

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Office of Performance Evaluation, Room 7009, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. Please follow the procedures set forth in section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: February 28, 2008.

**William P. Kittredge,**

*Program Officer for TAA.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

## DEPARTMENT OF THE INTERIOR

[Docket No. 990813222-0035-03]

**RIN 0625-AA55**

### Office of Insular Affairs; Allocation of Duty-Exemptions for Calendar Year 2008 Among Watch Producers Located in the United States Virgin Islands

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

**ACTION:** Notice.

**SUMMARY:** This action allocates calendar year 2008 duty exemptions for watch producers located in the Virgin Islands pursuant to Public Law 97-446, as amended by Public Law 103-465, Public Law 106-36 and Public Law 108-429 ("the Act").

**FOR FURTHER INFORMATION CONTACT:** Faye Robinson, (202) 482-3526.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act, the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of duty exemptions among watch assembly firms in the United States insular possessions and the Northern Mariana Islands. In accordance with section 303.3(a) of the regulations (15 CFR 303.3(a)), the total quantity of duty-free insular watches and watch movements for calendar year

2008 is 1,866,000 units for the Virgin Islands (65 FR 8048, February 17, 2000).

The criteria for the calculation of calendar year 2008 duty-exemption allocations among insular watch producers are set forth in section 303.14 of the regulations (15 CFR 303.14).

The Departments have verified and adjusted the data submitted on application form ITA-334P by U.S. Virgin Islands producers and inspected their current operations in accordance with Section 303.5 of the regulations (15 CFR 303.5).

In calendar year 2007 the Virgin Islands watch assembly firms shipped 243,070 watches and watch movements into the customs territory of the United States under the Act. The dollar amount of creditable corporate income taxes paid by Virgin Islands producers during calendar year 2007 plus the creditable wages paid by the industry during calendar year 2007 to residents of the territory was \$2,043,408.

There are no producers in Guam, American Samoa or the Northern Mariana Islands.

The calendar year 2008 Virgin Islands annual allocations, based on the data verified by the Departments, are as follows:

Name of firm	Annual allocation
Belair Quartz, Inc .....	500,000
Hampden Watch Co., Inc .....	200,000
Tropex, Inc .....	200,000

The balance of the units allocated to the Virgin Islands is available for new entrants into the program or producers who request a supplement to their allocation.

Dated: February 28, 2008.

**Faye Robinson,**

*Director, Statutory Import Programs Staff, Department of Commerce.*

**Tom Bussanich,**

*Acting Director, Office of Insular Affairs, Department of the Interior.*

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**BILLING CODES 3510-DC-M; 4310-93-M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-809]

### Certain Forged Stainless Steel Flanges From India; Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind Administrative Review in Part

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain forged stainless steel flanges (stainless steel flanges) from India manufactured by Shree Ganesh Forgings, Ltd. (Shree Ganesh) and Nakshatra Enterprises Pvt., Ltd. (Nakshatra). The period of review (POR) covers February 1, 2006, through January 31, 2007. We preliminarily determine that Shree Ganesh sold subject merchandise in the United States at less than normal value (NV) during the POR. We also preliminarily determine that Nakshatra's U.S. sales were not *bona fide* sales. Therefore, we intend to rescind the administrative review with respect to Nakshatra. We invite interested parties to comment on these preliminary results. Parties who submit written argument in these proceedings are requested to submit with the argument (1) a statement of the issues, and (2) a brief summary of the argument.

