

A-549-502
Remand Redetermination
Slip Op. 20-148
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Saha Thai Steel Pipe Public Company, Ltd. v. United States, Court No. 19-00208,
Slip Op. 20-148 (CIT October 19, 2020)

FINAL RESULTS OF REDETERMINATION PURSUANT TO CIT ORDER

I. SUMMARY

The U.S. Department of Commerce (Commerce) prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade (CIT) in *Saha Thai*.¹ This litigation pertains to the 2017-2018 antidumping duty administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Thailand.²

In *Saha Thai*, and the CIT’s subsequent scheduling order,³ the CIT ordered Commerce to “conduct the sales-below-cost test without a particular market situation adjustment to the cost of production and recalculate the respondents’ weighted-average dumping margins without a particular market situation adjustment.”⁴ The respondent and plaintiff is Saha Thai Steel Pipe Public Company, Ltd. (Saha Thai). Commerce continues to find that a particular market situation existed in Thailand during the period of review that distorted the price of hot-rolled coil, the principle material input for the production of the subject merchandise and significant component of the cost of production of the subject merchandise. Nevertheless, because the CIT

¹ See *Saha Thai Steel Pipe Public Co., Ltd. v. United States*, Court No. 19-00208, Slip Op. 20-148 (CIT October 19, 2020) (*Saha Thai*).

² See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017- 2018*, 84 FR 64041 (November 20, 2019) (*Final Results*), and accompanying Issues and Decision Memorandum.

³ See “Scheduling Order,” dated December 21, 2020 (CM/ECF Document 48).

⁴ See CM/ECF Document 48 at 2; see also *Saha Thai* at 14 (ordering Commerce to “remove its cost-based particular market situation adjustment and recalculate the respondent’s weighted-average dumping margin without a particular market situation adjustment.”).

has directed Commerce not to make an adjustment, under respectful protest,⁵ we have recalculated Saha Thai's weighted-average dumping margin with no adjustment to account for the particular market situation that has been found to have existed during the period of review.⁶

II. DRAFT RESULTS OF REDETERMINATION

In accordance with the CIT's remand order, Commerce has recalculated the weighted-average dumping margin for Saha Thai without making an adjustment to account for the particular market situation concerning the input costs for hot-rolled steel. We are filing this redetermination under protest because, consistent with section 771(15)(C) of the Tariff Act of 1930, Commerce found that a cost-based particular market situation existed during the period of review, which distorted the cost of hot-rolled coil used in the production of the merchandise sold in Thailand.

Under section 504 of the Trade Preferences Extension Act of 2015, Congress provided that, when Commerce determines that a cost-based particular market situation exists, Commerce may, in accordance with section 773(e), remedy the cost-based particular market situation through "any other calculation methodology." Here, Commerce found the existence of a particular market situation in Thailand that resulted in distortions in the Thai market for hot-rolled coil. Yet, despite the clear intent of Congress for Commerce to remedy a particular market situation which may distort the costs of particular inputs used to produce the foreign like product and subject merchandise, including when certain U.S. sale prices are compared with normal value based on constructed value, the CIT, in its opinion, ordered Commerce to "recalculate the respondents' weighted-average dumping margins without a particular market situation

⁵ See *Viraj Group, Ltd. v. United States*, 343 F.3d 1371 (Fed. Cir. 2003).

⁶ See *Saha Thai* at 14; see also Memorandum, "Draft Results of Redetermination Pursuant to Remand of Circular Welded Steel Pipes and Tubes from Thailand: Saha Thai Steel Pipe Public Company, Ltd. Calculation Memorandum," dated concurrently with the instant draft remand results.

adjustment.”⁷ Commerce, thus, in accordance with the Court’s directed order, is unable on remand to provide a remedy to address the particular market situation found in this administrative review, contrary to the statutory intent of Congress.⁸ This includes making an adjustment to the cost of production for the sales-below-cost test, as well as an adjustment to constructed value for normal value. For this reason, we are filing this redetermination with the CIT under respectful protest.

III. COMMENTS ON DRAFT RESULTS OF REDETERMINATION

*Saha Thai’s Comments*⁹

- Commerce’s draft results of redetermination stated that it recalculated the weighted-average dumping margin for Saha Thai without making an adjustment to account for the particular market situation concerning the input costs for hot-rolled steel.¹⁰
- Saha Thai finds that Commerce’s draft results of redetermination complies with the Court’s Order.¹¹

Commerce’s Position: Commerce found that a cost-based particular market situation existed during the POR that distorted the cost of hot rolled coil in the production of the merchandise in Thailand. Commerce notes that the Court did not address the merits of our affirmative particular market situation finding. Instead, the Court ordered Commerce not to make an adjustment to account for a particular market situation that existed in Thailand during the POR. Accordingly, Commerce is obligated to implement the Court’s order to “remove its cost-based particular

⁷ See *Saha Thai* at 14.

⁸ See *Altx, Inc. v. United States*, 370 F.3d 1108, 1111 n.2 (Fed. Cir. 2004).

⁹ See Saha Thai’s Letter, “Saha Thai’s Comments on Commerce’s Draft Remand Results Circular Welded Carbon Steel Pipe and Tubes from Thailand (AR 17-18),” dated March 10, 2021 (Saha Thai’s Draft Remand Comments).

¹⁰ See Saha Thai’s Draft Remand Comments at 2.

¹¹ *Id.* at 2.

market situation adjustment and recalculate the respondent's weighted-average dumping margin without a particular market situation adjustment."¹²

Without recourse to address the particular market situation, which existed in Thailand during the POR, we, under respectful protest, have made no adjustments to the calculation of Saha Thai's weighted-average dumping margin to account for a particular market situation, despite clear statutory language permitting Commerce to remedy a cost-based particular market situation which has distorted the costs of particular inputs used to produce the foreign like product and the subject merchandise. Therefore, under respectful protest, Commerce has not made an adjustment to the costs of production for the merchandise under review.

IV. FINAL RESULTS OF REMAND REDETERMINATION

Pursuant to the Court's remand order, for *Saha Thai*, Commerce recalculated Saha Thai's weighted-average dumping margin without making a cost-based particular market situation adjustment. Accordingly, the revised weight-averaged dumping margin for Saha Thai is listed in the chart below:

Exporter or Producer	Final Results of Review Weighted-Average Dumping Margin ¹³ (percent)	Final Results of Redetermination Weighted-Average Dumping Margin (percent)
Saha Thai Steel Pipe (Public) Company, Ltd.	5.15	0.00 ¹⁴

¹² See *Saha Thai* at 14.

¹³ See *Final Results*.

¹⁴ See Memorandum, "Final Results of Redetermination Pursuant to Remand of Circular Welded Steel Pipes and Tubes from Thailand: Saha Thai Steel Pipe Public Company, Ltd. Calculation Memorandum," dated concurrently with the instant Final Remand Redetermination.

3/14/2021

X 

Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance