



U.S. Customs and
Border Protection

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Public Version

EAPA Case Number: 7184

Yan Li
Diamond Tools Technology
9339 Castlegate Dr.
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Re: Notice of initiation of an investigation on Diamond Tools Technology LLC and determination as to whether CBP has found a reasonable suspicion of evasion of the antidumping duty order on Diamond Sawblades from the People's Republic of China

Dear Mr. Li,

This letter is to inform you that U.S. Customs and Border Protection ("CBP") has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (EAPA) for Diamond Tools Technology ("DTT"). Specifically, CBP is investigating whether DTT has evaded the antidumping duty order on diamond sawblades from the People's Republic of China ("China"), A-570-900, with its entries of merchandise into the United States. There is evidence in the allegation that can be substantiated through an on-site verification to discern whether there is a reasonable suspicion that DTT has entered merchandise into the United States through evasion. Therefore, CBP did not reach an affirmative determination as to a reasonable suspicion of evasion by June 20, 2017, and therefore, did not begin interim measures on that date.

Period of Investigation

Pursuant to 19 C.F.R. §165.2, entries covered by an EAPA investigation are those “entries of allegedly covered merchandise made within one year before the receipt of an allegation....” Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.” Diamond Sawblades Manufacturers Coalition (“DSMC”) filed the allegation on February 24, 2017. On March 1, 2017, CBP acknowledged receipt of the properly filed allegation three business days later. Therefore, the entries covered by this investigation are those that entered for consumption, or were withdrawn from warehouse for consumption, from March 1, 2016, through the pendency of this investigation.

Initiation

On March 22, 2017, the Trade Remedy Law Enforcement Directorate (TRLED), Office of Trade, initiated an investigation under EAPA as the result of an allegation, submitted by DSMC, as to evasion of antidumping duties. DSMC alleged that DTT is importing into the United States diamond sawblades of Chinese origin that are being transhipped through Thailand by Diamond Tools Technology (Thailand) Co., Ltd (“DTT Thailand”) in order to avoid the payment of antidumping duties.

The allegation outlines several factors supporting the initiation of an investigation. First, DSMC alleges that imports from Thailand nearly doubled in terms of value from \$5.8 million in 2012 to \$11.4 million in 2013. *See Allegation*, at 3. By 2016, DSMC explains that the value of imports from Thailand was 615 percent higher than it had been in 2012. *Id.* In support of this claim, DSMC provided a statement from a source who is experienced in the industry and monitored the import data of diamond sawblades from China and Thailand and noticed an “upsurge in imports from Thailand.” *See Allegation*, Att. A, at 1.

Second, DSMC alleged that DTT of Indianapolis, Indiana, established DTT Thailand, as a joint venture in Thailand, with Wuhan Wanbang Laser Diamond Tools Co. Ltd (“Wuhan”). Wuhan is a Chinese producer of diamond sawblades, whose products are subject to a 21.43 percent cash deposit for the AD order at issue. *See Allegation*, at 4. Further, DSMC alleges that DTT Thailand was importing diamond sawblades from China, relabeling them, and then exporting them to DTT in the United States. *Id.* Correspondingly, DSMC members’ noticed that DTT’s sales volumes in the United States were markedly higher than they had been previously, while the prices at which DTT was offering for the imported “Thai” sawblades were well below prevailing market levels. *Id.* This information prompted the allegor to obtain an investigator who visited the DTT Thailand facility. *Id.*

During the visit, the investigator noticed a low level of production activity, learned that the facility only had 16 employees, observed a large quantity of crates in the warehouse with Chinese language labels, and noticed only a limited amount of equipment that was insufficient for significant production operations. *See* Allegation, Att. B, at 1. The investigator concluded that the observations made and information gathered at DTT Thailand’s facility “are consistent with the conclusion that DTT Thailand is engaged in the transshipment of Chinese origin diamond sawblades to the United States.” *Id.* at 2. Lastly, DSMC provided public import data demonstrating that DTT had imported diamond sawblades from Thailand within the last 12 months. *See* Allegation, Att. D.

On March 1, 2017, CBP acknowledged receipt of DSMC’s properly filed EAPA allegation. CBP will initiate an investigation if it determines that “[t]he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion.” *See* 19 C.F.R. § 165.15(b). Evasion is defined as “the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.” *See* 19 C.F.R. § 165.1. Thus, the allegation must reasonably suggest not only that merchandise subject to an AD/CVD order was entered into the United States by the importer alleged to be evading, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD/CVD cash deposits or other security.

