

Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4033.

#### SUPPLEMENTARY INFORMATION:

##### The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (2000).

##### Background

On March 14, 2001, the Department published the final results of administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (66 FR 14889) (Final Results). The review covered one manufacturer/exporter and the period August 1, 1998, through July 31, 1999.

After publication of our final results, we received a timely allegation from the respondent, CEMEX, S.A. de C.V. (CEMEX), that we had made two ministerial errors in calculating the final results. CEMEX alleged that: 1) the Department used an incorrect conversion factor at one of four places where the computer program converted short tons to metric tons; and 2) the Department did not include the general and administrative (G&A) and interest fields for the calculation of constructed value. We also received a timely submission from the petitioner, The Southern Tier Cement Committee, in which it agreed with the first alleged ministerial error, but opposed the second alleged ministerial error. We agree with the petitioner and have corrected the first error which was the result of using an incorrect conversion factor. As to the second alleged ministerial error, we disagree with the respondent that we did not correctly calculate constructed value. The respondent proposes to introduce data which is not on the record in this review and add it to the programming language that we used to calculate the weighted-average margins for the final results. We conclude that the computer-programming language we used to calculate the weighted-average antidumping duty margin for the final results does not contain a ministerial error and correctly calculates constructed value. See the Amended Final Analysis Memorandum from the

analyst to the file, dated April 27, 2001, for a description of the change we made to correct the conversion-factor error.

##### Amended Final Results of Review

As a result of the correction of the ministerial error and amended margin calculations, the following weighted-average margin exists for the collapsed parties, CEMEX and CDC, for the period August 1, 1998, through July 31, 1999:

Company	Margin (percent)
CEMEX/CDC .....	38.65

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will also direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of review (66 FR 14889) and as amended by this determination. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

We are issuing and publishing this determination and notice in accordance with sections 751(h) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: May 4, 2001.

**Bernard T. Carreau,**

*Deputy Assistant Secretary, Import Administration.*

[FR Doc. 01-12065 Filed 5-11-01; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[C-427-819]

##### Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Low Enriched Uranium from France

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

**ACTION:** Notice of Preliminary Affirmative Countervailing Duty Determination.

**EFFECTIVE DATE:** May 14, 2001.

#### FOR FURTHER INFORMATION CONTACT:

Michael Grossman at (202) 482-2786, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of low enriched uranium (subject merchandise) from France. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section of this notice.

#### SUPPLEMENTARY INFORMATION:

##### Petitioners

The petition in this investigation was filed by USEC Inc., its wholly owned subsidiary, United States Enrichment Corporation (USEC) and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL-CIO, CLC, and Local 5-550 and Local 5-689 (collectively PACE) (the petitioners).

##### Case History

Since the publication of the notice of initiation in the **Federal Register** (see *Notice of Initiation of Countervailing Duty Investigations: Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom*, 66 FR 1085 (January 5, 2001) (*Initiation Notice*)), the following events have occurred: On January 11, 2001, we issued countervailing duty questionnaires to the Government of France (GOF) and to Eurodif, S.A. (Eurodif), the producer/exporter of subject merchandise cited in the December 7, 2000 petition. On March 20, 2001, we received questionnaire responses from Eurodif, S.A. and its majority owner, Compagnie Generale des Matieres Nucleaires (COGEMA), and the GOF. COGEMA acts as a sales agent for Eurodif's exports to the United States. On March 27 and April 10, 2001, we issued supplemental questionnaires to Eurodif/COGEMA and the GOF (collectively respondents). On April 26, 2001, we issued an additional supplemental questionnaire to Eurodif/COGEMA. On April 5 (amended on April 9), April 25, and May 1, 2001, we received supplemental questionnaire responses from respondents.

On February 21, 2001, we issued an extension of the due date for this preliminary determination from March 2, 2001 to May 7, 2001. See *Low Enriched Uranium from France*,

*Germany, the Netherlands, and the United Kingdom: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations*, 66 FR 11000 (February 21, 2001) (*Extension Notice*).

On May 3, 2001, consultations in accordance with Article 13.2 of the Agreement on Subsidies and Countervailing Measures were held in Geneva, Switzerland with the Government of France and the Delegation of the European Commission.

In the *Initiation Notice*, we invited interested parties to comment on the scope of these investigations. We received comments from respondents on January 17, 2001, and from petitioners on January 23, 2001. In addition, we received comments from the Ad Hoc Utilities Group, an industrial user/consumer, on April 5, 2001. Our analysis of these comments can be found in the May 7, 2001 Public Memorandum to Bernard Carreau entitled *Low Enriched Uranium from France, Germany, the Netherlands and the United Kingdom; Comments on the Scope of the Investigations*, on file in the Central Records Unit, Room B-099, of the Main Commerce Building.

