

Saha Thai Steel Pipe (Public) Company, Ltd. v. United States, Consol. Ct. No. 08-380,
Slip Op 09-116 (October 15, 2009)

FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND

SUMMARY

The Department of Commerce (the Department) has prepared these final results of redetermination pursuant to the remand order of the Court of International Trade (the Court) in Saha Thai Steel Pipe (Public) Company, Ltd. v. United States, Consol. Ct. No. 08-380, Slip Op 09-116 (CIT, October 15, 2009), which considered Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review (Final Results) 73 FR 61019 (October 15, 2008) and accompanying Issues and Decision Memorandum at Comment 4 (Issues and Decision Memorandum). In the remand order, the Court directed the Department to redetermine Saha Thai Steel Pipe Company, Ltd.'s (Saha Thai) export price using the Government of Thailand's average yield loss factor to calculate the duty drawback adjustment for exempted import duties. In accordance with the remand order, the Department has recalculated Saha Thai's export price and the antidumping duty margin. On November 23, 2009, the Department issued a draft redetermination pursuant to court remand and invited the interested parties to comment. The Department received no comments on the draft.

BACKGROUND

On April 7, 2008, the Department issued the preliminary results of Certain Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of Antidumping Duty Administrative Review (Preliminary Results) 73 FR 18749. This administrative review covered the period March 1, 2006 through February 28, 2007, and covered one respondent, Saha Thai. For purposes of the preliminary results of review, the Department did not make an upward adjustment for exempted import duties, but, rather, stated our intent to request additional

information because the record of the administrative review was not entirely clear with respect to this adjustment. On April 11, 2008, we issued an additional supplemental questionnaire, which addressed the exempted import duties. On April 23, 2008, we revised the due dates for comments and informed parties of the same. Saha Thai and Allied Tube and Conduit Corporation and Wheatland Tube Company (petitioners) both filed timely case and rebuttal briefs. On October 15, 2008, the Final Results were published.

In the Final Results, after considering the additional information and the arguments of both Saha Thai and the petitioners, the Department granted an upward adjustment to export price in accordance with 19 U.S.C. §1677a(c)(1), which directs the Department to increase export price by “the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” See 19 U.S.C. §1677a(c)(1)(B). Consistent with the Department’s practice in the two most recently completed administrative reviews of this order, we calculated an upward adjustment to export price for exempted import duties, using Saha Thai’s actual yield loss factor instead of the Government of Thailand’s (GOT) average yield loss factor. See Issues and Decision Memorandum at Comment 4.

DISCUSSION

In determining the appropriate yield loss factor to use in the Final Results for the calculation of the adjustment for exempted import duties, we solicited additional information and analyzed the case briefs and the rebuttal briefs from Saha Thai and petitioners. We also evaluated the information on the record of this review and our past practice. See e.g., Circular Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of Administrative Review, 71 FR 17810 (April 7, 2006) (2003-2004 Preliminary Results) (unchanged in the final

results, published 71 FR 54266 (September 14, 2006)); See also Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review, 69 FR 61649 (October 20, 2004) (2002-2003 Final Results) and accompanying Issues and Decision Memorandum at Comment 5. We also requested that Saha Thai provide an adjusted yield loss factor reflecting its own actual yield loss experience for the final results of administrative review. We decided to use Saha Thai's yield loss experience to make the upward adjustment to export price, and we explained in our Issues and Decision Memorandum that "{b}y using an actual yield loss factor which is a reasonable reflection of Saha Thai's actual experience, Saha Thai's raw material imports are more accurately tied to its finished product exports." See Issues and Decision Memorandum at Comment 4. See also 2002-2003 Final Results and accompanying Issues and Decision Memorandum at Comment 5.

Although Commerce respectfully disagrees with the Court's decision in this case, we have recalculated the adjustment to export price for exempted import duties consistent with the Court's instructions, i.e., we have used the GOT-mandated average yield loss factor in our calculation of this adjustment.

WEIGHTED-AVERAGE DUMPING MARGIN

As a result of the redetermination, we have recalculated the dumping margin for Saha Thai. The weighted-average dumping margin changed from 4.26 percent to 4.21 percent for Saha Thai. If a final and conclusive court decision affirms this remand redetermination, the Department will publish notice of its amended final results of review in the Federal Register and instruct U.S. Customs and Border Protection to collect duties in accordance with the determination.

Carole A. Showers
Acting Deputy Assistant Secretary
for Import Administration

Date