UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-900
Anti-Circumvention Inquiry
Diamond Sawblades - DSMC
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DATE: November 8, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Diamond Sawblades and Parts Thereof from the People's Republic of China: Decision Memorandum for Preliminary Affirmative Determination of Circumvention

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I. SUMMARY

In response to a request from Diamond Sawblades Manufacturers' Coalition (the petitioner), the Department of Commerce (Commerce) initiated an anti-circumvention inquiry of the antidumping duty (AD) order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (China), pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.225(h) to determine whether certain imports of diamond sawblades comprised of cores and segments produced in China and joined into diamond sawblades in Thailand by Diamond Tools Technology (Thailand), Co., Ltd. (Diamond Tools), and exported from Thailand to the United States are circumventing the AD order on diamond sawblades from China.[1] In addition, based on information provided by Diamond Tools, we find it appropriate to consider as part of this anti-circumvention inquiry whether certain imports of diamond sawblades comprised of either cores or segments produced in China and joined into diamond sawblades in Thailand by Diamond Tools and exported from Thailand to the United States are circumventing the AD order on diamond sawblades from China.

Based on the information submitted by interested parties, and the analysis below, we recommend that, pursuant to section 781(b) of the Act, Commerce preliminarily finds that diamond

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[1] *See Diamond Sawblades and Parts Thereof from the People's Republic of China: Initiation of Anti-Circumvention Inquiry*, 82 FR 57709 (December 7, 2017) (*Initiation Notice*).

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sawblades produced by Diamond Tools in Thailand with cores and/or segments from China and exported from Thailand to the United States are circumventing the AD order on diamond sawblades from China.[2]

II. BACKGROUND

As explained above, Commerce published the *Initiation Notice* on December 7, 2017. On December 13, 2017, Commerce issued the original questionnaire to Diamond Tools.[3] On January 18, 2018, Diamond Tools responded to Commerce's original questionnaire.[4] In response to Commerce's additional requests for information, Diamond Tools submitted its supplemental responses on April 10, 2018, June 11, 2018, June 25, 2018, August 6, 2018, September 4, 2018, and September 14, 2018.[5]

III. 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

[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).
[3] *See* Commerce's original questionnaire to Diamond Tools dated December 13, 2018.
[4] *See* Diamond Tools' original response dated January 18, 2018.
[5] *See* Diamond Tools' supplemental responses dated April 10, 2018, June 11, 2018, June 25, 2018, August 6, 2018, and September 4, 2018.

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 CBP.[6] The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

IV. SCOPE OF THE ANTI-CIRCUMVENTION INQUIRY

We initiated this anti-circumvention inquiry to cover diamond sawblades produced in Thailand by Diamond Tools with cores and segments produced in China and subsequently exported from Thailand to the United States.[7] During the conduct of this anti-circumvention inquiry, Diamond Tools reported that, in addition to diamond sawblades produced in Thailand with cores and segments produced in China, it also produced diamond sawblades in Thailand with either Chinese cores and Thai segments or with Thai Cores and Chinese segments.[8] Based on the additional information we received from Diamond Tools, and based on the further discussion in the Preliminary Analysis Memorandum, which contains Diamond Tools' business proprietary information,[9] we find it appropriate to include within the scope of this anti-circumvention inquiry diamond sawblades made by Diamond Tools with either cores or segments from China, as well as diamond sawblades made by Diamond Tools with both cores and segments from China.

V. THE PERIOD OF INQUIRY

The period for this inquiry covers three years, *i.e.*, January 1, 2014, through December 31, 2016.

VI. SURROGATE COUNTRY AND VALUATION METHODOLOGY FOR INPUTS FROM CHINA

In the last completed administrative review of the AD order on diamond sawblades from China, Commerce treated China as a non-market economy (NME) country.[10] In accordance with section 771(18)(C)(i) of the Act, a determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority.[11] No party has challenged the