**EFFECTIVE DATE:** March 5, 2008.

**FOR FURTHER INFORMATION CONTACT:** Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2924 or (202) 482-0649, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On February 9, 1994, the Department published the antidumping duty order on stainless steel flanges from India. *See Amended Final Determination and Antidumping Duty Order; Certain Forged Stainless Steel Flanges from India*, 59 FR 5994 (February 9, 1994) (Order). On February 2, 2007, the Department published the *Notice of Opportunity to Request Administrative Review* for this order covering the period February 1, 2006, through January 31, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 5007 (February 2, 2007). On February 28, 2007, we received requests for an administrative review from Nakshatra and Shree Ganesh.<sup>1</sup> On

<sup>1</sup> We also received requests for an administrative review from Echjay Forgings Pvt., Ltd., and Hilton Metal Forging, Ltd. However, both of these companies subsequently withdrew their requests for review in a timely manner. Therefore, we rescinded the administrative review with respect to these companies. *See Partial Rescission of Antidumping Duty Administrative Review: Certain*

Continued

March 28, 2007, we initiated the administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 14516 (March 28, 2007).

#### Nakshatra

On March 28, 2007, the Department issued its initial questionnaire to Nakshatra. Nakshatra submitted its section A response on April 26, 2007, and its section B and C responses on May 15, 2007. The Department issued a supplemental questionnaire on June 19, 2007, to which Nakshatra responded on July 17, 2007. We issued a second supplemental questionnaire on September 7, 2007, to which Nakshatra responded on October 3, 2007. We issued a third supplemental questionnaire to Nakshatra on October 25, 2007; Nakshatra filed its response on November 19, 2007. We issued a fourth supplemental questionnaire to Nakshatra on December 18, 2007, to which Nakshatra responded on January 7, 2008. On January 11, 2008, we issued a questionnaire to Nakshatra's U.S. customer. We received a response from this company on January 22, 2008. In its response, the company stated that it did not intend to answer the questions we asked in the questionnaire.

#### Shree Ganesh

The Department sent its questionnaire to Shree Ganesh on March 28, 2007. Shree Ganesh submitted its response to the section A questionnaire on April 17, 2007. (The Department later sent this submission back to Shree Ganesh for rebracketing. Shree Ganesh submitted the rebracketed version on May 21, 2007.) It submitted its responses to sections B and C on May 1, 2007. The Department issued a supplemental section A, B, and C questionnaire to Shree Ganesh on June 8, 2007. Shree Ganesh submitted its response to that supplemental questionnaire on July 5, 2007. (The Department later returned this submission to Shree Ganesh for rebracketing. Shree Ganesh submitted the revised version on November 13, 2007.) On August 16, 2007, the Department issued a second supplemental questionnaire to Shree Ganesh, to which Shree Ganesh submitted its response on September 7, 2007. On September 25, 2007, the Department issued a third supplemental questionnaire to Shree Ganesh, to which it responded on October 9, 2007.

#### Scope of the Order

The products covered by this order are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A-182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld-neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A-351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the scope of the order.

#### Date of Sale

The preamble to the Department's regulations expresses a strong preference for the Department to choose a single date of sale across the full POR. *See Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27349 (May 19, 1997). The Department normally uses the date of invoice as the date of sale. *See* 19 CFR 351.401(i); *see also Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087 (CIT 2001). However, the Department may use a date other than the date of invoice if that date best reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR 351.401(j). For these preliminary results, the Department used the purchase order date as the appropriate date of sale for Shree Ganesh in both the U.S. and home markets because information on the record indicates that no changes occurred with respect to the material terms of sale, such as price or quantity following Shree Ganesh's receipt of the purchase order. *See* Shree Ganesh's May 21, 2007, submission at 16 and its November 13, 2007, submission at 14. Thus, the purchase order date represents the earliest date upon which the material terms of sale are set. We

made no date of sale determination with respect to Nakshatra because we have preliminarily determined to rescind the review with respect to Nakshatra. *See Intent to Rescind* (below).

#### Normal Value Comparisons

To determine whether Shree Ganesh's sales of subject merchandise to the United States were made at less than NV, we compared export price (EP) to the NV (as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this notice, below). In accordance with section 777A(d)(2) of the Tariff Act of 1930, as amended (the Tariff Act), the Department calculated monthly weighted-average prices for NV and compared these to the prices of individual EP transactions.

