

Commerce calculated with the amounts of irrecoverable VAT that were actually incurred upon exportation, and that Commerce's calculation was not supported by substantial evidence on the record, remanding the case for reconsideration.<sup>8</sup> On remand, Commerce modified its VAT calculations and found that the transfer price to respondent's affiliate was the actual base value from which irrecoverable VAT was calculated, because it was more appropriate to focus on achieving tax neutrality generally, rather than determining what taxes the GOC should have imposed.<sup>9</sup> Commerce's new VAT adjustment methodology was subsequently affirmed by this Court in *Fine Furniture II*.<sup>10</sup> The fact pattern in *Fine Furniture I* was similar to that in this case, as the respondent had a similar selling structure and certified that China used its transfer price to its affiliated, offshore reseller as the basis to collect

VAT.<sup>11</sup> In accordance with Commerce's revised VAT adjustment calculation methodology, on February 25, 2019, the United States requested a voluntary remand concerning its calculation of the VAT adjustment.<sup>12</sup>

On November 12, 2019, we filed our *Redetermination*.<sup>13</sup> In our *Redetermination*, we based our calculation of the VAT adjustment on the sale of Jiangsu Zhongji to their affiliated reseller, Zhongji HK.

On March 9, 2020, the Court sustained Commerce's *Redetermination*, and entered its final judgment.<sup>14</sup>

#### Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision not "in harmony" with a Commerce determination, and must

suspend liquidation of entries pending a "conclusive" court decision. The Court's March 9, 2020 judgment sustaining the *Redetermination* constitutes a final decision of the Court that is not in harmony with Commerce's *Amended Final Determination* and Order. This notice is published in fulfillment of the publication requirement of *Timken*. Accordingly, Commerce 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 Determination

Because there is now a final court decision, Commerce amends the *Amended Final Determination* with respect to Zhongji. The revised cash deposit rates for the LTFV investigation, is as follows:

Producer	Exporter	Weighted average dumping margin (percent)
Jiangsu Zhongji Lamination Materials Stock Co., Ltd./Jiangsu Zhongji Lamination Materials Co., Ltd./Jiangsu Huafeng Aluminum Industry Co., Ltd.	Jiangsu Zhongji Lamination Materials Co., (HK) Ltd	48.30

#### Cash Deposit Requirements

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct CBP to collect a cash deposit of 48.30 percent for entries of subject merchandise exported by Zhongji, effective March 19, 2020, in accordance with the *Timken Notice*.

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

Dated: March 19, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement & Compliance.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### Notice of Indirect Cost Rates for the Office of National Marine Sanctuaries for Fiscal Year 2010

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of indirect cost rates for the Office of National Marine Sanctuaries for fiscal year 2010.

**SUMMARY:** The National Oceanic and Atmospheric Administration's (NOAA's) Office of National Marine Sanctuaries (ONMS) announces the establishment of new indirect cost rates for the recovery of indirect costs for its component organizations involved in natural resource damage and restoration

activities for fiscal year (FY) 2010. NOAA provides the indirect cost rates for this fiscal year and the dates of implementation in this notice. The public can obtain more information on this rate from the address provided below in the ADDRESSES section.

**DATES:** These indirect cost rates are effective on March 25, 2020.

**ADDRESSES:** Vicki Wedell, phone 240-533-0650; email [Vicki.Wedell@noaa.gov](mailto:Vicki.Wedell@noaa.gov); or 1305 East-West Highway, N/NMS, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Vicki Wedell, phone 240-533-0650; email [Vicki.Wedell@noaa.gov](mailto:Vicki.Wedell@noaa.gov); or 1305 East-West Highway, N/NMS, Silver Spring, MD 20910.

**SUPPLEMENTARY INFORMATION:** The Natural Resource Damage Assessment (NRDA) mission of ONMS is to restore injuries to sanctuary resources caused by the release of hazardous substances or oil under the Comprehensive Environmental Response, Compensation

Op. 19-111 (CIT August 15, 2019) (*Redetermination*).

<sup>14</sup> See *Jiangsu Zhongji Lamination Materials Co. (HK), Ltd., Jiangsu Zhongji Lamination Materials Co., Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., and Jiangsu Huafeng Aluminum Industry Co., Ltd. v. United States*, Court No. 18-00091, Slip Op. 20-30 (CIT March 9, 2020).

<sup>8</sup> See *Fine Furniture (Shanghai) Limited, et al. v. United States*, 182 F. Supp. 3d 1350, 1358-59 (CIT 2016) (*Fine Furniture I*).

<sup>9</sup> See *Fine Furniture (Shanghai) Limited, et al. v. United States*, 321 F. Supp. 3d 1282, 1288 (CIT 2018) (*Fine Furniture II*) (citing to Final Remand Redetermination pursuant to *Fine Furniture I*).

<sup>10</sup> *Id.*

<sup>11</sup> See *Remand Order* at 27.

<sup>12</sup> See *Remand Order* at 27 (citing Commerce's February 25, 2019 56.2 Opposition Brief at 39-40).

<sup>13</sup> See Final Remand Redetermination pursuant to *Jiangsu Zhongji Lamination Materials Co. (HK), Ltd., Jiangsu Zhongji Lamination Materials Co., Ltd., Jiangsu Zhongji Lamination Materials Stock Co., Ltd., and Jiangsu Huafeng Aluminum Industry Co., Ltd. v. United States*, Court No. 18-00091, Slip

and Liability Act (CERCLA; 42 U.S.C., 9601 *et seq.*) or the Oil Pollution Action of 1990 (OPA; 33 U.S.C., 2701 *et seq.*), or physical injuries under the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 *et seq.*). ONMS consists of the following component organizations: fourteen national marine sanctuaries and two marine national monuments, and the Office of General Counsel for Natural Resources (GCNR). NOAA published the GCNR rate for FY10 in the **Federal Register** on October 20, 2011 (76 FR 65182). ONMS conducts NRDA as a basis for recovering damages from responsible parties and uses the funds recovered to restore injured sanctuary resources.

When addressing NRDA incidents, the costs of the damage assessment are recoverable from responsible parties who are potentially liable for an incident. Costs include direct and indirect costs. Direct costs are costs for activities that are clearly and readily attributable to a specific output. In the context of ONMS, outputs may be associated with damage assessment cases, or may be represented by other program products. In contrast, indirect costs reflect the costs for activities that collectively support ONMS's mission

and operations. For example, indirect costs include general administrative support and traditional overheads. Although indirect costs may not be readily traced back to a specific direct activity, indirect costs may be allocated to direct activities using an indirect cost distribution rate.

Consistent with standard Federal accounting requirements, ONMS is required to account for and report the full costs of its programs and activities. Further, ONMS is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA and the NMSA. Within the constraints of these laws, ONMS has the discretion to develop indirect cost rates subject to its requirements.

**ONMS's Indirect Cost Effort**

In October 2002, NOAA contracted the public accounting firm Cotton and Company LLP to: (1) Evaluate the cost accounting system and allocation practices; (2) recommend the appropriate indirect cost allocation methodology; and (3) determine the indirect cost rates for the organizations that comprise ONMS. A subcontractor to Cotton and Company LLP, Empirical

Concepts Incorporated (Empirical), calculated the ONMS indirect costs for fiscal year 2010.

Empirical concluded that the cost accounting system and allocation practices of ONMS component organizations are consistent with Federal accounting requirements. Empirical also determined that the most appropriate indirect allocation method was the Direct Labor Cost Base for all ONMS component organizations. The Direct Labor Cost Base is computed by allocation total indirect costs over the sum of direct labor dollars plus the application of NOAA's leave surcharge and benefits rates to direct labor. Empirical further assessed that the indirect cost rates for the ONMS component organizations were fair and equitable. A report on Empirical's assessment and their determination can be obtained from the person identified in **FOR FURTHER INFORMATION CONTACT**.

**ONMS Indirect Cost Rate and Policies**

ONMS will apply the indirect cost rate for FY2010 as recommended by Empirical for each of the ONMS component organizations as provided in the following table:

ONMS component organization	Fiscal year 2010 indirect rate (percent)
Office of National Marine Sanctuaries (except for Florida Keys National Marine Sanctuary) .....	67.95
Florida Keys National Marine Sanctuary .....	82.35

ONMS will apply the FY2010 rates identified in this notice to all damage assessment and restoration case costs incurred from October 1, 2010 until present, using the Direct Labor Cost base allocation methodology. For cases that have settled and for cost claims paid prior to the effective date of the fiscal year in question, ONMS will not re-open any resolved matters for the purpose of applying the rates in this notice. For cases not settled and cost claims not paid prior to the effective date of the fiscal year in question, ONMS will calculate costs using the rates in this notice. ONMS will use the FY2010 rates for future fiscal years until year-specific rates are developed.

**John Armor,**

*Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**Submission for OMB Review; Comment Request; Marine Mammal Health and Stranding Response Program**

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), on or after the date of publication of this notice. The public is invited to submit comments on this request.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day

Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0648-0178.

**FOR FURTHER INFORMATION CONTACT:**

Copies of this submission may be obtained from Adrienne Thomas, PRA Officer, NOAA, 151 Patton Avenue, Room 159, Asheville, NC 28801, (828) 257-3148 or viewing the entire information collection request at [www.reginfo.gov](http://www.reginfo.gov).

**SUPPLEMENTARY INFORMATION:**

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to