

## Background

On March 18, 2021, Commerce published its *Final Results* in the 2018 CVD administrative review of FSF from China.<sup>1</sup> In the *Final Results*, Commerce determined that the use of adverse facts available (AFA) under sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), was warranted in determining the countervailability of the Export Buyer's Credit (EBC) program, because the Government of China (GOC) had failed to provide the necessary information Commerce required to analyze the program.<sup>2</sup> Commerce also determined that it could not rely on statements of non-use provided by Both-Well and its customers because of the GOC's failure to provide the necessary information with respect to the operation of the program.<sup>3</sup> Consistent with Commerce's CVD AFA hierarchy, Commerce selected the highest calculated rate for the same or similar program as the AFA rate for this program, 10.54 percent, in accordance with section 776(d) of the Act and Commerce's established practice.<sup>4</sup> Commerce calculated a total net subsidy rate of 25.90 percent for Both-Well.<sup>5</sup>

Both-Well appealed Commerce's *Final Results*. On February 8, 2022, the CIT remanded the *Final Results* to Commerce and ordered either: (1) that Commerce must attempt to verify the EBC program non-use certifications provided by Both-Well's U.S. customers or; (2) that if, after attempting verification, Commerce determines verification is not possible without the missing information from the GOC, then Commerce must explain, in detail, the specific ways in which Commerce attempted verification of the non-use certifications.<sup>6</sup>

In its final remand redetermination, issued in July 2022, Commerce found, after issuing supplemental questionnaires to Both-Well, that there was no use of the EBC program with respect to Both-Well in this review and removed the subsidy rate for the EBC program from Both-Well's final CVD subsidy rate, resulting in a 15.36 percent rate for Both-Well.<sup>7</sup> On September 13,

2022, the CIT sustained Commerce's final redetermination.<sup>8</sup>

## Timken Notice

In its decision in *Timken*,<sup>9</sup> as clarified by *Diamond Sawblades*,<sup>10</sup> the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's September 13, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

## Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Both-Well as follows:

Exporter	Subsidy rate (percent <i>ad valorem</i> )
Both-Well (Taizhou) Steel Fittings, Co., Ltd .....	15.36

## Cash Deposit Requirements

Because Both-Well has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

## Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and/or exported by Both-Well, and were entered, or withdrawn from warehouse, for consumption during the period March 14, 2018, through December 31, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a

*Steel Fittings, Co., Ltd. v. United States*, Consol. Court No. 21–00166, dated July 7, 2022, available at <https://access.trade.gov/resources/remands/22-10.pdf>, at 7–8.

<sup>8</sup> See *Both-Well (Taizhou) Steel Fittings, Co., Ltd., v. United States*, Court No. 21–00166, Slip Op. 22–105 (CIT September 13, 2022).

<sup>9</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>10</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Both-Well in accordance with 19 CFR 351.212(b). We will instruct CBP to assess countervailing duties on all appropriate entries covered by this review when the *ad valorem* rate is not zero or *de minimis*. Where an *ad valorem* subsidy rate is zero or *de minimis*,<sup>11</sup> we will instruct CBP to liquidate the appropriate entries without regard to countervailing duties.

## 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: September 22, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XC402]

### Advisory Committee Special Meeting on Management Strategy Evaluation for Atlantic Bluefin Tuna

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

**ACTION:** Notice of meeting.

**SUMMARY:** In preparation for an intersessional meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) on management strategy evaluation (MSE) for Atlantic bluefin tuna, the Advisory Committee to the U.S. Section to ICCAT is announcing the convening of a special fall meeting.

**DATES:** The meeting will be held on October 5, 2022. There will be an open session from 1 p.m. to no later than 3 p.m. EDT. The remainder of the meeting will be closed to the public and will end by 5 p.m. EDT. Interested members of the public may present their views during the public comment period of the open session. The public comment period will begin at approximately 2 p.m. and conclude no later than 3 p.m.

**ADDRESSES:** Please register to attend the meeting at: <https://forms.gle/>

<sup>11</sup> See 19 CFR 351.106(c)(2).

<sup>1</sup> See *Forged Steel Fittings from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*; 2018, 86 FR 14722 (March 18, 2021) (*Final Results*), and accompanying Issues and Decisions Memorandum.

<sup>2</sup> *Id.* at Comment 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at Comment 2.

<sup>5</sup> See *Final Results*, 86 FR at 14723.

<sup>6</sup> See *Bothwell (Taizhou) Steel Fittings, Co., Ltd. v. United States*, Consol. Court No. 21–00166 (CIT February 8, 2022), at 20–21.

