

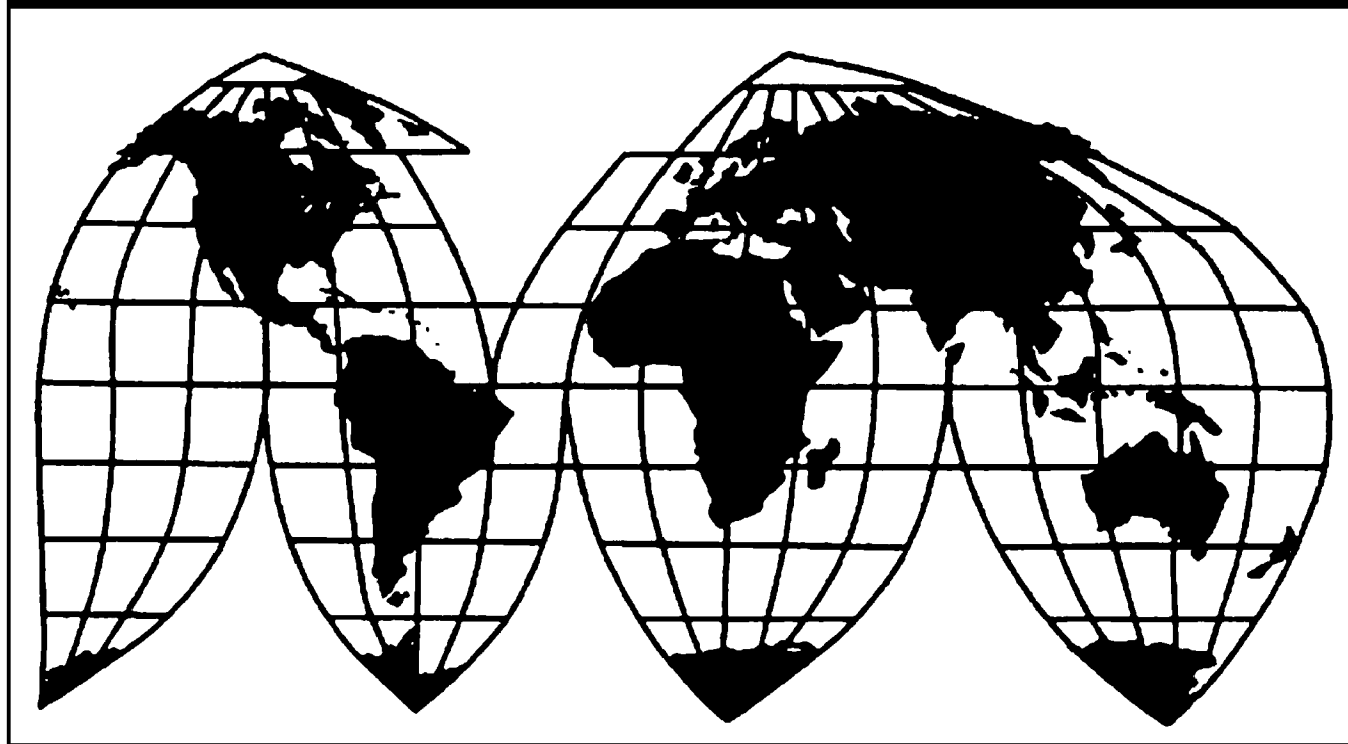
# **Certain Tow-Behind Lawn Groomers and Parts Thereof from China**

Investigation No. 731-TA-1153 (Second Review)

**Publication 5089**

**July 2020**

**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Note: Information that would reveal confidential operations of individual concerns may not be published. Such information is identified by brackets or by headings in confidential reports and is deleted and replaced with asterisks in public reports.

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1153 (Second Review)

Certain Tow-Behind Lawn Groomers and Parts Thereof from China

## DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), 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.<sup>2</sup>

## BACKGROUND

The Commission instituted this review on January 2, 2020 (85 FR 117) and determined on April 6, 2020 that it would conduct an expedited review (85 FR 34464, June 4, 2020).

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

<sup>2</sup> Commissioner Amy A. Karpel did not participate in this vote.





## 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 and parts thereof (“TBLGs”) 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.<sup>1</sup>

### I. Background

*Original Investigations.* In June 2008, Agri-Fab, Inc. (“Agri-Fab”), a domestic producer of TBLGs, filed antidumping and countervailing duty petitions concerning TBLGs from China.<sup>2</sup> In July 2009, the Commission determined that an industry in the United States was materially injured by reason of subject imports.<sup>3</sup> In August 2009, the Department of Commerce (“Commerce”) issued antidumping and countervailing duty orders on imports of TBLGs from China.<sup>4</sup>

*First Review.* In July 2014, the Commission instituted its first five-year review of the antidumping duty order.<sup>5</sup> After conducting an expedited review, the Commission made an affirmative determination.<sup>6</sup> Commerce issued a continuation of the order in February 2015.<sup>7</sup>

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<sup>1</sup> Commissioner Karpel did not participate in this review.

<sup>2</sup> *Certain Tow-Behind Lawn Groomers and Parts Thereof from China*, Inv. Nos. 701-TA-457 and 731-TA-1153 (Final), USITC Pub. 4090 at 1 (Jul. 2009) (“Original Determination”).

<sup>3</sup> Original Determination, USITC Pub. 4090 at 1. Vice Chairman Pearson determined that an industry in the United States was threatened with material injury by reason of subject imports. See Original Determination at 3 n.1, and at 29-34 (Additional and Dissenting Views of Vice Chairman Pearson).

