order (11–BIS–0005) via overnight carrier to the following persons and offices:

Eric L. Hirschhorn, Esq., Under Secretary for Industry and Security, U.S. Department of Commerce, Room H–3839, 14th & Constitution Avenue NW., Washington, DC 20230, Telephone: (202) 482–5301.

John T. Masterson, Esq., Chief Counsel for Industry and Security, Joseph V. Jest, Esq., Chief of Enforcement and Litigation, Thea D. R. Kendler, Senior Counsel, Attorneys for Bureau of Industry and Security, Office of Chief Counsel for Industry and Security, United States Department of Commerce, Room H–3839, 14th Street & Constitution Avenue NW., Washington, DC 20230, Telephone: (202) 482–5301.

Enterysys Corporation, Shekar Babu, 1307 Muench Court, San Jose, CA 95131, (FEDEX).

Plot No. 39, Public Sector, Employees Colony, New Bowenpally 500011, Secunderabad, India, (FEDEX International).

Hearing Docket Clerk, USCG, ALJ Docketing Center, 40 S. Gay Street, Room 412, Baltimore, Maryland 21202–4022, Telephone: (410) 962–5100.

Done and dated on this 17th day of October, 2012, Alameda, California.

Cindy J. Melendres,

Paralegal Specialist to the Hon. Parlen L. McKenna.

[FR Doc. 2012–29789 Filed 12–13–12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Affirmative Countervailing Duty Determination and Notice of Amended Final Affirmative Countervailing Duty Determination

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

SUMMARY: On November 30, 2012, the United States Court of International Trade (CIT) sustained the Department of Commerce's (Department's) results of redetermination, which recalculated the all others subsidy rate in the countervailing duty (CVD) investigation of aluminum extrusions from the People's Republic of China (PRC) [1] pursuant to the CIT's remand order in *MacLean Fogg IV.* [2] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken,* [3] as clarified by *Diamond Sawblades,* [4] the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *Final Determination* and is therefore amending its *Final Determination.*

DATES: *Effective Date:* December 10, 2012.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, AD/CVD Operations, Office 8, Import Administration, U.S. Department of Commerce, C129, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–2209.

SUPPLEMENTARY INFORMATION: On April 4, 2011, the Department issued the *Final Determination.* In the *Final Determination,* the Department assigned a total adverse facts available (AFA) rate of 374.14 percent to the three non-cooperating mandatory respondents and calculated company-specific net subsidy rates for two participating voluntary respondents. Pursuant to the statute and regulations, the Department averaged the rates calculated for the mandatory respondents and applied this rate as the all-others rate.[5]

In *MacLean Fogg I,* the CIT held that the statute was ambiguous concerning whether the Department is required to base the all-others rate on rates calculated for mandatory respondents and therefore the Department was permitted to use the mandatory respondent's rate in calculating the all-others rate, provided it did so in a reasonable manner.[6] Nonetheless, the CIT remanded the all-others rate to the Department for reconsideration because the Department had failed to articulate a logical connection between the mandatory respondent rates, based on AFA, and the all-others companies.[7]

In *MacLean Fogg II,* the CIT held that the Department's preliminary all-others rate in the *Preliminary Determination* [8] was also subject to review under the same reasonableness standard because it had legal effect on the entries made during the interim time period between the issuance of the preliminary and final CVD rates, both as a cash deposit rate and, if an annual review was sought, as a cap on the final rate for those particular entries.[9] Thus, in *MacLean-Fogg II,* the Court held that it would consider the reasonableness of the preliminary rate when it reviews Commerce's remand determination.[10]

In *MacLean Fogg III,* the Court considered the Department's first remand results in which the Department did not recalculate the all-others rate, but rather, provided data indicating that the rate calculated for the mandatory respondents is logically connected to the all-others companies because the mandatory respondents comprise a significant portion of the Chinese extruded aluminum producers and exporters and thus are representative of the Chinese extruded aluminum industry as a whole.[11] The CIT held that ''nothing in the statute requires that the mandatory respondents' rates, even when based on AFA, may only be used to develop rates for uncooperative respondents.'' [12] However, in *MacLean Fogg III,* the CIT also concluded that the Department failed to explain how the all-others rate was remedial and not punitive when it assumed use of all subsidy programs identified in the investigation.[13] Therefore, the CIT remanded for the Department's consideration of the issue.[14]

In its final results of redetermination pursuant to *MacLean Fogg III,* the Department designated the all-others rate as equal to the preliminary rate it calculated for the mandatory respondents: 137.65 percent *ad valorem.*[15] In *MacLean Fogg IV,* the CIT affirmed the Department's final results of redetermination pursuant to remand, holding that the Department's selection of this all-others rate is reasonable.[16]

[1] *See Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 76 FR 18521 (April 4, 2011) (*Final Determination*).

[2] *See MacLean Fogg Co., et al.* v . *United States,* Slip Op. 12–146, Court No. 11–00209 (November 30, 2012) (*MacLean Fogg IV*).

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

[4] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[5] *See Final Determination,* 76 FR at 18523, and accompanying Issues and Decision Memorandum (I&D Memorandum) at Comment 9.

[6] *See MacLean-Fogg Co.* v. *United States,* 836 F. Supp. 2d 1367, 1373–1374 (CIT 2012) (*MacLean-Fogg I*).

[7] *Id.* at 1376.

[8] *See Aluminum Extrusions From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 75 FR 54302 (September 7, 2010) (*Preliminary Determination*).

[9] *See MacLean-Fogg Co.* v. *United States,* 853 F. Supp. 2d 1253, 1256 (2012) (*MacLean-Fogg II*).