On April 27, 2001, petitioners submitted a new subsidy allegation stemming from Eurodif's contract with Electricite de France (EdF). Due to the lateness of the allegation, we have not yet had an opportunity to fully review petitioners' allegation and decide whether to initiate an investigation. We will address it after this determination. If we decide to initiate on this allegation, then prior to making our final determination, we will issue a preliminary analysis memorandum regarding this allegation and allow the parties to comment.

### Scope of the Investigation

For purposes of this investigation, the product covered is low enriched uranium (LEU). LEU 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 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 this investigation. Specifically, this investigation does not cover enriched uranium hexafluoride with a U<sup>235</sup> assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this investigation. For

purposes of this investigation, fabricated uranium is defined as enriched uranium dioxide (UO<sub>2</sub>), whether or not contained in nuclear fuel rods or assemblies.

Natural uranium concentrates (U<sub>3</sub>O<sub>8</sub>) with a U<sup>235</sup> concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U<sup>235</sup> concentration of no greater than 0.711 percent are not covered by the scope of the investigation.

The merchandise subject to this investigation 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 U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

In the *Initiation Notice* we invited parties to comment on scope issues raised by this investigation. These comments are addressed in a scope memo dated May 7, 2001. However, to the extent that some of the comments on scope issues re-argue the determination of industry support for the petition, we draw parties attention to Section 702(c)(4)(E) and 732(c)(4)(E) which states in pertinent part: "after the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered."

### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

### Injury Test

Because France is a "Subsidy Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from France materially injure or threaten material injury to a U.S. industry. On January 31, 2001, the ITC published its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from France

of subject merchandise. See *Low Enriched Uranium from France, Germany, the Netherlands and the United Kingdom*, 66 FR 8424 (January 31, 2001).

### Alignment With Final Antidumping Duty Determination

On May 4, 2001, petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the antidumping duty investigation of low enriched uranium from France.

### Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 1999, through December 31, 1999.

### Company History

Eurodif was formed in 1973 by French and foreign government agencies to provide a secure source of LEU, in order to facilitate the development of nuclear energy programs in participating countries. During the POI, Eurodif was 44.65 percent-owned by COGEMA, which itself is principally owned by a subsidiary of the Commissariat d'Energie Atomique (CEA), an agency of the GOF. Further, Eurodif was 25 percent-owned by SOFIDIF, a French company 60 percent-owned by COGEMA, thereby effectively placing COGEMA's ownership of Eurodif during the POI at approximately 60 percent. The remaining major shareholders of Eurodif during the POI were ENUSA, an entity of the Spanish government, SYNATOM, an entity of the Belgian government, and ENEA, an entity of the Italian government.

### Programs Preliminarily Determined To Confer Subsidies

#### 1. Purchase at Prices That Constitute "More Than Adequate Remuneration"

Eurodif provides low enriched uranium to EdF. EdF is a wholly-owned French government agency that supplies, imports and exports electricity. EdF is regulated by the Gas, Electricity and Coal Department of the Ministry of Industry (DIGEC) and the Budget and Treasury Departments of the Ministry of France. EdF is the predominant supplier of electricity in France, having provided 94 percent of the total electricity generated in France in 1998. EdF's nuclear facilities account for approximately 75 percent of the

power supplied by EdF. To date, EdF has entered into three long-term contracts with Eurodif to secure LEU. The first contract was negotiated in 1975; Eurodif began enrichment at its Georges-Besse gaseous diffusion facility in 1979.

Petitioners have alleged that the GOF, through EdF, purchased LEU from Eurodif at prices that constitute "more than adequate remuneration" under section 771(5)(E)(iv) of the Act. Petitioners have alleged that the prices paid by EdF were established to cover Eurodif's depreciation charges on the Georges-Besse plant, and to provide Eurodif with a stable cash flow to help meet its financial obligations.

Respondents have argued that, as alleged, the subsidy relates to the provision of services, not the purchase of goods. Therefore, any such subsidy, were it to exist, would not be countervailable. In this context, respondents assert that Congress, the courts, and USEC itself have recognized that USEC (and its predecessors) is a service provider.<sup>1</sup> Absent any difference between the operations of USEC and Eurodif, respondents assert that Eurodif is merely a service provider, like USEC.