#### Product Comparisons

In accordance with section 771(16) of the Tariff Act, the Department considered all products described by the "Scope of the Order" section, above, produced and sold by Shree Ganesh in the home market to be foreign like products for purposes of determining appropriate comparisons to U.S. sales. We compared U.S. sales to sales made in the home market within the contemporaneous window period pursuant to 19 CFR 351.414(e)(1) based on the following product characteristics in the following order: Grade; type; size; pressure rating; and finish. The Department used a 20 percent difference-in-merchandise (difmer) cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and comparison market variable costs of manufacturing divided by the total cost of manufacturing of the U.S. product. *See* 19 CFR 351.411. Variable cost of manufacture consisted of the sum of material costs, direct labor, and variable overhead. Total cost of manufacture consisted of variable cost of manufacture plus fixed overhead.

Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire. Where there were no sales of identical or similar merchandise in its home market suitable for comparing to U.S. sales, the Department compared these U.S. sales to constructed value (CV), pursuant to sections 773(a)(4) and 773(e) of the Tariff Act.

### Export Price and Constructed Export Price

In accordance with section 772(a) of the Tariff Act, EP is defined as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Tariff Act. In accordance with section 772(b) of the Tariff Act, constructed export price (CEP) is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

For Shree Ganesh's sales to the United States, we used EP in accordance with section 772(a) of the Tariff Act because its merchandise was sold directly to the first unaffiliated purchaser prior to importation, and CEP was not otherwise warranted based on the facts of the record. We based EP on the packed, CIF U.S. port of destination prices to the first unaffiliated purchaser in the United States. We made deductions, where applicable, for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act, including domestic inland freight, domestic brokerage and handling, ocean freight, and marine insurance.

### Normal Value

#### A. Selection of Comparison Market

In determining NV, the statute requires the Department to determine the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the EP or CEP. *See* 773(a)(1)(B) of the Tariff Act. Furthermore, the Department determines the export market to be viable if it is satisfied that the sales of foreign like product in that country were of sufficient quantity to form the basis of NV. *See* 773(a)(1)(B) of the Tariff Act; *see also* 19 CFR 351.404(b)(1) and (2). The Department defines a viable market as one of "sufficient quantity" if the aggregate volume of the sales of foreign like product in that market during the POR is equal to or greater

than five percent of the aggregate volume of U.S. sales of subject merchandise during the POR. *See* 773(a)(1)(B) of the Tariff Act. Therefore, in order to determine whether there was a sufficient quantity of sales in Shree Ganesh's home market to serve as a viable basis for calculating NV, the Department compared the volume of Shree Ganesh's home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Based on its comparison of shipment volumes, the Department found that Shree Ganesh had a viable home market and, therefore, based NV for Shree Ganesh on home market sales to unaffiliated purchasers made in the usual quantities and in the ordinary course of trade. *See* 773(a)(1)(B) of the Tariff Act.

#### B. Price-to-Price Comparisons

The statute requires the Department to determine whether subject merchandise is being, or is likely to be, sold at less than fair value by making a fair comparison between the EP or CEP and NV under section 773 of the Tariff Act. Where the Department found contemporaneous matches of either identical or similar merchandise that passed the 20 percent difmer test, it based the margin on such matches, making adjustments for differences in packing costs between the two markets in accordance with section 773(a)(6)(A) of the Tariff Act, and where appropriate, for differences in merchandise between the products compared. We made no adjustments to NV for movement expenses because all of Shree Ganesh's home market sales were made on an ex-works basis. *See* Shree Ganesh's May 1, 2007, section B response at 8. The Department also adjusted NV for imputed credit to account for differences in the circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410.

#### C. Constructed Value

In accordance with section 773(a)(4) of the Tariff Act, the Department bases NV on CV if it is unable to find a contemporaneous comparison market match for the U.S. sale. Section 773(e) of the Tariff Act provides that when the Department bases NV on CV, we calculate CV as the sum of the cost of materials and fabrication employed in producing the subject merchandise, SG&A, packing, and profit. In accordance with section 772(e)(2)(A) of the Tariff Act, the Department bases SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the

production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, the Department uses the weighted-average comparison market selling expenses. Where appropriate, the Department makes COS adjustments to CV in accordance with section 773(a)(8) of the Tariff Act and 19 CFR 351.410. For comparisons to EP, the Department makes COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For purposes of these preliminary results, we based NV for some U.S. sales on CV.