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[6] *See Diamond Sawblades and Parts Thereof from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 76128, 76130 (December 6, 2011).
[7] *See Initiation Notice*, 82 FR at 57710 ("This anti-circumvention inquiry covers diamond sawblades exported from Thailand to the United States that are produced by Diamond Tools from cores and segments of {China} origin.").
[8] *See*, *e.g.*, Diamond Tools' original response dated January 18, 2018, at 4.
[9] *See* the Memorandum, "Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Analysis Memorandum for Diamond Tools Technology (Thailand) Co., Ltd." dated concurrently with this memorandum (Preliminary Analysis Memorandum).
[10] *See*, *e.g.*, *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 57585, 57586 (December 6, 2017), unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 17527 (April 20, 2018).
[11] *See*, *e.g.*, *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of*

designation of China as an NME country in this anti-circumvention inquiry. Therefore, we continue to treat China as an NME country for purposes of the preliminary determination of this anti-circumvention inquiry.[12]

When conducting proceedings involving imports from an NME country, section 773(c)(1) of the Act directs Commerce to base normal value, in most cases, on the NME producer's factors of production (FOPs) valued in a surrogate market economy country considered appropriate by Commerce.[13] In accordance with section 773(c)(4) of the Act, Commerce will value FOPs using "to the extent possible, the prices or costs of the factors of production in one or more market-economy countries that are – (A) at a level of economic development comparable to that of the nonmarket economy country, and (B) significant producers of comparable merchandise."[14] In this anti-circumvention inquiry, Diamond Tools produced diamond sawblades using cores and/or segments produced in China.

Because this anti-circumvention inquiry is for the AD order on diamond sawblades and parts thereof from China, our analysis of Diamond Tools' cores and segments that it purchased from China falls under the purview of Commerce's NME methodology.[15] As such, because key elements of Commerce' analysis under section 781(b)(1)(D) of the Act necessitates obtaining values for NME inputs, for the purchases of Chinese cores and Chinese segments, we have determined to use surrogate values from an appropriate market-economy country, consistent with section 773(c)(1) of the Act and Commerce's past practice as guidance.[16]

For the valuation of cores and segments from China, we disclosed the list of potential surrogate countries and invited comments for the selection of the primary surrogate country and surrogate values.[17] In response, the petitioner requested that we select Thailand as the primary surrogate country[18] and provided surrogate values for the valuation of Chinese cores and Chinese

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China, 72 FR 60632 (October 25, 2007).

[12] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at 7-8 (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

[13] *See* section 773(c)(1) of the Act.

[14] *See* section 773(c)(4) of the Act.

[15] *See Small Diameter Graphite Electrodes from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination*, 77 FR 33405, 33407 (June 6, 2012), unchanged in *Small Diameter Graphite Electrodes from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 77 FR 47596 (August 9, 2012), and accompanying Issues and Decision Memorandum at Comment 2 (collectively, *Electrodes*); *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018), and accompanying Issues and Decision Memorandum at Comment 6 (*Cold-Rolled Steel*).

[16] *See* section 773(c)(1) of the Act; *Electrodes*; *Cold-Rolled Steel*, 83 FR at 23891, and accompanying Issues and Decision Memorandum at Comment 6.

[17] *See* Commerce's Letter to all interested parties dated May 3, 2018. *See also* Commerce's Letter to all interested parties dated September 5, 2018, for invitation to comments on Chinese segments.

[18] *See* the petitioner's comments on surrogate country selection dated June 25, 2018.

segments.[19] No other interested parties provided comments with regards to the selection of the primary surrogate country and the valuation of inputs. For the preliminary determination, we selected Thailand as the primary surrogate country for valuing purchases of Chinese cores and Chinese segments.

VII. STATUTORY FRAMEWORK

Section 781 of the Act addresses circumvention of AD and/or countervailing duty (CVD) orders.[20] With respect to merchandise assembled or completed in a third country, section 781(b) of the Act provides that Commerce may find circumvention of an AD order when merchandise of the same class or kind subject to the order is assembled or completed in a foreign country other than the country to which the order applies. In conducting anti-circumvention inquiries under section 781(b) of the Act, Commerce, after taking into account any advice provided by the U.S. International Trade Commission (ITC) under section 781(e) of the Act, may include imported merchandise within the scope of an order at any time an order is in effect pursuant to the following criteria:[21]

> (A) whether the merchandise imported into the United States is of the same class or kind of any merchandise that is subject to the order;
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> (B) before importation into the United States, whether such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or produced in the foreign country that is subject to the order;
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> (C) whether the process of assembly or completion in the foreign country referred to above is minor or insignificant;
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> (D) whether the value of the merchandise produced in the foreign country to which the AD order applies is a significant portion of the total value of the merchandise exported to the United States, and
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> (E) whether action is appropriate to prevent evasion of the order.

