



**U.S. Customs and
Border Protection**

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PUBLIC VERSION

EAPA Case Number: 7184

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Re: Notice of Final Determination as to Evasion

Dear Mr. Pickard and Mr. Barclay,

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) Investigation Number 7184, U.S. Customs and Border Protection (CBP) has determined that there is substantial evidence that Diamond Tools Technology LLC (DTT) entered merchandise covered by antidumping duty (AD) order A-570-900¹ into the customs territory of the United States through evasion. Substantial evidence demonstrates that DTT imported into the United States diamond sawblades from the People's Republic of China (China) through Thailand and claimed that the merchandise was Thai-origin. DTT did not declare that the merchandise was subject to an AD order upon entry and, as a result, no cash deposits were collected on the merchandise.

Background

On February 24, 2017, the Diamond Sawblades Manufacturers Coalition² (DSMC) submitted an allegation to CBP that DTT was evading the AD order by importing into the United States diamond sawblades that were produced in China and then transshipped through Thailand, with

¹ 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) (AD order).

² The individual members of the DSMC are Diamond Products Inc. and Western Saw Inc.

Thailand falsely declared as the country of origin.³ The allegation stated that DTT of Indianapolis, Indiana established Diamond Tools Technology (Thailand), Ltd. (DTT Thailand) as a joint venture in Thailand with Wuhan Wanbang Laser Diamond Tools Co. Ltd (Wanbang). Wanbang is a Chinese producer of diamond sawblades whose products are subject to the AD order at issue.⁴ The allegation claimed that DTT Thailand was importing diamond sawblades from China into Thailand, relabeling them as “Made in Thailand,” and then exporting them to DTT in the United States.⁵ DSMC provided public import data demonstrating that DTT imported diamond sawblades from Thailand within the last 12 months.⁶ DSMC noted that exports of diamond sawblades rapidly increased into the United States from Thailand, *i.e.*, the value of diamond sawblades imported from Thailand rose from \$11.4 million in 2013 to \$41.7 million in 2016.⁷ Correspondingly, DSMC claimed that DTT’s sales volumes in the United States were markedly higher than they had been previously and the prices of these imported “Thai” sawblades were well below the prevailing market rate.⁸ This information prompted the allegor to obtain an investigator to look into DTT Thailand capabilities.⁹

During [] DTT Thailand’s facility, the investigator noticed low levels of production activity and learned that the facility had between 16 to 20 employees. In [], only six employees were seen in the warehouse/production area.¹⁰ The investigator also observed a large quantity of crates with Chinese language labels in the warehouse and a limited amount of equipment and production activity.¹¹ The investigator concluded, [], that the findings 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.”¹²

On March 22, 2017, CBP initiated an EAPA investigation pursuant to Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.”¹³ CBP subsequently issued a CF-28 questionnaire to DTT regarding certain entries of diamond sawblades and requested documentation pertaining to the relevant merchandise’s production records and DTT’s corporate owners.¹⁴ DTT responded with the pertinent records and explained that DTT, DTT Thailand, and Wanbang are [].¹⁵ DTT also provided documentation indicating that a

³ See DSMC Allegation Concerning DTT, dated February 24, 2017 (Allegation).

⁴ *Id.* at 4.

⁵ *Id.*

⁶ *Id.* at Attachment D.

⁷ *Id.* at 3.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 4.

¹¹ *Id.* at Attachment B, page 1.

¹² *Id.* at 2.

¹³ See Memorandum to the File, “Initiation of Investigation in EAPA Case 7184,” dated March 22, 2017.

¹⁴ See Public Version of CF-28 issued from CBP to DTT, dated March 24, 2017.

¹⁵ See Letter from DTT, “ANS for CBP 28,” dated April 24, 2017 (CF-28); see also Letter from DTT, “ANS for question 14 F) on CBP 28 /entry []6653,” dated May 15, 2017; see also Letter from DTT, “ANS for question 14 F) on CBP 28 /entry []6653,” dated June 1, 2017.

company called [] supplied DTT Thailand with diamond sawblade cores.¹⁶ In addition, DTT stated that it employs [] staff.¹⁷

On June 21, 2017, CBP officials visited DTT Thailand's facility in [], Thailand with minimal advanced notice.¹⁸ CBP officials first met with the Vice General Manager and Production Manager in a conference room for an interview. In the initial interview, DTT Thailand officials reported that the company can manufacture up to [] units of diamond sawblades annually, in various sizes, and exports about 50 percent of its production to the United States.¹⁹ However, later in the interview, company officials stated that the company produces [] units, of all sizes, monthly for export to the United States and [] units monthly for non-U.S. exports. Thus, the company officials indicated that the company exports [] units annually rather than the [] units initially claimed. Yet, its exports to the United States in 2016 were [] units; if exports to the United States make up 50 percent of production, then production would equal about [] units per year.²⁰

