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MEMORANDUM TO: Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

FROM: Barbara E. Tillman  
Acting Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memo for the Antidumping Duty  
Administrative Review of Stainless Steel Flanges from India -  
February 1, 2003 through January 31, 2004

### **Summary**

We have analyzed the case brief from Echjay Forgings Pvt. Ltd., in the antidumping duty administrative review of stainless steel flanges from India. As a result of our analysis, we have made no changes in the margin calculations. We recommend that you approve the position we have developed in the Discussion of the Issue section of this memorandum. Below is the complete list of issues in this administrative review for which we received comments by parties:

1. Assignment of Antidumping Rate to Exporter As Well As Manufacturer

### **Background**

On March 7, 2005, the Department of Commerce (the Department) published its preliminary results of review of the antidumping duty order on stainless steel flanges from India. See Certain Forged Stainless Steel Flanges from India; Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke the Order in Part, 70 FR 10953 (March 7, 2005) (Preliminary Results). The period of review (POR) is February 1, 2003 through January 31, 2004. There are two respondents in this review: Echjay Forgings Pvt., Ltd. (Echjay) and Viraj Forgings, Ltd. (Viraj). We are revoking the order with respect to Viraj. We invited parties to comment on our preliminary results of review. We received comments from Echjay. No party submitted rebuttal comments.

## **Discussion of the Issue**

### **Comment 1: Assignment of Antidumping Rate to Exporter As Well As Manufacturer**

Echjay argues the Department should modify its preliminary results to list both Echjay and its affiliate Pushpaman Exports as receiving Echjay's dumping margin. Echjay argues that both entities were involved in the U.S. sales subject to review, and in any event Pushpaman Exports is an Echjay affiliate. Furthermore, Echjay argues that in other cases (e.g., Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China, 70 FR 329 (January 4, 2005)) (Furniture from the PRC) the Department separately listed the affiliates in this way as to the applicable dumping margin.

### **Department Position**

We disagree. Echjay's cite to Furniture from the PRC is inapposite because the case cited by Echjay relates to a non-market economy (NME) case and whether companies are under de jure or de facto government control and thus subject to a single antidumping duty rate. (See, e.g., Folding Metal Tables and Chairs From the People's Republic of China: Preliminary Results of First Antidumping Duty Administrative Review 69 FR 40602, (July 6, 2004.))

Unlike the PRC, India is a market economy (ME). In ME cases, the Department calculates rates that are specific to individual producers as long as these producers have knowledge that the merchandise is bound for the United States. Moreover, assigning a producer-specific margin to an exporter, as Echjay suggests, would apply cash deposits of a reviewed manufacturer to merchandise produced by an entity that may have never participated in an administrative review. For instance, Pushpaman Exports could export flanges produced by manufacturers other than Echjay, and yet benefit from Echjay's rate. This would run contrary to the purpose of basing cash deposit rates on the calculated rates of individual producers for which the Department has completed an administrative review. Moreover, such a practice would unjustifiably extend Echjay's cash deposit rate to merchandise produced by manufacturers other than Echjay.

Furthermore, the Department has previously considered the issue of cash deposit rates for non-producing exporters. We stated:

Establishing a deposit rate for an exporter and, without regard to the identity of the supplier, applying that rate to all future exports by that exporter could lead to the application of that rate even if other suppliers sold to the exporter with knowledge of exportation to the United States. This would enable a producer with a relatively high deposit rate to avoid the application of its own rate by selling to the United States through an exporter with a low rate. See Antidumping Duties; Countervailing Duties, 62 FR 27303 (May 19, 1997).

Therefore, in these final results the Department has continued to assign Echjay's cash deposit rate only to Echjay.

Recommendation:

Based on our analysis of the comment received, we recommend adopting the above position. If this recommendation is accepted, we will publish the final results of review and the final weighted-average dumping margins for all reviewed firms in the Federal Register.

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

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Joseph A. Spetrini  
Assistant Secretary  
for Import Administration

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(date)