

# U.S. Customs and Border Protection



## AGENCY INFORMATION COLLECTION ACTIVITIES:

### Bonded Warehouse Regulations

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted no later than November 9, 2020 to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0041 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: [CBP\\_PRA@cbp.dhs.gov](mailto:CBP_PRA@cbp.dhs.gov).

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229-1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email [CBP\\_PRA@cbp.dhs.gov](mailto:CBP_PRA@cbp.dhs.gov). Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center

at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

### Overview of This Information Collection

**Title:** Bonded Warehouse Regulations.

**OMB Number:** 1651-0041.

**Current Actions:** CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

**Type of Review:** Extension (without change).

**Affected Public:** Businesses.

**Abstract:** Owners or lessees desiring to establish a bonded warehouse must make written application to the U.S. Customs and Border Protection (CBP) port director of the port where the warehouse is located. The application must include the warehouse location, a description of the premises, and an indication of the class of bonded warehouse permit desired. Owners or lessees desiring to alter or to relocate a bonded warehouse may submit an application to the CBP port director of the port where the facility is located. The authority to establish and maintain a bonded warehouse is set forth in 19 U.S.C. 1555, and provided for by 19 CFR 19.2, 19 CFR 19.3, 19 CFR 19.6, 19 CFR 19.14, and 19 CFR 19.36.

**Estimated Number of Respondents:** 198.

**Estimated Number of Annual Responses per Respondent:**  
46.7.

**Estimated Number of Total Annual Responses:** 9,254.

**Estimated Time per Response:** 32 minutes.

**Estimated Total Annual Burden Hours:** 4,932.

Dated: September 1, 2020.

SETH D. RENKEMA,  
*Branch Chief,*  
*Economic Impact Analysis Branch,*  
*U.S. Customs and Border Protection.*

[Published in the Federal Register, September 8, 2020 (85 FR 55469)]



# U.S. Court of International Trade

Slip Op. 20–131

HABAŞ SINAI VE TIBBI GAZLAR İSTİHSAL ENDÜSTRİSİ, A.Ş., Plaintiff, and  
İCDAS ÇELİK ENERJİ TERSANE VE ULASIM SANAYİ, A.Ş., Consolidated  
Plaintiff, v. UNITED STATES, Defendant, and REBAR TRADE ACTION  
COALITION, Defendant-Intervenor.

Before: Mark A. Barnett, Judge  
Consol. Court No. 17–00204

[Sustaining the U.S. Department of Commerce’s Final Results of Redetermination Pursuant to Court Remand.]

Dated: September 4, 2020

*David L. Simon*, Law Office of David L. Simon, of Washington, DC, for Plaintiff Habaş Sinai ve Tibbi Gazlar İstihsal Endüstrisi A.Ş.

*Elizabeth A. Speck*, Senior Trial Counsel, Commercial Litigation Branch, Civil Division, U.S. Department of Justice, of Washington, DC, for Defendant United States. With her on the brief were *Ethan P. Davis*, Acting Assistant Attorney General, *Jeanne E. Davidson*, Director, and *L. Misha Preheim*, Assistant Director. Of counsel on the brief was *David Richardson*, Senior Attorney, Office of the Chief Counsel for Trade Enforcement and Compliance, U.S. Department of Commerce, of Washington, DC.

*Alan H. Price*, *John R. Shane*, and *Maureen E. Thorson*, Wiley Rein LLP, of Washington, DC, for Defendant-Intervenor Rebar Trade Action Coalition.

## OPINION

### **Barnett, Judge:**

This matter is before the court following the U.S. Department of Commerce’s (“Commerce”) redetermination upon third court-ordered remand. See Final Results of Redetermination Pursuant to Court Remand (“3rd Remand Results”), ECF No. 99–1. Plaintiff Habaş Sinai ve Tibbi Gazlar İstihsal Endüstrisi A.Ş. (“Habaş”) and Consolidated Plaintiff İcdas Celik Enerji Tersane Ve Ulasim Sanayi A.S. (“İcdas”) (together, “Plaintiffs”) each challenged certain aspects of Commerce’s final affirmative determination in the sales at less than fair value investigation of steel concrete reinforcing bar from the Republic of Turkey.<sup>1</sup> See *Steel Concrete Reinforcing Bar From the Republic of Turkey*, 82 Fed. Reg. 23,192 (Dep’t Commerce May 22, 2017) (final determination of sales at less than fair value) (“*Final Determination*”), ECF No. 17–5, and accompanying Issues and Deci-

<sup>1</sup> The administrative record associated with the 3rd Remand Results is contained in a Public Remand Record, ECF No. 100–1, and a Confidential Remand Record, ECF No. 100–2.

sion Mem., A-489–829 (May 15, 2017), ECF No. 17–6, *as amended by Steel Concrete Reinforcing Bar From the Republic of Turkey and Japan*, 82 Fed. Reg. 32,532 (Dep’t Commerce July 14, 2017) (am. final affirmative antidumping duty determination for the Republic of Turkey and antidumping duty orders), ECF No. 17–7, and accompanying Allegations of Ministerial Errors Mem., A-489–829 (July 10, 2017), ECF No. 17–8. The court has issued three opinions resolving the substantive issues raised in this case; familiarity with those opinions is presumed. See *Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi, A.Ş. v. United States* (“*Habaş I*”), 43 CIT\_, 361 F. Supp. 3d 1314 (2019); *Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi, A.Ş. v. United States* (“*Habaş II*”), 43 CIT\_, 415 F. Supp. 3d 1195 (2019); *Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi, A.Ş. v. United States* (“*Habaş III*”), 44 CIT\_, 439 F. Supp. 3d 1342 (2020).