Following this interview, DTT Thailand representatives led CBP officials on a tour of the production floor. CBP officials observed DTT Thailand's manufacturing and work flow processes and noted that about [] of the facility's machines were not in use and [] of the employees were responsible for operating more than one station.²¹ Moreover, while observing DTT Thailand's packaging activities, CBP officials noticed heat-sealed, hard plastic packages of diamond sawblades at the packing station with "Made in Thailand" labels on the outside of the packages.²² However, when CBP officials inquired about the equipment used for that type of packaging, DTT Thailand's representatives failed to identify any equipment that could package in that manner.²³

Additionally, CBP officials noticed that DTT Thailand stored unsegmented sawblades and other raw materials in the middle of the production floor rather than in a warehouse area and that packaged goods and finished goods awaiting shipping for export were simply stored on pallets on the production floor. As a result, CBP officials inquired whether DTT Thailand had any warehouse space. [] the Human Resource and Purchase-Sale Manager leading the CBP team on the tour, informed CBP officials that the facility had no warehousing space.²⁴ However, CBP officials later observed and photographed a facility door marked "[]" in Thai and English, which the CBP officials were not permitted to enter.²⁵

¹⁶ See CF-28 at Attachment 8.

¹⁷ *Id.* at Attachment 9.

¹⁸ See CBP Memorandum, "Diamond Tools Technology (DTT) Thailand – Site Visit Report," dated June 22, 2017 (Site Visit Report); see also Letter from DTT Thailand, "DTT Thailand's Response to CBP's Sept. 11, 2017 Request for Information," dated October 5, 2017 (DTT Thailand's RFI Response), in which DTT specifies the location of its manufacturing plant.

¹⁹ See Site Visit Report at 1.

²⁰ *Id.* at 1-2.

²¹ *Id.* at 1-4.

²² *Id.* at 4, 14.

²³ *Id.* at 4.

²⁴ *Id.* at 4-5.

²⁵ *Id.* at 5, 16.

In sum, DTT Thailand’s refusal to permit inspection of certain areas of its facility, including the one labeled []; the fact there were sawblades on premises that did not appear to have been packed onsite; and the discrepant information about the facility’s actual production capacity led CBP to find reasonable suspicion that DTT evaded AD duties by entering into the United States subject merchandise transshipped from China through DTT Thailand and declaring it to be of Thai-origin.

Consequently, on June 27, 2017, CBP issued separately a notice of initiation of an investigation to DTT and the alleged²⁶ and a notice of interim measures in accordance with 19 USC 1517(e).²⁷ As part of interim measures, CBP suspended the liquidation of DTT’s entries entered after the initiation of investigation pursuant to its authority under 19 USC 1517(e). After interim measures, CBP continued to investigate the allegation by issuing a request for information (RFI) to DTT and DTT Thailand on September 11, 2017,²⁸ to which DTT and DTT Thailand submitted timely responses.²⁹ On October 10, 2017, DTT and DTT Thailand voluntarily submitted factual information.³⁰ CBP issued a supplementary RFI on March 6, 2018, and DTT submitted a timely response on March 13, 2018.³¹

In its RFI response, DTT Thailand stated that it produces its own diamond sawblade segments in Thailand, but also sources [].³² DTT Thailand further noted that it “then appl{ies} and weld{s} in Thailand segments to steel cores.”³³ Because DTT Thailand assembled cores and segments in Thailand, but did not source all inputs from Thailand, CBP was unable to determine whether the merchandise was covered under the scope of the AD order. Therefore, CBP issued a covered

²⁶ See Letter from CBP, “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,” dated June 27, 2017 (Notice of Initiation). This notice of initiation differs from the initiation memorandum dated March 22, 2017, in that the initiation memorandum was internally issued to CBP personnel and not issued to the alleged or the importer under investigation.

²⁷ See Letter from CBP, “Notice of interim measures taken as to Diamond Tools Technology LLC concerning a reasonable suspicion as to evasion of the antidumping duty order on Diamond Sawblades from the People’s Republic of China,” dated June 27, 2017 (Notice of Interim Measures); *see also* 19 CFR 165.24.

