

UNITED STATES COURT OF INTERNATIONAL TRADE

**DIAMOND SAWBLADES
MANUFACTURERS' COALITION,**

Plaintiff,

v.

UNITED STATES,

Defendant.

Before: Richard Goldberg

Court No. 18-00134

OPINION

[Sustaining the U.S. Department of Commerce's scope determination in the antidumping duty order covering diamond sawblades and parts thereof from the People's Republic of China]

Dated: October 7, 2021

Daniel B. Pickard Wiley Rein LLP, of Washington D.C., for plaintiff. With him on brief were *Maureen E. Thorson* and *Stephanie M. Bell*.

John J. Tudor, Senior Trial Counsel, Commercial Litigation Branch, Civil Division, U.S. Department of Justice, of Washington D.C., for defendant. With him on the brief were *Jeanne E. Davidson*, Director and *Franklin E. White, Jr.*, Assistant Director. Of Counsel on the brief was *Paul K. Keith*, Office of the Chief Counsel for Trade Enforcement and Compliance, U.S. Department of Commerce, of Washington D.C.

Goldberg, Senior Judge: Before the court is the scope redetermination ("Remand Redetermination") of the U.S. Department of Commerce ("Commerce," or the "Department") filed pursuant to the court's opinion and order in *Diamond Sawblades Mfrs. Coalition v. United States*, 43 CIT __, 405 F. Supp. 3d 1345 (2019) ("*Diamond*

Sawblades I”). Final Results of Remand Redetermination (Feb. 3, 2020), Rem. P.R. Doc. 15,¹ ECF No. 30 (“*Remand Redetermination*”). This litigation involves a challenge to the final scope ruling of Commerce which excludes Lyke Industrial Tools LLC (“Lyke”) cupwheels from an antidumping duty order (the “Order”) on diamond sawblades from the People’s Republic of China (“China” or “PRC”). *Diamond Sawblades and Parts Thereof From the People’s Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 Fed. Reg. 57,145 (Int’l Trade Admin. Nov. 4, 2009) (“Order”).

Plaintiff Diamond Sawblades Manufacturers’ Coalition (“DSMC”), an *ad hoc* coalition of producers of diamond sawblades domestic like products in the United States, once again challenges the Department’s determination that the scope of the Order excludes certain cupwheels that Lyke imports into the United States. For the reasons stated herein, the court holds that the Departments’ scope determination adheres to the applicable regulatory framework of 19 C.F.R. § 351.225² and that there is substantial evidence supporting Commerce’s conclusion that Lyke’s cupwheels are not

¹ All citations to documents from the administrative record are to public documents. References cited as “P.R. Doc. ___” are to documents on the original agency record; references cited as “Rem. P.R. Doc. ___” are to documents placed on the record during the Department’s redetermination proceeding.

² All citations to the United States Code herein are to the 2012 edition, except where otherwise indicated. Citations to the Code of Federal Regulations are to the 2020 edition unless otherwise noted.

within the scope of the Order. Therefore, Commerce's Remand Redetermination is affirmed.

I. Background

The court assumes familiarity with the facts as discussed in the prior opinion. *Diamond Sawblades I*, 43 CIT at __, 405 F. Supp. 3d at 1349–51. Commerce issued the antidumping duty order relevant to this litigation in November 2009, pursuant to a petition filed by DSMC. *Order*, 74 Fed. Reg. at 57,145; *see also* Compl. ¶ 5 (July 10, 2018), ECF No. 9 (“Compl.”). Lyke submitted a scope ruling request to Commerce on February 23, 2018, requesting that Commerce determine whether two of its products, diamond sawblades and cupwheels, fell within the scope of the order. *Letter from Pennington, P.A. to Sec’y of Commerce, re: Lyke Industrial Tools, LLC Scope Request: Diamond Sawblades Whose Cores Have Rockwell C Hardness Less Than 25 Prior to the Incorporation of Diamond Segments and Diamond Cupwheels - Diamond Sawblades and Parts Thereof from the People’s Republic of China (A-570-900) 2* (Feb. 23, 2018), P.R. Doc. 1 (“Lyke Scope Request”). Commerce determined that Lyke’s diamond sawblades are within the scope of the Order and that its cupwheels are not. *Final Scope Determination for Scope Request from Lyke Industrial Tool, LLC 8–10* (May 17, 2018), P.R. Doc. 23 (“Final Scope Ruling”).

On June 11, 2018, DSMC initiated litigation contesting the Department’s determination that Lyke’s cupwheels are outside the scope of the Order. Summons

(June 11, 2018), ECF No. 1; Compl. 1. On November 28, 2018, DSMC moved for judgment on the agency record. Pl.'s Rule 56.2 Mot. for J. on the Agency R. (Nov. 28, 2018), ECF No. 16. In *Diamond Sawblades I*, the court remanded the Department's Final Scope Ruling. First, the court found that the text of the scope of the Order did not resolve the scope dispute in and of itself because the term "sawblade" was not clearly defined. *Diamond Sawblades I*, 43 CIT at ___, 405 F. Supp. 3d at 1352. Second, the court stated that as the scope was susceptible to interpretation, Commerce needed to turn to sources listed in 19 C.F.R. § 351.225(k)(1), which Commerce failed to do in a way that was supported by substantial evidence because the Department's (k)(1) analysis improperly considered criteria found under 19 C.F.R. § 351.225(k)(2). *Id.* at ___, 405 F. Supp. 3d at 1353–54. Third, the court held that "[t]he sources used by Commerce in its (k)(1) analysis do not 'definitively answer' the question of whether Lyke's cupwheels are excluded from the scope of the Order." *Id.* at ___, 405 F. Supp. 3d at 1358. The court ordered Commerce to conduct an analysis under 19 C.F.R. § 351.225(k)(2) to determine whether Lyke's cupwheels are included in the scope of the Order. *Id.* at ___, 405 F. Supp. 3d at 1358.

On October 15, 2019, Commerce invited both DSMC and Lyke to provide further information related to the factors listed in 19 C.F.R. § 351.225(k)(2) and parties commented and submitted rebuttal comments on October 24, 2019 and October 31, 2019. *Mem. from Minoo Hatten, Program Manager, AD/CVD Operations, Off. I to Diamond*