

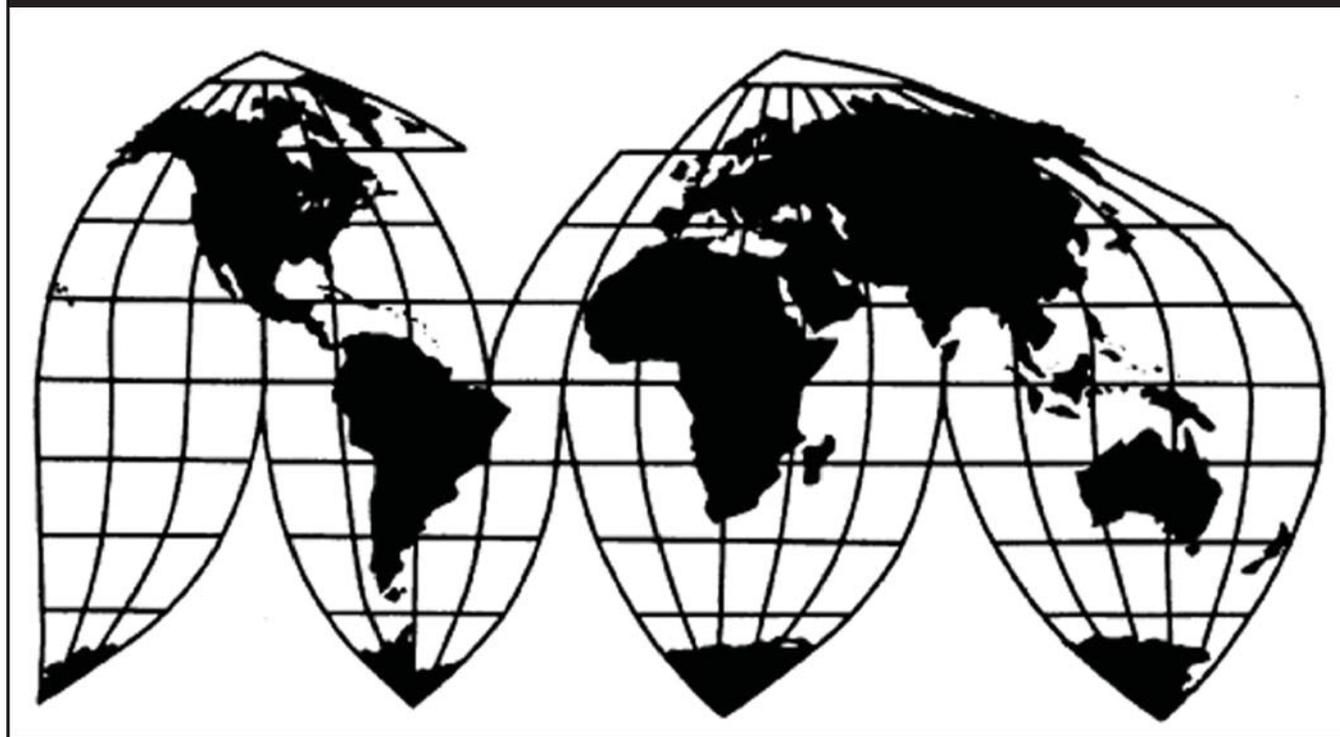
Certain Tow-Behind Lawn Groomers and Parts Thereof from China

Investigation No. 731-TA-1153 (Review)

Publication 4516

January 2015

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1153 (Review)

CERTAIN TOW-BEHIND LAWN GROOMERS AND PARTS THEREOF FROM CHINA

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission (“Commission”) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order on certain tow-behind lawn groomers and parts thereof from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on July 1, 2014 (79 F.R. 37349) and determined on October 6, 2014 that it would conduct an expedited review (79 F.R. 66403, November 7, 2014).

¹ The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR § 207.2(f)).

Views of the Commission

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that revocation of the antidumping duty order on tow-behind lawn groomers (“TBLGs”) from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. Background

The original antidumping duty investigation of certain TBLGs from China was instituted in response to a petition filed on June 24, 2008, by Agri-Fab, Inc. (“Agri-Fab”), a domestic producer of TBLGs. In July 2009, the Commission determined that an industry in the United States was materially injured by reason of imports of TBLGs from China that the U.S. Department of Commerce (“Commerce”) found to be sold in the United States at less than fair value.¹ Commerce issued an antidumping duty order on imports of TBLGs from China on August 3, 2009.²

The Commission instituted this review on July 1, 2014. The Commission received a substantive response to the notice of institution filed by Agri-Fab (“Agri-Fab Response”). It did not receive a response from any respondent interested party. On October 6, 2014, the Commission found Agri-Fab’s response individually adequate, the domestic interested party group response adequate, and the respondent interested party group response inadequate. The Commission did not find any circumstances that would warrant conducting a full review and determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act.³

II. Domestic Like Product and Industry

A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the “domestic like product” and the “industry.”⁴ The Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and

¹ *Certain Tow-Behind Lawn Groomers and Parts Thereof from China*, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final), USITC Pub. 4090 (July 2009) (“Original Determination, USITC Pub. 4090”).

² 79 Fed. Reg. 65375 (Nov. 4, 2014). The companion countervailing duty investigation on TBLGs from China resulted in issuance of a countervailing duty order. Commerce revoked that order, effective September 23, 2014, after this review and the Commission’s concurrent review of the countervailing duty order had been instituted. *Tow Behind Lawn Groomers and Parts and Thereof From the People’s Republic of China: Final Results of Sunset Review and Revocation of Countervailing Duty Order*, 79 FR 56769 (Sept. 23, 2014). The Commission accordingly terminated its review of the countervailing duty order effective September 24, 2014. 79 Fed. Reg. 59504 (Oct. 2, 2014).

³ 79 Fed. Reg. 66403 (Nov. 7, 2014).

⁴ 19 U.S.C. § 1677(4)(A).

uses with, the article subject to an investigation under this subtitle.”⁵ The Commission’s practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.⁶

Commerce has defined the scope of the order in this five-year review as follows:

The scope of this order covers certain non-motorized tow behind lawn groomers, manufactured from any material, and certain parts thereof. Lawn groomers are defined as lawn sweepers, aerators, dethatchers, and spreaders. Unless specifically excluded, lawn groomers that are designed to perform at least one of the functions listed above are included in the scope of this order, even if the lawn groomer is designed to perform additional non-subject functions (*e.g.*, mowing).

The scope of the order specifically excludes: (1) Agricultural implements designed to work (*e.g.*, churn, burrow, till, etc.) soil, such as cultivators, harrows, and plows; (2) lawn or farm carts and wagons that do not groom lawns; (3) grooming products incorporating a motor or an engine for the purpose of operating and/or propelling the lawn groomer; (4) lawn groomers that are designed to be hand held or are designed to be attached directly to the frame of a vehicle, rather than towed; (5) “push” lawn grooming products that incorporate a push handle rather than a hitch, and which are designed solely to be manually operated; (6) dethatchers with a net assembled weight (*i.e.*, without packing, additional weights, or accessories) of more than 100 pounds, or lawn groomers—sweepers, aerators, and spreaders—with a net fully-assembled weight (*i.e.*, without packing, additional weights, or accessories) of more than 200 pounds; and (7) lawn rollers designed to flatten grass and turf, including lawn rollers which incorporate an aerator component (*e.g.*, “drum-style” spike aerators).

The lawn groomers that are the subject of this order are currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) statistical reporting numbers 8432.40.0000, 8432.80.0000, 8432.90.0030, 8432.90.0080, 8479.89.9897, 8479.90.9496, and 9603.50.0000. These HTSUS provisions are given for reference and customs purposes only, and the

⁵ 19 U.S.C. § 1677(10); *see, e.g.*, *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

⁶ *See, e.g.*, *Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

description of merchandise is dispositive for determining the scope of the product included in this order.⁷

TBLGs consist of four types of equipment – aerators, dethatchers, spreaders, and sweepers – designed to be towed behind a lawn tractor, riding lawn mower, or similar vehicle and used for the promotion of healthy, attractive lawns.⁸ Tow-behind aerators perforate the soil to facilitate the penetration of oxygen, water, and fertilizer closer to the grass roots.⁹ Tow-behind dethatchers use a series of spring steel tines to rake and dislodge debris compacted on the surface of the soil, further promoting the penetration of oxygen, water, and fertilizer.¹⁰ Tow-behind spreaders distribute granular material such as grass seed or fertilizer using a hopper or bin to hold the material and a mechanism to drop the material at a consistent rate or widely disseminate the material across a lawn.¹¹ Tow-behind sweepers use rotating brushes to sweep debris, such as grass clippings, leaves, and twigs, off the surface of a lawn and into a catcher bag for disposal, in order to improve the lawn’s appearance.¹²

In the original investigation, the Commission found that all TBLGs, including tow-behind aerators, dethatchers, spreaders, and sweepers, shared certain physical characteristics.¹³ All incorporated a towing hitch so that they could be towed behind a lawn tractor, riding lawn mower, or similar vehicle, were made primarily of steel, and were of a similar size and shape, incorporating a steel frame, engage/disengage transport handle, and, in most cases, two wheels and a single axle.¹⁴ The Commission found that physical differences between specific types of TBLGs corresponded to the distinctive function for which a particular TBLG was designed and that the four types of TBLGs differed in terms of their frequency of use, which also corresponded to their function.¹⁵ The Commission found that tow-behind aerators, dethatchers, spreaders, and sweepers were not interchangeable due to their specific functions. The Commission also found, however, that significant production and U.S. sales of combination TBLGs were interchangeable with individual TBLGs that perform the same lawn grooming function, *e.g.*, combination spreaders/aerators and sweeper/dethatchers.¹⁶ The Commission

⁷ *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 79 Fed. Reg. 65375 (November 4, 2014) (“*Commerce Sunset Review*”); the full scope of the order is contained in the accompanying *Issues and Decision Memorandum*, which Commerce adopted in its *Federal Register* notice. See 79 Fed. Reg. at 65375 and n.3; see also *Issues and Decision Memorandum for the Expedited First Review of the Antidumping Duty Order on Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China* (“*Commerce Sunset I&D Memorandum*”).

⁸ Memorandum INV-MM-118, Confidential Report (“CR”) at I-10 to I-11, Public Report (“PR”) at I-9.

⁹ CR at I-11, PR at I-9.

¹⁰ CR at I-12, PR at I-10.

¹¹ CR at I-13, PR at I-11.

¹² CR at I-15, PR at I-12 to I-13.

¹³ Original Determination, USITC Pub. 4090 at 7.

¹⁴ Original Determination, USITC Pub. 4090 at 7-8.