²⁸ See Letter from CBP, “Request for Information to Importer with regards to Enforce and Protect Act (EAPA) investigation of whether Diamond Tools Technology LLC has evaded the antidumping duty order on Diamond Sawblades from the People’s Republic of China, A-570-900, with entries of merchandise into the United States,” dated September 11, 2017; *see also* Letter from CBP, “Request for Information to Identified Manufacturer with regards to Enforce and Protect Act (EAPA) investigation of whether Diamond Tools Technology LLC has evaded the antidumping duty order on Diamond Sawblades from the People’s Republic of China, A-570-900, with entries of merchandise into the United States,” dated September 11, 2017.

²⁹ See Letter from DTT, “DTT USA’s Response to CBP’s Sept. 11, 2017 Request for Information,” dated October 5, 2017; *see also* DTT Thailand’s RFI Response.

³⁰ See Letter from DTT and DTT Thailand, “Public Version of DTT USA’s and DTT Thailand’s Joint Voluntary Submission of Factual Information,” dated October 10, 2017.

³¹ See Letter from CBP, “Supplemental Request for Information to Importer with regards to Enforce and Protect Act (EAPA) investigation of whether Diamond Tools Technology LLC has evaded the antidumping duty order on Diamond Sawblades from the People’s Republic of China, A-570-900, with entries of merchandise into the United States,” dated March 6, 2018; *see also* Letter from DTT, “DTT USA EAPA Case 7184 Supplemental RFI Response,” dated March 13, 2018.

³² See DTT Thailand’s RFI Response at 2-3.

³³ *Id.* To briefly summarize, a diamond sawblade core is the circular steel plate onto which the segments are then joined. These individual segments have diamonds adhered to one of their edges.

merchandise referral to the U.S. Department of Commerce (Commerce) on November 21, 2017, in accordance with 19 USC 1517(b)(4)(A).³⁴ Pursuant to 19 USC 1517(b)(4)(C), the deadlines for this investigation were stayed pending Commerce’s response to the covered merchandise referral.³⁵

Between April 17 and April 20, 2018, CBP conducted a verification of DTT Thailand’s manufacturing facilities to confirm the veracity of the documents provided by DTT Thailand throughout the investigation related to its sales and production of diamond sawblades and to verify its production capacity. Unlike the 2017 site visit, CBP coordinated this visit with DTT Thailand about a month in advance and provided DTT Thailand with an outline of the CBP team’s areas of inquiry and required documentation.³⁶ CBP issued the verification report on December 18, 2018.³⁷ The report discussed the documents CBP examined, DTT Thailand’s production capabilities, and DTT Thailand’s sourcing of materials. During the verification, CBP noted that DTT Thailand could produce the amount of exports it sent to the United States, saw that production operations included the assembly of cores and segments, and verified that diamond sawblade cores and segments were sourced mainly from China.³⁸ CBP personnel photographed boxes [] and containing diamond sawblade cores with labels from DTT Thailand’s supplier [] covering labels from [].³⁹

On July 10, 2019, Commerce issued its official response to CBP detailing its finding on CBP’s covered merchandise referral.⁴⁰ In this official response, Commerce found that “diamond sawblades made in Thailand by Diamond Tools using Chinese cores and Chinese segments are subject to the AD order, but diamond sawblades made in Thailand by Diamond Tools using either Thai cores or Thai segments are not subject to the AD order.”⁴¹ In reaching its decision, Commerce relied on its findings from a separate proceeding, which happened to be an anti-circumvention investigation involving DTT.⁴² On July 16, 2019, CBP notified DSMC and DTT of Commerce’s finding on CBP’s covered merchandise referral, of the removal of the stay on this EAPA case’s deadlines, and placed all potentially pertinent Commerce documents on the administrative record.⁴³

³⁴ See Letter from CBP, “Scope Referral Request for merchandise under EAPA Investigation 7184, imported by Diamond Tools Technology LLC and concerning the investigation of evasion of the antidumping duty order on diamond sawblades from the People’s Republic of China (A-570-900),” dated November 21, 2017 (Covered Merchandise Referral). A covered merchandise referral is also known as a scope referral. See also 19 CFR 165.16.

³⁵ See also 19 CFR 165.16(d).

³⁶ See Letter from CBP to DTT Thailand, “DTT Thailand Site Verification Agenda,” dated March 28, 2018.

³⁷ See CBP Report, “Detailed Summary of Analysis,” dated December 18, 2018 (Verification Report).

³⁸ *Id.* at 19-20, 23.

³⁹ *Id.* at 14.

⁴⁰ See Commerce Memorandum, “Diamond Sawblades and Parts Thereof from the People’s Republic of China: Notification of the Final Determination of the Anti-Circumvention Inquiry in Response to the Covered Merchandise Referral,” dated July 10, 2019 (Commerce’s Response to the Covered Merchandise Referral).

⁴¹ *Id.* at 6.

⁴² *Id.* at 4-5; see also *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Final Determination of Anti-Circumvention Inquiry*, 84 FR 33920 (July 16, 2019) and accompanying issues and decision memorandum at Comment 6.

⁴³ See 19 CFR 165.16(c) - (e).

On August 5, 2019, DTT submitted its written arguments concerning CBP's determination on the allegation of evasion.⁴⁴ On August 20, 2019, the alleger submitted its response to DTT's written arguments.⁴⁵

Final Determination as to Evasion

Under 19 USC 1517(c)(1)(A), to reach a final determination as to evasion in this case, CBP must, "make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion." 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 of any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise."⁴⁶ Thus, the statute outlines three elements for CBP to address in reaching a determination: 1) whether the entries in question are covered merchandise (*i.e.*, merchandise that is subject to an AD/CVD order) when they entered into the customs territory of the United States, 2) whether such entry was made by a material false statement or act or material omission, and 3) whether there was a resulting reduction or avoidance of applicable AD/CVD cash deposits or other security.

Whether the Entries in Question are Covered Merchandise When Entered into the United States

Substantial evidence on the record demonstrates that DTT imported covered merchandise into the customs territory of the United States. CBP verified onsite that DTT Thailand sourced Chinese-origin cores and Chinese-origin segments and joined them in Thailand. Commerce found this merchandise covered by the AD order.⁴⁷ Specifically, Commerce found that "diamond sawblades made in Thailand by Diamond Tools using Chinese cores and Chinese segments are subject to the AD order, but diamond sawblades made in Thailand by Diamond Tools using either Thai cores or Thai segments are not subject to the AD order."⁴⁸ As a result, the type 01 entries that DTT made for its imports of diamonds sawblades from DTT Thailand into the United States should have been entered as type 03 entries and cash deposits collected.

In written arguments, DTT claimed that Commerce based its covered merchandise decision on an anti-circumvention investigation that, as a matter of law, is prospective in its effects.⁴⁹ Therefore, entries of diamond sawblades assembled in Thailand from Chinese-origin cores and Chinese-origin segments occurring before the initiation of the anti-circumvention inquiry, *i.e.* December 7, 2017, were not covered merchandise. However, the covered merchandise referral that CBP issued within this EAPA investigation is distinct from the anti-circumvention

⁴⁴ See Letter from DTT, "Public Version of DTT USA's Arguments," dated August 5, 2019 (DTT's Written Arguments).

⁴⁵ See Letter from the Alleger, "EAPA Cons. Case No. 7184, Investigation Into Diamond Tools Technology LLC: DSMC's Response to Written Arguments," dated August 20, 2019.

⁴⁶ See 19 CFR 165.1; *see also* 19 USC 1517(a)(5)(A).

⁴⁷ See Verification Report at 13-15, 19-23; *see* Commerce's Response to the Covered Merchandise Referral at 6.

⁴⁸ *Id.* at 6.

⁴⁹ See DTT's Written Arguments at 8.

investigation. A covered merchandise referral is a letter in which CBP essentially asks Commerce, whether for the purposes of an EAPA investigation, the merchandise described in an EAPA allegation is covered by an AD/CVD order. To answer this question, Commerce in its discretion may choose to conduct an administrative proceeding.⁵⁰ As Commerce noted, 19 USC 1517(b)(4)(B) “only instructs Commerce to transmit its determination of whether the merchandise described in the Covered Merchandise Referral is ‘covered merchandise.’”⁵¹ Consequently, it is the prerogative of Commerce to decide how it reaches a decision on the covered merchandise referral that Commerce then conveys to CBP. In this instance, Commerce used “the concurrent anti-circumvention inquiry” due to its “potentially overlapping issues.”⁵²

Although Commerce used the anti-circumvention investigation, it is an administrative proceeding that is separate from the EAPA investigation and contains its own distinct fact patterns, statutory requirements, and liquidation procedures. In this instance, the petitioner in the Commerce proceeding, independently from the EAPA investigation, requested the anti-circumvention investigation on three different companies and several months before CBP sent its covered merchandise referral to Commerce.⁵³ Furthermore, five of the six issues in the anti-circumvention investigation were unrelated to the EAPA investigation; the only issue that overlapped with the EAPA investigation was the one issue that pertained to the scope of the order.⁵⁴