Briefly, *Habaş I* remanded Commerce’s method of calculating Plaintiffs’ respective duty drawback adjustments by allocating exempted duties over total production and the use of partial adverse facts available in relation to certain sales for which Icdas could not provide manufacturer codes. 361 F. Supp. 3d at 1318, 1322–24, 1336–37. The court sustained the *Final Determination* in all other respects. *Id.* at 1318, 1337. *Habaş II* sustained Commerce’s revised duty drawback adjustment as applied to export price and Commerce’s use of partial adverse facts available with respect to Icdas. 415 F. Supp. 3d at 1201. The court remanded Commerce’s decision to make a circumstance of sale adjustment to normal value in the same amount as the duty drawback adjustment to export price. *Id.* *Habaş III* sustained Commerce’s decision to recalculate normal value without making a circumstance of sale adjustment and, consistent with *Saha Thai Steel Pipe (Public) Co. Ltd. v. United States*, 635 F.3d 1335, 1341–44 (Fed. Cir. 2011), to increase the cost of production and constructed value to account for the cost of exempted import duties for which Plaintiffs remained liable until they satisfied the duty exemption program requirements. 439 F. Supp. 3d at 1346, 1349–50. The court granted Commerce’s request for a remand to include in *Habaş*’s duty drawback adjustment import duties forgiven in connection with one inward processing certificate,<sup>2</sup> IPC # 36, and sustained Commerce’s decision not to include in the adjustment import duties associated with IPC # 1598. *Id.* at 1346–49. The court further sustained Commerce’s rejection of Defendant-Intervenor Rebar Trade Action Coalition’s (“RTAC”) proposed cost-side adjustment. *Id.* at 1349–50.

<sup>2</sup> “An inward processing certificate (‘IPC’) is used to track ‘the identity, quantity, and value of goods to be imported’ and subsequently exported in order ‘to satisfy the export commitment of the IPC.’” *Habaş III*, 439 F. Supp. 3d at 1346 n.4 (citation omitted).

In this third redetermination, Commerce included IPC # 36 in its duty drawback calculations. 3rd Remand Results at 1–2. That change resulted in a weighted-average dumping margin for Habaş in the amount of 3.96 percent. *Id.* at 3. Commerce had previously calculated a weighted-average dumping margin for Icdas in the amount of 4.17 percent and, consequently, in this redetermination, established an all-others rate in the amount of 4.07 percent. *Id.*

RTAC submitted comments restating its disagreement with the court’s opinions in this proceeding. See [RTAC’s] Cmts. on Final Results of Third Redetermination (“RTAC’s Cmts.”), ECF No. 101. Habaş and Defendant United States request the court to sustain Commerce’s 3rd Remand Results. Def.’s Resp. to Cmts. on Remand Redetermination, ECF No. 102; Reply Cmts. of Pl. [Habaş] in Resp. to Cmts. of [RTAC] on Final Results of Third Redetermination, ECF No. 103. For the reasons discussed herein, the court will sustain Commerce’s 3rd Remand Results.

### JURISDICTION AND STANDARD OF REVIEW

The court has jurisdiction pursuant to section 516A(a)(2)(B)(i) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1516a(a)(2)(B)(i) (2018), and 28 U.S.C. § 1581(c) (2018).

The court will uphold an agency determination that is supported by substantial evidence and otherwise in accordance with law. 19 U.S.C. § 1516a(b)(1)(B)(i). “The results of a redetermination pursuant to court remand are also reviewed for compliance with the court’s remand order.” *SolarWorld Ams., Inc. v. United States*, 41 CIT \_\_\_, \_\_\_, 273 F. Supp. 3d 1314, 1317 (2017) (citation omitted).

### DISCUSSION

RTAC continues to support the duty drawback adjustment methodologies Commerce used in its margin calculations for the *Final Determination* and first redetermination upon court-ordered remand and maintains that Commerce properly excluded IPC # 36 and IPC # 1598 from Habaş’s duty drawback adjustment. RTAC’s Cmts. at 1–2. In light of the court’s order in *Habaş III*, however, “RTAC takes no issue with the calculations themselves.” *Id.* at 2.

Commerce’s redetermination complied with the court’s order in *Habaş III* by recalculating Habaş’s duty drawback adjustment to include IPC # 36. See 3rd Remand Results at 1, 4. Commerce’s 3rd Remand Results are otherwise lawful and supported by substantial evidence.

**CONCLUSION**

In accordance with the foregoing, the court will sustain Commerce's 3rd Remand Results. Judgment will enter accordingly.

Dated: September 4, 2020  
New York, New York

*/s/ Mark A. Barnett*  
MARK A. BARNETT, JUDGE



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