With respect to whether process of assembly or completion in the third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider the following:[22]

> (A) the level of investment in the foreign country;

[19] *See* the petitioner's surrogate value comments dated July 9, 2018, and September 10, 2018.
[20] Specifically, the legislative history to section 781(b) of the Act indicates that Congress intended Commerce to make determinations regarding circumvention on a case-by-case basis, in recognition that the facts of individual cases and the nature of specific industries are widely variable. *See* S. Rep. No. 103-412 (1994), at 81-82.
[21] *See* section 781(b)(1)(A)-(E) of the Act.
[22] *See* section 781(b)(2)(A)-(E) of the Act.

(B) the level of research and development in the foreign country;

(C) the nature of the production process in the foreign country;

(D) the extent of production facilities in the foreign country; and

(E) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

In reaching this determination, Commerce "will not consider any single factor of section 781(b)(2) of the Act to be controlling."[23] In other words, Commerce's practice is to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular anti-circumvention inquiry.[24]

Finally, section 781(b)(3) of the Act further provides that, in determining whether to include merchandise assembled or completed in a foreign country within the scope of an AD order, Commerce shall consider the following additional factors:[25]

(A) the pattern of trade, including sourcing patterns;

(B) whether the manufacturer or exporter of the merchandise described in accordance with section 781(b)(1)(B) of the Act is affiliated with the person who uses the merchandise described in accordance with section 781(b)(1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States; and

(C) whether imports into the foreign country of the merchandise described in paragraph 781(b)(1)(B) have increased after the initiation of the investigation which resulted in the issuance of such order.

Commerce's practice for determining substantial transformation in country-of-origin determinations is distinct from Commerce's practice under section 781 of the Act in determining whether merchandise is being assembled or completed into a product in a third country and thereby avoiding the discipline of an AD and/or CVD order. Country-of-origin issues are not explicitly referenced in the anti-circumvention statute or its implementing regulations. Nevertheless, as Commerce has stated in the past, country-of-origin determinations made by CBP pursuant to customs law, regulations, or practice may be different than what Commerce determines the country-of-origin to be for AD and/or CVD purposes. Moreover, we do not

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[23] *See* 19 CFR 351.225(h); Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, at 893 (1994) (SAA); and *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27328 (May 19, 1997).

[24] *See Certain Tissue Paper Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 73 FR 57591, 57592 (October 3, 2008) (*Tissue Paper*); *Cold-Rolled Steel*, 83 FR at 23891, and accompanying Issues and Decision Memorandum at "VI. Statutory Framework."

[25] *See* section 781(b)(3)(A)-(C) of the Act.

believe the past substantial transformation analyses replace the analyses required under section 781 of the Act. The purposes of the two analyses are different. Commerce typically uses the substantial transformation analysis to address a question distinct from that of an anti-circumvention inquiry, *i.e.*, to determine the country-of-origin of a product for AD and/or CVD purposes, rather than whether merchandise is being assembled or completed into a product in a third country and thereby avoiding the discipline of an order. Therefore, the language of section 781(b) of the Act does not preclude an analysis of whether the activity is minor or insignificant even where Commerce has previously examined substantial transformation.[26]

VIII. STATUTORY ANALYSIS

Section 781(b) of the Act directs Commerce to consider the criteria above to determine whether merchandise assembled or completed in a third-country circumvents an order. As explained below, Commerce finds that diamond sawblades produced by Diamond Tools in Thailand with cores and/or segments from China and exported from Thailand to the United States are circumventing the AD order on diamond sawblades from China.

(1) Whether Diamond Tools' Merchandise Exported to the United States from Thailand Is of the Same Class or Kind as Merchandise Subject to the Antidumping Duty Order on Diamond Sawblades from China.

