

January 18, 2018

## Section 232 Investigation of Uranium Imports

By Douglas J. Heffner and Richard P. Ferrin

Energy Fuels Resources (USA) Inc. and Ur-Energy USA Inc., on January 16, 2018, filed a petition requesting an investigation of uranium imports under Section 232 of the Trade Expansion Act. Section 232 authorizes the Secretary of Commerce to investigate whether an “article” is being imported into the United States “in such quantities, or under such circumstances as to threaten to impair the national security.” Section 232 investigations are rare. While the Department of Commerce (DOC) is in the process of completing Section 232 investigations into aluminum and steel imports that it self-initiated in 2017, the most recent investigation prior to that occurred in 2001 but did not result in the imposition of trade remedies. The most recent investigation to result in import action took place in 1983.

The petitioners allege that foreign state-owned uranium producers, primarily from Russia, Kazakhstan, China, and Uzbekistan, are selling large amounts of uranium to U.S. purchasers at the lowest market price, potentially eroding the competitiveness of U.S. uranium producers. The petitioners state that 89 percent of the U.S. supply of triuranium octoxide, a common uranium compound, is foreign-sourced, with 38 percent coming from Russia, Kazakhstan and Uzbekistan. The petitioners allege that a surge of imports from Kazakhstan is causing severe price depression in the U.S. market, due in part to an 87 percent devaluation in the Kazakh currency and a national policy in Kazakhstan requiring Kazakh uranium to be sold on the spot market. The petitioners state that the current uranium spot price is roughly \$23.75 per pound, or less than the cost of production for most producers. Furthermore, they allege that Russia’s state-owned nuclear energy company has acquired a major Canadian uranium supplier, with 40 percent of U.S. imports of triuranium octoxide being sourced from Canada and Australia.

The petitioners note that the United States is precluded by international treaty from using foreign-sourced uranium to produce nuclear weapons and fuel for Navy submarine reactors, and therefore it must be able to mine domestically the material it needs for defense purposes. The petitioners allege that the United States currently lacks the long-term capability to meet this need because of the erosion of the nuclear supply chain that has already occurred. Moreover, the United States’ current heavy dependence on uranium imports means that any disruption of uranium imports, for whatever reason, could disrupt U.S. commercial nuclear reactors, causing a possible spike in electricity prices and potentially leading to blackouts.

### Scope

The merchandise covered by this investigation includes natural uranium in the form of uranium ores and

concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermet<sup>1</sup>), ceramic products, and mixtures containing natural uranium or natural uranium compounds; uranium enriched in U-235<sup>2</sup> and its compounds; alloys, dispersions (including cermet<sup>2</sup>), ceramic products, and mixtures containing uranium enriched in U-235 or compounds of uranium enriched in U-235; and any other forms of uranium within the same class or kind. Uranium that is milled into U<sub>3</sub>O<sub>8</sub> and/or converted into UF<sub>6</sub>, UF<sub>4</sub>, or UO<sub>2</sub> is covered by this petition.<sup>3</sup> Uranium enriched in U-235 or compounds of uranium enriched in U-235 are also covered by this petition. HEU<sup>4</sup> is within the scope of the petition, and, for the purposes of this petition, HEU means uranium enriched to 20 percent or greater in the isotope U-235, and enrichment will not change the country of origin of the uranium. Additionally, LEU<sup>5</sup> contained in fuel rods and assemblies, normal uranium<sup>6</sup> and off-spec uranium is covered by any remedy imposed pursuant to this petition.

Subject uranium ores and concentrates, natural uranium compounds, natural uranium metal, forms of natural uranium other than compounds, and all forms of enriched uranium are normally entered under HTSUS 2612.10.00, 2844.10.10, 2844.10.20, 2844.10.50, and 2844.20.00. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

### Proposed Remedies

The petitioners propose two remedies intended to insulate U.S. uranium producers from foreign competition. First, they request that the U.S. government impose an import quota to ensure that domestic producers have guaranteed access to at least 25 percent of domestic purchasers’ uranium demand. Currently, domestic producers serve only 6 percent of the domestic market. Second, they propose the enforcement of a “Buy American” requirement that would compel federal government utility agencies to purchase all uranium and uranium-related services from domestic sources.

1 Ceramic-metal composite materials

2 Uranium-235 is the fissile isotope of uranium, comprising roughly 0.72 percent of natural uranium.

3 U3O8, UF6, UF4, and UO2 refer to triuranium octoxide, uranium hexafluoride, uranium tetrafluoride, and uranium dioxide, respectively.

4 Highly enriched uranium

5 Low-enriched uranium

6 Any uranium-bearing material having a uranium isotopic weight distribution that can be described as being (1) 0.700 to 0.724 percent in combined U-233 plus U-235; and (2) at least 99.200 percent in U-238.

## Estimated Schedule of Investigations

The DOC must deliver a report of its findings to the President within 270 days of initiating a Section 232 investigation. In the case of the recent self-initiated steel investigation, this report was delivered on January 11, 2018, or 266 days after the investigation was initiated on April 20, 2017. After receiving the DOC's report, the President has 90 days to determine what action should be taken and a further 30 days to submit a report to Congress after making a determination.

For further information, contact one of the authors below, or any other member of the Customs and International Trade Team.

---

## Customs and International Trade Team

### Primary Contacts



**Douglas J. Heffner**

Partner

Washington, D.C.  
(202) 230-5802  
[douglas.heffner@dbr.com](mailto:douglas.heffner@dbr.com)



**Richard P. Ferrin**

Counsel

Washington, D.C.  
(202) 230-5803  
[richard.ferrin@dbr.com](mailto:richard.ferrin@dbr.com)

# Drinker Biddle

[www.drinkerbiddle.com](http://www.drinkerbiddle.com)

CALIFORNIA | DELAWARE | ILLINOIS | NEW JERSEY | NEW YORK | PENNSYLVANIA | TEXAS | WASHINGTON DC | LONDON

© 2018 Drinker Biddle & Reath LLP. All rights reserved. A Delaware limited liability partnership. Promotional Materials 2018. One Logan Square, Ste. 2000, Philadelphia, PA 19103-6996 (215) 988-2700 office (215) 988-2757 fax  
Jonathan I. Epstein and Andrew B. Joseph., Partners in Charge of the Princeton and Florham Park, N.J., offices, respectively.