CBP has its own Congressionally mandated statutory authority and regulations with respect to entries subject to an EAPA investigation.⁵⁵ Under 19 USC 1517(d)(1)(B) and (e)(2) CBP has the authority to extend the period for liquidating unliquidated entries that entered *before* the initiation of the EAPA investigation and to suspend liquidation for entries made after the initiation of the investigation.⁵⁶ This authority is independent of Commerce’s authority to conduct an anti-circumvention investigation under 19 USC 1677j and to instruct CBP to suspend liquidation pursuant to the findings of the anti-circumvention investigation under 19 CFR 351.225(l).

Moreover, Commerce in its covered merchandise referral letter did not issue liquidation instructions to CBP pertaining to the EAPA investigation, and instead explicitly stated that Commerce’s regulations do not address CBP’s independent authority to suspend liquidation of entries covered by an EAPA investigation. Commerce merely stated that merchandise subject to the referral was covered by the antidumping duty order on diamond sawblades from China.⁵⁷ Commerce stated that “in the context of the anti-circumvention inquiry, Commerce will direct CBP to suspend liquidation for such entries on or after the date of initiation of the anti-

⁵⁰ See 19 USC 1517(b)(4)(A); see also 19 CFR 165.16.

⁵¹ See Commerce’s Response to the Covered Merchandise Referral at 5.

⁵² See CBP Memorandum, “Department of Commerce Letters Concerning Scope Referral Request for EAPA Inv. No. 7184,” dated March 4, 2019 at Attachment 1.

⁵³ See *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Initiation of Anti-Circumvention Inquiry*, 82 FR 57709, 57710 (December 7, 2017).

⁵⁴ See *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Final Determination of Anti-Circumvention Inquiry*, 84 FR 33920 (July 16, 2019) and accompanying issues and decision memorandum.

⁵⁵ See 19 USC 1517(d)(1)(B) and (e)(2); see also 19 CFR 165.2.

⁵⁶ See also 19 CFR 165.24; see also 19 CFR 165.28.

⁵⁷ See, generally, Covered Merchandise Referral.

circumvention inquiry. Commerce's regulations do not address CBP's independent authority to suspend liquidation for purposes of its EAPA investigation under section 517 of the Act {19 USC 1517}.”⁵⁸

Based on Commerce's response to the covered merchandise referral, we find that DTT's entries of diamond sawblades joined in Thailand were subject to the AD order on diamond sawblades. Because Commerce did not place any temporal limitation or provide liquidation instructions to CBP with respect to entries covered by the EAPA investigation, we find that Commerce's response to the covered merchandise referral applies to all entries covered by the EAPA investigation, including those made prior to the initiation of anti-circumvention investigation.

Whether the Entry of the Merchandise was Made by a Material False Statement or Act or Material Omission

Substantial evidence on the record demonstrates that DTT entered covered merchandise by means of false statements or omissions. Because EAPA does not have a knowledge requirement for evasion as defined under 19 CFR 165.1, there is no requirement that the importer know of the material or false statement and, thus, CBP does not need to determine any level of culpability only that evasion occurred with entry. DTT made false statements to CBP when it claimed its entries as type 01 entries. Moreover, Commerce's response to the covered merchandise referral confirms that Chinese-origin cores and Chinese-origin segments joined in Thailand fall under the scope of the order. Finally, CBP verified that DTT joined Chinese-origin cores and Chinese-origin segments in Thailand. Thus, DTT evaded the AD order by not entering diamond sawblade imports from Thailand as type 03 entries and posting the appropriate cash deposits.

At verification, CBP officials found that DTT Thailand's diamond sawblade cores and segments were mostly purchased for the assembly of diamond sawblades through laser welding.⁵⁹ Although [] was listed as a major supplier of cores, CBP officials observed labels on boxes of cores from [] directly covering labels for [].⁶⁰ CBP officials also noted raw material supplies of segments stored in the warehouse with Chinese language labels.⁶¹ This observation corroborates DTT Thailand's RFI response in which they state that most of the segments DTT Thailand uses are sourced from a [].⁶² Furthermore, CBP officials found that the majority of cores issued in the production of the diamond sawblades at DTT Thailand were sourced from China. Namely, CBP officials found the core purchases for the period of investigation totaled [],⁶³ which was the majority of DTT Thailand's core inventory for the period.