<sup>4</sup> *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China; Notice of Antidumping Duty Order*, 74 Fed. Reg. 38395 (Aug 3, 2009); *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China; Notice of Countervailing Duty Order*, 74 Fed. Reg. 38399 (Aug. 3, 2009).

<sup>5</sup> *Certain Tow-Behind Lawn Groomers and Parts Thereof from China; Institution of Five-Year Reviews*, 78 Fed. Reg. 37349 (Jul. 1, 2014). As no domestic interested party participated in Commerce’s five-year review of the countervailing duty order, Commerce revoked the order in 2014. See *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 Fed. Reg. 56769 (Sept. 23, 2014).

<sup>6</sup> *Certain Tow-Behind Lawn Groomers and Parts Thereof from China*, Inv. No. 731-TA-1153 (Review), USITC Pub. 4516 at 1 (Jan. 2015) (“First Review Determination”).

*Current Review.* The Commission instituted this second five-year review on January 2, 2020.<sup>8</sup> Agri-Fab filed the sole response to the notice of institution.<sup>9</sup> On April 6, 2020, the Commission determined that the domestic interested party's group response to the notice of institution was adequate and that the respondent interested party's group response was inadequate. Finding no other circumstances warranted conducting a full review, the Commission determined to conduct an expedited review.<sup>10</sup> Pursuant to Commission rule 207.62(d), regarding what determinations the Commission should reach in this review, Agri-Fab submitted final comments on June 11, 2020.<sup>11</sup>

In this review, U.S. industry data are based on information provided by Agri-Fab in its response to the notice of institution, estimating that it accounted for approximately \*\*\* percent of domestic TBLG production in 2019.<sup>12</sup> U.S. import data and related information are based on Commerce's official import statistics.<sup>13</sup> No foreign producer or exporter of TBLGs participated in this review.<sup>14</sup> Foreign industry data and related information are based on information from the prior proceedings and information submitted by Agri-Fab in the current review.<sup>15</sup> Of the U.S. purchasers of TBLGs that were identified in Agri-Fab's response to the notice of institution, two purchasers responded to the adequacy phase questionnaire.<sup>16</sup>

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<sup>7</sup> *Certain Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Continuation of Antidumping Duty Order*, 80 Fed. Reg. 6049 (Feb. 4, 2015).

<sup>8</sup> *Certain Tow-Behind Lawn Groomers and Parts Thereof from China; Institution of a Five-Year Review*, 85 Fed. Reg. 117 (Jan. 2, 2020).

<sup>9</sup> Agri-Fab's Response to Notice of Institution, EDIS Doc. 700963 (Jan. 31, 2020) ("Agri-Fab's Response"). Agri-Fab also filed comments on the adequacy of responses. Agri-Fab's Comments on Adequacy, EDIS Doc. 704904 (Mar. 13, 2020).

<sup>10</sup> Commissioners' Adequacy Votes, EDIS Doc. No. 708747 (Apr. 6, 2020); Explanation of Commission Determination on Adequacy, EDIS Doc. 707502 (Apr. 10, 2020).

<sup>11</sup> Agri-Fab's Final Comments, EDIS Doc. 712487 (Jun. 11, 2020).

<sup>12</sup> Confidential Report, Memorandum INV-SS-033, EDIS Doc. 706070 at Table I-1 (Mar. 25, 2020) ("CR"); Public Report at Table I-1 ("PR"); Agri-Fab's Response at 2.

<sup>13</sup> CR/PR at Table I-3. Agri-Fab indicates that these statistics may overstate subject imports during the period of review, as they likely reflect out-of-scope lawn and garden products. See Agri-Fab's Response at 17, 19-20, and 23.

<sup>14</sup> CR/PR at I-25.

<sup>15</sup> CR/PR at I-24-26.

<sup>16</sup> CR/PR at Appendix D.

## 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.”<sup>17</sup> The Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>18</sup> 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.<sup>19</sup>

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).

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

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<sup>17</sup> 19 U.S.C. § 1677(4)(A).

<sup>18</sup> 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, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90–91 (1979).

<sup>19</sup> *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).

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 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 chasses, 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).

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, 8432.80.0010, 8432.90.0030, 8432.90.0080, 8479.89.9896, 8479.89.9897, 8479.90.9496, and 9603.50.0000. 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.<sup>20</sup>

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<sup>20</sup> *Issues and Decision Memorandum for the Expedited Second Sunset Review of the Antidumping Duty Order on Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China* at 2-6 (Apr. 30, 2020), EDIS Doc. 709682 (“Commerce’s Second Sunset IDM”). The scope definition has not changed since the original investigations. *See Certain Tow-Behind Lawn Groomers and*

TBLGs within the scope comprise the following four types of non-motorized lawn grooming equipment, designed to be towed behind riding lawn mowers, lawn tractors, or similar vehicles: (1) aerators, (2) dethatchers, (3) spreaders, and (4) sweepers. Aerators punch small holes into lawns, allowing oxygen, water, and fertilizer to penetrate closer to grass roots. Dethatchers rake lawns to dislodge dried vegetation that collects around grass blades. Spreaders distribute material such as grass seed or fertilizer onto lawns in an even fashion, either by dropping (in the case of a drop spreader) or flinging (in the case of a broadcast spreader) this material. Sweepers use rotating brushes to sweep debris, such as grass clippings, leaves, and twigs, off lawns and into a catcher bag.<sup>21</sup>

In the original investigations, the Commission defined a single domestic like product consisting of all TBLGs described in Commerce's scope.<sup>22</sup> In the expedited first five-year review, the Commission found no new information indicating that the characteristics of the products at issue had changed since the original investigations, and again defined a single domestic like product, coextensive with the scope.<sup>23</sup>

In this expedited second five-year review, Agri-Fab agrees with the Commission's definition of the domestic like product from the prior proceedings.<sup>24</sup> Further, the record does not suggest that there have been any changes in the characteristics and uses of domestically produced TBLGs since the prior proceedings.<sup>25</sup> Accordingly, we again define a single domestic like product consisting of all TBLGs described in Commerce's scope.

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*Certain Parts Thereof from the People's Republic of China; Notice of Antidumping Duty Order*, 74 Fed. Reg. 38395 (Aug. 3, 2009); *Certain Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Continuation of Antidumping Duty Order*, 80 Fed. Reg. 6049 (Feb. 4, 2015); Commerce's Second Sunset IDM at 2-6.

<sup>21</sup> CR/PR at I-9-16.

<sup>22</sup> Original Determination, USITC Pub. 4090 at 7. While acknowledging that the issue was a close one, the Commission stated that, on balance, it could not discern clear enough dividing lines between the different types of TBLGs within the scope to warrant finding multiple domestic like products. The Commission observed that tow-behind aerators, dethatchers, spreaders, and sweepers possessed both similarities and differences with respect to their physical characteristics and uses, interchangeability, and customer and producer perceptions, but predominantly similarities with respect to channels of distribution and manufacturing facilities. *Id.* at 7-13.

<sup>23</sup> First Review Determination, USITC Pub. 4516 at 6.

<sup>24</sup> Agri-Fab's Response at 37.

<sup>25</sup> See generally CR/PR at I-9-17.

## 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.”<sup>26</sup> 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 investigations, the Commission defined the domestic industry as all U.S. producers of TBLGs with the exception of \*\*\*, which it excluded, pursuant to Section 771(4)(B) of the Tariff Act,<sup>27</sup> as a related party.<sup>28</sup> In the expedited first five-year review, the Commission found that there were no related party issues, and defined the domestic industry as all domestic producers of TBLGs.<sup>29</sup>

In this expedited second five-year review, we find that there are no related party issues.<sup>30</sup> Accordingly, and in light of our domestic like product definition, we again define the domestic industry as consisting of all domestic producers of TBLGs.

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<sup>26</sup> 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.

<sup>27</sup> 19 U.S.C. § 1677(4)(B).

<sup>28</sup> Original Determination, USITC Pub. 4090 at 13-16; Original Confidential Views, EDIS Doc. 549838 at 14-17. Commissioners Pearson, Okun and Pinkert found that circumstances also warranted the exclusion of \*\*\* from the domestic industry under the related parties provision and defined the domestic industry to exclude both \*\*\* and \*\*\*. *See* Original Determination, USITC Pub. 4090 at 15-16 nn.87 & 88; Original Confidential Views at 17 nn.87 & 88.

<sup>29</sup> First Review Determination, USITC Pub. 4516 at 7.

<sup>30</sup> Although Agri-Fab identifies one domestic producer as a possible importer of TBLG parts and components from China, and one domestic producer as possibly related to such an importer, it emphasizes that these parts and components “may not fall within the scope of subject merchandise,” and states that it is “unaware of any ‘related parties’ as the term is defined within the meaning of 19 U.S.C. § 1677(4)(B).” *See* Agri-Fab’s Cure Letter Response, EDIS Doc. 702543 (Feb. 13, 2020).



### 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.”<sup>31</sup> The 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.”<sup>32</sup> Thus, the likelihood standard is prospective in nature.<sup>33</sup> The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>34</sup>

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<sup>31</sup> 19 U.S.C. § 1675a(a).

<sup>32</sup> SAA at 883–84. 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.

<sup>33</sup> 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 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.

<sup>34</sup> 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’”).

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.”<sup>35</sup> 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.”<sup>36</sup>

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.”<sup>37</sup> 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 an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>38</sup> 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.<sup>39</sup>

In evaluating the likely volume of imports of subject merchandise if an order under review is 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.<sup>40</sup> 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

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<sup>35</sup> 19 U.S.C. § 1675a(a)(5).

<sup>36</sup> 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.*

<sup>37</sup> 19 U.S.C. § 1675a(a)(1).

<sup>38</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings with respect to the order under review. See Commerce’s Second Sunset IDM.

<sup>39</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>40</sup> 19 U.S.C. § 1675a(a)(2).

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.<sup>41</sup>

In evaluating the likely price effects of subject imports if an order under review is 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.<sup>42</sup>

In evaluating the likely impact of imports of subject merchandise if an order under review is 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.<sup>43</sup> 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 orders under review and whether the industry is vulnerable to material injury upon revocation.<sup>44</sup>

As discussed above, no respondent party participated in this expedited review. The record, therefore, contains limited new information with respect to the TBLG industry in China.

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<sup>41</sup> 19 U.S.C. § 1675a(a)(2)(A–D).

<sup>42</sup> 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.

<sup>43</sup> 19 U.S.C. § 1675a(a)(4).

<sup>44</sup> 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.

There also is limited information on the domestic TBLG market during the period of review. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigations and the prior review, and the limited new information in the record in this review.