DSMC provided evidence to support its allegation of transshipment of diamond sawblades to reasonably suggest that merchandise was entered through evasion by a material false statement or act, or material omission that resulted in the reduction or avoidance of applicable AD cash deposits or other security. DSMC provided import data showing that DTT is importing merchandise from Thailand and alleged that DTT Thailand is a joint business venture between DTT and a Chinese based manufacturer of diamond sawblades. The investigator’s statement reasonably suggests that there is insufficient manufacturing by DTT Thailand to support its exports to DTT. For all of the aforementioned reasons, TRLED determined on March 22, 2017, that the allegation reasonably suggested that covered merchandise entered the customs territory of the United States through evasion, pursuant to 19 USC § 1517 (b)(1), and therefore, initiated an investigation.

Interim Measures

On June 20, 2017, CBP did not being interim measures because TRLED was unable to verify discrepancies on the record, and as a result, make a determination as to whether

there was a reasonable suspicion that the importer entered covered merchandise into the customs territory of the United States through evasion, within the time constraints specified in 19 U.S.C. §1517(e). After initiation, CBP issued a CBP Form (CF) 28 to DTT on March 24, 2017. CBP requested information relating to the origin of the merchandise under investigation for one entry during the period of investigation, including the full production records, a factory profile, the number of employees, production capacity, and equipment used, and also asked DTT to provide photographs of the manufacturing equipment and export documentation. The CF28 also inquired as to the name of DTT's owner and officers and how it was related to DTT Thailand. Additionally, the CF28 requested documentation for the transaction, including proof of payment, purchase orders, bills of lading, etc.

DTT responded to the CF28 on April 25, 2017. It explained that DTT Thailand is located in [], Thailand and reported that it employed [] people, contrary to DSMC's allegation of 16. DTT provided a list and pictures of DTT Thailand's factory equipment and submitted a factory profile, which asserted that DTT Thailand "own{s} a full production line of [] which has [] machines and [] machines, {that} can make {it} have the capacity of [] pcs of segments and [] pcs of [] diamond blades per day." This information is inconsistent with the site visit findings of DSMC's investigator, who claims to have observed a limited amount of equipment and insufficient production operations at the factory. Likewise, DTT provided a certificate of origin, [], which is discrepant with DSMC's claim that DTT Thailand's merchandise is manufactured in China and relabeled, repackaged, and exported to the United States.

Similarly, DTT provided invoices to evidence that that DTT Thailand receives supplies, albeit [] rather diamond sawblades as alleged, from [] as well as other materials from different sources including []

[]. DTT attached copies of [], "Application{s} for Outward Remittance" for some of those suppliers. Further, DTT provided bill payment stubs for payments made respectively to [] and to [] along with the corresponding confirmations of international wire bank transfers to each from []. DTT also provided a translated version of DTT Thailand's business license Certificate of Registration, which stated that the company's directors are []. In addition, DTT's CF28 response stated that DTT Thailand's officers are [] and its owners are []

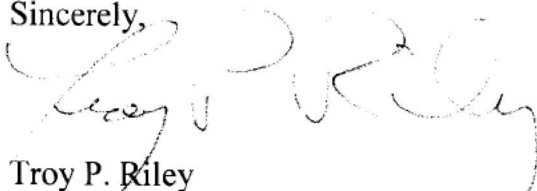
[]. Moreover, DTT disclosed that its officers are [] and that those same individuals are []

On May 4, 2017, CBP sent follow up questions to DTT's CF28 responses. DTT responded to the follow up questions on May 15, 2017. DTT's response stated that [] "is one of the shareholders of []. DTT also reported that "even though DTT-US, Wan Bang, and DTT-Thailand are [], each of them is an [] with its own business objectives set forth by its board of directors. [] are entered at arm-length deals." These explanations differ from DSMC's claims that DTT Thailand exists to simply transship goods through to DTT-US.

Accordingly, the record evidence presented above has several inconsistencies that CBP is unable to verify outside of an on-site visit. Specifically, there are significant discrepancies pertaining to production, employees, equipment, and production capacity between DTT's CF 28 response and DSMC's allegation, which can be best clarified by an on-site visit. This information must be further investigated before CBP would be able to apply interim measures. However, as a result of the limited amount of time between the receipt of the discrepant information and the deadline for determination as to interim measures, CBP did not have sufficient time to schedule the site visit prior to June 20, 2017, deadline. For this reason, CBP did not determine to begin interim measures on June 20th, 2017, and conducted its site visit for June 21, 2017, of DTT Thailand's facility. The results of that visit and CBP's actions therefrom will be provided in a subsequent letter.

For any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP, as well as to Mr. Pickard, counsel for DSMC, at dpickard@wileyrein.com. See 19 C.F.R. §§165.4, 165.23(c), and 165.26. Should you have any questions regarding this investigation, please feel free to contact us at eapallegations@cbp.dhs.gov. Please include your EAPA case Number "7184" in the subject line of your email. Additional information on these investigations, including the applicable statute and regulations, may be found on CBP's website at: <https://www.cbp.gov/trade/trade-enforcement/titea/enforce-and-protect-act-eapa>.

Sincerely,



Troy P. Riley
Executive Director
Trade Remedy & Law Enforcement Directorate
Office of Trade