In our determination of industry support at the time of initiation of this investigation, we found that USEC is the producer of LEU because of the nature and extent of its manufacturing operations. See Memorandum for Holly A. Kuga entitled *Determination of Industry Support for the Antidumping and Countervailing Duty Petitions on Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom* (December 27, 2000). In accordance with section 702(c)(4)(E) of the Act, the Department cannot revisit a determination of industry support after initiation. Further, we noted that the Department bases its determination of who qualifies as a producer upon an examination of a

company's production operations, not the particular configuration of the sales. For purposes of this determination, we accept Eurodif's assertion that its operations are no different from those of USEC. Therefore, we preliminarily find that Eurodif is the producer of LEU, the product subject to this investigation.

We preliminarily determine that EdF's purchases from Eurodif constitute a government financial contribution because EdF is wholly-owned and controlled by the GOF. This treatment of EdF is consistent with our policy with respect to the treatment of government-owned utility companies. See, e.g., the *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 64 FR 73176 (December 29, 1999) and *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela*, 62 FR 55014 (October 22, 1997). In addition, because this program is available only to Eurodif, we preliminarily determine that this program is specific under section 771(5A)(D)(i) of the Act. Because the government is purchasing a good from Eurodif, a financial contribution is being provided under section 771(5)(D)(iv) of the Act.

Next, we must determine whether a benefit is provided to Eurodif under this program. Under section 771(5)(E)(iv) of the Act, a countervailable benefit may be provided by a government's purchase of a good for "more than adequate remuneration." Under section 771(5)(E)(iv) of the Act, the adequacy of remuneration will be determined in relation to the prevailing market conditions for the goods being purchased in the country which is subject to investigation. Therefore, in order to determine whether the prices paid by EdF constitute "more than adequate remuneration," we must compare the prices paid by EdF to Eurodif with the prices paid to Eurodif by its other customers.

Due to the difference in the pricing structure between Eurodif and EdF, as compared with the pricing between Eurodif and its other customers, it is important to make certain adjustments to our comparison. Unlike most other customers, EdF provides its own energy for Eurodif to use when producing LEU for EdF. Eurodif pays EdF for the energy it uses and re-bills EdF an identical amount. Respondents state that this billing procedure for energy is done simply for tax purposes and argue that the actual prices paid by EdF for LEU cover the costs of operation only, not energy costs. Other customers that do not provide their own electricity simply

pay one price, which takes into account both operational and energy costs. In order to make a proper comparison to the prices paid by other customers to Eurodif, the Department has included both operational and energy prices paid by EdF in order to determine the prices paid by EdF.

As part of the arrangement for obtaining LEU, customers often provide an amount of natural uranium equal to that which went into the LEU they are purchasing. The record does not contain information on the value of the natural uranium provided by EdF or other customers to Eurodif. Therefore, for purposes of this comparison, we have assumed that the value of all natural uranium is the same, regardless of the customer. Thus, in making the comparison we have not included a value for the natural uranium component of the LEU purchased by EdF. Additionally, to ensure that our benchmark is representative of market conditions, we used prices paid by Eurodif's customers which are not Eurodif shareholders.

In order to determine whether a benefit was provided to Eurodif during the POI, we compared the price paid to Eurodif by EdF during the POI with the weighted-average price paid to Eurodif by its non-shareholder customers during the POI. Based on our analysis, we preliminarily determine that prices paid by EdF to Eurodif were higher than prices Eurodif received from its non-shareholder customers. Therefore, in accordance with section 771(5)(E)(iv) of the Act, we preliminarily determine that this program conferred countervailable benefits to Eurodif during the POI.

Because EdF's purchases of this product from Eurodif are not exceptional but, rather, are made on an ongoing basis from year to year, we determine that the benefit conferred under this program is recurring under section 351.524(c) of the CVD Regulations. Therefore, the benefit is expensed in the year of receipt, i.e., the year in which the purchases are made.

To calculate the benefit conferred to Eurodif, we multiplied the calculated price differential by the quantity of separative work units (SWUs) component of the LEU purchased from Eurodif by EdF during the POI. Although the cash component of EdF's LEU purchases was paid on a "per-SWU" basis, the contracts also contained provisions for the natural uranium component of the LEU as well as the electricity used by Eurodif in the production of EdF's LEU. Because we have determined that the value of the natural uranium component of the LEU is equal for both EdF and Eurodif's other