## **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.”<sup>45</sup> The following conditions of competition inform our determinations.

### **1. Demand Conditions**

In the original investigations, the Commission found that demand for TBLGs depended on the overall economy, consumers’ discretionary income, and weather conditions, but was also influenced by the housing market.<sup>46</sup> It found that TBLG purchases were seasonal, with most sales concentrated in the January-May period.<sup>47</sup> Apparent U.S. consumption of TBLGs declined from 2006 to 2008, and was lower in the first quarter of 2009 than in the first quarter of 2008.<sup>48</sup>

In the expedited first five-year review, the Commission found that the factors affecting demand and buying patterns for TBLGs in the United States remained largely unchanged since the imposition of the order. Apparent U.S. consumption of TBLGs was lower in 2013, during the period of review, than in 2008, during the original period of investigation.<sup>49</sup>

The record in this review likewise indicates that the factors affecting demand and buying patterns for TBLGs have remained largely unchanged since the prior proceedings.<sup>50</sup> Agri-Fab asserts that demand for TBLGs is correlated with demand for power lawn and garden equipment (*e.g.*, riding lawn mowers), and that demand for such equipment has increased

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<sup>45</sup> 19 U.S.C. § 1675a(a)(4).

<sup>46</sup> Original Determination, USITC Pub. 4090 at 19.

<sup>47</sup> Original Determination, USITC Pub. 4090 at 19-20.

<sup>48</sup> Original Determination, USITC Pub. 4090 at 20.

<sup>49</sup> First Review Determination, USITC Pub. 4516 at 10.

<sup>50</sup> Agri-Fab’s Response at 14.

modestly since the last five-year review.<sup>51</sup> Apparent U.S. consumption of TBLGs was \*\*\* units in 2019, \*\*\* percent greater than \*\*\* units in 2013 (first review), but \*\*\* percent lower than \*\*\* units in 2008 (original investigations).<sup>52</sup>

## 2. Supply Conditions

In the original investigations, U.S. producers accounted for the majority of apparent U.S. consumption throughout the period of investigation, and Agri-Fab and the Brinly-Hardy Company (“Brinly-Hardy”) were the \*\*\* U.S. producers during the period.<sup>53</sup> Nonsubject imports were the second largest source of supply to the U.S. market in 2006, at \*\*\* percent of apparent consumption, but were overtaken by subject imports in 2007 and 2008.<sup>54</sup>

In the expedited first five-year review, Agri-Fab and Brinly-Hardy remained the \*\*\* producers within the domestic industry, with the sole responding U.S. producer Agri-Fab’s shipments accounting for \*\*\* percent of apparent U.S. consumption in 2013.<sup>55</sup> Nonsubject imports accounted for the second largest share of apparent U.S. consumption in 2013, at \*\*\* percent, while subject imports accounted for \*\*\* percent of apparent U.S. consumption that year.<sup>56</sup>

In this review, Agri-Fab and Brinly-Hardy remain the largest domestic producers of TBLGs,<sup>57</sup> with Agri-Fab’s shipments accounting for \*\*\* percent of apparent U.S. consumption in 2019.<sup>58</sup> Nonsubject imports again accounted for the second largest share of apparent U.S.

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<sup>51</sup> Agri-Fab’s Response at 14.

<sup>52</sup> *Derived from* CR/PR Table I-4.

<sup>53</sup> Original Determination, USITC Pub. 4090 at 20; Confidential Original Views at 24.

<sup>54</sup> Original Determination, USITC Pub. 4090 at 20; Confidential Original Views at 24. Subject imports accounted for \*\*\* percent of apparent U.S. consumption in 2008 and nonsubject imports accounted for \*\*\* percent. *See* CR/PR at Table I-4.

<sup>55</sup> First Review Determination, USITC Pub. 4516 at 11; Confidential First Review Determination, EDIS Doc. 701958 at 15.

<sup>56</sup> First Review Determination, USITC Pub. 4516 at 11; Confidential First Review Determination at 16.

<sup>57</sup> Agri-Fab’s Response at 11.

<sup>58</sup> CR/PR at Table I-4.

consumption in 2019, at \*\*\* percent,<sup>59</sup> while subject imports accounted for \*\*\* percent of apparent U.S. consumption.<sup>60</sup>

### 3. Substitutability and Other Conditions

In the original investigations, the Commission found a high degree of substitutability between TBLGs of the same type, regardless of source. The Commission also found that price was an important consideration, although not the only consideration, when purchasers were choosing among competing suppliers of TBLGs.<sup>61</sup> In the expedited first five-year review, the Commission again found a high degree of substitutability between TBLGs of the same type, regardless of source,<sup>62</sup> and that price continued to be an important factor in purchasing decisions.<sup>63</sup>

In this expedited second five-year review, there is no information indicating that the substitutability between TBLGs of the same type, regardless of source, or the importance of price in purchasing decisions has changed since the prior proceedings.<sup>64</sup> Accordingly, we again find that TBLGs of the same type are highly substitutable, regardless of source, and that price is an important factor in purchasing decisions.

TBLGs from China entering under HTS subheadings 8432.41.00, 8432.42.00, 8432.80.00, 8432.90.00, 8479.89.94, and 8479.90.94 are subject, under Section 301 of the Trade Act of 1974, as amended (“Section 301”),<sup>65</sup> to a 25 percent *ad valorem* duty.<sup>66</sup> TBLGs

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<sup>59</sup> CR/PR at Table I-4. Leading nonsubject import sources in 2019 included Canada, Germany, Italy, and Taiwan. See CR/PR at Table I-3.