¹⁵ Original Determination, USITC Pub. 4090 at 8.

¹⁶ Original Determination, USITC Pub. 4090 at 8.

also found that the manufacturing facilities, production processes, and production employees used to produce the four types of TBLGs were mostly or somewhat similar.¹⁷ Most parties reported that the four types of TBLGs were either fully or mostly distributed through similar channels of distribution, primarily to retailers.¹⁸ The Commission found, however, that reporting parties were divided on the extent to which customers and producers perceived the four types of TBLGs to be similar. It noted that there were different ways in which the four types of TBLGs were marketed, either as a single family of products or as separate products, often offered with out-of-scope products such as rollers, carts, vacuums, and push groomers, which suggested that there existed no clear dividing lines when determining how the four types of TBLGs should have been grouped.¹⁹ Finally, it found that producers, importers, and purchasers reported that prices for the four types of TBLGs were mostly or somewhat similar with respect to a majority of comparisons of one type of TBLG with another, but were not similar with respect to a significant minority of comparisons. Further, the Commission found that pricing data indicated that sweepers, spreaders, and aerators were priced within a similar range, but that prices for dethatchers were significantly lower.²⁰ In light of these facts, although it acknowledged that the issue was a close one, the Commission defined a single domestic like product consisting of those TBLG products described in the scope of the investigation.²¹

In this five-year review, there is no new information on the record indicating that the characteristics of the products at issue have changed since the original investigation.²² Agri-Fab states that it agrees with the Commission's domestic like product definition from the original investigation.²³ Accordingly, we again define a single domestic like product consisting of those TBLG products described in the scope of the order.

B. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."²⁴ In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

In the original investigation, the Commission determined that two domestic producers were related parties under the statute because each had imported subject TBLGs during the

¹⁷ Original Determination, USITC Pub. 4090 at 9.

¹⁸ Original Determination, USITC Pub. 4090 at 10.

¹⁹ Original Determination, USITC Pub. 4090 at 10-12.

²⁰ USITC Pub. 4090 at 12.

²¹ USITC Pub. 4090 at 12-13.

²² See *generally* CR at I-10-24, PR at I-9-19.

²³ Agri-Fab Response at 30, Agri-Fab Final Comments (Sept. 15, 2014) at 3.

²⁴ 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

2006-08 and January-March (“interim”) 2009 period of investigation (“POI”) and found that circumstances warranted the exclusion of one of these producers because its primary interest was in importing subject TBLGs.²⁵ The Commission defined the domestic industry as including all producers of TBLGs, including Agri-Fab, Brinly-Hardy, and Spyker Spreaders, except for ***, the excluded producer.²⁶

There are no related party issues in this review.²⁷ Accordingly, we have defined the domestic industry to include all domestic producers of TBLGs.

III. Revocation of the Antidumping Duty Order Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”²⁸ The Uruguay Round Agreements Act Statement of Administrative Action (“SAA”) states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”²⁹ Thus, the likelihood standard is prospective in nature.³⁰ The U.S. Court of International Trade has found that “likely,” as used in the five-year

²⁵ Original Determination, USITC Pub. 4090 at 13-14.

²⁶ Original Determination, USITC Pub. 4090 at 16; Confidential Views, EDIS Doc. 541235, at 14.

²⁷ Agri-Fab, the sole responding domestic producer, is not a related party. See CR at I-26, PR at I-20. Agri-Fab identified 10 domestic producers of TBLGs that did not respond to the notice of institution: Brinly-Hardy; Bishop Enterprises; Bluebird International; Earthway Products; Fimco Industries; Gandy Company Manufacturers; Ohio Steel Industries, Inc. (“Ohio Steel”); Parker Lawncare Products/Parker Company, Inc.; Precision Products, Inc. (“Precision Products”); and PK Manufacturing Corporation. Agri-Fab Response at Exhibit O. Although Agri-Fab identified Ohio Steel and Precision Products as possible importers of subject TBLGs, it also reported that no U.S. companies have imported TBLGs from China since issuance of the order in 2009. Agri-Fab Response at 27 and Exhibit O.

²⁸ 19 U.S.C. § 1675a(a).

²⁹ SAA, H.R. Rep. 103-316, vol. I at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

³⁰ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like

review provisions of the Tariff Act, means “probable,” and the Commission applies that standard in five-year reviews.³¹

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”³² According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”³³

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”³⁴ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).³⁵ The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.³⁶

product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

³¹ See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

³² 19 U.S.C. § 1675a(a)(5).

³³ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

³⁴ 19 U.S.C. § 1675a(a)(1).

³⁵ 19 U.S.C. § 1675a(a)(1). Since the issuance of the antidumping duty order in August 2009, Commerce has conducted no administrative review, new shipper review, scope inquiry, or changed circumstances reviews, and has made no duty absorption findings. *Issues and Decision Memorandum for the Expedited First Sunset Review of the Antidumping Duty Order on Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China* (Oct. 24, 2014).

³⁶ 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.³⁷ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.³⁸

In evaluating the likely price effects of subject imports if the orders under review are revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.³⁹

In evaluating the likely impact of imports of subject merchandise if the orders under review are revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁴⁰ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order under review and whether the industry is vulnerable to material injury upon revocation.⁴¹

As noted above, during the adequacy phase of this proceeding, the Commission received no responses to the notice of institution from producers of TBLGs in China. The

³⁷ 19 U.S.C. § 1675a(a)(2).

³⁸ 19 U.S.C. § 1675a(a)(2)(A-D).

³⁹ See 19 U.S.C. § 1675a(a)(3). The SAA states that “{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

⁴⁰ 19 U.S.C. § 1675a(a)(4).

⁴¹ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

record, therefore, contains limited new information with respect to the TBLG industry in China. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigation, data submitted in the response to the notice of institution, and other public data.

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁴² The following conditions of competition inform our determination.

Demand Conditions. In the original investigation, the Commission observed that demand for TBLGs depended on the overall economy, consumers’ discretionary income, and weather conditions, but also was influenced by the housing market. Although the housing market had declined over the POI due to the economic downturn, the Commission found that it was unclear whether existing homeowners had changed their TBLG consumption patterns based on trends in the housing market.⁴³ It also found that TBLG purchases were seasonal, with most TBLG sales concentrated in the January-May period, with a leveling of demand in the summer months, and a slight increase in demand for sweepers in the fall.⁴⁴ Apparent U.S. consumption of TBLGs declined overall from *** units in 2006 to *** units in 2008.⁴⁵

In this review, it appears that factors affecting buying patterns and demand for TBLGs in the United States have largely remained unchanged since the imposition of the antidumping duty.⁴⁶ Agri-Fab estimates that the lawn tractor market in the United States, which it indicates is reflective of the overall U.S. TBLG market, has fallen by more than *** percent since the end of the original period of investigation.⁴⁷ Apparent U.S. consumption of TBLGs was *** units in 2013, *** percent lower than in 2008.⁴⁸

Supply Conditions. In the original investigation, U.S. producers accounted for the majority of apparent U.S. consumption throughout the POI. Nonsubject imports were the next largest supply source in 2006, but were overtaken by subject imports in 2007 and 2008.⁴⁹ There were five U.S. producers of TBLGs during the POI, with Agri-Fab and Brinly-Hardy the ***

⁴² 19 U.S.C. § 1675a(a)(4).

⁴³ Original Determination, USITC Pub. 4090 at 19.

⁴⁴ Original Determination, USITC Pub. 4090 at 19-20.

⁴⁵ CR/PR at Table I-4.

⁴⁶ Agri-Fab Response at 14.

⁴⁷ Agri-Fab Response at 15, 29.

⁴⁸ CR/PR at Table I-4. Responding purchasers reported no change in the business cycle for TBLGs in the U.S. market or China since 2009. CR at B-6, PR at B-5. They also generally reported no changes in the end uses or applications for TBLGs in the U.S. market or China since 2009, although *** reported an increased focus on ensuring that grooming equipment can be used by zero-turn mowers, which have become a larger proportion of the residential riding mower market. CR at B-5, PR at B-4.

⁴⁹ USITC Pub. 4090 at 20.

domestic producers. Domestic producers' market share declined from *** percent in 2006 to *** percent in 2008. The Commission found that domestic TBLG capacity remained fairly constant during the POI, although unused capacity increased from 2006 to 2008 as production decreased.⁵⁰

The Commission found that the absolute volume of subject imports increased by over *** percent from 2006 to 2008, as their market share grew from *** percent in 2006 to *** percent in 2008.⁵¹ Nonsubject import shipments decreased irregularly from *** percent of apparent U.S. consumption in 2006 to *** percent of apparent U.S. consumption in 2008. Nonsubject imports consisted entirely of *** imported from Mexico by ***.⁵²

In this review, Agri-Fab identified 11 current U.S. producers of TBLGs, with Agri-Fab and Brinly-Hardy remaining the primary producers.⁵³ The production capacity of the responding domestic producer was *** units in 2013.⁵⁴ Its shipments accounted for *** percent of apparent U.S. consumption in 2013.⁵⁵

Nonsubject imports accounted for the next largest share of apparent U.S. consumption in 2013, with a *** percent share, based on official import statistics.⁵⁶ Subject imports accounted for *** percent of apparent U.S. consumption in 2013 and 15.0 percent of total imports in that year, based on official import statistics.⁵⁷

Substitutability. In the original investigation, the Commission found that there was a high degree of substitutability between TBLGs of the same type, regardless of the source. All responding domestic producers, half of responding importers, and all but one responding purchaser reported that the domestic like product, the subject imports, and nonsubject imports were always or frequently interchangeable. The record indicated that price was an important consideration, although not the only one, when purchasers were choosing among competing suppliers of TBLGs.⁵⁸ The Commission found that the record did not indicate that there were

⁵⁰ USITC Pub. 4090 at 20-21.

⁵¹ Original Determination, USITC Pub. 4090 at 22, Confidential Views at 24.

⁵² Original Determination, USITC Pub. 4090 at 22, Confidential Views at 25.

⁵³ The eleven producers identified by Agri-Fab include Agri-Fab, Brinly-Hardy, Earthway Products, Fimco Industries, Gandy Co. Manufacturers, Bishop Enterprises, Ohio Steel, Parker Lawn care Products, PK Manufacturing Corp., Precision Products, and Bluebird International. Agri-Fab Response at Exhibit N.

⁵⁴ CR/PR at Table I-1.

⁵⁵ CR/PR at Table I-4.

