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Dated: May 13, 2015.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-890]

#### Wooden Bedroom Furniture From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Second Amended Final Results of Administrative Review Pursuant to Court Decision

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

**SUMMARY:** On April 21, 2015, the United States Court of International Trade ("CIT") issued its final judgment in *Home Meridian Int'l, Inc. v. United States*, Consol. Court No. 11-00325,<sup>1</sup> and sustained the Department of Commerce's ("the Department") third remand redetermination.<sup>2</sup> Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) ("*Diamond Sawblades*"), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *Amended Final Results*.<sup>3</sup> The Department is amending its *Amended Final Results* with regard to the calculation of the weighted average dumping margin applied to the mandatory respondent, Dalian Huafeng Furniture Group Co., Ltd. ("Huafeng"), and the two separate rate respondents included in this decision: Nanhai Baiyi

<sup>1</sup> See *Home Meridian Int'l, Inc. v. United States*, Consol. Court No. 11-00325, Slip Op. 15-34 (April 21, 2015) ("*Home Meridian III*").

<sup>2</sup> See Final Results of Third Redetermination Pursuant to Court Order," Court No. 14-1251, (March 27, 2015) ("*Remand Redetermination III*") available at <http://enforcement.trade.gov/remands/cafc-1415-1251.pdf>.

<sup>3</sup> See *Wooden Bedroom Furniture From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision*, 78 FR 72862 (December 4, 2013) ("*Amended Final Results*").

Woodwork Co. Ltd. ("Nanhai") and Dongguan Liaobushangdun Huada Furniture Factory and Great Rich (HK) Enterprise Co., Ltd. ("Dongguan").

**DATES:** *Effective Date:* May 1, 2015.

**FOR FURTHER INFORMATION CONTACT:** Patrick O'Connor, AD/CVD Operations, Office IV, Enforcement and Compliance—International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone (202) 482-0989.

#### SUPPLEMENTARY INFORMATION:

##### Background

In the *Final Results*, the Department valued certain wood inputs used by the respondent, Huafeng, with surrogate values and used Insular Rattan and Native Products Corporation's ("Insular Rattan") 2009 financial statements, among others, to calculate surrogate financial ratios.<sup>4</sup> The CIT twice remanded issues involving the *Final Results* to the Department, and, in its second redetermination, the Department valued certain wood inputs used by Huafeng with market economy purchase prices and revised the calculation of the surrogate financial ratios by excluding Insular Rattan's financial statements from the calculation.<sup>5</sup> On November 14, 2013, the CIT sustained the final results of the Department's second redetermination and, in accordance with *Timken*, the Department published a notice of *Amended Final Results*.<sup>6</sup> The American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. appealed the valuation of wood inputs, but not the issue of excluding Insular Rattan's financial statements, to the CAFC. On December 1, 2014, the CAFC reversed the CIT's decision and vacated the Department's redetermination results in which it used market economy purchase prices, rather than surrogate values, to value certain of Huafeng's wood inputs. The CAFC directed the CIT to reinstate the Department's wood valuation in the first redetermination (using surrogate values for Huafeng's wood inputs). On January 28, 2015, the CIT ordered the Department to file a redetermination with the Court in which it continued to exclude Insular Rattan's financial statements from its calculations and

<sup>4</sup> See *Wooden Bedroom Furniture from the People's Republic of China: Final Results and Final Rescission in Part*, 76 FR 49729 (Aug. 11, 2011) ("*Final Results*").

<sup>5</sup> See Second Redetermination Pursuant to Court Order, Court No. 11-00325, dated August 26, 2013 ("*Remand Redetermination II*").