The petitioner claims that the merchandise exported to the United States by Diamond Tools is the same class or kind as that covered by the AD order on diamond sawblades from China.[27] The petitioner contends that the ITC data show that the merchandise from Thailand enters the United States under the same tariff heading as subject merchandise.[28]

In its responses, Diamond Tools stated that it produces diamond sawblades.[29] Diamond Tools did not provide any argument or evidence that the diamond sawblades it produced are not of the same class or kind as the subject merchandise. Moreover, Diamond Tools' description of the product exported to the United States shows that the diamond sawblades produced by Diamond Tools match the ITC's description of the merchandise subject to the AD order on diamond sawblades from China. Accordingly, Commerce preliminarily finds that the merchandise subject to this inquiry is of the same class or kind of merchandise as that subject the AD order on diamond sawblades from China, pursuant to section 781(b)(1)(A) of the Act.

(2) Whether, Before Importation into the United States, Such Merchandise is Completed or Assembled by Diamond Tools in Thailand from Merchandise that is Subject to the Order or that is Produced in China

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[26] *See Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 82 FR 58178 (December 11, 2017), and accompanying Preliminary Decision Memorandum at 15, unchanged in *Cold-Rolled Steel*, 83 FR at 23891, and accompanying Issues and Decision Memorandum at Comment 1.
[27] *See* the petitioner's anti-circumvention inquiry request dated August 9, 2017, at 13-14 and Exhibit 8.
[28] *Id.* at 10 and Exhibit 9.
[29] *See*, *e.g.*, Diamond Tools' original response dated January 18, 2018, at 4.

Diamond sawblades are assembled with cores and segments. Diamond Tools' responses show that, for its production of diamond sawblades that are joined and finished in Thailand, it sourced cores and/or segments from China.[30] Therefore, Commerce preliminarily finds that diamond sawblades sold in the United States by Diamond Tools are assembled or completed with cores and/or segments produced in China. Further, both cores and segments from China are subject to the AD order on diamond sawblades from China because the scope of the order covers diamond sawblades and parts thereof, *i.e.*, cores and segments. Therefore, we also preliminarily find that certain diamond sawblades assembled or completed by Diamond Tools are assembled or completed from merchandise that is subject to the AD order on diamond sawblades from China.

(3) Whether the Process of Assembly or Completion by Diamond Tools in Thailand is Minor or Insignificant

As explained above, section 781(b)(2) of the Act instructs Commerce to consider the following criteria when determining whether the process of assembly or completion is minor or insignificant:

(A) the level of investment in the foreign country,

(B) the level of research and development in the foreign country,

(C) the nature of the production process in the foreign country,

(D) the extent of production facilities in the foreign country, and

(E) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

The SAA explains that no single factor listed in section 781(b)(2) of the Act will be controlling.[31] Accordingly, it is Commerce's practice to evaluate each of the factors as they exist in the third country depending on the particular circumvention scenario.[32] Therefore, the importance of any one of the factors listed under section 781(b)(2) of the Act can vary from case to case depending on the particular circumstances unique to each anti-circumvention inquiry.

In this inquiry, Commerce based its analysis on both qualitative and quantitative factors in determining whether the process of assembly or completion by Diamond Tools in Thailand is minor or insignificant, in accordance with the criteria of section 781(b)(2) of the Act. This approach is consistent with our analysis in prior anti-circumvention inquires.[33]

[30] *Id.*
[31] *See* SAA at 893; *accord* 19 CFR 351.225(h).
[32] *See Tissue Paper*, 73 FR at 57592; *Cold-Rolled Steel*, 83 FR at 23891, and accompanying Issues and Decision Memorandum at "VI. Statutory Framework."
[33] *See*, *e.g.*, *Anticircumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Preliminary Determinations of Circumvention of Antidumping and Countervailing Duty Orders*,

The petitioner argues that the production of cores and segments, which Diamond Tools sourced from China, comprises the majority of the value associated with the subject merchandise, and that the joining of cores and segments into diamond sawblades, completed by Diamond Tools, adds relatively little value.[34]

Much of the information used to determine whether the process of assembly or completion is minor or insignificant is business proprietary and is addressed in the Preliminary Analysis Memorandum.