⁵⁶ CR/PR at Table I-4. According to official import statistics, substantial nonsubject import sources during the review period included Mexico, Taiwan, Canada, Finland, Germany, Italy, and Japan. CR/PR at Table I-4 n.2. Official statistics may overstate imports of TBLGs. Agri-Fab asserts that certain nonsubject sources, such as Canada, Germany, Japan, Finland, and Italy, do not have TBLG producing industries and that the imports from these countries reflected in the official import statistics may be items that do not meet the scope description for TBLGs. CR/PR at Table I-4 n.1.

⁵⁷ CR/PR at Tables I-2, I-4. Agri-Fab contends that the imports from China indicated in the official import statistics consist of parts, improperly classified merchandise, or other merchandise outside the scope definition. *Id.*

⁵⁸ Original Determination, USITC Pub. 4090 at 21.

any meaningful differences between domestic and imported TBLGs with respect to non-price factors.⁵⁹

The information available in this review contains nothing to indicate that the substitutability between TBLGs of the same type, regardless of source, has changed since the original investigation.⁶⁰ Accordingly, we again find that there is a high degree of substitutability between TBLGs of the same type, regardless of the source.

C. Likely Volume of Subject Imports

Original Investigation. In its original investigation, the Commission found that the volume of subject imports increased significantly between 2006 and 2008. The market share of subject imports also rose over the POI, almost entirely at the expense of the domestic industry.⁶¹ The Commission concluded that the volume of subject imports was significant, both in absolute terms and relative to consumption and production in the United States, and that the increases in subject import volume and market share were significant.⁶²

Current Review. In this review, the information available indicates that the order has had a disciplining effect on the volume of subject imports, which have decreased significantly since the original POI and imposition of the order in 2009.⁶³ Subject imports reported in questionnaire responses for 2006-08 and in official import statistics for 2009-13 fell from *** units in 2008 to 59,961 units in 2009, and then declined on an annual basis, falling to 18,962 units in 2013.⁶⁴

During the POI, the capacity, production, unused capacity, and export orientation of the TBLG industry in China were substantial.⁶⁵ The record does not contain current questionnaire data concerning the TBLG industry in China because no foreign producer or exporter of subject merchandise participated in this expedited review. However, the facts available include information Agri-Fab submitted indicating that manufacturers in China continue to

⁵⁹ Original Determination, USITC Pub. 4090 at 21-22.

⁶⁰ *E.g.*, CR at B-5, PR at B-4 (purchasers reporting no changes in the level of competition between TBLGs produced in the United States, China, and nonsubject countries since 2009).

⁶¹ Original Determination, USITC Pub. 4090 at 22. The Commission found that the significantly lower level of subject imports in interim 2009 compared to interim 2008 corresponded to the imposition of provisional countervailing duty measures in November 2008 and provisional antidumping duty measures in January 2009. Consequently, the Commission accorded less weight to the data from interim 2009 as they accounted for a single quarter and the lower volume of subject imports was related to the pendency of the investigations. *Id.* at 23.

⁶² Original Determination, USITC Pub. 4090 at 23.

⁶³ CR/PR at Tables I-2 and I-4. Effective January 1, 2009, two HTS statistical breakouts specific to TBLGs were created. Prior to that, the HTS categories under which TBLGs were imported were basket categories that included other merchandise.

⁶⁴ CR/PR at Tables I-2, I-4. As previously discussed, Agri-Fab maintains that the official import statistics overstate subject imports during the period of review. It contends that it does not believe that subject merchandise has been imported since issuance of the order in 2009. *Id.*

⁶⁵ CR/PR at Appendix C (Table VII-1 from Original Investigation).

manufacture and export substantial volumes of TBLGs and continue to have substantial unused capacity with which to increase production in the event of revocation.⁶⁶

The United States remains an attractive market for the TBLG industry in China. Although there is some question of the extent to which the official import statistics reflect in-scope as opposed to out-of-scope lawn care products,⁶⁷ those data indicate that subject producers have an interest generally in supplying lawn care products to the U.S. market. Indeed, Agri-Fab states that producers in China continue to export to the United States out-of-scope products related to TBLGs (*e.g.*, lawn carts and rollers).⁶⁸ It claims that the United States is a particularly attractive market for TBLGs due to the combination of a low population density conducive to space for lawns, a high per capita income that provides for discretionary spending, and a culture of appreciation for lawn and garden care.⁶⁹

In light of these considerations, we find that the subject producers are likely, absent the restraining effects of the order, to direct significant volumes of TBLGs to the U.S. market, as they did during the original investigation.⁷⁰ We find that the likely volume of subject imports, both in absolute terms and relative to consumption in the United States, would be significant if the order were revoked.

D. Likely Price Effects

Original Investigation. In the original investigation, the Commission found that, because the domestic like product and subject imports were highly substitutable with respect to TBLGs of the same type, price was an important consideration for purchasers choosing among competing TBLG suppliers. The Commission observed that some purchasers reported that they had switched purchases from the domestic like product to subject imports due to price.⁷¹

The Commission found that the subject imports pervasively undersold the domestic like product throughout the POI with respect to all but one of the seven pricing products. Accordingly, it concluded that the underselling of the domestic like product by the subject imports was significant.⁷²

The Commission found that the principal price effect of subject imports was the shift in market share from the domestic producers to subject imports due to the underselling by the

⁶⁶ CR at I-39, PR at I-26.

⁶⁷ CR/PR at Tables I-2, I-4.

⁶⁸ CR at I-39, PR at I-26.

⁶⁹ Agri-Fab Response at 22.

⁷⁰ None of the responding parties in the original investigation or this review reported antidumping or countervailing measures, or other barriers, against TBLGs from China in third-country markets. CR at I-37, PR at I-25. Due to the failure of any foreign producer, exporter, or importer of subject merchandise from China to participate in this review, the record does not contain current information regarding existing inventories of subject merchandise, any likely increases in such inventories, or the potential for product shifting if production facilities in China which can be used to produce TBLGs are currently being used to manufacture other products. CR at I-38-39, PR at I-25.

⁷¹ Original Determination, USITC Pub. 4090 at 23.

⁷² Original Determination, USITC Pub. 4090 at 24.

subject imports. It also found that evidence of lost sales corroborated the effects of the underselling.⁷³

The Commission did not find that subject imports depressed or suppressed prices of the domestic like product to a significant degree.⁷⁴ It determined that prices for all but one of the domestically produced products were higher in the fourth quarter of 2008 than in the first quarter of 2006 and prices for all of the domestically produced products generally fluctuated within a narrow range from the first quarter of 2006 to the fourth quarter of 2008.⁷⁵ It also stated that the domestic industry's ratio of cost of goods sold to net sales fluctuated from 2006 to 2008, but decreased overall.⁷⁶

For the forgoing reasons, the Commission found that underselling by the subject imports was significant and contributed significantly to the shift in market share from the domestic industry to subject imports between 2006 and 2008.⁷⁷

Current Review. There is no new product-specific pricing information on the record of this expedited review. We find that price continues to be an important factor in purchasing decisions. In light of the consistent underselling that occurred during the POI, we find that, if the antidumping duty order were revoked, subject imports from China would likely undersell the domestic like product to gain market share, as they did during the original period of investigation. This in turn would likely require the domestic industry to either lose sales to the subject imports or to cut prices or restrain price increases to compete with subject import prices.

For the foregoing reasons, we conclude that subject imports from China are likely to have significant price effects if the order were revoked.

E. Likely Impact⁷⁸

Original Investigation. In the original investigation, the Commission found that subject imports had a significant adverse impact on the domestic industry between 2006 and 2008. It found that the massive shift in market share from the domestic like product to subject imports was driven, in large part, by pervasive underselling of the subject imports and that, as a consequence, the domestic industry experienced declines in almost every statutory

⁷³ Original Determination, USITC Pub. 4090 at 25.

⁷⁴ Original Determination, USITC Pub. 4090 at 24.

⁷⁵ Original Determination, USITC Pub. 4090 at 24-25.

⁷⁶ Original Determination, USITC Pub. 4090 at 25.

⁷⁷ Original Determination, USITC Pub. 4090 at 25.

⁷⁸ Under the statute, "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv); *see also* SAA at 887.

Commerce expedited its antidumping duty review determination and found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at weighted average margins up to 386.28 percent. 79 Fed. Reg. 65375 (Nov. 4, 2014).

performance indicator during the POI. It found that, as the domestic industry's market share declined, so too did its U.S. shipments and net sales quantity. Because the domestic industry's production also declined while its capacity remained relatively stable, it found that the industry's capacity utilization rate declined over the POI, along with many of the industry's other production and employment indicators.⁷⁹

The Commission found that the domestic industry's financial performance also deteriorated between 2006 and 2008, with declines in net sales, operating income, and return on investment. It acknowledged that the domestic industry's capital expenditures and research and development expenses increased over the POI, but found that these increases were largely due to Agri-Fab's efforts to develop new products in the face of intensifying Chinese competition.⁸⁰

The Commission recognized that the domestic industry's condition had improved in the first quarter of 2009 relative to the first quarter of 2008. It found, however, that the industry's improved profitability coincided with an increase in market share in interim 2009 relative to interim 2008, as Commerce imposed provisional measures and subject imports relinquished market share during the same period. Accordingly, the Commission placed reduced weight on data for the first quarter of 2009 because the data accounted for a single quarter and the changes reflected in the data were related to the pendency of the investigations.⁸¹

The Commission found that there was a causal nexus between subject imports and the deteriorating condition of the domestic industry. It based its conclusion on the substantial increase in subject import volume and market share, driven by pervasive underselling by subject imports, which had a significant adverse impact on the domestic industry between 2006 and 2008.⁸²

The Commission considered whether other factors had an impact on the domestic industry. Although it noted that the economic downturn may have had a role in the domestic industry's lagging performance in 2008, it found that the modest decline in demand in that year did not explain the magnitude of the deterioration in the domestic industry's performance.⁸³

The Commission also recognized that nonsubject imports were a factor in the U.S. market during the POI.⁸⁴ Although the record indicated a high degree of substitutability among nonsubject imports, subject imports, and the domestic like product of the same type of TBLG, the Commission found that nonsubject imports were limited to a single type of TBLG. The Commission noted that the only domestic product with which the nonsubject TBLG competed was reportedly a single spreader model and that nonsubject imports declined between 2006 and 2008 in terms of both volume and market share.⁸⁵ Therefore, the Commission did not attribute to subject imports any effects from nonsubject imports.⁸⁶

⁷⁹ Original Determination, USITC Pub. 4090 at 26.

⁸⁰ USITC Pub. 4090 at 27.

⁸¹ USITC Pub. 4090 at 27.

⁸² USITC Pub. 4090 at 27.

⁸³ USITC Pub. 4090 at 28.

⁸⁴ USITC Pub. 4090 at 28.

⁸⁵ USITC Pub. 4090 at 28-29.