<sup>1</sup> Respondents have cited several U.S. court cases in which USEC is claimed to have represented itself as a service provider, rather than a producer of goods. None of the cited cases pertain to the AD/CVD law. Rather, these cases pertain to different laws which have separate and distinct purposes from that of the AD/CVD law. Moreover, the parties' own characterizations of their activities in other contexts does not establish how the Department is to examine such activities for purposes of the AD/CVD law. Respondents also contend that USEC identifies itself as an "enrichment service provider" in a number of other fora, including in submissions made to the Department in the context of the suspended antidumping duty investigation on uranium from Kazakhstan. Regardless of how a party has characterized itself in the past in other contexts, the Department is charged with determining whether the manufacturer's activities qualify to establish it as the producer of the subject merchandise and must reach that determination on the record before it.

customers, as stated above, we did not need to calculate a price differential for the natural uranium component of the LEU. Rather, the natural uranium component of the LEU purchased by different classes of customers cancelled each other out.

Next, we divided this result by Eurodif's adjusted total sales during the POI. Based on our review of the responses, it appears as though respondents did not report a value for the natural uranium component of certain LEU sales. Therefore, in order to determine more accurately the level of subsidy applicable to the subject merchandise, we have estimated a value for this component. Based on petitioners' estimation that the enrichment component accounts for 60 percent of the value of LEU, we have increased the reported sales value to include an estimated value for the natural uranium component. We recognize that this is an estimate of the value of LEU sold by respondents. We intend to seek additional information from respondents prior to our final determination. On this basis, we preliminarily determine a net countervailable subsidy under this program of 13.62 percent *ad valorem* for Eurodif.

## 2. Exoneration/Reimbursement of Corporate Income Taxes

Under a specific governmental agreement entered into upon Eurodif's creation, Eurodif is only liable for income taxes on the portion of its income relating to the percentage of its private ownership. Eurodif is fully exonerated from payment of corporate income taxes corresponding to the percentage of its foreign government ownership and is eligible for a reimbursement of the amount of corporate income taxes corresponding to its percentage of French government ownership. Based on this governmental agreement, Eurodif was exonerated from a portion of its 1998 corporate income taxes filed during the POI. This tax exemption is a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. Further, because the tax exemption is limited to Eurodif, the benefit is specific in accordance with section 771(5A)(D)(i) of the Act. Therefore, we preliminarily determine that the exoneration of income taxes under this program is countervailable.

As noted above, Eurodif was also eligible for a reimbursement of the amount of income taxes corresponding to its percentage of French government ownership. Eurodif reported that the portion of its taxes attributable to French government ownership was paid

in 1999, but was not reimbursed until 2000, which is outside the POI. In addition, Eurodif reported that it did not receive any reimbursements of corporate income taxes during the POI for any taxes previously paid. Therefore, we preliminarily determine that Eurodif did not receive a benefit during the POI with respect to the portion of its income tax corresponding to French government ownership.

To calculate the benefit conferred upon Eurodif from the exoneration part of this program, we took the amount of exonerated taxes and divided by Eurodif's total sales during the POI, adjusted as noted in the "Purchase at Prices that Constitute "More Than Adequate Remuneration"" section, above. On this basis, we preliminarily determine a net countervailable subsidy to Eurodif from this program of 0.32 percent *ad valorem*.

## Verification

In accordance with section 782(i) of the Act, we will verify the information submitted by respondents prior to making our final determination.

## Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for Eurodif, the only company under investigation. We preliminarily determine that the total estimated net countervailable subsidy rate is 13.94 percent *ad valorem*. The All Others rate is 13.94 percent *ad valorem*, which is the rate calculated for Eurodif.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from France, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

## ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written

consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

## Public Comment

In accordance with 19 CFR § 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Any requested hearing will be tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the

duties of the Assistant Secretary for Import Administration.

Dated: May 7, 2001.

**Bernard T. Carreau,**

*Deputy Assistant Secretary, Import Administration.*

[FR Doc. 01-12063 Filed 5-11-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-428-829; C-421-809; C-412-821]

#### Notice of Preliminary Affirmative Countervailing Duty Determinations and Alignment With Final Antidumping Duty Determinations: Low Enriched Uranium From Germany, the Netherlands, and the United Kingdom

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

**ACTION:** Notice of Preliminary Affirmative Countervailing Duty Determination.

**EFFECTIVE DATE:** May 14, 2001.

**FOR FURTHER INFORMATION CONTACT:** Robert Copyak (Germany) at (202) 482-2209, Stephanie Moore (the Netherlands) at (202) 482-3692, and Eric B. Greynolds (United Kingdom) at (202) 482-6071, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of low enriched uranium (subject merchandise) from Germany, the Netherlands, and the United Kingdom. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section of this notice.