(A) The Level of Investment in the Foreign Country

We analyzed information that Diamond Tools provided regarding its investment in Thailand.[35] Information on the record shows that Diamond Tools' investment in the production equipment was comparable to the investment in the production equipment in China by Diamond Tools' parent company, Wuhan Wanbang Laser Diamond Tools Co., Ltd. (Wuhan Wanbang).[36] Based on this information, Commerce preliminarily finds that the level of investment in the production facilities of Diamond Tools in Thailand is comparable to the level of investment of Wuhan Wanbang in China.

(B) The Level of Research and Development in the Foreign Country

We analyzed information Diamond Tools provided regarding time and expenses consumed to conduct research and development in Thailand with regard to the production of diamond sawblades. Although Diamond Tools claimed that it incurred expenses for research and development,[37] after evaluating the information provided by Diamond Tools, we find that Diamond Tools did not conduct research and development projects.[38]

(C) The Nature of the Production Process in the Foreign Country

Diamond Tools provided information regarding its process for joining cores and segments to produce diamond sawblades.[39] Diamond Tools also provided information regarding the steps to produce cores and segments that were used in the production of diamond sawblades. Diamond Tools explains that laser welding is only one process in the production of diamond sawblades

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68 FR 46571, 46574 (August 6, 2003), unchanged in *Anticircumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003).

[34] *See* the petitioner's supplemental response dated October 16, 2017, at 7.

[35] *See* Diamond Tools' original response dated January 18, 2018, at 15 and Exhibits 2 and 15, supplemental response dated April 10, 2018, at Exhibit 10, and supplemental response dated August 6, 2018, at 1 and Exhibit 2.

[36] *See* Preliminary Analysis Memorandum at 2. *See also* Diamond Tools' supplemental response dated April 10, 2018, at Exhibit 2, and supplemental response dated August 6, 2018, at Exhibit 5.

[37] *See* Diamond Tools' original response dated January 18, 2018, at 17 and Exhibit 24.

[38] *See* Diamond Tools' supplemental response dated April 10, 2018, at 5-6. Commerce requested the reports describing the research results, but Diamond Tools only reiterated that it submitted the relevant invoices in its original response dated January 18, 2018, at Exhibit 24. *See* Preliminary Analysis Memorandum at 2-3 for further discussion on this factor, which contains Diamond Tools' business proprietary information.

[39] *See* Diamond Tools' original response dated January 18, 2018, at 16 and Exhibit 26.

and "{o}ther processes such as diamond and powder mixing, curving, polishing, tension testing, and sharpening are also important for the quality of the sawblades."[40] The steps taken in the production of diamond sawblades are as follows:

- Core production steps: cutting alloy steel plate or sheet into core, tension testing, polishing and reaming[41]
- Segment production steps: mixing of diamond powder and alloy powders, granulating, cold-pressing, molding, hot-pressed sintering, and segment curving[42]
- Laser-welding cores and segments to finishing steps: laser welding, polishing and sharpening, strength and tension test, painting and marking, and packaging[43]

Based on this information, we find that Diamond Tools' production process in Thailand for diamond sawblades made with Chinese cores and/or Chinese segments is less extensive than the full production process which includes the production of both cores and segments as well as the joining and finishing processes. When both the cores and segments are sourced from China, the process of assembly or completion in Thailand consists of only the laser-welding and finishing steps noted above. Although laser-welding is a necessary step in the production of diamond sawblades, it is just one of the multiple steps in the production process of diamond sawblades.[44] We find that the laser-welding and subsequent finishing production steps are a minor part of the production process for diamond sawblades.

We acknowledge that the production of both cores and segments involves greater complexity, as well as specialized inputs and production equipment. However, when those processes are separated, *i.e*., when Diamond Tools sources from China either cores or segments for use in the assembly or completion of diamond sawblades in Thailand, we find that this results in a process that more closely resembles assembly of components than the full production of a diamond sawblade from non-Chinese origin components.

Therefore, for diamond sawblades assembled or completed using cores and/or segments sourced from China, the nature of the production process in Thailand is far less extensive than it would be to produce diamond sawblades without Chinese components.

