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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony with Final Results of Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On March 12, 2020, the United States Court of International Trade (CIT) issued a final judgment in *Can Tho Import-Export Joint Stock Co. v. United States*, Consol. Court No. 16-00071 (*Can Tho II*), sustaining the Department of Commerce's (Commerce's) remand results for the 11th administrative review of the antidumping duty (AD) order on certain frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam), covering the period of review (POR) August 1, 2013 through July 31, 2014. Commerce is notifying the public that the CIT's final judgment is not in harmony with the final results of the administrative review, and that Commerce is amending the final results with respect to a certain exporter.

DATES: Applicable March 22, 2020.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2243.

SUPPLEMENTARY INFORMATION:

Background

During the 10th administrative review of the AD order on fish fillets from Vietnam, Commerce denied Can Tho Import-Export Joint Stock Company (Caseamex) separate-rate status. On appeal, the CIT affirmed this determination in *An Giang Fisheries*.¹ In the 11th administrative review, Caseamex submitted a separate rate application which stated that the company had no material changes in company structure, shareholdings, or operations.² As a result, we continued to deny Caseamex separate-rate status.³

Caseamex challenged the final results, asserting that it should be given a separate rate because Commerce's decision to deny it a separate rate relied on a memorandum from the prior administrative review. On October 15, 2018, the CIT remanded the *Final Results* and ordered Commerce to reconsider the separate rate issue.⁴

On April 1, 2019, Commerce issued the *First Remand Results*.⁵ Commerce explained that it considers Vietnam to be a non-market economy (NME) country under section 771(18) of the Tariff Act of 1930, as amended (Act). In AD proceedings involving NME countries, such as Vietnam, the rebuttable presumption is that the export activities of all firms within the country are subject to government control and influence.⁶ On remand, Commerce considered all of the

¹ See *An Giang Fisheries Import and Export Joint Stock Company et al. v. United States*, Court No. 15-00044, Slip Op. 18-4 (CIT 2018) (*An Giang Fisheries*).

² See Caseamex's Letter, "Can Tho Import-Export Seafood Joint Stock Company (CASEAMEX) Separate Rate Application: Antidumping Administrative Review of Certain Frozen Fish Fillets from The Socialist Republic of Vietnam: Review Period--8/1/2013-7/31/2014," dated December 1, 2014.

³ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 17435 (March 29, 2016) (*AR11 Final Results*), and accompanying Issues and Decision Memorandum (IDM) at Comment VI.

⁴ See *Can Tho Import-Export Joint Stock Company v. United States*, Court No. 16-00071, Slip Op. 16-71 (October 15, 2018) (*First Remand Order*).

⁵ See Final Results of Redetermination Pursuant to *Can Tho Import-Export Joint Stock Company v. United States*, Court No. 16-00071 (October 15, 2018) (*First Remand Results*).

⁶ See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 20197 (April 15, 2015), and accompanying IDM.

record evidence, including Caseamax’s 2012 Articles of Association, and found that the totality of the evidence continued to demonstrate the government of Vietnam had the potential to take an active role as the second largest shareholder of the company.⁷

On October 17, 2019, the CIT issued the *Second Remand Order*, which considered Caseamex’s continued challenge that it should be given separate rate status.⁸ The CIT held that Commerce’s remand redetermination was not supported by substantial evidence. The CIT found that Caseamex’s 2012 Articles of Association rebutted the presumption of government control.⁹ The CIT ordered that Commerce’s determination not to grant Caseamex a separate rate be remanded for further consideration consistent with its opinion.¹⁰ In the *Second Remand Results*,¹¹ under respectful protest, Commerce determined that Caseamex was entitled to a separate rate because no further evidence existed beyond the evidence that Commerce had reviewed in the *First Remand Results*. On March 12, 2020, the CIT issued a final judgment in *Can Tho II* sustaining the *Second Remand Results*.

Amended Final Results

Because there is now a final court decision, Commerce is amending the *AR11 Final Results* with respect to Caseamex. The separate rate assigned to Caseamex during the period August 1, 2013 through July 31, 2014 is as follows:

| Exporter | Weighted-Average Dumping Margin (Dollars Per Kilogram) |
|--|--|
| Can Tho Import-Export Joint Stock Company (Caseamex) | 0.69 |

Assessment Instructions

⁷ See *First Remand Results*.

⁸ See *Can Tho Import-Export Joint Stock Company v. United States*, Court No. 16-00071, Slip Op. 19-129 (October 17, 2019) (*Second Remand Order*).

⁹ *Id.* at 8-12.

¹⁰ *Id.* at 12.

¹¹ See Final Results of Redetermination Pursuant to *Can Tho Import-Export Joint Stock Company, v. United States*, Consol. Court No. 16-00071 (December 16, 2019) (*Second Remand Results*).

Commerce will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by Caseamex using the assessment rates listed above.

Cash Deposit Requirements

The cash deposit rate for Caseamex has been superseded by cash deposit rates calculated in intervening administrative reviews of the antidumping duty order on fish fillets from Vietnam. Thus, we will not alter its cash deposit rate.

Notification to Interested Parties

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

Dated: April 3, 2020.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

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