#### SUPPLEMENTARY INFORMATION:

##### Petitioners

The petition in this investigation was filed by USEC Inc., its wholly-owned subsidiary, United States Enrichment Corporation (USEC), and Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL-CIO, CLC, and Local 5-550 and Local 5-689 (collectively PACE) (the petitioners).

#### Case History

Since the publication of the notice of initiation in the **Federal Register** (see *Notice of Initiation of Countervailing Duty Investigations: Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom*, 66 FR 1085 (January 5, 2001) (*Initiation Notice*)), the following events have occurred: Beginning on January 16, 2001, we issued countervailing duty questionnaires to the Government of Germany (GOG), the Government of the Netherlands (GON), and the Government of the United Kingdom (UKG).<sup>1</sup> Beginning on March 22, 2001, we received questionnaire responses from Urenco Deutschland GmbH of Germany (Urenco Deutschland), Urenco Nederland BV of the Netherlands (UNL), and Urenco (Capenhurst) Limited (UCL), the GOG, the GON, and the UKG (collectively referred to as respondents). Beginning on April 9, 2001, we issued supplemental questionnaires to respondents. Beginning on April 23, 2001, we received supplemental questionnaire responses from respondents.

On February 21, 2001, we issued an extension of the due date for this preliminary determination from March 2, 2001 to May 7, 2001. See *Low Enriched Uranium from France, Germany, the Netherlands, and the United Kingdom: Extension of Time Limit for Preliminary Determinations in Countervailing Duty Investigations*, 66 FR 11000 (February 21, 2001) (*Extension Notice*).

On May 3, 2001, consultations in accordance with Article 13.2 of the Agreement on Subsidies and Countervailing Measures were held in Geneva, Switzerland with the Governments of Germany, the Netherlands, the United Kingdom, and the Delegation of the European Commission.

In our *Initiation Notice*, we invited interested parties to comment on the scope of these investigations. We received comments from respondents on January 17, 2001, and from petitioners on January 23, 2001. In addition, we received comments from the Ad Hoc Utilities Group, an industrial user/consumer, on April 5, 2001. Our analysis of these comments can be found in the May 7, 2001 Public Memorandum to Bernard Carreau, entitled *Low Enriched Uranium from*

<sup>1</sup> Upon the issuance of the questionnaire, we informed the GOG, GON, and the UKG that it was their governments' responsibility to forward the questionnaires to all producers/exporters that shipped subject merchandise to the United States during the period of investigation.

*France, Germany, the Netherlands and the United Kingdom; Comments on the Scope of the Investigations*, on file in the Central Records Unit, room B-099, of the Main Commerce Building.

#### Petitioners' New Subsidy Allegations

On April 23, 2001, petitioners submitted a new subsidy allegation involving Urenco Deutschland, UNL, and UCL (collectively referred to as the Urenco Group). In their submission, they alleged that the one-third ownership obtained by British Nuclear Fuels Limited (BNFL) and Ultra-Centrifuge Nederland (UCN) along with the shareholder loans made by the two government-owned companies constituted equity infusions into the Urenco Group, which they assert was unequityworthy at the time the alleged infusions were made. In support of their allegation, petitioners cite to various annual reports of BNFL, UCN, and Uranit isotopentrennungsgesellschaft mbH (Uranit) (the privately-held German arm of the Urenco Group) as well as several corporate studies which they claim indicated a bleak outlook for the LEU industry in the years preceding the impending merger. In addition, petitioners claim that, prior to the merger there was no objective evidence before BNFL or UCN indicating that the planned restructuring and merger would do anything to improve the efficiency and financial prospects of the companies involved. On this basis, petitioners request that the Department investigate whether the investments constituted countervailable equity infusions into an unequityworthy company.

We have determined not to initiate an investigation of this allegation. As discussed in further detail below in the "Urenco Group Corporate History" section, immediately preceding the creation of the Urenco Group, the enrichment operations were controlled by BNFL in the United Kingdom, UCN in the Netherlands, and Uranit in Germany. Both BNFL and UCN were owned and controlled by their respective governments while Uranit was privately-held. On September 1, 1993, pursuant to the terms of the merger agreement, BNFL, UCN, and Uranit transferred their enrichment operations to the Urenco Group. In return, BNFL, UCN, and Uranit each received a one-third ownership interest in the Urenco Group. Thus, based on the information submitted by respondents, we find that this aspect of the merger did not constitute an equity infusion but rather represented a restructuring of the Urenco Group in which the three companies, BNFL, UCN, and Uranit,