(D) The Extent of Production Facilities in the Foreign Country

We analyzed information Diamond Tools provided regarding the extent of production facilities in Thailand. Information on the record shows the extent of the production facilities of Diamond Tools in Thailand is comparable to the extent of the production facilities of Diamond Tools'

[40] *Id.* at 16.
[41] *Id.* at 16. *See also* the petitioner's anti-circumvention inquiry request dated August 9, 2017, at 6.
[42] *See* Diamond Tools' original response dated January 18, 2018, at Exhibits 26, and F-2.
[43] *Id.* at Exhibit 26. *See also* Diamond Tools' supplemental response dated August 6,2018, at 2-3.
[44] *See* Diamond Tools' original response dated January 18, 2018, at 16 ("Laser-welding is only one process in diamond sawblades production.").

Chinese parent company, Wuhan Wanbang.[45] Therefore, we preliminarily find the extent of production facilities of Diamond Tools in Thailand is comparable to that in China.

(E) Whether the Value of the Processing Performed in the Foreign Country Represents a Small Proportion of the Value of the Merchandise Imported into the United States

In prior anti-circumvention inquiries, Commerce has explained that Congress has directed Commerce to "focus more on the nature of the production process and less on the difference between the value of the subject merchandise and the value of the parts and components imported into the processing country."[46] Additionally, Commerce has explained that, following the Uruguay Round Agreements Act, Congress redirected Commerce's focus away from a rigid numerical calculation of value-added toward a more qualitative focus on the nature of the production process.[47] For the assembly or completion of diamond sawblades with Chinese cores and Chinese segments, all direct material inputs are of Chinese origin, and the processing performed involves only laser-welding and finishing, which we find to be less complex, intensive, or multi-step processes than the production of cores and segments. Therefore, for the assembly or completion of diamond sawblades in Thailand using Chinese cores and Chinese segments, our qualitative analysis supports our finding that the proportion of the processing value added in Thailand is small. For the processing performed with cores or segments, but not both, from China, in each scenario a substantial portion of the production of diamond sawblade has taken place in China.

Furthermore, Diamond Tools submitted information on its cost of production of diamond sawblades manufactured in Thailand[48] and the value of diamond sawblades sold to the United States.[49] To determine the value of processing in Thailand for diamond sawblades produced in Thailand from cores and/or segments from China and exported to the United States, we first calculated the cost of production in Thailand by adding: (1) the cost of direct materials (excluding cores and/or segments sourced from China); (2) labor; and (3) fixed and variable overhead costs.[50] We divided the cost of production in Thailand by the value of U.S. sales to determine the value of processing performed in Thailand.[51] Based on our calculation of the value of processing Diamond Tools performs, we preliminarily find that the value of the processing performed in Thailand as a proportion of the value of the merchandise imported into the United States is small for all three product permutations – diamond sawblades made with

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[45] *See* Preliminary Analysis Memorandum at 3 for more details containing Diamond Tools' business proprietary information. *See also* Diamond Tools' supplemental response dated April 10, 2018, at Exhibit 2, and Diamond Tools' supplemental response dated August 6, 2018, at Exhibit 5.
[46] *See*, *e.g.*, *Steel Wire Garment Hangers from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Order and Extension of Final Determination*, 76 FR 27007, 27011-13 (May 10, 2011), unchanged in *Steel Wire Garment Hangers from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 76 FR 66895 (October 28, 2011). *See also* SAA at 893 (1994).
[47] *Id.*
[48] *See* Diamond Tools' supplemental response dated September 4, 2018, at Exhibit 8.
[49] *Id.* at Exhibit 2.
[50] *See* Preliminary Analysis Memorandum at 3-5, and Appendix.
[51] *Id.*

Chinese cores and Chinese segments, diamond sawblades made with Chinese cores and Thai segments, and diamond sawblades made with Thai cores and Chinese segments.[52]

(F) Overall Analysis of Section 781(b)(1)(C) of the Act

The level of investment of Diamond Tools in Thailand is comparable to the level of investment of Diamond Tools' parent company, Wuhan Wanbang, in China. The extent of Diamond Tools' production facilities in Thailand is comparable to that of Wuhan Wanbang in China. However, the nature of the process that takes place in Thailand to assemble or complete diamond sawblades using a Chinese origin component(s) is less extensive than it would be to produce diamond sawblades without Chinese components. In addition, Diamond Tools conducted no research and development and the value of processing taking place in Thailand is small.