<sup>60</sup> CR/PR at Table I-4. Although data contained in Tables I-3 and I-4 of the report show subject import volume over this period of review, Agri-Fab cautions that official import statistics likely reflect out-of-scope products (*e.g.*, drum spike aerators) and/or incorrectly classified products. Agri-Fab’s Response at 17, 19-20, and 23.

<sup>61</sup> Original Determination, USITC Pub. 4090 at 21-22.

<sup>62</sup> First Review Determination, USITC Pub. 4516 at 12.

<sup>63</sup> First Review Determination, USITC Pub. 4516 at 14.

<sup>64</sup> Agri-Fab contends that price may be an even more important factor in purchasing decisions now than it was in the prior proceedings. See Agri-Fab’s Response at 15-16 and Exhibit C; Agri-Fab’s Final Comments at 4.

<sup>65</sup> 19 U.S.C. § 2411.

<sup>66</sup> CR at I-8.

from China entering under HTS subheading 9603.50.00 are subject, under Section 301, to a 7.5 percent *ad valorem* duty.<sup>67</sup>

### **C. Likely Volume of Subject Imports**

#### **1. The Prior Proceedings**

In the original investigations, the Commission found that both the volume and market share of subject imports had increased significantly between 2006 and 2008, with the market share increase coming \*\*\* at the expense of the domestic industry.<sup>68</sup> 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 also significant.<sup>69</sup>

In the expedited first five-year review, the Commission observed that subject imports had decreased significantly as a result of the order's imposition in 2009. Specifically, subject imports were 59,961 units in 2009 and 18,962 in 2013, declining on an annual basis. Notwithstanding this, the Commission found that the United States remained an attractive market for the Chinese TBLG industry. The Commission observed that official import statistics indicated that subject producers maintained an interest generally in supplying lawn care products to the U.S. market. It also noted Agri-Fab's unrebutted contention that the United States was a particularly attractive market for TBLGs due to its combination of low population density (allowing for lawns), high per capita income (allowing for discretionary spending), and culture of appreciation for lawn and garden care. The Commission further observed that producers in China continued to manufacture and export substantial volumes of TBLGs to customers located in Canada and continued to have substantial unused capacity.<sup>70</sup> In light of these considerations, the Commission concluded that the likely volume of subject imports,

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<sup>67</sup> CR at I-8. The record indicates that the imposition of Section 301 duties on TBLGs from China has not significantly impacted the conditions of competition for TBLGs. See Agri-Fab's Response at 17.

<sup>68</sup> Original Determination, USITC Pub. 4090 at 22; Confidential Original Views at 27.

<sup>69</sup> Original Determination, USITC Pub. 4090 at 23. In reaching this conclusion, the Commission accorded less weight to data from January-March 2009, when the volume of subject imports was significantly lower than in January-March 2008, since the data accounted for a single quarter and the trend was related to the pendency of the investigations. *Id.*

<sup>70</sup> First Review Determination, USITC Pub. 4516 at 13 (citing first review Confidential Report at I-39, first review Public Report at I-26).

both in absolute terms and relative to consumption in the United States, would be significant if the order was revoked.<sup>71</sup>

## 2. The Current Review

In the current review, the volume of subject imports was lowest in the years that bookended the period of review (2014 and 2019), but subject imports were otherwise present in appreciable quantities.<sup>72</sup> Subject imports accounted for \*\*\* percent of apparent U.S. consumption in 2019.<sup>73</sup>

While the record in this expedited review contains limited information on the Chinese TBLG industry, information available indicates that producers in China have the ability and incentive to export significant volumes of subject merchandise to the U.S. market within a reasonably foreseeable time if the antidumping duty order were revoked. Data from the prior proceedings indicated that subject producers had substantial production capacity,<sup>74</sup> and there is no new information in the record for the current review suggesting that the subject industry's substantial production capacity has declined.<sup>75</sup> The information available also suggests that subject producers, in addition to having substantial capacity, are export oriented.<sup>76</sup>

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<sup>71</sup> First Review Determination, USITC Pub. 4516 at 12-13.

<sup>72</sup> Specifically, there were 7,636 units of subject imports in 2014, 84,977 units in 2015, 82,613 units in 2016, 108,318 units in 2017, 92,640 units in 2018, and 32,917 units in 2019. See CR/PR at Table I-3. For comparison, in 2008, prior to the imposition of the order, there were \*\*\* units of subject imports present in the U.S. market. See CR/PR at Table I-4. As discussed above, Agri-Fab has indicated that official import statistics may overstate subject imports during the period of review because these statistics likely include out-of-scope products. See Agri-Fab's Response at 17, 19-20, and 23.

<sup>73</sup> CR/PR at Table I-4.

<sup>74</sup> First Review Determination, USITC Pub. 4516 at 12-13 (discussing record evidence in original investigations and first five-year review regarding subject industry's capacity).