⁸⁶ USITC Pub. 4090 at 29.

Current Review. The information available concerning the domestic industry's condition in this review consists of the data that AgriFab, which is estimated to have accounted for *** percent of domestic TBLG production in 2013, provided in response to the notice of institution. Because this is an expedited review, we only have limited information regarding the domestic industry's financial performance. The record is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.⁸⁷

The information on the record indicates that, in 2013, the capacity of the reporting domestic producer was *** units, production was *** units, and capacity utilization was *** percent.⁸⁸ U.S. shipments in 2013 were *** units valued at \$***.⁸⁹ The reporting domestic producer's ratio of operating income to net sales was *** percent.⁹⁰ Based on the limited information on the record, we find that, should the order be revoked, the likely significant volume and price effects of the subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. This impact would likely cause declines in the domestic industry's financial performance.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports, so as not to attribute injury from other factors to the subject imports. Based on available data, nonsubject imports have increased in both relative and absolute terms since the POI.⁹¹ Nevertheless, the domestic industry's market share, based on quantity, was higher in 2013 than it was during 2008, the last full year of the POI.⁹² During the original period of investigation, subject imports gained market share at the expense of both the domestic industry and nonsubject imports, and we anticipate that this pattern would recur upon revocation. Moreover, average unit values ("AUVs") for nonsubject imports were considerably greater than those for subject imports throughout the 2008-13 period and were also higher than the AUVs the domestic industry reported in 2013.⁹³ In light of these

⁸⁷ Vice Chairman Pinkert finds that the domestic industry producing TBLGs appears to be vulnerable. Production, capacity utilization, shipments, and apparent U.S. consumption were down in 2013 compared to earlier periods. CR/PR at Tables I-1, I-4. Although the industry's operating margin ***, notwithstanding higher unit values than in earlier periods. CR/PR at Table I-1.

⁸⁸ CR/PR at Table I-1. In 2008, the final full year of the original POI, the capacity of the five reporting domestic producers, believed to have accounted for virtually all domestic production, was *** units, production was *** units, and capacity utilization was *** percent. *Id.*

⁸⁹ CR/PR at Table I-1. U.S. shipments of the five producers reporting in the original investigation were *** units in 2008, valued at \$***. *Id.*

⁹⁰ CR/PR at Table I-1. The ratio of operating income to net sales of the five producers reporting in the original investigation was *** percent in 2008. *Id.*

⁹¹ CR/PR at Table I-4.

⁹² CR/PR at Table I-4. Additionally, the 2013 market share for the domestic industry may be understated because domestic industry shipments include only Agri-Fab's shipments, while 2013 imports, according to Agri-Fab, are likely overstated. CR at I-27, PR at I-20; CR/PR at Tables I-2 n.1, I-4 n.2.

⁹³ CR/PR at Tables I-1, I-2. Because differences in AUVs may reflect differences in product mix, we view such data with caution.

considerations, we find that any likely effects of nonsubject imports are distinguishable from the likely adverse effects we have attributed to the subject imports.

Accordingly, we conclude that if the orders were revoked, subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

IV. Conclusion

For the above reasons, we determine that revocation of the antidumping duty order on TBLGs from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

INFORMATION OBTAINED IN THE REVIEW

INTRODUCTION

Background

Effective July 1, 2014, the U.S. International Trade Commission (“Commission” or “USITC”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ that it had instituted a review to determine whether revocation of the antidumping order on certain tow-behind lawn groomers and parts thereof (“TBLGs”) from China would likely lead to the continuation or recurrence of material injury to a domestic industry.^{2 3} On October 6, 2014, the Commission determined that the domestic interested party response to the notice of institution was adequate and respondent interested party group response was inadequate.⁴ In the absence of any other circumstances that would warrant the conduct of a full review, the Commission determined to conduct an expedited review of the antidumping duty order pursuant to section 751(c)(3) of the Act.⁵ The following tabulation presents information relating to the background and schedule of this review:⁶

Effective date	Action
July 1, 2014	Commerce’s initiation of first five-year review (79 FR 37292)
July 1, 2014	Commission’s institution of first five-year review (79 FR 37349)
October 6, 2014	Commission’s notice of scheduling of an expedited five-year review (79 FR 66403, November 7, 2014)
November 4, 2014	Commerce’s final results of expedited review (79 FR 65375)
January 12, 2015	Commission’s vote
January 22, 2015	Commission’s determination and views

¹ 19 U.S.C. 1675(c).

² *Certain Tow-Behind Lawn Groomers and Parts Thereof From China; Institution of Five-Year Reviews*, 79 FR 37349, July 1, 2014. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

³ In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 79 FR 37292, July 1, 2014. The companion countervailing duty order on TBLGs from China was revoked by Commerce, effective September 23, 2014. *Tow Behind Lawn Groomers and Parts and Thereof From the People’s Republic of China: Final Results of Sunset Review and Revocation of Countervailing Duty Order*, 79 FR 56769, September 23, 2014. The Commission terminated its review of the countervailing duty order, effective September 24, 2014. *Certain Tow-Behind Lawn Groomers and Parts Thereof from China: Termination of Five-Year Review*, 79 FR 59504, October 2, 2014.

⁴ The Commission received one submission in response to its notice of institution from domestic producer Agri-Fab, Inc. (“Agri-Fab”). The Commission did not receive any responses from producers in China or importers of the subject merchandise from China.

⁵ *Tow-Behind Lawn Groomers from China: Scheduling of an Expedited Five-Year Review*, 79 FR 66403, November 7, 2014.

⁶ Pertinent Federal Register notices are referenced in app. A, and may be found on the Commission’s website (www.usitc.gov).

The original investigation

The original investigation resulted from a petition filed on June 24, 2008, by Agri-Fab, a U.S. producer of TBLGs, alleging that an industry in the United States was materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of TBLGs from China.⁷ Effective June 19, 2009, Commerce determined that imports of TBLGs from China were being sold at LTFV, or were likely to be sold at LTFV.⁸ In July of 2009, the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of TBLGs from China.⁹ Commerce issued an antidumping duty order on TBLGs from China on August 3, 2009.¹⁰

Commerce’s expedited first five-year review determination

On November 4, 2014, Commerce issued its final results of its expedited first five-year review. Commerce determined that revocation of the antidumping order on TBLGs from China would likely lead to continuation or recurrence of dumping and announced weighted-average margins of up to 386.28 percent.¹¹ Since the issuance of the antidumping duty order in August 2009, there have been no administrative reviews or new shipper reviews and there have been no scope inquiries, changed circumstances reviews, or duty absorption findings.¹²

Previous and related title VII investigations

The Commission has not conducted any previous or related title VII investigations on TBLGs.

⁷ *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, USITC Publication 4090, July 2009, p. I-1.

⁸ *Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 29167, June 19, 2009.

⁹ *Certain Tow-Behind Lawn Groomers and Parts Thereof From China: Determinations*, 74 FR 38228, July 31, 2009.

¹⁰ *Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China: Antidumping Duty Order*, 74 FR 38395, August 3, 2009.

¹¹ *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People’s Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 79 FR 65375, November 4, 2014.

¹² *Issues and Decision Memorandum for the Expedited First Sunset Review of the Antidumping Duty Order on Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China*, October 24, 2014.

THE PRODUCT

Commerce's scope¹³

In its final results of the expedited first five-year review of the antidumping duty order, Commerce defined the subject merchandise as follows:

The scope of this order covers certain non-motorized tow behind lawn groomers, manufactured from any material, and certain parts thereof. Lawn groomers are defined as lawn sweepers, aerators, dethatchers, and spreaders. Unless specifically excluded, lawn groomers that are designed to perform at least one of the functions listed above are included in the scope of this order, even if the lawn groomer is designed to perform additional non-subject functions (e.g., mowing).

All lawn groomers are designed to incorporate a hitch, of any configuration, which allows the product to be towed behind a vehicle. Lawn groomers that are designed to incorporate both a hitch and a push handle, of any type, are also covered by the scope of this order. The hitch and handle may be permanently attached or removable, and they may be attached on opposite sides or on the same side of the lawn groomer. Lawn groomers designed to incorporate a hitch, but where the hitch is not attached to the lawn groomer, are also included in the scope of the order.

Lawn sweepers consist of a frame, as well as a series of brushes attached to an axle or shaft which allows the brushing component to rotate. Lawn sweepers also include a container (which is a receptacle into which debris swept from the lawn or turf is deposited) supported by the frame. Aerators consist of a frame, as well as an aerating component that is attached to an axle or shaft which allows the aerating component to rotate. The aerating component is made up of a set of knives fixed to a plate (known as a "plug aerator"), a series of discs with protruding spikes (a "spike aerator"), or any other configuration, that are designed to create holes or cavities in a lawn or turf surface. Dethatchers consist of a frame, as well as a series of tines designed to remove material (e.g., dead grass or leaves) or other debris from the lawn or turf. The dethatcher tines are attached to and suspended from the frame. Lawn spreaders consist of a frame, as well as a hopper (i.e., a container of any size, shape, or material) that holds a media to be spread on the lawn or turf. The media can be distributed by means of a rotating spreader plate that broadcasts the media (broadcast spreader), a

¹³ *Issues and Decision Memorandum for the Expedited First Sunset Review of the Antidumping Duty Order on Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China*, October 24, 2014.

rotating agitator that allows the media to be released at a consistent rate (drop spreader), or any other configuration.

Lawn dethatchers with a net fully-assembled weight (i.e., without packing, additional weights, or accessories) of 100 pounds or less are covered by the scope of the order. Other lawn groomers—sweepers, aerators, and spreaders—with a net fully-assembled weight (i.e., without packing, additional weights, or accessories) of 200 pounds or less are covered by the scope of the order.

Also included in the scope of the order are modular units, consisting of a chassis that is designed to incorporate a hitch, where the hitch may or may not be included, which allows modules that perform sweeping, aerating, dethatching, or spreading operations to be interchanged. Modular units—when imported with one or more lawn grooming modules—with a fully assembled net weight (i.e., without packing, additional weights, or accessories) of 200 pounds or less when including a single module, are included in the scope of the order. Modular unit chassis, imported without a lawn grooming module and with a fully assembled net weight (i.e., without packing, additional weights, or accessories) of 125 pounds or less, are also covered by the scope of the order. When imported separately, modules that are designed to perform subject lawn grooming functions (i.e., sweeping, aerating, dethatching, or spreading), with a fully assembled net weight (i.e., without packing, additional weights, or accessories) of 75 pounds or less, and that are imported with or without a hitch, are also covered by the scope.