#### D. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as EP or CEP. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP, the U.S. LOT is based on the starting price of the sales to the U.S. market.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Tariff Act.

In implementing these principles in this review, we obtained information from Shree Ganesh about the marketing stages involved in its U.S. and comparison market sales, including a description of the company's selling activities in the respective markets. Generally, if the reported LOTs are the same in the U.S. and comparison markets, the functions and activities of the seller should be similar. Conversely, if a party reports differences in LOTs, the functions and activities should be dissimilar.

Shree Ganesh reported two customer categories in its home market (original equipment manufacturers (OEMs) and traders). *See* Shree Ganesh's November 13, 2007, submission at Exhibit 3 and its October 9, 2007, submission at 4. It reported one customer category in its U.S. market (distributors). *See* Shree

Ganesh's November 13, 2007, submission at 14. Shree Ganesh further reported that it performs identical selling functions for all customers in the U.S. and foreign markets. *See* Shree Ganesh's November 13, 2007, submission at 4. These selling functions included exhibitions, sales promotions, advertisements, and technical/customer services. *See* Shree Ganesh's May 21, 2007, submission at 12. Further, Shree Ganesh reported that its selling activities do not vary by customer category, and it performs the same functions for all customers. *See* Shree Ganesh October 9, 2007, submission at 5.

After analyzing the data on the record with respect to these selling functions, we find no evidence of differences in the selling functions performed for different customer categories to support a determination that Shree Ganesh makes sales at more than one LOT. We therefore find that a single LOT exists for all of Shree Ganesh's sales to the United States and to its home market, and that no LOT adjustment is warranted.

#### Currency Conversions

The Department made currency conversions into U.S. dollars in accordance with section 773A(a) of the Tariff Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank of the United States.

#### Intent To Rescind

As indicated above, we have preliminarily determined that Nakshatra's sales to the United States during the POR were not *bona fide* sales. We determined, based on the totality of circumstances, that Nakshatra's U.S. sales were not in accordance with commercial reality. *See* the Memorandum to the File, "Bona Fide Nature of the Sale in the Administrative Review of Nakshatra Enterprises, Pvt., Ltd.," dated February 28, 2008, for a complete explanation of our analysis.

#### Preliminary Results of Review

As a result of our review, the Department preliminarily finds the following weighted-average dumping margin exists for the period February 1, 2006, through January 31, 2007:

Manufacturer/Exporter	Margin (percent)
Shree Ganesh Forgings, Ltd ....	40.38

The Department will disclose calculations performed within five days of the date of publication of this notice

in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication of the preliminary results. *See* CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d).

Interested parties may submit case briefs or written comments no later than 30 days after the date of publication of these preliminary results of review. Pursuant to 19 CFR 351.309(d), rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than five days after the time limit for filing the case briefs. Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests parties submitting written comments to provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

#### Assessment Rates

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (Assessment Policy Notice). This clarification will apply to entries of subject merchandise during the POR produced by Nakshatra and Shree Ganesh for which Nakshatra and Shree Ganesh, respectively, did not know that the merchandise it sold to an intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the 162.14 percent all-others rate established in the original less-than-fair-value (LTFV) investigation, if there is no rate for the intermediary involved in the transaction. *See* the Assessment Policy Notice for a full discussion of this clarification.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for Shree Ganesh will be the rate established in the final results of the administrative review (except that no deposit will be required if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent); (2) for manufacturers or exporters not covered in this review, but covered in the original LTFV investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, any previous reviews, or the LTFV investigation, the cash deposit rate will be 162.14 percent, the all-others rate established in the LTFV investigation. *See Order*, 59 FR 5994, 5995.

#### Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: February 26, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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