



EAPA Investigation 7354: Gogo International, Inc. (Notice of Covered Merchandise Referral, November 26, 2019)

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)

U.S. Customs and Border Protection ("CBP") is conducting an Enforce and Protect Act ("EAPA") investigation on the alleged transshipment through Canada of merchandise potentially subject to the antidumping duty order on diamond sawblades and parts thereof from the People's Republic of China (A-570-900) ("Order"). In accordance with section 517(b)(4)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 165.16, CBP submits this covered merchandise referral to the Department of Commerce ("Commerce") for its determination as to whether diamond sawblades assembled in Canada using diamond sawblade cores and diamond sawblade segments in the three scenarios outlined below are covered merchandise subject to the Order.

On September 11, 2019, the Trade Remedy Law Enforcement Directorate ("TRLED") within CBP's Office of Trade initiated an EAPA investigation based on a properly filed allegation submitted by the Diamond Sawblades Manufacturers' Coalition ("DSMC"). TRLED determined that DSMC's allegation reasonably suggested that Gogo International, Inc. ("Gogo") entered diamond sawblades into the customs territory of the United States by means of evasion. Specifically, DSMC alleged, in part, that Gogo imported into the United States diamond sawblades that Protech Diamond Tools Inc. ("Protech Canada") assembled in Canada using Chinese-origin segments and Chinese-origin cores.

In response to CBP requests for information via Customs Form 28, Gogo submitted documentation regarding diamond sawblades that it had imported into the United States. In particular, this documentation indicated that Gogo imported into the United States diamond sawblades that were assembled at Protech Canada's facility in Canada using Chinese-origin segments and Chinese-origin cores.

Referral Request

Section 517(b)(4)(A) of the Act states that "{i}f the {CBP} Commissioner receives an allegation... and is unable to determine whether the merchandise at issue is covered merchandise, the Commissioner shall—(i) refer the matter to the administering authority to

determine whether the merchandise is covered merchandise pursuant to the authority of the administering authority under title VII.” Section 517(a)(3) of the Act defines “covered merchandise” as “merchandise that is subject to (A) an antidumping duty order issued under section {736 of the Act} or (B) a countervailing duty order issued under section {706 of the Act}.”

The scope of the Order states that “semi-finished diamond sawblades, including diamond sawblade cores and diamond sawblade segments” are subject to the order. Although semi-finished diamond sawblades are subject to the Order, CBP is unable to determine whether the merchandise at issue is covered merchandise in each combination of inputs noted in the three scenarios below:

Scenario 1: Core and segments both sourced from China; joined in Canada.

Scenario 2: Core sourced from China and segments not sourced from China; joined in Canada.

Scenario 3: Segments sourced from China and core not sourced from China; joined in Canada.

Therefore, in the present EAPA investigation, CBP requires a determination on whether diamond sawblades produced in each of the three scenarios above are covered merchandise within the scope of the Order. Such a determination will assist CBP’s EAPA investigation in determining which merchandise is subject to the payment of antidumping duties. Accordingly, pursuant to section 517(b)(4)(A) of the Act, CBP submits this covered merchandise referral to Commerce. Specifically, CBP requests that Commerce make a determination whether diamond sawblades produced by Protech Canada in the three scenarios described above are covered merchandise within the scope of the Order. Further, CBP requests that Commerce make a determination on a country-wide basis as to whether diamond sawblades produced in the three scenarios outlined above are covered merchandise within the scope of the Order. In making this latter request, we note that this is the third CBP covered merchandise referral related to the AD order on diamond sawblades from China addressing the joining of Chinese sourced cores, segments or both in a third country. Additionally, we note that Commerce has previously ruled on a country-wide basis with respect to other AD/CVD proceedings where warranted.

As a result of this referral, the deadlines in EAPA investigation 7354 have been stayed pending Commerce’s issuance of a determination in this covered merchandise referral.