Lawn groomers, assembled or unassembled, are covered by this order. For purposes of this order, “unassembled lawn groomers” consist of either (1) all parts necessary to make a fully assembled lawn groomer, or (2) any combination of parts, constituting a less than complete, unassembled lawn groomer, with a minimum of two of the following “major components.”

- (1) An assembled or unassembled brush housing designed to be used in a lawn sweeper, where a brush housing is defined as a component housing the brush assembly, and consisting of a wrapper which covers the brush assembly and two end plates attached to the wrapper;
- (2) A sweeper brush;
- (3) An aerator or dethatcher weight tray, or similar component designed to allow weights of any sort to be added to the unit;
- (4) A spreader hopper;
- (5) A rotating spreader plate or agitator, or other component designed for distributing media in a lawn spreader;
- (6) Dethatcher tines;
- (7) Aerator spikes, plugs, or other aerating component; or

(8) A hitch, defined as a complete hitch assembly comprising of at least the following two major hitch components, tubing and a hitch plate regardless of the absence of minor components such as pin or fasteners. Individual hitch component parts, such as tubing, hitch plates, pins or fasteners are not covered by the scope.

The major components or parts of lawn groomers that are individually covered by this order under the term “certain parts thereof” are: (1) Brush housings, where the wrapper and end plates incorporating the brush assembly may be individual pieces or a single piece; and (2) weight trays, or similar components designed to allow weights of any sort to be added to a dethatcher or an aerator unit.

The scope of this order specifically excludes the following: (1) Agricultural implements designed to work (e.g., churn, burrow, till, etc.) soil, such as cultivators, harrows, and plows; (2) lawn or farm carts and wagons that do not groom lawns; (3) grooming products incorporating a motor or an engine for the purpose of operating and/or propelling the lawn groomer; (4) lawn groomers that are designed to be hand held or are designed to be attached directly to the frame of a vehicle, rather than towed; (5) “push” lawn grooming products that incorporate a push handle rather than a hitch, and which are designed solely to be manually operated; (6) dethatchers with a net assembled weight (i.e., without packing, additional weights, or accessories) of more than 100 pounds, or lawn groomers—sweepers, aerators, and spreaders—with a net fully-assembled weight (i.e., without packing, additional weights, or accessories) of more than 200 pounds; and (7) lawn rollers designed to flatten grass and turf, including lawn rollers which incorporate an aerator component (e.g., “drum-style” spike aerators).

U.S. tariff treatment

The lawn groomers that are the subject of this review are classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) in subheadings 8432.40.00, 8432.80.00, 8432.90.00, 8479.89.98, 8479.90.96, and 9603.50.00. Imports of such goods would likely be reported under statistical reporting numbers 8432.40.0000, 8432.80.0010, 8432.90.0030, 8432.90.0080, 8479.89.9896, 8479.90.9496, and 9603.50.0000.¹⁴ These HTSUS provisions are given for reference and customs purposes only, and the description of merchandise is dispositive for determining the scope of the product included in this order. HTSUS statistical reporting numbers 8432.80.0010 (covering tow-behind spreaders, aerators, and dethatchers)

¹⁴ In its expedited final results, Commerce indicated that imports of TBLGs are also “currently classifiable” under statistical reporting number 8479.89.9897. However, this statistical reporting number was deleted on January 1, 2009. *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People’s Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 79 FR 65375, November 4, 2014.

and 8479.89.9896 (tow-behind sweepers) include classes of goods that are specific to the product scope, whereas the other reporting numbers also include goods outside of the scope of this review. Subheadings 8432.90.00, 8479.90.94, and 9603.50.00 cover parts of the subject lawn groomers, while unassembled or disassembled machines (complete or relatively complete “kits”) are classified in the provisions covering complete or finished goods. The general duty rate for subheading 8479.89.98 is 2.5 percent ad valorem, while the other provisions have general rates of free.

Domestic like product and domestic industry

In the final phase of the original investigation, the Commission defined a single domestic like product encompassing the continuum of TBLG products within the scope of the investigation.¹⁵ In finding a single domestic like product, however, the Commission noted that the issue was close, explaining that

“we cannot discern clear enough dividing lines to warrant finding multiple like products, as advocated by Superpower. Among other pertinent facts, combination and modular TBLGs are interchangeable with individual TBLGs performing the same functions, and there is a significant market for such products. Customers and producers disagree as to how to group together different types of TBLGs within the broad category of TBLGs, indicating that a clear dividing line does not exist.”¹⁶

The Commission defined the domestic industry as all domestic producers of TBLGs, including Agri-Fab, Brinly-Hardy, and Spyker Spreaders.¹⁷ The Commission also determined that circumstances warranted the exclusion of certain domestic producers from the domestic industry as related parties. *** was excluded from the domestic industry by the Commission under the related party provision. In addition, Vice Chairman Pearson and Commissioners Okun and Pinkert excluded *** from the domestic industry under the related party provision.¹⁸

In its notice of institution for this review, the Commission solicited comments from interested parties regarding the appropriate domestic like product and domestic industry. Domestic producer Agri-Fab indicated that it agrees with the Commission’s definitions of the domestic like product and domestic industry that were adopted in the original investigations and that this issue need not be revisited for purposes of this review.¹⁹

¹⁵ *Certain Tow-Behind Lawn Groomers and Parts Thereof from China Investigation Nos. 701-TA-457 and 731-TA-1153 (Final)*, USITC Publication 4090, July 2009, p. I-10.

¹⁶ *Ibid.*, pp. 12-13.

¹⁷ *Ibid.*, p. 13.

¹⁸ *Confidential Views of the Commission*, p. 14.

¹⁹ *Agri-Fab’s Response to the Notice of Institution*, July 31, 2014, p. 30. Agri-Fab has argued that no party has sought an administrative review of the TBLG order or attempted to disturb any of the findings by the Commission or Commerce. *Agri-Fab’s Response to the Notice of Institution*, July 31, 2014, p. 11.

The Commission’s decision regarding the appropriate domestic product(s) that are “like” the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price. Information regarding these factors as they relate to the domestic like product is discussed below.

Physical characteristics and uses²⁰

For purposes of this review, non-motorized TBLGs are a group of four distinct pieces of lawn grooming equipment: lawn aerators, dethatchers, spreaders, and sweepers. Each type of TBLG incorporates a hitch and is intended to be towed behind a lawn tractor, all-terrain vehicle, utility type vehicle, riding lawn mower, or similar vehicle. Within the group, each piece of equipment has a different configuration and application, but all share the physical characteristics and uses imparted by their common requirement of a towing apparatus, and by their complementary functions of maintaining a healthy lawn. TBLGs are generally intended for personal use on residential lawn areas of a size that will effectively accommodate the apparatus (towing vehicle and piece of equipment), rather than manually powered (push) groomers, which are intended for smaller lawn areas, and motorized groomers, which tend to be of a size and weight designed for high-volume, commercial use.²¹ Depending on the application, TBLGs are designed to perform through ***, which represents an average life cycle of approximately *** years.

The four types of TBLGs have many similarities and differences. In terms of physical characteristics, each of the four pieces share several features in addition to the tow hitch, including a similar size, a steel frame, an engage/disengage transport handle, and, in most cases, two wheels and a single axle.²² In terms of use, each of the four TBLG pieces features a separate and distinct function—aerating, dethatching, spreading, and sweeping—to achieve the lawn grooming purpose.

Aerators

Tow-behind aerators are designed to perforate the lawn with small holes, thereby loosening the soil and allowing air (primarily oxygen), water, and fertilizer to penetrate closer to the grass roots. This in turn enables the roots to grow deeper for a healthier lawn. There are two basic types of aerators: one that simply slits openings in the soil (a “spike aerator”) and one that removes and drops out plugs of soil (a “plug aerator”). Spike aerators have the appearance

²⁰ Information presented in this section of the report is based on information contained in *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, USITC Publication 4090, July 2009, pp. I-11 – I-18.

²¹ ***. Agri-Fab testified in the original investigation that TBLGs may also be appropriate for customers with a lawn size of 5 acres or more. Agri-Fab also noted that, although lawn size may be a factor in the decision to purchase a tow groomer versus a push groomer, the decision is just as often based on whether or not the end user has an appropriate towing vehicle.

²² In addition, these products share general use parts, including washers, screws, nuts, and bolts.

of a series of spurs rotating on an axle, and plug aerators have the appearance of star-shaped, funnel-type knives rotating on an axle. The axle is suspended from and rotates beneath a tray with sides, which serves as the frame for the aerator and holds optional weights (e.g., concrete blocks) in place to control the depth of the aerating action. Figure I-1 presents images of tow-behind spike and plug aerators produced by Agri-Fab.

Figure I-1
TBLGs: Tow-behind spike and plug aerators



Spike aerator



Plug aerator

Source: <http://www.agri-fab.com/>.

Dethatchers

Tow-behind dethatchers are designed to scrape the lawn like a rake and loosen up any thatch (accumulated dried vegetation that collects around the blades of grass above the soil). Thatch conserves moisture and serves to protect the roots from heat stress during periods of long hot summer sun and drought. However, too much thatch can compact and prevent sufficient penetration of air, water, and nutrients to the grass roots. Dethatchers have a series of spring steel tines assembled along an alignment wire that is attached to a tray with sides, which serves as the frame and holds optional weights (e.g., concrete blocks) to control the depth of the dethatching action. Figure I-2 presents an image of a tow-behind dethatcher produced by Agri-Fab.

Figure I-2
TBLGs: Tow-behind dethatcher



Source: <http://www.agri-fab.com/>

Spreaders

Tow-behind spreaders are designed to distribute material, such as grass seed and fertilizers, from a funnel-shaped bin or hopper onto the lawn in an even fashion. Spreaders are generally used for feeding, seeding, and maintaining lawns. There are two basic types of spreaders. The "drop spreader" drops material from a funnel-shaped bin through a rotating agitator onto the lawn at a consistent rate, while the "broadcast spreader" dispenses material from the funnel-shaped bin onto a spinning tray that broadcasts or widely disseminates the material out and onto the lawn. Spreader sizes are usually distinguished by bin capacity in terms of either volume or weight (*e.g.*, 14 gallon dry or 125 pounds). The bin assembly is attached to a frame. Figures I-3 and I-4 present images of subject tow-behind spreaders produced by Agri-Fab.

Figure I-3
TBLGs: Tow-behind "broadcast" spreader



Source: <http://www.agri-fab.com/>.

Figure I-4
TBLGs: Tow-behind "drop" spreader



Source: <http://www.agri-fab.com/>.

