

MEMORANDUM TO: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

FROM: Richard Weible
Director, Office 7
Import Administration

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty
Administrative Review of Forged Stainless Steel Flanges from
India - February 1, 2007, through January 31, 2008

Summary

On August 1, 2008, the Department of Commerce (the Department) published its preliminary intent to rescind and rescission in part for the administrative review of the antidumping duty order on forged stainless steel flanges from India. See Certain Forged Stainless Steel Flanges from India; Preliminary Intent to Rescind Administrative Review and Rescission in Part, 73 FR 44969 (August 1, 2008) (Preliminary Intent). The period of review (POR) is February 1, 2007, through January 31, 2008.

We have analyzed the case brief submitted by Rosemount, Inc. (Rosemount), an importer and interested party in this administrative review. As a result of our analysis, we have determined not to change our preliminary ruling that Pradeep Metals Limited (Pradeep) had no bona fide sales to the United States during the POR, and to therefore rescind the review. We recommend that you approve the position we have developed in the Discussion of the Issue section of this memorandum. Below is the issue in this administrative review for which we received comments by interested parties:

Comment: Bona Fide Sale

Background

There is one respondent still active in this review: Pradeep.¹ We invited interested parties to comment on our Preliminary Intent. We received comments from Pradeep and from Rosemount, the U.S. importer of Pradeep's sale. Pradeep's comments, however, included new unsolicited information submitted after the deadline for such information. Therefore, we requested that Pradeep remove the new information. It did not do so. Therefore, we returned Pradeep's

¹ Our Preliminary Intent rescinded the review as to two other firms, Echjay Forgings Pvt., Ltd., and Hotmetal Forge (India) Pvt., Ltd.

submission, and will not address its comments for this final rescission. No party submitted rebuttal comments.

Discussion of the Issue

Comment: Bona Fide Sale

Rosemount, attempting to establish that its U.S. import was a bona fide transaction, argues as follows:

“Rosemount chose to pay the anti-dumping duties for these stainless steel flanges for business needs. The Chanhassen, MN factory needed the parts to build transmitters for end user orders, but the primary flange supplier could not produce the flanges in time to meet our needs.”

Department’s Position:

In the Preliminary Intent, the Department stated that it had based its preliminary ruling that Pradeep’s U.S. sale was not bona fide on three factors:

1. The timing of the sale;
2. The high U.S. price and expenses associated with the sale;
3. The sale involved a method of shipping not standard for the industry.

See Preliminary Intent at 44970.

It is important to note that the “expenses associated with the sale” referenced in point 2 (above) were the movement expenses, and not the antidumping duties. See the Department’s July 28, 2008 memorandum to the file titled “Bona Fide Nature of the Sale in the Administrative Review of Pradeep Metals Limited” at 4. For this reason Rosemount’s rationale for paying the antidumping duties associated with a purchase of flanges from Pradeep is not relevant because it was not a basis for our ruling that the sale was not bona fide. Furthermore, as indicated above, there were reasons for our preliminary ruling that the sale was not bona fide other than the associated expenses. Specifically, the Department also considered the timing of the sale, the high U.S. price, and that the sale involved a method of shipping not standard for the industry. Rosemount has not addressed any of these reasons. In the absence of any relevant arguments to rebut our preliminary ruling, we continue to determine that Pradeep’s U.S. sale was not a bona fide sale, and we are, thus, rescinding the review.

Recommendation

Based on our analysis of the comments received and accepted, we recommend affirming our Preliminary Intent. If you agree, we will publish the final results of review in the Federal Register.

Agree _____

Disagree _____

Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

Date