<sup>75</sup> Agri-Fab submits that subject producers are continuing to expand their TBLG production capacity; specifically, subject producer Superpower touts on its website that it expanded its factory footprint in 2016 to 700,000 square feet to accommodate its increased production of lawn and garden equipment, among other products. See Agri-Fab's Response at 24 and Exhibit J. Superpower also advertises its 2017 investment in automated welding equipment to increase its output of lawn and garden products. *Id.*

<sup>76</sup> Subject producer Superpower advertises on its website that its "{p}roducts are sold in many countries: U.S.A., U.K., Canada, Australia, France, Germany, etc's {sic}." Agri-Fab's Response at Exhibit H. Agri-Fab also submitted import records to demonstrate that Superpower and another subject producer, Princeway (through its affiliated Taiwanese company), exported out-of-scope merchandise closely related to TBLGs (*e.g.*, log splitters and walk-behind spreaders) to the United States during the period of review. See Agri-Fab's Response at 24-25 and Exhibits I and K.



Consequently, subject producers would have the ability to export significant volumes of subject merchandise to the United States upon revocation of the order.

The record further indicates that subject producers would have incentive to direct significant volumes of subject imports to the U.S. market upon revocation, as the U.S. market is attractive to these producers. The United States is by far the largest national market for TBLGs, where demand is buoyed by the country's high consumer spending levels, its cultural preference for manicured lawns, its large average yard sizes, and the large share of its population living in single family homes.<sup>77</sup> Moreover, the attractiveness of the U.S. market to subject producers is evidenced by the fact that, as discussed above, subject imports remained present in the U.S. market in appreciable quantities over most of the review period, despite the antidumping duty order.<sup>78</sup>

Based on subject producers' actions during the original investigations and information available regarding the subject producers' production capacity, export orientation, and the continued attractiveness of the United States market, we find that the volume of subject imports, both in absolute terms and relative to U.S. consumption, would likely be significant if the order were revoked.<sup>79 80</sup>

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<sup>77</sup> Agri-Fab's Response at 26-27 and Exhibit A at 4, 12.

<sup>78</sup> CR/PR at Table I-3. As previously discussed, there is some uncertainty as to whether and to what extent the official import statistics reported in Table I-3 reflect subject merchandise as opposed to out-of-scope lawn and garden products from China. See Agri-Fab's Response at 17, 19-20, and 23. We note that, even if these statistics only reflect such out-of-scope lawn and garden products, the volume still supports a finding that the United States is an attractive market to lawn and garden equipment producers in China.

<sup>79</sup> None of the purchasers responding to the Commission's adequacy-phase questionnaires reported that the Section 301 duties have impacted the conditions of competition for TBLGs, nor have any reported that they anticipate such an impact in the future. See CR/PR at Appendix D.

One purchaser reported anticipating \*\*\*. *Id.* However, neither this purchaser (reporting in February 2020) nor any other record evidence indicates the nature, extent, or duration of any such \*\*\*.

<sup>80</sup> We have also considered the other factors enumerated in the statute regarding the analysis of the likely volume of subject imports. Due to the lack of participation by subject producers in this review, there is no information available that addresses existing inventories of subject merchandise or the potential for product-shifting by the TBLG industry in China. We also note that TBLGs are not subject to antidumping or countervailing duty orders in any other country. See CR/PR at I-25.

## D. Likely Price Effects

### 1. The Prior Proceedings

In the original investigations, the Commission found that subject imports pervasively undersold the domestic like product throughout the period of investigation with respect to all but one of the seven pricing products.<sup>81</sup> Accordingly, it concluded that the underselling of the domestic like product by subject imports was significant.<sup>82</sup> The Commission found that the principal effect of subject import underselling was to shift market share from domestic producers to subject imports over the period of investigation.<sup>83</sup>

In the expedited first five-year review, the Commission found that, in light of the significant underselling that occurred during the original period of investigation, if the order were revoked, subject imports would likely undersell the domestic like product to gain market share, as occurred during the original period of investigation. This in turn would likely require the domestic industry to either lose sales to subject imports, or to cut its prices or refrain from price increases in order to compete with subject import prices. For the foregoing reasons, the Commission concluded that subject imports were likely to have significant price effects if the order were revoked.<sup>84</sup>

### 2. The Current Review

As stated above, we continue to find a high degree of substitutability between TBLGs of the same type, regardless of source, and that price is an important factor in purchasing decisions. In this expedited review, the record does not contain new pricing data. However, the record indicates that subject imports would likely undersell the domestic like product, as they did in the original investigations, to gain market share if the antidumping duty order were

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<sup>81</sup> Original Determination, USITC Pub. 4090 at 24.

<sup>82</sup> Original Determination, USITC Pub. 4090 at 23-24. The Commission observed 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, that prices for all of the domestically produced products generally fluctuated within a narrow band from the first quarter of 2006 until the fourth quarter of 2008, and that the domestic industry's ratio of cost of goods sold to net sales fluctuated from 2006 to 2008, but decreased overall. *See id.* at 24-25. Thus, the Commission did not find that subject imports depressed or suppressed domestic prices to a significant degree. *Id.* at 24.

<sup>83</sup> Original Determination, USITC Pub. 4090 at 25. The Commission observed that evidence of sales lost by domestic producers to subject imports corroborated this finding. *Id.*

<sup>84</sup> First Review Determination, USITC Pub. 4516 at 14.

revoked. The presence of significant quantities of subject imports that would likely enter the United States and that would likely undersell the domestic like product would likely force the domestic industry to either lose sales to these subject imports, or to lower prices or to forego price increases to compete with them. In light of these considerations, we find that subject imports would likely have significant price effects upon revocation of the order.