Sweepers

Tow-behind sweepers are designed to sweep debris (*e.g.*, grass clippings, leaves, and twigs) off of lawns and into a catcher bag for disposal. Sweepers have a series of brushes attached to a drive shaft contained in a "brush housing," which is a curved piece of metal, plastic, or other material ("wrapper") designed to protect the brushes and control the flow of swept-up debris into the catcher. As the sweeper is pulled over a lawn, the brushes rotate, sweeping up lawn debris and throwing it back into a catcher bag, which typically consists of a

durable fabric (*e.g.*, canvas or a heavy nylon) supported by a frame that is attached to the brush housing. Sweepers vary in the width of the brush housing,²³ height adjustment of the brushes, bag capacity, and brush speed. Figure I-5 presents an image of a tow-behind sweeper produced by Agri-Fab.

Figure I-5

TBLGs: Tow-behind sweeper



Source: <http://www.agri-fab.com/>.

The four distinct pieces of TBLG equipment share the common purpose of lawn maintenance and are frequently used together. In addition, certain TBLGs are designed to perform two grooming functions simultaneously. For example, a TBLG implement may combine the functions of an aerator and spreader or those of a sweeper and dethatcher. Figure I-6 presents an image of a combo tow-behind aerator and spreader produced by Agri-Fab,²⁴ while figure I-7 presents an image of a combo tow-behind sweeper and dethatcher produced by Agri-Fab.

²³ Customers may select a brush housing width on the basis of the lawn area size and/or on the basis of the size of their mowing deck, should they want to sweep as they mow.

²⁴ Agri-Fab indicated in the original investigation that *** of China produced a combo tow-behind aerator and spreader ***.

Figure I-6
TBLGs: Combo tow-behind aerator and spreader



Source: <http://www.agri-fab.com/>.

Figure I-7
TBLGs: Combo tow-behind sweeper and dethatcher



Source: <http://www.agri-fab.com/>.

Agri-Fab also introduced a system of modular TBLGs to the market called “SmartLINK™.” This system consists of a “master” platform (a common chassis and a common hitch) into which modular units (including a plug aerator, a turf shark curved blade (spike) aerator, and a tine dethatcher) can be easily attached and changed without the use of tools. Figures I-8, I-9, and I-10 present images of a SmartLINK master platform holding a plug aerator module, a SmartLINK tine dethatcher module, and a SmartLINK turf shark curved blade aerator module, respectively.

Figure I-8
TBLGs: SmartLINK master platform and plug aerator



Source: <http://www.agri-fab.com/>.

Figure I-9
TBLGs: SmartLINK tine dethatcher



Source: <http://www.agri-fab.com/>.

Figure I-10
TBLGs: SmartLINK turf shark curved blade aerator



Source: <http://www.agri-fab.com/>.

Manufacturing process²⁵

Although TBLGs can reportedly be made of any material, the primary material used in the production of TBLGs has always been steel. Non-alloy, hot-rolled steel, ***, is used to make steel tubing for frames, supporting trays, and the brush housing for sweepers. Cold-rolled steel is used for the axles or shafts. These steel parts are formed by stamping, cutting, and/or pressing them from the steel material into the desired shape. The formed parts are welded as necessary, cleaned, dried, painted, dried again, inspected, and assembled as necessary into sub-components. These fabricated parts are then inspected, packaged for shipment with the various purchased items, and weighed to check for any missing parts. TBLGs generally require some hand assembly by the end user.

Agri-Fab noted in the original investigations that it produces all TBLGs on the same assembly lines, using the same equipment and the same employees, some of whom ***.²⁶ In addition to fabricating the major steel parts, Agri-Fab purchases various general purpose items to complete the product, including catcher bags, brushes, bearings, and gears for sweepers; plastic hoppers for the spreaders; spring steel tines for dethatchers; and wheels and a variety of fasteners (bolts, nuts, washers, and rivets) to complete each of the TBLGs. Agri-Fab has increasingly automated the processes used to fabricate the major steel components of TBLGs for greater production efficiency. Agri-Fab **. The combination of these *** with computerized machining equipment has allowed operators to **. Robot technology is used for applications requiring welding and drilling, and laser equipment is used for the **, precision tooling required for certain parts **. The paint shop is automated with powder-coating (a form of powder paint) spray booths, which provide a cleaner working environment, reduced hazardous waste, and improved handling of painted parts within the plant for higher quality. The painting of all components is handled on the same paint line. Finally, computer-

²⁵ Information presented in this section of the report is based on information contained in *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, USITC Publication 4090, July 2009, pp. I-19 – I-20.

²⁶ In addition to each of the four types of TBLGs, Agri-Fab produces products other than TBLGs on the same assembly line with the same employees, including push spreaders and tow sprayers.

controlled assembly lines monitor each product unit, by weight, as a check for missing parts,
***.

Interchangeability and customer and producer perceptions²⁷

During the original investigations, most U.S. producers and U.S. importers generally agreed that the various types of TBLGs are not interchangeable. However, Agri-Fab contended that the combo and SmartLINK™ TBLGs are interchangeable with the individual TBLGs that perform the same lawn grooming functions. Agri-Fab argued that, while the individual types of products may not be completely interchangeable, they ought to be considered as a single domestic like product due to their complementary functions. The respondent counsel argued that none of the products are interchangeable based on their particular lawn grooming functions. The Commission noted this, but observed the interchangeability between combination TBLGs (a TBLG that can perform multiple functions) and individual units that perform the same functions. In terms of interchangeability between U.S.-produced TBLGs and subject imports from China, the majority of U.S. producers reported that the products are always interchangeable, whereas a slight majority of importers that compared U.S.-produced TBLGs with subject imports from China reported that the products are always or frequently interchangeable. The remainder reported that the products are sometimes interchangeable, taking into account differences in quality that could affect interchangeability in “heavy duty” applications or use in rugged terrains.

In terms of customer and producer perceptions, most U.S. importers and purchasers indicated that customer and producer perceptions were “not at all similar” among the four types of TBLGs, while one-half of U.S. producers generally indicated that customer and producer perceptions were “not at all similar” among the four types of TBLGs. The balance of the U.S. producer responses were distributed among “fully similar,” “mostly similar,” and “no familiarity” among the four types of TBLGs. The petitioner argued that customers often purchase a group or range of TBLG products, while the respondent argued that customer and producer perceptions were “not at all similar,” as even Agri-Fab groups TBLGs separately by function in its own literature.

The way in which TBLGs are marketed indicates that customers and producers perceive both similarities and differences between the four types of TBLGs. Agri-Fab reported that the vast majority of its sales are to home improvement retailers, which typically employ a buyer dedicated to TBLGs, and that its sales representatives generally “present and treat lawn groomers as a complete product line within the same family” when it meets with a customer. In addition, Agri-Fab reported that its sales representatives prepare ***. Agri-Fab’s product catalogs, which are prepared for general distribution and are not ***, group the different types of TBLGs by function with separate sections on sweepers and spreaders, but a single section titled “groomers” covering aerators and dethatchers.

²⁷ Unless otherwise noted, information presented in this section of the report is based on information contained in *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, USITC Publication 4090, July 2009, pp. 8 and I-21 – I-23; and *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Preliminary)*, USITC Publication 4028, August 2008, pp. I-17 – I-19.

With respect to how customers (retailers) market the four types of TBLGs, Agri-Fab and another domestic producer reported that retailers generally display all four TBLGs together in their establishments. Agri-Fab submitted sales flyers from three retailers that advertised multiple types of TBLGs together, along with mowers and other types of lawn care equipment. Specifically, Sears marketed all four types of TBLGs under “tractor attachments” on its website, grouping aerators with dethatchers, sweepers with lawn vacs, and sprayers with spreaders. On the other hand, a majority of purchasers reported that they purchased and marketed each type of TBLG separately, rather than together.

As part of their response to the notice of institution in this five-year review, interested parties were asked to provide a list of customers in the U.S. market for TBLGs. Agri-Fab named the following six firms: ***. Purchaser questionnaires were sent to these six firms and three firms (***) provided responses. The responses of these three firms are presented in appendix B.

Channels of distribution²⁸

In the original investigations, Agri-Fab argued that all TBLGs are sold through the same channels of distribution and get to the market via the same means, and that the four types of TBLGs are typically sold alongside each other at the retail level. The respondent counsel agreed that all TBLGs are sold via the same channels of distribution. Two-thirds of the responding U.S. producers and importers indicated that channels of distribution were “fully similar” or “mostly similar” among the four types of TBLGs, with the balance of their responses falling under the “no familiarity” category. Three-fourths of the responding U.S. purchasers indicated that the channels of distribution among the four types of TBLGs were “fully similar,” “mostly similar,” or “somewhat similar.”

Pricing and related information²⁹

During the original investigations, U.S. producers, U.S. importers, and U.S. purchasers of TBLGs were divided, indicating that prices were “mostly similar,” “somewhat similar,” or “not at all similar” among the four types of TBLGs. Agri-Fab reported that prices for TBLGs generally fell within a range of \$60 to \$400, with some overlap among the specific TBLG items.

The Commission requested U.S. producers and importers of TBLGs from China to provide quarterly price data for seven specific TBLG items that included the four types of TBLGs

²⁸ Unless otherwise noted, information presented in this section of the report is based on information contained in *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, USITC Publication 4090, July 2009, p. I-24, and *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Preliminary)*, USITC Publication 4028, August 2008, p. I-19.

²⁹ Unless otherwise noted, information presented in this section of the report is based on information contained in *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, USITC Publication 4090, July 2009, pp. 12 and I-25 – I-26; and *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, pp. V-5 – V-24.

in the original investigations. Out of 67 quarterly comparisons that covered all seven pricing products, the prices of imports from China were lower than the U.S. producer prices in 52 quarterly comparisons, by margins ranging from *** percent. The prices of imports from China oversold U.S. producers' prices in 15 quarterly comparisons, by margins ranging from *** percent. *** of the 15 instances of overselling occurred in comparisons involving product ***. The price ranges for tow-behind sweepers, aerators, and spreaders substantially overlapped in the middle of the TBLG price range, while the price ranges for aerators, spreaders, and dethatchers substantially overlapped on the lower end of the TBLG price range. The price ranges for dethatchers and sweepers reported by Agri-Fab, ***. Pricing product data collected by the Commission in the original investigations also indicated that sweepers, spreaders, and aerators were priced within a similar range, but that prices for dethatchers were significantly lower than prices for sweepers, spreaders, and aerators.

THE INDUSTRY IN THE UNITED STATES

U.S. producers

During the original investigations, there were five known U.S. producers of TBLGs.³⁰ Agri-Fab (Sullivan, Illinois) was the petitioning firm and the largest U.S. producer at that time. Agri-Fab and Brinly-Hardy³¹ accounted for *** U.S. production of TBLGs during the original period of investigation.³² Three other firms (Ohio Steel Industries, Precision Products, and Spyker Spreaders) reported production of TBLGs and *** accounted for *** percent of total U.S. production during January 2006 to March 2009.