<sup>6</sup> See *Amended Final Results*.

reinstated the wood valuation from the first redetermination. Pursuant to the CIT's order, the Department filed the final results of its third redetermination with the CIT on March 27, 2015 in which it valued Huafeng's wood inputs using surrogate values and continued to exclude Insular Rattan's financial statements from its calculations.<sup>7</sup> On April 21, 2015, the CIT sustained the Department's *Remand Redetermination III*.<sup>8</sup>

#### Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC 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 April 21, 2015, judgment sustaining the Department's *Remand Redetermination III* in which it valued certain wood inputs using surrogate values, rather than market economy purchase prices, constitutes a final decision of that court that is not in harmony with the Department's *Amended Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

#### Amended Final Results

Because there is now a final court decision with respect to this case, the Department is amending its *Amended Final Results* with respect to Huafeng's weighted-average dumping margin for the period January 1, 2009 through December 31, 2009. In addition, the Department has amended the *Amended Final Results* for Nanhai and Dongguan, the separate rate respondents included in this final court decision. The remaining weighted-average dumping margins from the *Final Results*, as subsequently amended,<sup>9</sup> remain unchanged.

Manufacturer/exporter	Weighted-average dumping margin (percent)
Dalian Huafeng Furniture Group Co., Ltd .....	45.83

<sup>7</sup> See *Remand Redetermination III*.

<sup>8</sup> See *Home Meridian III*.

<sup>9</sup> See *Wooden Bedroom Furniture From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review*, 76 FR 57713 (September 16, 2011).

Manufacturer/exporter	Weighted-average dumping margin (percent)
Nanhai Baiyi Woodwork Co. Ltd .....	45.83
Dongguan Liaobushangdun Huada Furniture Factory .....	45.83
Great Rich (HK) Enterprise Co., Ltd.	

In the event the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct CBP to liquidate entries of subject merchandise based on the revised assessment rates calculated by the Department.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 11, 2015.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XD741

#### Taking of Marine Mammals Incidental to Specified Activities; Anacortes Tie-Up Slips Dolphin and Wingwall Replacement

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

**ACTION:** Notice; issuance of an incidental take authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the Washington State Department of Transportation (WSDOT) to take, by harassment, small numbers of 11 species of marine mammals incidental to construction activities for a tie-up slips dolphin and wingwall replacement project in Anacortes, Washington State, between September 1, 2015, and August 31, 2016.

**DATES:** Effective September 1, 2015, through August 31, 2016.

**ADDRESSES:** Requests for information on the incidental take authorization should be addressed to Jolie Harrison, Chief, Permits and Conservation Division,

Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application containing a list of the references used in this document, NMFS'

Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and the IHA may be obtained by writing to the address specified above or visiting the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental/>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

#### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as ". . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by harassment, provided that there is no potential for serious injury or mortality to result from the activity. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental

harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

#### Summary of Request

On April 1, 2014, WSDOT submitted a request to NOAA requesting an IHA for the possible harassment of small numbers of 11 marine mammal species incidental to construction associated with the Anacortes Tie-up Slips Dolphin and Wingwall Replacement in the city of Anacortes, on Fidalgo Island, adjacent to Guemes Channel, Skagit County, Washington, between September 1, 2015, and February 15, 2016. NMFS determined that the IHA application was complete on July 1, 2014.

#### Description of the Specified Activity

A detailed description of the WSDOT's Anacortes tie-up slips dolphin and wingwall project is provided in the **Federal Register** notice for the proposed IHA (80 FR 11648; March 4, 2015). Since that time, no changes have been made to the proposed construction activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

#### Comments and Responses

A notice of NMFS' proposal to issue an IHA to WSDOT was published in the **Federal Register** on March 4, 2015. That notice described, in detail, WSDOT's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission). Specific comments and responses are provided below.

*Comment 1:* The Commission notes that the construction would be conducted in December and January, however, WSDOT's ambient noise measurements were conducted in March and showed that median ambient noise level at the proposed construction area is 123 dB re 1 µPa. The Commission states that the ambient noise levels would be lower in winter (December and January) than those were collected in March when vessel traffic is greater. Therefore, the Commission recommends that NMFS either (1) require WSDOT to measure ambient sound levels during winter and adjust the Level B harassment zones accordingly or (2) base the Level B harassment zones on the 120-dB re 1 µPa threshold and adjust