has not been re-exported, and no further extension is granted, the Department will take appropriate action, which may include our reexamination of the cash deposit rate applied to all entries of AREVA's merchandise under the 18-month re-export provision.

AREVA, on behalf of itself, Chubu, and the government of Japan, will be required to submit semi-annual status reports regarding the relevant reactor and any other factors which would affect the re-export of this entry, semi-annually. Beginning February 28, 2016, the first report must be submitted to the Department, covering the time period August 1, 2015, through January 31, 2016.

VI. Recommendation

We recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this CCR in the Federal Register.

Agree Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

15 MAY 2015
Date