## **E. Likely Impact**

### **1. The Prior Proceedings**

In the original investigations, the Commission found that subject imports had a significant adverse impact on the domestic industry between 2006 and 2008. It found the shift in market share from the domestic like product to subject imports to be significant and driven, in large part, by pervasive subject import underselling, and that, as a consequence, the domestic industry experienced declines in almost every statutory performance indicator during the period of investigation.<sup>85</sup> Based on these trends, the Commission found that there was a causal nexus between subject imports and the deterioration of the domestic industry's condition.<sup>86</sup> The Commission also considered whether other factors adversely impacted the domestic industry. The Commission found that the economic downturn in 2008 did not sever the causal link between subject imports and the injury suffered by the domestic industry.<sup>87</sup>

In the expedited first five-year review, the Commission found that, should the order be revoked, the likely significant volume and price effects of subject imports would likely have a significant adverse impact on the domestic industry's production, shipments, sales, market share, and revenues. The Commission found that this adverse impact would likely cause declines in the domestic industry's financial performance, as in the original investigations.<sup>88</sup>

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<sup>85</sup> Original Determination, USITC Pub. 4090 at 26-27. The Commission recognized that the domestic industry's financial performance improved in the first quarter of 2009 relative to the first quarter of 2008, and afforded reduced weight to data from the first quarter of 2009 because it accounted for a single quarter and the changes were found to be related to the pendency of the investigation. *Id.* at 27.

<sup>86</sup> Original Determination, USITC Pub. 4090 at 27.

<sup>87</sup> Original Determination, USITC Pub. 4090 at 27-29.

<sup>88</sup> First Review Determination, USITC Pub. 4516 at 16.

In its non-attribution analysis, the Commission observed that nonsubject imports had increased in both relative and absolute terms since the original period of investigation. The Commission stated that, nevertheless, the domestic industry's market share was higher in 2013 than in 2008, the last full year of the period of review. The Commission also observed that the average unit values ("AUVs") for nonsubject imports were considerably higher than those for subject imports throughout the period of review, and were also higher than the AUVs reported by the domestic industry for 2013. In light of these considerations, the Commission concluded that any likely effects of nonsubject imports were distinguishable from the likely adverse effects it had attributed to the subject imports.<sup>89</sup>

Accordingly, the Commission concluded that subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time if the antidumping duty order were revoked.<sup>90</sup>

## 2. The Current Review

In this expedited review, the information available on the domestic industry's condition is limited. In 2019, the sole responding domestic producer Agri-Fab's production capacity was \*\*\* units, its production was \*\*\* units, and its capacity utilization rate was \*\*\* percent.<sup>91</sup> Agri-Fab's shipments were \*\*\* units.<sup>92</sup> Its net sales revenue was \$\*\*\*, and its operating income was \$\*\*\*, with an operating income margin of \*\*\* percent.<sup>93</sup> The limited evidence in this expedited

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<sup>89</sup> First Review Determination, USITC Pub. 4516 at 16-17.

<sup>90</sup> First Review Determination, USITC Pub. 4516 at 16-17. Due to the limited evidence on the record of the expedited first five-year review, the Commission did not make a determination as to whether the domestic industry was vulnerable. *Id.* at 16. Vice Chairman Pinkert found that the domestic industry appeared to be vulnerable, as its production, capacity utilization, and shipments were down in 2013 compared to earlier periods, as was apparent U.S. consumption. *Id.* at 16 n.87.

<sup>91</sup> CR/PR at Table I-2. The domestic industry's capacity was \*\*\* units in 2008 and \*\*\* units in 2013. *Id.* Its production was \*\*\* units in 2008 and \*\*\* units in 2013. *Id.* Its capacity utilization rate was \*\*\* percent in 2008 and \*\*\* percent in 2013. *Id.* Domestic industry data from 2013 and 2019 both reflect Agri-Fab's operations, while data from the original investigations reflect a broader industry group and consequently are not fully comparable. *Id.*

<sup>92</sup> CR/PR at Table I-2. Domestic producers' U.S. shipments were \*\*\* units in 2008 and \*\*\* units in 2013. *Id.* As previously stated, data from the original investigations are not fully comparable to data from 2013 or 2019.

<sup>93</sup> CR/PR at Table I-2. The domestic industry's net sales revenues were \$\*\*\* in 2008 and \$\*\*\* in 2013. *Id.* Its operating income was \$\*\*\* in 2008 and \$\*\*\* in 2013. *Id.* Its ratio of operating income to net sales was \*\*\* percent in 2008 and \*\*\* percent in 2013. *Id.* As previously stated, data from the original investigations are not fully comparable to data from 2013 or 2019.

review 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.

Based on the information available in this review, 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 likely injury from other factors to the subject imports. We observe that the nonsubject imports' volume and market share have decreased since the first review.<sup>94</sup> Moreover, there is no indication or argument on this record that the presence of nonsubject imports would prevent subject imports from China from significantly increasing their presence in the U.S. market in the event of revocation of the order. Given the high degree of substitutability between the subject imports and the domestic like product of the same type, and the fact that the domestic industry supplies the majority of the U.S. market, the likely increase in subject imports upon revocation would likely take market share from the domestic industry. Therefore, the subject imports are likely to have adverse effects on the domestic industry, distinct from any adverse effects nonsubject imports may have on the domestic industry, in the event of revocation.

Accordingly, we find that revocation of the antidumping duty order on TBLGs from China would likely have a significant impact on domestic producers of TBLGs within a reasonably foreseeable time.