<sup>7</sup> See *Final Results of Remand Redetermination Pursuant to Court Remand, Bothwell (Taizhou)*

zypwb7eDiti6PXcU6. Registration will close on October 3, 2022, at 5 p.m. EDT. Instructions for accessing the webinar session will be emailed to registered participants. Written comments may be submitted, but must be received by October 4, 2022. Written comments may be sent via email to [bryan.keller@noaa.gov](mailto:bryan.keller@noaa.gov), or via mail to Bryan Keller at NMFS, Office of International Affairs, Trade, and Commerce, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Bryan Keller, Office of International Affairs, Trade, and Commerce, (202) 897-9208 or at [bryan.keller@noaa.gov](mailto:bryan.keller@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Advisory Committee to the U.S. Section to ICCAT will meet on October 5, 2022, first in open session to receive an update on the development of MSE for Atlantic bluefin tuna. It will then meet in closed session to discuss sensitive matters in preparation for an ICCAT intersessional meeting on bluefin tuna MSE to be held on October 14, 2022. MSE is a scientific tool that allows fishery managers, scientists, and stakeholders (e.g., industry, non-governmental organizations) to simulate the workings of a fishery system to test how well different harvest strategies (a.k.a. management procedures) achieve agreed management objectives for that fishery. After several years of work, ICCAT anticipates finalizing the bluefin tuna MSE and adopting a management procedure applicable to both the western and eastern Atlantic and Mediterranean stocks of bluefin tuna at its November 2022 Annual Meeting. If adopted by ICCAT, the management procedure will be applied in order to set Total Allowable Catches (TACs) for 2023 and future years for both stocks. The United States has been participating actively in this MSE development process and have been engaging stakeholders and considering their input throughout the process through various means, including consultation with the Advisory Committee to the U.S. Section to ICCAT. The United States also participates in the development of the bluefin tuna MSE through active engagement by U.S. scientists in ICCAT's Standing Committee on Research and Statistics (SCRS).

The most up-to-date information on bluefin tuna MSE will be provided during the open session of the October 5 meeting. This session, which will take place from 1 p.m. to no later than 3 p.m. EDT, will include an opportunity for interested stakeholders to ask questions and time will also be set aside for members of the public to provide formal input on this important issue.

Specifically, a public comment period will begin at approximately 2 p.m. and conclude no later than 3 p.m. Comments may also be submitted in writing for the Advisory Committee's consideration. Interested members of the public can submit comments by mail or email. Use of email is encouraged. All written comments must be received by October 4, 2022 (see **ADDRESSES**).

A key area where stakeholders may wish to provide input relates to the remaining candidate management procedures (CMPs) and the management tradeoffs associated with them as identified through MSE. Tradeoffs among the four management objectives, which are applicable to both stocks, will be clearly indicated in the scientific output provided by SCRS. Management objectives relate to stock status, stock safety, yield in the short, medium, and longer terms, and stability of the TAC across management periods, which could be established for 2 or 3 years.

After the open session, the Advisory Committee will go into closed session no later than 3 p.m. and will conclude its meeting at 5 p.m. EDT. During its closed session, the Advisory Committee will provide its advice on possible positions and strategies to be taken by the United States concerning bluefin tuna MSE at an October 14 intersessional meeting of ICCAT's Panel 2, the last meeting of this body before the November 2022 ICCAT Annual Meeting, at which ICCAT is expected to adopt and apply a bluefin tuna management procedure.

*Authority:* 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2022.

**Alexa Cole,**

*Director, Office of International Affairs, Trade, and Commerce, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XC368]

### Membership of the National Oceanic and Atmospheric Administration Performance Review Board

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of membership of the 2022 NOAA Performance Review Board.

**SUMMARY:** NOAA announces the appointment of members who will serve

on the 2022 NOAA Performance Review Board (PRB). The NOAA PRB is responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) members and making written recommendations to the appointing authority on retention and compensation matters, including performance-based pay adjustments, awarding of bonuses, and reviewing recommendations for potential Presidential Rank Award nominees. The appointment of members to the NOAA PRB will be for a period of 2 years.

**DATES:** The effective date of service of the ten appointees to the NOAA Performance Review Board is October 25-28, 2022.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles A. McLeod, Human Resources Specialist, Executive Resources Division, Office of Human Capital Services, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 628-1883.

**SUPPLEMENTARY INFORMATION:** The names and positions of the members for the 2022 NOAA PRB are set forth below:

- David Michaud, Chair: Director, Office of Central Processing, National Weather Service, NOAA
- Kelly Mabe, Co-Chair: Deputy Director, Acquisition and Grants Office, NOAA
- Carrie Robinson: Director, Habitat Conservation, National Marine Fisheries Service, NOAA
- Michelle Mainelli-McInerney: Director, Office of Dissemination, National Weather Service, NOAA
- Makeda Okolo: Director, Office of Legislative & Intergovernmental Affairs, NOAA
- James Donnellon: Chief Financial Officer-Chief Administrative Officer, National Environmental Satellite, Data, and Information Service, NOAA
- Kevin Kimball: Chief of Staff, National Institute of Standards and Technology
- Juliana Blackwell: Director, Office of National Geodetic Survey, National Ocean Service, NOAA
- Deirdre Jones: Chief Administrative Officer, NOAA
- John Cortinas: Director, Atlantic Oceanographic and Meteorological Laboratory, NOAA
- Jonathan Hare, Director, Science and Research, NE Region, NOAA
- Wayne Higgins, Director, Climate Program Office, NOAA
- Karen Hyun, Chief of Staff, NOAA
- James St. Pierre, Acting Director, Information Technology Laboratory, National Institute of Standards and Technology