According to Agri-Fab's response to the notice of institution in this review, there are currently eleven known U.S. producers of TBLGs.³³ Agri-Fab noted that it and Brinly-Hardy remain the primary domestic producers of TBLGs in the United States and that the same companies that were producing TBLGs in the United States remain in those roles today.³⁴

Related party issues

As previously noted, *** was excluded by the Commission from the domestic industry under the related party provision in the original investigations. ***. Vice Chairman Pearson and

³⁰ *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, USITC Publication 4090, July 2009, p. III-1.

³¹ Brinly-Hardy reported producing TBLGs ***.

³² *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, table III-1.

³³ The eleven producers include Agri-Fab, Brinly-Hardy, Earthway Products, Fimco Industries, Gandy Co. Manufacturers, Bishop Enterprises, Ohio Steel Industries, Parker Lawncare Products, PK Manufacturing Corp., Precision Products, and Bluebird International. *Agri-Fab's Response to the Notice of Institution*, July 31, 2014, exh. N.

³⁴ *Ibid.*, p. 14.

Commissioners Okun and Pinkert also excluded *** from the domestic industry under the related party provision in the original investigations. ***.³⁵

Agri-Fab indicated in its response to the Commission's notice of institution in this first five-year review that it is not aware of any related party issues with respect to China. Agri-Fab noted that ***. Agri-Fab also reported that ***.^{36 37}

U.S. producers' trade and financial data

Table I-1 presents data on U.S. producers' select trade and financial data for 2006-08 and 2013.³⁸ Data presented for the annual periods examined in the final phase of the original investigations (i.e., 2006-08) were provided by five U.S. producers (Agri-Fab, Brinly Hardy, Ohio Steel Industries, Precision Products, and Spyker Spreaders) that were believed to have represented virtually all U.S. production of TBLGs at that time. Petitioner Agri-Fab accounted for *** percent of U.S. production during January 2006-March 2008.³⁹ Agri-Fab was the only domestic producer to respond to the Commission's notice of institution in this first five-year review and, therefore, the data presented for 2013 pertain only to Agri-Fab. Agri-Fab estimated that its market share of U.S. TBLG production was *** percent and its share of U.S. sales of TBLGs was *** percent in 2013.⁴⁰

Agri-Fab noted in its response to the Commission's notice of institution in this review that ***. ***.⁴¹

Table I-1

TBLGs: U.S. producers' trade and financial data, 2006-08, and 2013

* * * * *

³⁵ *Confidential Views of the Commission*, pp. 4 and 16-17; and *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, table III-1.

³⁶ *Agri-Fab's Response to Commission's Cure Letter*, August 15, 2014, pp. 2-3.

³⁷ The Commission reported in the original investigations that ***. *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, table IV-1.

³⁸ Appendix C tables from the Commission's original staff report have been reproduced and are provided in appendix C of this report.

³⁹ *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, p. III-1.

⁴⁰ *Agri-Fab's Response to the Notice of Institution*, July 31, 2014, p. 3.

⁴¹ *Ibid.*, p. 25.

U.S. IMPORTS AND APPARENT U.S. CONSUMPTION

U.S. imports

In the original investigations, the Commission received useable questionnaire responses from nine U.S. importers that accounted for *** percent of Chinese-origin TBLGs in the U.S. market in 2008.⁴² The majority of U.S. imports of TBLGs were from China and the only reported nonsubject imports were from Mexico.⁴³

Agri-Fab lists 15 possible U.S. importers of the subject merchandise in its response to the notice of institution. Agri-Fab noted that it believes that the same companies that were importing TBLGs in the United States remain in those roles today (***).⁴⁴

As indicated previously, at the time of the original investigations, the HTS reporting numbers under which TBLGs were imported into the United States were basket categories. Agri-Fab subsequently filed a petition to create HTS statistical reporting numbers specifically for TBLGs. Effective January 1, 2009, two statistical breakouts were created – 8432.80.0010 for tow-behind spreaders, aerators, and dethatchers, and 8479.89.9896 for tow-behind sweepers.

Table I-2 presents U.S. imports of items entering the United States under HTS statistical reporting numbers 8432.80.0010 and 8479.89.9896 during 2009-13 as reported by official Commerce statistics.

Leading nonsubject sources of U.S. imports

The only nonsubject source of TBLG U.S. imports reported in the original investigations was *** imports from Mexico. Such U.S. imports from Mexico accounted for *** percent of total U.S. imports of TBLGs during 2008.⁴⁵ The Commission noted that, at that time, nonsubject imports from Mexico possessed a lower average unit value than subject imports because nonsubject imports consisted of a single type of *** tow-behind spreader that ***, while subject imports consisted of a wide variety of TBLGs.

⁴² During the original investigations, the HTS did not provide separate TBLG statistical breakouts and thus official import statistics were not available for use. The coverage estimate presented was based on data provided in the petition. *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, p. IV-1.

⁴³ ***. *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, p. IV-3.

⁴⁴ *Agri-Fab's Response to the Notice of Institution*, July 31, 2014, exh. O and p. 14.

⁴⁵ *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, p. II-7.

Table I-2
TBLGs: U.S. imports, by source, 2009-13

Item	2009	2010	2011	2012	2013
	Quantity (units)				
U.S. imports:					
China ¹	59,961	59,904	28,515	37,961	18,962
Nonsubject sources:					
Mexico	29,005	8,605	37,973	50,074	9,637
Taiwan	53,206	40,901	89,267	82,900	81,669
All other ²	6,327	7,819	41,145	16,424	15,787
Total nonsubject sources	88,538	57,325	168,385	149,398	107,093
Total imports	148,499	117,229	196,900	187,359	126,055
	LDP (\$1,000)				
U.S. imports:					
China ¹	934	1083	918	1,359	614
Nonsubject sources:					
Mexico	846	198	765	1,443	161
Taiwan	537	618	4,048	5,077	5,267
All other ²	15,762	15,430	16,555	16,153	19,903
Total nonsubject sources	17,145	16,246	21,368	22,673	25,331
Total imports	18,078	17,329	22,286	24,031	25,945
	LDP value (dollars per unit)				
U.S. imports:					
China ¹	15.58	18.08	32.19	35.80	32.38
Nonsubject sources:					
Mexico	29.17	23.01	20.15	28.82	16.71
Taiwan	10.09	15.11	45.35	61.24	64.49
All other ²	2491.23	1973.40	402.36	983.50	1260.72
Total nonsubject sources	193.65	283.40	126.90	151.76	236.53
Total imports	121.74	147.82	113.18	128.26	205.82

Table continued on following page.

Table I-2—Continued

TBLGs: U.S. imports, by source, 2009-13

Item	2009	2010	2011	2012	2013
	Share of total quantity (percent)				
U.S. imports:					
China ¹	40.4	51.1	14.5	20.3	15.0
Nonsubject sources:					
Mexico	19.5	7.3	19.3	26.7	7.6
Taiwan	35.8	34.9	45.3	44.2	64.8
All other ²	4.3	6.7	20.9	8.8	12.5
Total nonsubject sources	59.6	48.9	85.5	79.7	85.0
Total imports	100.0	100.0	100.0	100.0	100.0
	Share of total value (percent)				
U.S. imports:					
China ¹	5.2	6.3	4.1	5.7	2.4
Nonsubject sources:					
Mexico	4.7	1.1	3.4	6.0	0.6
Taiwan	3.0	3.6	18.2	21.1	20.3
All other ²	87.2	89.0	74.3	67.2	76.7
Total nonsubject sources	94.8	93.8	95.9	94.4	97.6
Total imports	100.0	100.0	100.0	100.0	100.0

¹ Agri-Fab indicated that does not believe that any TBLGs have been imported from China since the imposition of the orders in 2009 and that the reported imports from China are actually TBLG parts that are not within the scope of the TBLG order, other out-of-scope products (e.g., rollers or ground-engaging implements), or incorrectly classified products.

² Other substantial nonsubject sources include Canada, Finland, Germany, Italy, and Japan. Relatively minor amounts of imports were also reported from Australia, Belgium, Brazil, Croatia, Denmark, France, Hungary, India, Ireland, Netherlands, New Zealand, Poland, Spain, Switzerland, United Kingdom, and Vietnam. Agri-Fab stated that significant nonsubject sources (such as Canada, Germany, Japan, Finland, and Italy) do not have TBLG producing industries and that the reported imports from these countries are items that do not meet the scope description for TBLGs.

Note.—Due to rounding, figures may not add to the totals shown.

Source: Official Commerce statistics (HTS statistical reporting numbers 8432.80.0010 and 8479.89.9896).

According to official import statistics, at various points during 2009-13 leading nonsubject sources of items entering the United States under the applicable statistical reporting numbers for TBLGs at various points during 2009-13 include Canada, Finland, Germany, Italy, and Japan, as well as Mexico and Taiwan. As previously noted, however, Agri-Fab pointed out that there are no TBLG producing industries in Canada, Finland, Germany, Italy, and Japan and that reported U.S. imports from these countries are for products other than those TBLGs covered by the scope definition.

Ratio of imports to U.S. production

Information concerning the ratio of U.S. imports to U.S. production of TBLGs is presented in table I-3. Imports of TBLGs from China amounted to *** percent of U.S. production during 2008 and *** percent in 2013.⁴⁶ The ratio of imports from Mexico to domestic production was *** percent in 2008 and *** percent in 2013. The ratio of imports from Taiwan to domestic production was *** percent in 2013.⁴⁷

Table I-3

TBLGs: Ratio of U.S. imports to U.S. production, by sources, 2006-08, and 2013

* * * * *

Apparent U.S. consumption and market shares

Domestic demand for TBLGs is influenced by the general economy, discretionary income, weather conditions, and the state of the housing market. Purchases of TBLGs are seasonal in nature, with most TBLG purchases being made in the spring season. There is typically a modest decline in TBLG purchases in the summer and an increase in lawn sweeper sales in the fall. Agri-Fab indicated in its response to the Commission’s notice of institution in this first five-year review that demand conditions in the United States have largely remained unchanged since the imposition of the order with respect to the buying patterns of U.S. consumers.⁴⁸

Agri-Fab noted that the U.S. economic downturn affected TBLG sales toward the end of 2008 and through 2009 and that, although demand in the housing market recovered since that time, demand in the lawn care industry did not recover at the same pace. In fact, Agri-Fab indicated that domestic demand for TBLGs and the entire lawn and garden industry has declined since the imposition of the antidumping duty order. Agri-Fab estimated that the lawn tractor market in the United States, which is reflective of the U.S. TBLG market, has fallen *** percent since 2005.⁴⁹

⁴⁶ Agri-Fab noted that TBLGs have not been imported from China since the imposition of the orders in 2009 and that the reported imports from China are out-of-scope or incorrectly classified products.

⁴⁷ There were no reported imports of TBLGs from Taiwan during the original investigations.

⁴⁸ *Agri-Fab’s Response to the Notice of Institution*, July 31, 2014, p. 14.

⁴⁹ *Ibid.*, pp. 15 and 29.

Table I-4 presents data on U.S. producers' U.S. shipments, U.S. shipments of imports, apparent U.S. consumption, and market shares.

Table I-4

TBLGs: U.S. producers' U.S. shipments, U.S. shipments of imports, and apparent U.S. consumption, 2006-08, and 2013

* * * * *

TARIFF AND NON-TARIFF BARRIERS TO TRADE

None of the parties to the original investigations identified any dumping findings or antidumping remedies imposed on TBLGs in third-country markets.⁵⁰ Likewise, Agri-Fab did not identify in its response to the Commission's notice of institution in this first five-year review the existence of such tariffs.

GLOBAL MARKET

Global trade data specific to TBLGs are unavailable. Although 6-digit classifications are comparable across most countries, these categories cover a broad range of equipment and are generally not specific to TBLGs.

In its response to the Commission's notice of institution, Agri-Fab stated that at the time of the original investigations, the U.S. market for TBLGs was supplied by manufacturers in China and Mexico as well as domestic producers. At that time, there was only one producer of TBLGs in Mexico (***)⁵¹ Since that time, Agri-Fab has identified another potential supplier of TBLGs located in Taiwan, which had no TBLG industry at the time of the original investigations. This firm, Bestrident, was established in 2009, and is reported by Agri-Fab to be owned or directed by Kevin Huang, a director of Princeway, a subject Chinese supplier of TBLGs.⁵²

THE INDUSTRY IN CHINA

In the original investigations, the petitioner identified 12 potential producers of the subject product in China.⁵³ The Commission received foreign producer questionnaire responses from three firms in China during the final phase of the original investigations. The three

⁵⁰ *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, p. VII-7.

⁵¹ *Ibid.*, p. VII-9.

⁵² Agri-Fab questions Bestrident's claims to produce TBLGs in Taiwan. ***. *Agri-Fab's Response to the Notice of Institution*, July 31, 2014, p. 12 and exh. B.

⁵³ Two of the 12 firms identified had addresses in Taiwan. The petitioner believed that these firms transshipped TBLGs produced in mainland China to the United States. *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, USITC Publication 4090, July 2009, p. VII-2.

responses to the Commission's questionnaire were submitted by ***.⁵⁴ *** reported that it accounted for 15 percent of TBLG production in China and 20 percent of TBLG exports from China to the United States, while *** reported that it accounted for one percent of TBLG production in China and one percent of TBLG exports from China to the United States.⁵⁵

In the current review, the Commission did not receive any responses from producers in China, though Agri-Fab identified nine potential producers of TBLGs in China in its response to the notice of institution.⁵⁶ Presented in appendix C is a reproduction of data provided by TBLG producers in China during the original investigations (see tables VII-1 and VII-2 presented in appendix C).

Agri-Fab noted in its response to the Commission's notice of institution in this first five-year review that it has found no evidence suggesting that companies in China have reduced their TBLG production capacity since the original investigations and that the Commission's conclusion in the original investigations that the level of excess capacity in China was significant continues to hold true today.⁵⁷ In fact, Agri-Fab indicated that Chinese producer Superpower advertises TBLGs for sale on its website, participates as an exhibitor at lawn and garden conferences in other countries, and continues to ship TBLGs to customers located in Canada. In addition, it noted that Chinese producers Superpower and Princeway continue to produce out-of-scope products in China (e.g., lawn carts and rollers) related to TBLGs for export to the United States. It also asserted that Princeway accesses the U.S. TBLG market by means of a Taiwanese supplier, Bestrident.⁵⁸

⁵⁴ Of these three firms, only two were actual producers, as *** reportedly purchased its TBLGs that it exported to the United States from other firms in China.

⁵⁵ *Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final)*, INV-GG-055, July 2, 2009, pp. VII-1— VII-4.

⁵⁶ The Chinese firms listed by Agri-Fab in its response are: (1) Superpower; (2) Princeway Ltd.; (3) Geesun; (4) Huatian; (5) Qingdao Huandai Tools Co., Ltd.; (6) Qingdao Taifa Group Co., Ltd.; (7) Nantong Duobang (D&B) Machinery Co., Ltd.; (8) World Factory, Inc.; and (9) Zhejiang Taotao Industry & Trade Co., Ltd. *Agri-Fab's Response to the Notice of Institution*, July 31, 2014, p. 16 and exh. P.

⁵⁷ *Agri-Fab's Response to the Notice of Institution*, July 31, 2014, pp. 20-21.

⁵⁸ As previously indicated, ***. *Agri-Fab's Response to the Notice of Institution*, July 31, 2014, pp. 12 and 29 and exh. B.

APPENDIX A
FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
79 FR 37292 July 1, 2014	<i>Initiation of Five-Year (“Sunset”) Review</i>	http://www.gpo.gov/fdsys/pkg/FR-2014-07-01/pdf/2014-15434.pdf
79 FR 37349 July 1, 2014	<i>Certain Tow-Behind Lawn Groomers and Parts Thereof From China; Institution of Five-Year Reviews</i>	http://www.gpo.gov/fdsys/pkg/FR-2014-07-01/pdf/2014-15230.pdf
79 FR 56769 September 23, 2014	<i>Tow Behind Lawn Groomers and Parts and Thereof From the People’s Republic of China: Final Results of Sunset Review and Revocation of Countervailing Duty Order</i>	http://www.gpo.gov/fdsys/pkg/FR-2014-09-23/pdf/2014-22631.pdf
79 FR 59504 October 2, 2014	<i>Certain Tow-Behind Lawn Groomers and Parts Thereof From China</i>	http://www.gpo.gov/fdsys/pkg/FR-2014-10-02/pdf/2014-23460.pdf
79 FR 65375 November 4, 2014	<i>Certain Tow-Behind Lawn Groomers and Certain Parts Thereof From the People’s Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order</i>	http://www.gpo.gov/fdsys/pkg/FR-2014-11-04/pdf/2014-26188.pdf
79 FR 66403 November 7, 2014	<i>Tow-Behind Lawn Groomers From China; Scheduling of an Expedited Five-Year Review</i>	http://www.gpo.gov/fdsys/pkg/FR-2014-11-07/pdf/2014-26508.pdf
<p>Note.—The press release announcing the Commission’s determinations concerning adequacy and the conduct of a full or expedited review can be found at http://www.usitc.gov/press_room/news_release/2014/er1006mm1.htm. A summary of the Commission’s votes concerning adequacy and the conduct of a full or expedited review can be found at http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11690. The Commission’s explanation of its determinations can be found at http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11689.</p>		

APPENDIX B
PURCHASER QUESTIONNAIRE RESPONSES

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for TBLGs. A response was received from Agri-Fab and it named the following six firms as the top purchasers of TBLGs: ***. Purchaser questionnaires were sent to these six firms and three firms (***) provided responses which are presented below.

1. a.) Have any changes occurred in technology; production methods; or development efforts to produce tow-behind lawn groomers that affected the availability of tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China since 2009?

b.) Do you anticipate any changes in technology; production methods; or development efforts to produce tow-behind lawn groomers that will affect the availability of tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No	No
***	No	No
***	No	No

2. a.) Have any changes occurred in the ability to increase production of tow-behind lawn groomers (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China since 2009?

b.) Do you anticipate any changes in the ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that will affect the availability of tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. Certain raw material input costs for lawn groomers (specifically North American steel and resin) have increased over the past 2 years. Steel affects the entire portfolio of products, whereas resin is primarily an impact for spreaders and dump carts.	No
***	No	No
***	No	No

3. a.) Have any changes occurred in factors related to the ability to shift supply of tow-behind lawn groomers among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China since 2009?

b.) Do you anticipate any changes in factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that will affect the availability of tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No	No
***	No	No
***	No	No

4. a.) Have there been any changes in the end uses and applications of tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China since 2009?

b.) Do you anticipate any changes in the end uses and applications of tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. As zero-turn mowers have become a larger proportion of the overall residential riding mower market, there has been an increased focus on ensuring that grooming equipment can be used by zero-turns in addition to traditional riding mowers.	No
***	No	No
***	No	No

5. a.) Have there been any changes in the existence and availability of substitute products for tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China since 2009?

b.) Do you anticipate any changes in the existence and availability of substitute products for tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No	No
***	No	No
***	No	No

6. a.) Have there been any changes in the level of competition between tow-behind lawn groomers produced in the United States, tow-behind lawn groomers produced in China, and such merchandise from other countries in the U.S. market or in the market for tow-behind lawn groomers in China since 2009?

b.) Do you anticipate any changes in the level of competition between tow-behind lawn groomers produced in the United States, tow-behind lawn groomers produced in China, and

such merchandise from other countries in the U.S. market or in the market for tow-behind lawn groomers in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No	No
***	No	No
***	No	No

7. a.) Have there been any changes in the business cycle for tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China since 2009?

b.) Do you anticipate any changes in the business cycle for tow-behind lawn groomers in the U.S. market or in the market for tow-behind lawn groomers in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No	No
***	No	No
***	No	No

APPENDIX C

**REPRODUCTIONS OF SUMMARY TABLES FROM
THE ORIGINAL INVESTIGATION STAFF REPORT**

Table C-1
TBLGs: Summary data concerning the U.S. market, 2006-08, January-March 2008, and January-March 2009

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Table C-2
Tow-behind AERATORS: Summary data concerning the U.S. market, 2006-08, January-March 2008, and January-March 2009

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Table C-3
Tow-behind DETHATCHERS: Summary data concerning the U.S. market, 2006-08, January-March 2008, and January-March 2009

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Table C-4
Tow-behind SPREADERS: Summary data concerning the U.S. market, 2006-08, January-March 2008, and January-March 2009

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Table C-5
Tow-behind SWEEPERS: Summary data concerning the U.S. market, 2006-08, January-March 2008, and January-March 2009

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Table C-6
TBLGs: Summary data concerning the U.S. market excluding *, 2006-08, January-March 2008, and January-March 2009**

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Table VII-1
TBLGs: China's production capacity, production, shipments, and inventories, 2006-08, January-March 2008, January-March 2009, and projected 2009-10

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Table VII-2
TBLGs: Chinese producers' production and exports to the United States by product type 2006-08, January-March 2008, January-March 2009, and projected 2009-10

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