



DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-549-841

Mattresses from Thailand: Notice of Court Decision Not in Harmony with the Final Determination of Antidumping Investigation; Notice of Amended Final Determination; Notice of Amended Order, In Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On December 22, 2023, the U.S. Court of International Trade (CIT) issued its final judgment in *Brooklyn Bedding LLC v. United States*, Court No. 21-00285 sustaining the U.S. Department of Commerce's (Commerce) first final results of redetermination pertaining to the antidumping duty (AD) investigation of mattresses from Thailand covering the period of investigation January 1, 2019, through December 31, 2019. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final determination in the investigation, and Commerce is amending the final determination and the resulting AD order with respect to the dumping margins assigned to Saffron Living Co., Ltd. (Saffron) and all other producers and exporters of subject merchandise.

DATES: Applicable January 1, 2024.

FOR FURTHER INFORMATION CONTACT: Paola Aleman Ordaz, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4031.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 2021, Commerce published in the *Federal Register* its final determination in the AD investigation of mattresses from Thailand.¹ Commerce subsequently published in the *Federal Register* the AD order on mattresses from Thailand.²

The petitioners³ appealed Commerce's *Final Determination*. On July 20, 2023, the CIT remanded the *Final Determination* to Commerce.⁴ Specifically, the CIT remanded Commerce to: (1) undertake verification of Saffron in accordance with section 782 (i)(1) of the Tariff Act of 1930, as amended (the Act), insofar as Commerce continued to rely upon the company's data; and (2) explain why Commerce departed from its practice of applying the transactions disregarded and/or major unput rules or, alternatively, to apply either or both of those rules.⁵

In its final results of redetermination, issued on September 18, 2023, Commerce applied adverse facts available (AFA) to Saffron because the company withdrew from the remand proceeding, and thus, Commerce could neither verify Saffron's sales or cost data, nor apply the transactions disregarded and/or major input rules to its data.⁶ As a result, Commerce assigned Saffron the highest dumping margin alleged in the petition, as AFA (*i.e.*, 763.28 percent).⁷ Moreover, in the absence of a calculated estimated weighted-average dumping margin on the record of the proceeding,⁸ Commerce recalculated the all-others rate by averaging the dumping

¹ See *Mattresses from Thailand: Final Affirmative Determination of Sales at Less Than Fair Value*, 86 FR 15928 (March 25, 2021) (*Final Determination*), and accompanying Issues and Decision Memorandum (IDM).

² See *Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders and Amended Final Affirmative Antidumping Determination for Cambodia*, 86 FR 26460 (May 14, 2021) (*Order*).

³ The petitioners are: Brooklyn Bedding; Corsicana Mattress Company; Elite Comfort Solutions; FXI, Inc.; Kolcraft Enterprises, Inc.; Leggett & Platt, Incorporated; the International Brotherhood of Teamsters; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO (USW) (collectively, the petitioners).

⁴ See *Brooklyn Bedding, LLC. V. United States*, Court No. 21-00285, Slip Op. 23-107 (CIT July 20, 2023).

⁵ *Id.* at 12 and 14.

⁶ See *Final Results of Redetermination Pursuant to Court Remand, Brooklyn Bedding LLC, et. all v. United States*, Court No. 21-00285, Slip Op. 23-107 (CIT July 20, 2023), dated September 18, 2023 (*Final Remand*), at 11.

⁷ *Id.* at 8-9.

⁸ *Id.* at 12.

margins alleged in the Petition,⁹ and assigned the recalculated rate of 572.56 percent to all other producers and exporters of subject merchandise, consistent with section 735(c)(5)(B) of the Act¹⁰ and Commerce’s practice.¹¹ The CIT sustained Commerce’s *Final Remand*.¹²

Timken Notice

In its decision in *Timken*,¹³ as clarified by *Diamond Sawblades*,¹⁴ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish notice of a court decision that is not “in harmony” with a determination of Commerce and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s December 22, 2023, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Determination and Order*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Determination

Because there is now a final court judgment, Commerce is amending its *Final Determination* with respect to Saffron and all other producers and exporters of subject merchandise as follows:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
Saffron Living Co., Ltd.	763.28
All Others	572.56

Amended AD Order, In Part

⁹ See Brooklyn Bedding LLC’s Letter, “Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam: Antidumping and Countervailing Duty Petitions,” dated March 31, 2020 (Petition).

¹⁰ See *Final Remand* at 12.

¹¹ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, 38987 (July 8, 2008), and accompanying IDM at Comment 2.

¹² See *Brooklyn Bedding, LLC v. United States*, Court No. 21-00285, Slip Op. 23-189 (CIT December 22, 2023).

¹³ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁴ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

As a result of this amended final determination, Commerce is hereby amending the *Order* to revise the dumping margins assigned to Saffron and all-other producers and exporters of subject merchandise, as noted above.

Cash Deposit Requirements

Because Saffron does not have a superseding cash deposit rate, *i.e.*, there have been no final results published in a subsequent administrative review of Saffron,¹⁵ and because of the change to the rate assigned to all other producers and exporters of subject merchandise, Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: December 29, 2023

Abdelali Elouaradia
Deputy Assistant Secretary
for Enforcement and Compliance

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¹⁵ Commerce rescinded the first AD administrative review of Saffron. *See Mattresses from Thailand: Final Results and Rescission of the Antidumping Duty Administrative Review; 2020–2022*, 88 FR 85224 (December 7, 2023).