

VII. Recommended Order

[REDACTED SECTION]

[REDACTED SECTION]

The Recommended Decision and Order is being referred to the Under Secretary for review and final action. As provided by Section 766.17(b)(2) of the EAR, the recommended decision and order is being served by express mail. Because the Under Secretary must review the decision in a short time frame, all papers filed with the Under Secretary in response to the recommended decision and order must be sent by personal delivery, facsimile, express mail, or other overnight carrier as provided in Section 766.22(a) of the EAR. Submissions by the parties must be filed with the Under Secretary for Export Administration, Bureau of Industry and Security, U.S. Department of Commerce, Room H-3898, 14th Street and Constitution Avenue, NW., Washington, DC 20230, within 12 days from the date of issuance of this Recommended Decision and Order. Thereafter, the parties have eight days from receipt of any response(s) in which to submit replies.

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order, affirming, modifying or vacating the recommended decision and order. See 15 CFR 766.22(c).

PLEASE TAKE NOTE THAT Respondent has one year from the date of entry of this Order to file a petition to vacate this default order. 15 CFR 766.7(b).

Administrative Law Judge in Norfolk, Virginia.

Done and dated April 14, 2009.
Norfolk, VA.

Hon. Michael J. Devine,
Administrative Law Judge, U.S. Coast Guard.

6. United States Coast Guard
Administrative Law Judges perform adjudicatory functions for the Bureau of Industry and Security with approval from the Office of Personnel Management pursuant to a memorandum of understanding between the Coast Guard and the Bureau of Industry and Security.

Certificate of Service

I hereby certify that I have served the foregoing Scheduling Order upon the following parties (or designated representatives) at the address indicated below:

Eric Clark, Attorney-Advisor and Parvin Huda, Senior Counsel, and Joseph Jest, Chief of Enforcement and Litigation, Attorneys for Bureau of

Industry and Security, Office of Chief Counsel for Industry and Security.
U.S. Department of Commerce, Room H-3839, 14th Street & Constitution Avenue, NW., Washington, DC 20230.
Fax: 202-482-0085. Sent by Facsimile and Federal Express.

Vasko Tomanovic, Counsel for Respondent, "Kaminik" b.b., 1000 Skopje, Republic of Macedonia. *Tel: 389-70-436068. Fax: 41-44-567-1892. Sent by Facsimile and Federal Express.*

ALJ Docketing Center, Attn: Hearing Docket Clerk, United States Coast Guard, 40 South Gay Street, Rm. 412, Baltimore, MD 21202. *Fax: 410-962-1746. Sent by Facsimile and Federal Express.*

Mr. İki Malinkovski, Micei International, Kaminik b.b., 1000 Skopje, Republic of Macedonia. *Fax: 011-389-2252-2039. Sent by Facsimile and Federal Express.*
Done and dated April 14, 2009.

Janice L. Parker,
Paralegal Assistant to the Administrative Law Judge.

Notice to the Parties Regarding Review by Under Secretary.
Title 15—Commerce and Foreign Trade. Subtitle B—Regulations Relating to Commerce and Foreign Trade. Chapter VII—Bureau of Industry and Security, Department of Commerce. Subchapter C—Export Administration Regulations. Part 766—Administrative Enforcement Proceedings.
15 CFR 766.22.

§ 766.22 Review by Under Secretary

(a) *Recommended decision.* For proceedings not involving violations relating to part 760 of the EAR, the administrative law judge shall immediately refer the recommended decision and order to the Under Secretary. Because of the time limits provided under the EAA for review by the Under Secretary, service of the recommended decision and order on the parties, all papers filed by the parties in response, and the final decision of the Under Secretary must be by personal delivery, facsimile, express mail or other overnight carrier. If the Under Secretary cannot act on a recommended decision and order for any reason, the Under Secretary will designate another Department of Commerce official to receive and act on the recommendation.

(b) *Submissions by parties.* Parties shall have 12 days from the date of issuance of the recommended decision and order in which to submit simultaneous responses. Parties thereafter shall have eight days from

receipt of any response(s) in which to submit replies. Any response or reply must be received within the time specified by the Under Secretary.

(c) *Final decision.* Within 30 days after receipt of the recommended decision and order, the Under Secretary shall issue a written order affirming, modifying or vacating the recommended decision and order of the administrative law judge. If he/she vacates the recommended decision and order, the Under Secretary may refer the case back to the administrative law judge for further proceedings. Because of the time limits, the Under Secretary's review will ordinarily be limited to the written record for decision, including the transcript of any hearing, and any submissions by the parties concerning the recommended decision.

(d) *Delivery.* The final decision and implementing order shall be served on the parties and will be publicly available in accordance with § 766.20 of this part.

(e) *Appeals.* The charged party may appeal the Under Secretary's written order within 15 days to the United States Court of Appeals for the District of Columbia pursuant to 50 U.S.C. app. 2412(c)(3).

[FR Doc. E9-11885 Filed 5-22-09; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A-552-802

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of the Second New Shipper Review

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

SUMMARY: The Department of Commerce ("Department") is conducting a new shipper review of BIM Seafood Joint Stock Company ("BIM Seafood") and the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam ("Vietnam"). See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) ("Shrimp Order.") We preliminarily found that BIM Seafood did not sell subject merchandise at less than normal value ("NV") and thus assigned a zero margin for the period of review ("POR"), February 1, 2007, through January 31, 2008. See *Certain Frozen*

Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the Second New Shipper Review, 74 FR 4924 (January 28, 2009) (“Preliminary Results”). Based upon our analysis of the comments and information received, we made changes to the margin calculations for the final results. The final margin is listed below in the section entitled, “Final Results of the Review.”

EFFECTIVE DATE: May 26, 2009.

FOR FURTHER INFORMATION CONTACT:

Emeka Chukwudebe, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-0219.

SUPPLEMENTARY INFORMATION:

Case History

On January 28, 2009, the Department published in the **Federal Register** the preliminary results of this second new shipper review. On February 27, 2009, BIM Seafood filed comments regarding the Department’s *Preliminary Results*. On March 20, 2009, the Department issued a revised margin analysis memorandum to the file. See Memorandum to the File, from Emeka Chukwudebe, Case Analyst, Office 9, Import Administration, through Alex Villanueva, Program Manager, Office 9, regarding “New Shipper Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam” dated March 20, 2009 (“Revised Margin Analysis Memo”). We gave BIM Seafood an opportunity to comment on the Revised Margin Analysis Memo. On March 30, 2009, BIM Seafood filed comments regarding the Department’s Revised Margin Analysis Memo. No other party filed comments and no party requested a public hearing. On April 15, 2009, the Department extended the time limit for the completion of the final results of this new shipper review by 60 days. See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Extension of Time Limit for Final Results of the Second New Shipper Review*, 74 FR 17453 (April 15, 2009).

Scope of the Order

The scope of the order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,¹ deveined or not deveined, cooked or

raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (“HTSUS”), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the order. In addition, food preparations, which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the order.

Excluded from the scope are: 1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the Pandalidae family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain battered shrimp. Dusted shrimp is a shrimp-based product: 1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; 2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; 3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; 4) with the non-shrimp content of the end product constituting between four and 10 percent of the product’s

total weight after being dusted, but prior to being frozen; and 5) that is subjected to individually quick frozen (“IQF”) freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by the order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the comments by BIM Seafood are addressed in the concurrent Issues and Decision Memorandum (“Issues and Decision Memo”), which is hereby adopted by this notice. A list of the issues which BIM Seafood raised and to which we respond in the Issues and Decision Memo is attached to this notice as an Appendix. The Issues and Decision Memo is a public document and is on file in the Central Records Unit (“CRU”), Main Commerce Building, Room 1117, and is accessible on the Web at <http://www.trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of information and comments received regarding our *Preliminary Results* and *Revised Margin Analysis Memo*, we have made revisions to the margin calculations for BIM Seafood. For all changes to the calculations, see the Issues and Decision Memo at Comment 1 and 2.

Final Results of the Review

The Department has determined that the final dumping margin for the POR is:

CERTAIN FROZEN WARMWATER SHRIMP FROM VIETNAM

Manufacturer/Exporter	Weighted-Average Margin (Percent)
BIM Seafood	0.00

¹ “Tails” in this context means the tail fan, which includes the telson and the uropods.

Assessment Rates

Upon issuance of the final results, the Department will determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above de minimis.

Cash-Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of the new shipper review for all shipments of subject merchandise by BIM Seafood, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (“Act”): (1) for subject merchandise produced and exported by BIM Seafood, the cash deposit rate will be zero; (2) for subject merchandise exported by BIM Seafood, but not manufactured by BIM Seafood, the cash deposit rate will continue to be the Vietnam-wide rate of 25.76 percent; and (3) for subject merchandise manufactured by BIM Seafood, but exported by any party other than BIM Seafood, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements will remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department’s presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (“APO”) of their

responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(5).

Dated: May 18, 2009.

Ronald K. Lorentzen,
Acting Assistant Secretary for Import Administration.

Appendix - Issues and Decision Memorandum

*Comment 1: International Freight
Comment 2: Raw Shrimp Count–Size Conversion*

[FR Doc. E9-12152 Filed 5-22-09; 8:45 am]
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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1620]

Grant of Authority for Subzone Status; Grafil, Inc. (Carbon Fiber), Sacramento, CA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for “* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,” and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board’s regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Sacramento-Yolo Port District, grantee of FTZ 143, has made application to the Board for authority to establish special-purpose subzone status

at the carbon fiber manufacturing plant of Grafil, Inc., located in Sacramento, California (FTZ Docket 37-2007, filed 8/14/2007);

Whereas, notice inviting public comment has been given in the **Federal Register** (72 FR 48612, 8/24/07); and,

Whereas, the Board adopts the findings and recommendations of the examiner’s report, and finds that the requirements of the FTZ Act and the Board’s regulations would be satisfied, and that approval of the application would be in the public interest, if approval were subject to the condition listed below;

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacture of carbon fiber at the Grafil, Inc., facilities, located in Sacramento, California (Subzone 143D), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board’s regulations, including Section 400.28, and also subject to the condition that approval is for an initial period of five years, subject to extension upon review.

Signed at Washington, DC, this 7th day of May 2009.

Ronald K. Lorentzen,
Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,
Executive Secretary.

[FR Doc. E9-12129 Filed 5-22-09; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel; Membership Solicitation

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of membership solicitation for Hydrographic Services Review Panel.

SUMMARY: This notice responds to the Hydrographic Services Improvement Act Amendments of 2002, Public Law 107-372, which requires the Under Secretary of Commerce for Oceans and Atmosphere to solicit nominations for membership on the Hydrographic Services Review Panel (the Panel). This advisory committee will advise the Under Secretary on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act of 1998, and