The purpose of section 781(b)(2) of the Act is to examine whether the process of assembly or completion in Thailand is minor or insignificant under section 781(b)(1)(C) of the Act. For this analysis, we determined the existence of the level of investment and the production facilities that allow Diamond Tools to assemble or complete finished diamond sawblades. We preliminarily determine that, for Diamond Tools, the level of investment is comparable to the level of investment of Wuhan Wanbang in China, and the production facilities are comparable to that of its parent, Wuhan Wanbang. However, Diamond Tools did not conduct any research and development, its nature of the production process is less extensive than it would have been without Chinese cores and Chinese segments, and its processing values in Thailand are small compared to the U.S. sales value.

We analyzed these five statutory criteria and three of them indicate that the assembly or completion of diamond sawblades is minor or insignificant, and these three statutory criteria cover production activities and production-related activities, whereas the other two statutory criteria cover investments and installations for production activities, not the production activities themselves. In the circumstances of this case, the existence of investments and production facilities, alone, does not indicate that the process of assembly or completion of the products in a third country is taking place. These two criteria need to be analyzed in conjunction with the other three statutory criteria, which cover production activities and production-related activities, to ascertain whether the invested production facilities have been in fact used in the production activities and production-related activities and, if so, whether the activities are significant or not. Therefore, our analysis of the statutory criteria under section 781(b)(1)(C) of the Act indicates that the process of assembly or completion in Thailand is overall minor or insignificant.

(4) Whether the Value of the Merchandise Produced in China Is a Significant Portion of the Total Value of the Merchandise Exported to the United States

Under section 781(b)(1)(D) of the Act, Commerce must consider whether the value of the merchandise produced in the foreign country to which the AD order applies is a significant portion of the total value of the merchandise exported to the United States for Commerce to find circumvention. As discussed in the "Surrogate Countries and Valuation Methodology for Inputs from China" section above, because China is an NME country, Commerce determines that it is

[52] *Id.*, for the percentage numbers and more analysis containing Diamond Tools' business proprietary information.

appropriate to value the China-origin inputs for producing diamond sawblades using surrogate value data, *i.e.*, Thai import data from GTA.[53] For diamond sawblades joined and finished in Thailand using Chinese cores and Chinese segments, we compared the surrogate values pertaining to the purchases of Chinese cores and Chinese segments against the value of U.S. sales, and calculated the percentage of the value of the cores and segments produced in China as a proportion of the value of merchandise exported to the United States, by dividing the surrogate values of cores and segments produced in China by the value of U.S. sales.[54] Based on this calculation, we preliminarily find the combined value of the cores and segments produced in China to be a significant portion of the total value of the merchandise exported to the United States.

For diamond sawblades joined and finished in Thailand using Chinese cores, we compared the surrogate value pertaining to the purchases of Chinese cores against the value of U.S. sales, and calculated the percentage of the value of the cores produced in China as a proportion of the value of merchandise exported to the United States, by dividing the surrogate value of cores produced in China by the value of U.S. sales.[55] Based on this calculation, we preliminarily find the value of the cores produced in China to be a significant portion of the total value of the merchandise exported to the United States.

Finally, for diamond sawblades joined and finished in Thailand using Chinese segments, we compared the surrogate value pertaining to the purchases of Chinese segments against the value of U.S. sales, and calculated the percentage of the value of the segments produced in China as a proportion of the value of merchandise exported to the United States, by dividing the surrogate value of segments produced in China by the value of U.S. sales.[56] Based on this calculation, we preliminarily find the value of the segments produced in China to be a significant portion of the total value of the merchandise exported to the United States.

IX. OTHER STATUTORY CRITERIA

In determining whether to include merchandise assembled or completed in a foreign country within the scope of an order, section 781(b)(3) of the Act instructs Commerce to consider several additional factors: patterns of trade, affiliation with suppliers, and increase in imports. The first criterion to consider under section 781(b)(3) of the Act is changes in the pattern of trade, including changes in sourcing patterns. After the publication of the AD order on diamond sawblades from China in 2009, Diamond Tools purchased Chinese cores and Chinese segments

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[53] *Id.* at 6-8.