DTT has stated that CBP's verification report noted that DTT Thailand had the capability to produce the diamond sawblades in the quantity they claimed. This is not in dispute. Rather, the

⁵⁸ See Commerce's Response to the Covered Merchandise Referral at 5.

⁵⁹ See Verification Report at 2.

⁶⁰ *Id.* at 14-15.

⁶¹ *Id.* at 23.

⁶² See DTT Thailand's RFI Response at 2-3.

⁶³ See Verification Report at 19.

issue is that CBP verified that segments and cores were sourced from Chinese producers of those inputs, and that DTT Thailand's production during the period of investigation used these source materials to produce diamond sawblades for export to the United States. In addition, Commerce's covered merchandise ruling determined that Chinese-origin cores and Chinese-origin segments joined in Thailand fall under the scope of the order. It is the combination of these two facts that demonstrates substantial evidence of evasion.

Although DTT Thailand may have had some degree of production of Thai-origin diamond sawblades containing either Thai-origin cores or segments, CBP officials established that DTT Thailand sourced a large number of Chinese origin cores and segments. Overall, DTT Thailand did not, in its imports to the United States, differentiate between covered and uncovered merchandise, *i.e.*, did not differentiate between Chinese-origin cores and Chinese-origin segments joined in Thailand and Thai-origin cores and Thai-origin segments joined in Thailand. These imports lacked clear documentation or labelling that distinguished their country of origin, and the evidence on the record shows that the covered and uncovered merchandise were comingled. This comingling of covered and uncovered merchandise created the opportunity for DTT to evade duties through the lack of differentiation. Therefore, we determine that all merchandise that does not identify the country-of-origin of its cores and segments is covered merchandise and that DTT Thailand evaded the AD order by importing Chinese-origin diamond sawblades and claiming that merchandise was Thai-origin on entry documents.⁶⁴

As previously detailed, Commerce clarified that the Chinese-origin diamond sawblades were covered merchandise and this clarification applies to the entire period of investigation under EAPA's regulations.⁶⁵ We note that it is the responsibility of the importer and manufacturer to ensure that imports into the customs territory of the United States comply with the law and to seek clarity concerning the compliance of any merchandise potentially subject to an AD/CVD order. DTT had ample opportunity to request a scope ruling from Commerce or to seek clarity from CBP during the years before this EAPA investigation. The fact that DTT did not seek to clarify whether its diamond sawblades containing Chinese-origin cores and segments were covered by the AD/CVD order and the fact that DTT still imported these diamond sawblades as Thai-origin further indicates that Wanbang and DTT Thailand set up their Thai operations to join Chinese-origin cores and segments that were labelled as Thai-origin, in order to avoid payment of AD/CVD duties on Chinese-origin diamond sawblades.

Whether There was a Resulting Reduction or Avoidance of Applicable AD/CVD Cash Deposits or Other Security

Because substantial evidence on the record demonstrates that DTT entered covered merchandise into the customs territory of the United States through evasion, DTT consequently avoided the payment of the applicable AD/CVD case deposits or security.⁶⁶

⁶⁴ *I.e.*, there is no merchandise on the record for which the country-of-origin of its cores and segments is clearly identified.

⁶⁵ See 19 CFR 165.2; see also 19 USC 1517(d)(1)(B) and (e)(2).

⁶⁶ See NTAG Initial Analysis Report and accompanying Data Report, dated March 14, 2017.

On the basis of the aforementioned analysis, CBP determines that substantial evidence exists demonstrating that DTT imported into the United States Chinese-origin diamond sawblades through Thailand and claimed that the merchandise was Thai-origin. DTT did not declare that the merchandise was subject to an AD order upon entry and, as a result, the requisite cash deposits were not collected on the merchandise.

Actions Taken Pursuant to the Affirmative Determination of Evasion

In light of CBP's determination that DTT entered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will continue to suspend or extend liquidation, as applicable, until instructed to liquidate entries subject to the investigation. For future entries of diamond sawblades from Thailand involving DTT Thailand, CBP will continue to require live entry, where the importer must post the applicable cash deposits prior to the release of merchandise into U.S. commerce. Finally, CBP will continue to evaluate the importer's continuous bonds in accordance with CBP's policies, and will continue to require single transaction bonds as appropriate. None of the above actions preclude CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,

Regina Walton

Regina Walton
Acting Director, Enforcement Operations Division
Trade Remedy & Law Enforcement Directorate
CBP Office of Trade