[10] *Id.*

[11] See *MacLean-Fogg Co.* v. *United States,* 853 F. Supp. 2d 1336, 1338 (2012) (*MacLean-Fogg III*).

[12] *Id.* at 1341.

[13] *Id.* at 1342—1343.

[14] *Id.* at 1343.

[15] *See* ''Final Results of Redetermination Pursuant to Court Remand,'' dated September 13, 2012.

[16] *See MacLean Fogg IV* at 11–12. The Court also held that the preliminary all-others rate, at issue in *MacLean Fogg II,* is reasonable, and sustained this rate. *Id.* at 12.

Timken Notice

In its decision in *Timken*[17] as clarified by *Diamond Sawblades,* the CAFC has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's November 30, 2012, judgment in *MacLean Fogg IV* sustaining the Department's decision to designate the all others rate as equal to the preliminary rate it calculated for the mandatory respondents (137.65 percent *ad valorem*), constitutes a final decision of that court that is not in harmony with the Department's *Final Determination.* This notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Determination

Because there is now a final court decision with respect to the *Final Determination,* the Department amends its *Final Determination.* The Department finds the following revised net subsidy rate exists:

Company	*Ad valorem* net subsidy rate
All Others Rate	137.65 percent *ad valorem.*

For companies subject to the all others rate, the cash deposit rate will be the rate listed above and the Department will instruct U.S. Customs and Border Protection accordingly. This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: December 6, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012–30213 Filed 12–13–12; 8:45 am]

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[17] *See Timken,* 893 F.2d at 341.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC368

International Affairs; U.S. Fishing Opportunities in the Northwest Atlantic Fisheries Organization Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of U.S. fishing opportunities.

SUMMARY: NMFS announces fishing opportunities in the Northwest Atlantic Fisheries Organization (NAFO) Regulatory Area. This action is necessary to make fishing privileges available on an equitable basis.

DATES: Effective January 1, 2013, through December 31, 2013. Expressions of interest regarding fishing opportunities in NAFO will be accepted through December 31, 2012.

ADDRESSES: Expressions of interest regarding U.S. fishing opportunities in NAFO should be made in writing to Patrick E. Moran in the NMFS Office of International Affairs, at 1315 East-West Highway, Silver Spring, MD 20910 (phone: 301–427–8370, fax: 301–713–2313, email: *Pat.Moran@noaa.gov*).

Information relating to NAFO fishing opportunities, NAFO Conservation and Enforcement Measures, and the High Seas Fishing Compliance Act (HSFCA) Permit is available from Douglas Christel, at the NMFS Northeast Regional Office at 55 Great Republic Drive, Gloucester, MA 01930 (phone: 978–281–9141, fax: 978–281–9135, email: *douglas.christel@noaa.gov*) and from NAFO on the World Wide Web at *http://www.nafo.int.*

FOR FURTHER INFORMATION CONTACT: Patrick E. Moran, 301–427–8370.

SUPPLEMENTARY INFORMATION:

What Fishing Opportunities Are Available?

The principal species managed by NAFO are cod, flounder, redfish, American plaice, halibut, hake, capelin, shrimp, skates and *Illex* squid. NAFO maintains conservation measures for fishery resources in its Regulatory Area that include one effort limitation fishery (shrimp), as well as the other fisheries that are managed by total allowable catches (TACs) allocated among NAFO Contracting Parties. At the 2012 NAFO Annual Meeting, the United States received national quota allocations for three NAFO stocks to be fished during 2013. However, only redfish and squid will be made available to U.S. fishing interests during 2013, as further described below. The species, location, and allocation (in metric tons (mt)) of these 2013 U.S. fishing opportunities, as found in Annexes I.A, I.B, and I.C of the 2013 NAFO Conservation and Enforcement Measures, are as follows:

1. Redfish, NAFO Division 3M, 69 mt.
2. Squid (Illex), NAFO Subareas 3 & 4, 453 mt.
3. Shrimp, NAFO Division 3L, 96 mt.

Additionally, the United States may be transferred up to 1,000 mt (with the possibility of 500 additional mt) of NAFO Division 3LNO yellowtail flounder from Canada's quota allocation if requested before January 1 of each year, or any succeeding year through 2018, based upon a bilateral arrangement with Canada. The United States has already requested this 1,000 mt of Division 3LNO yellowtail flounder from Canada for 2013. Up to 500 mt of additional Division 3LNO yellowtail flounder could be made available on the condition that the United States transfers its Division 3L shrimp allocation (96 mt in 2013) to Canada. The United States has requested this additional Division 3LNO yellowtail flounder for 2013 to provide additional fishing opportunities for U.S. vessels following the successful development of a U.S. yellowtail flounder fishery within the NAFO Regulatory Area during 2012. If Canada accepts this request, the U.S. allocation of Division 3L shrimp will not be available to U.S. vessels in 2013. The arrangement for the transfer of Canadian yellowtail flounder quota would enable U.S. vessels to harvest American plaice as bycatch in the yellowtail flounder fishery in an amount equal to 15 percent of the total yellowtail flounder quota transferred to the United States. Additional quota for these and other stocks managed within the NAFO Regulatory Area may be available to U.S. vessels through industry-initiated chartering arrangements or transfers of quota from other NAFO Contracting Parties.

U.S. fishermen may also access stocks in which the United States has not received a national quota (also known as the ''Others'' allocation), including: Division 3M cod (57 mt); Division 3LN redfish (39 mt); Division 3O redfish (100 mt); Division 3NO white hake (59 mt); Division 3LNO skates (258 mt). Note that the United States shares these allocations with other NAFO Contracting Parties, and access to such stocks is on a first-come-first-served basis. Fishing is halted by NAFO when