[54] *Id.* at 6-8, for more details containing Diamond Tools' business proprietary information. *See also* the petitioner's surrogate values comments dated July 9, 2018, for the surrogate value for cores, and the petitioner's surrogate values comments dated September 10, 2018, for the surrogate value for segments.

[55] *See* Preliminary Analysis Memorandum at 5-7, for more details containing Diamond Tools' business proprietary information. *See also* the petitioner's surrogate values comments dated July 9, 2018, for the surrogate value for cores.

[56] *See* Preliminary Analysis Memorandum at 5-7, for more details containing Diamond Tools' business proprietary information. *See also* the petitioner's surrogate values comments dated September 10, 2018, for the surrogate value for segments.

from its Chinese affiliates and increased its imports of Chinese cores and Chinese segments into Thailand.[57]

X. SUMMARY OF STATUTORY ANALYSIS

As discussed above, to make an affirmative determination of circumvention, all the elements under section 781(b)(1) of the Act must be satisfied, taking into account the minor or insignificant criteria listed in section 781(b)(2) of the Act. In addition, section 781(b)(3) of the Act instructs Commerce to consider, in determining whether to include merchandise assembled or completed in a foreign country within the scope of an order, factors such as the pattern of trade, affiliation, and whether imports into the foreign country of the merchandise described in section 781(b)(1)(B) of the Act have increased after the initiation of the investigation.

Pursuant to section 781(b)(1)(A) and (B) of the Act, Commerce preliminarily finds that the merchandise assembled or completed by Diamond Tools in Thailand and imported into the United States is within the same class or kind that is subject to the AD order on diamond sawblades from China, and is completed or assembled in Thailand from merchandise which is produced in the foreign country with respect to which the AD order on diamond sawblades from China applies.

Pursuant to section 781(b)(1)(C) of the Act, Commerce preliminarily finds that the process of assembly of Chinese cores and/or Chinese segments into diamond sawblades produced by Diamond Tools in Thailand is minor or insignificant.

In accordance with section 781(b)(1)(D) of the Act, Commerce preliminarily finds that, for diamond sawblades assembled or completed by Diamond Tools in Thailand with cores and/or segments produced in China, the values of the cores and/or segments produced in China are a significant portion of the total value of the merchandise exported from Thailand to the United States.

Pursuant to section 781(b)(3) of the Act, Commerce preliminarily finds that Diamond Tools increased sourcing cores and segments from its Chinese affiliates after the publication of the AD order in 2009. We find that Diamond Tools' increased sourcing of Chinese cores and Chinese segments from its Chinese affiliates provides evidence which supports a finding of circumvention.

Considering the above, the factors under section 781(b)(1)-(3) of the Act support a determination that Diamond Tools' exports of diamond sawblades made with Chinese cores and/or Chinese segments circumvent the AD order on diamond sawblades from China. Finally, upon taking into consideration section 781(b)(3) of the Act, our analysis of the pattern of trade, including sourcing of cores and segments from China, the existence of Chinese affiliates as suppliers of cores and segments from China, and our preliminary affirmative finding of an increase in imports of segments and cores from China to Thailand after the publication of the AD order in 2009, we preliminarily determine that action is appropriate to prevent evasion of the order pursuant to

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[57] *See* Preliminary Analysis Memorandum at 7-8, and Appendix for more analysis containing Diamond Tools' business proprietary information.

section 781(b)(1)(E) of the Act. We preliminarily find that, without an action to prevent evasion of the order, circumvention activities we preliminarily find to exist under section 781(b)(1)(A)-(D) and 781(b)(3) of the Act will continue.

Consequently, our statutory analysis leads us to preliminarily find that, in accordance with sections 781(b)(1)-(3) of the Act, there is circumvention of the order as a result of Chinese cores and Chinese segments being assembled or completed into finished diamond sawblades in Thailand. Therefore, Commerce preliminarily finds diamond sawblades assembled or completed in Thailand with Chinese cores and/or Chinese segments by Diamond Tools are included within the scope of the AD order on diamond sawblades from China.

XI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒	☐
Agree	Disagree

11/8/2018

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Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance