



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-900]

Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Covered Merchandise Referral and Initiation of Scope Inquiry

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

SUMMARY: Pursuant to the Enforce and Protect Act of 2015 (EAPA), the Department of Commerce (Commerce) received a covered merchandise referral from U.S. Customs and Border Protection (CBP) in connection with a CBP EAPA investigation concerning the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (China). In accordance with EAPA, Commerce intends to determine whether the merchandise subject to the referral is covered by the scope of this order and promptly transmit its determination to CBP. Commerce is providing notice of the referral and inviting participation from interested parties.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-5760.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 2016, the Trade Facilitation and Trade Enforcement Act of 2015 was signed into law, which contains Title IV – Prevention of Evasion of Antidumping and

Countervailing Duty Orders (short title “Enforce and Protect Act of 2015” or “EAPA”) (Pub. L. 114-125, 130 Stat. 122, 155, Feb. 24, 2016). Effective August 22, 2016, section 421 of the EAPA added section 517 to the Tariff Act of 1930, as amended (the Act), which establishes a formal process for CBP to investigate allegations of the evasion of antidumping duty and/or countervailing duty orders. Section 517(b)(4)(A) of the Act provides that if, during the course of an EAPA investigation, CBP is unable to determine whether the merchandise at issue is covered merchandise within the meaning of section 517(a)(3) of the Act, it shall refer the matter to Commerce to make such a determination. Section 517(a)(3) of the Act defines covered merchandise as merchandise that is subject to an antidumping duty order issued under section 736 of the Act or a countervailing duty order issued under section 706 of the Act. Section 517(b)(4)(B) of the Act states that Commerce, after receiving a covered merchandise referral from CBP, shall determine whether the merchandise is covered merchandise and promptly transmit its determination to CBP. The Act does not establish a deadline within which Commerce must issue its determination.

On December 17, 2019, Commerce received a covered merchandise referral from CBP regarding CBP EAPA Investigation No. 7354,¹ which concerns the antidumping duty order on diamond sawblades from China.² CBP explained that the petitioner’s allegation involves

¹ See CBP’s Letter, “Covered Merchandise Referral Request for EAPA Investigation 7354, Imported by Gogo International, Inc., and Concerning the Investigation of Evasion of the Antidumping Duty Order on Diamond Sawblades and Parts Thereof from the People’s Republic of China (A-570-900),” dated December 17, 2019. Commerce intends to make available this document and any supporting documents on Enforcement and Compliance’s Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS) within five days of publication of this notice.

² See *Diamond Sawblades and Parts Thereof from the People’s Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 FR 57145 (November 4, 2009) (order).

diamond sawblades from China transshipped through Canada in one of the two channels of transshipment below:

- Channel 1: Produced and exported by Protech Diamond Tools Inc. (Protech) and imported by Gogo International, Inc. (Gogo).
- Channel 2: Produced by Protech and exported by Gogo.

CBP requested and obtained information from Gogo. CBP has requested that Commerce issue a determination as to whether the following categories of diamond sawblades exported through either one of the two channels are covered merchandise subject to the antidumping duty order:

- Category 1: Core and segments both sourced from China; joined in Canada.
- Category 2: Core sourced from China and segments not sourced from China; joined in Canada.
- Category 3: Segments sourced from China and core not sourced from China; joined in Canada.

On February 20, 2020, Commerce published the affirmative final determination of the anti-circumvention inquiry on the antidumping duty order on diamond sawblades from China.³ In the *Final Determination*, Commerce found that diamond sawblades produced in Canada by Protech with cores and segments produced in China and subsequently exported from Canada by Protech to the United States were circumventing the antidumping duty order.⁴ The *Final Determination* covers Category 1 exported through Channel 1.

Notification to Interested Parties

In accordance with 19 CFR 351.225(b), Commerce is hereby notifying interested parties that it has received the covered merchandise referral referenced above and will begin a new

³ See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Determination of Anti-Circumvention Inquiry*, 85 FR 9737 (February 20, 2020) (*Final Determination*).

⁴ *Id.*, 85 FR at 9738-39. As explained in the *Final Determination*, because Protech failed to cooperate with Commerce's request for information in that anti-circumvention inquiry, Commerce found that Protech is not currently able to identify diamond sawblades produced with non-Chinese origin cores and/or non-Chinese origin segments. Accordingly, Commerce did not implement a certification process for Protech and is requiring cash deposits on all entries of diamond sawblades produced and exported by Protech in Canada. *Id.*, 85 FR at 9739.

segment of the proceeding by initiating a scope inquiry concerning the merchandise covered under all categories and exported through either one of the two channels, with the exception of Category 1 exported through Channel 1, which is covered by the *Final Determination*. Based on our finding in the scope inquiry, we intend to notify CBP as to whether the merchandise subject to the referral is covered merchandise within the meaning of section 517(a)(3) of the Act. We will inform CBP of our *Final Determination* which covers merchandise under Category 1 exported through Channel 1.

Additionally, Commerce intends to provide interested parties with the opportunity to participate in this segment of the proceeding, including through the submission of comments, and, if appropriate, new factual information and verification. Specifically, Commerce will notify parties on the segment-specific service list for this segment of the proceeding of a schedule for comments. In addition, Commerce may request factual information from any party to assist in making its determination, including soliciting information directly from Protech and Gogo to conduct our analysis, and may verify submissions of factual information, if Commerce determines that such verification is appropriate. Commerce intends to issue a final determination within 120 days of the publication of this notice (this deadline may be extended if it is not practicable to complete the final determination within 120 days) and will promptly transmit its final determination to CBP, in accordance with section 517(b)(4)(B) of the Act.

Commerce may consider conducting a separate anti-circumvention inquiry regarding the merchandise described in CBP's covered merchandise referral, with the exception of the merchandise already determined to have been circumventing the order in the *Final Determination*, if parties submit the necessary information addressing the criteria for an anti-

circumvention inquiry, in accordance with section 781 of the Act. Interested parties are requested to file such comments and information onto the record of this proceeding within 30 days of the publication of this notice in the *Federal Register*.

Interested parties that wish to participate in the scope inquiry being initiated now, and receive notice of the final determination, must submit their letters of appearance as discussed below. Further, any party desiring access to business proprietary information in this segment of the proceeding must file an application for access to business proprietary information under administrative protective order (APO), as discussed below.

Finally, we note that scope inquiries initiated in response to a CBP covered merchandise referral are a new type of proceeding at Commerce.⁵ Commerce intends to develop its practice and procedures in this area as it gains more experience.

Scope of the Order

For a complete description of the scope of the order, *see* the Appendix to this notice.

Filing Requirements

All submissions to Commerce must be filed electronically using ACCESS.⁶ An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed

⁵ See *Certain Hardwood Plywood from the People's Republic of China: Notice of Covered Merchandise Referral and Initiation of Scope Inquiry*, 85 FR 3024 (January 17, 2020); *Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Covered Merchandise Referral and Initiation of Scope Inquiry*, 85 FR 4947 (January 28, 2020).

⁶ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), as amended in *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date of receipt by the applicable deadlines.

Letters of Appearance and APO

Interested parties that wish to participate in this segment of the proceeding and be added to the public service list for this segment of the proceeding must file a letter of appearance in accordance with 19 CFR 351.103(d)(1), with one exception: the parties publicly identified by CBP in the covered merchandise referral (referenced above) are not required to submit a letter of appearance, and will be added to the public service list for this segment of the proceeding by Commerce.

Within 24 hours of this notice being signed, Commerce placed a request for an APO segment on the record⁷ and established an APO segment for use in this proceeding. Commerce intends to place the business proprietary versions of the documents contained in the covered merchandise referral on the record of this proceeding in ACCESS within five days of publication of this notice.

Interested parties must submit applications for disclosure under the APO in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to this segment of the proceeding, with one exception: APO applicants representing the parties that have been identified by CBP as an importer in the covered merchandise referral

⁷ See Memorandum, "Diamond Sawblades and Parts Thereof from the People's Republic of China: APO Request," dated concurrently with this notice.

(referenced above) are exempt from the additional filing requirements for importers pursuant to 19 CFR 351.305(d).

Dated: February 24, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix

Scope of the Order

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of the order are semi-finished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the order. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the order. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the order. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the order.

Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, Commerce included the 6804.21.00.00 HTSUS classification number to the customs case reference file, pursuant to a request by U.S. Customs and Border Protection.⁸ Pursuant to requests by CBP, Commerce included to the customs case reference file the following HTSUS classification numbers: 8202.39.0040 and 8202.39.0070 on January 22, 2015, and 6804.21.0010 and 6804.21.0080 on January 26, 2015.⁹

The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

⁸ See *Diamond Sawblades and Parts Thereof from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 76128 (December 6, 2011).

⁹ See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 64331 (December 14, 2018) and accompanying Issues and Decision Memorandum at 3.

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