#### **IV. Conclusion**

For the reasons discussed above, we determine that revocation of the antidumping duty order on TBLGs 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.

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<sup>94</sup> Nonsubject imports totaled \*\*\* units in 2013 and 104,826 units in 2019. See CR/PR at Table I-4. Nonsubject imports' market share, based on quantity, was \*\*\* percentage points lower in 2019, at \*\*\* percent, than in 2013, at \*\*\* percent. *Id.*



# Information obtained in this review

## Background

On January 2, 2020, the U.S. International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),<sup>1</sup> that it had instituted a review to determine whether revocation of the antidumping duty 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.<sup>2</sup> All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.<sup>3</sup> <sup>4</sup> The following tabulation presents information relating to the background and schedule of this proceeding:

| <b>Effective date</b> | <b>Action</b>  |
|-----------------------|--|
| January 1, 2020       | Notice of initiation by Commerce (85 FR 67, January 2, 2020)     |
| January 2, 2020       | Notice of institution by Commission (85 FR 117, January 2, 2020) |
| April 6, 2020         | Commission’s vote on adequacy                                    |
| May 6, 2020           | Commerce’s results of its expedited review                       |
| July 9, 2020          | Commission’s determinations and views                            |

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<sup>1</sup> 19 U.S.C. 1675(c).

<sup>2</sup> 85 FR 117, January 2, 2020. 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. 85 FR 67, January 2, 2020. Pertinent Federal Register notices are referenced in app. A, and may be found at the Commission’s website ([www.usitc.gov](http://www.usitc.gov)).

<sup>3</sup> As part of their response to the notice of institution, interested parties were requested to provide company-specific information. That information is presented in app. B. Summary data compiled in prior proceedings is presented in app. C.

<sup>4</sup> Interested parties were also requested to provide a list of three to five leading purchasers in the U.S. market for the subject merchandise. Presented in app. D are the responses received from purchaser surveys transmitted to the purchasers identified in this proceeding.

# Responses to the Commission’s notice of institution

## Individual responses

The Commission received one submission in response to its notice of institution in the subject review. It was filed on behalf of Agri-Fab, Inc. (“Agri-Fab”), a domestic producer of TBLGs (referred to herein as the “domestic interested party”).

A complete response to the Commission’s notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy and explain any deficiencies in their responses. A summary of the number of responses and an estimate of coverage is shown in table I-1.

**Table I-1**  
**TBLGs: Summary of responses to the Commission’s notice of institution**

| Type of interested party | Completed responses |          |
|--------------------------|---------------------|----------|
|                          | Number of firms     | Coverage |
| Domestic:                |                     |          |
| U.S. producer            | 1                   | ***%     |

Note: In its response to the notice of institution, the domestic interested party estimated that it accounted for this share of total U.S. production of TBLGs during 2019. The domestic interested party has based its computation on internal estimates. Domestic interested party response to the notice of institution, January 31, 2020, p. 2.

## Party comments on adequacy

The Commission received party comments on the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review from Agri-Fab. Agri-Fab requests that the Commission conduct an expedited review of the antidumping duty order on TBLGs.<sup>5</sup>

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<sup>5</sup> Domestic interested party’s comments on adequacy, March 13, 2020, p. 1.



## The original investigations and subsequent review

### The original investigations

The original investigations resulted from petitions filed on June 24, 2008 with Commerce and the Commission by Agri-Fab, Sullivan, Illinois.<sup>6</sup> On June 19, 2009, Commerce determined that imports of TBLGs from China were being sold at less than fair value (“LTFV”) and subsidized by the Government of China.<sup>7</sup> The Commission determined on July 27, 2009 that the domestic industry was materially injured by reason of LTFV and subsidized imports of TBLGs from China.<sup>8</sup> On August 3, 2009, Commerce issued its antidumping and countervailing duty orders, with final weighted-average dumping margins ranging from 154.72 to 386.28 percent and net subsidy rates ranging from 0.56 to 264.98 percent.<sup>9</sup>

### The first five-year review

After initiating the first review of the countervailing duty order on TBLGs from China, Commerce revoked the order on September 23, 2014 because the domestic interested parties did not participate in the review.<sup>10</sup> On October 6, 2014, the Commission determined that it would conduct an expedited review of the antidumping duty order on TBLGs from China.<sup>11</sup> On November 4, 2014, Commerce determined that revocation of the antidumping duty order on TBLGs from China would be likely to lead to continuation or recurrence of dumping.<sup>12</sup> On January 22, 2015, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time if the antidumping duty order were revoked.<sup>13</sup> Following affirmative determinations in the five-year review by Commerce and the

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<sup>6</sup> 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 (“Original publication”), p. I-1.

<sup>7</sup> 74 FR 29167 and 29180, June 19, 2009.

<sup>8</sup> 74 FR 38228, July 31, 2009.

<sup>9</sup> Commerce determined that subject merchandise produced and exported by Princeway Furniture (Dong Guan) Co., Ltd. and Princeway Limited would be subject to a de minimis net subsidy rate of 0.56 percent and thus excluded from the countervailing duty order. 74 FR 38395, August 3, 2009; and 74 FR 38399, August 3, 2009.

<sup>10</sup> 79 FR 56769, September 23, 2014.

<sup>11</sup> 79 FR 66403, November 7, 2014.

<sup>12</sup> 79 FR 65375, November 4, 2014.

<sup>13</sup> 80 FR 4591, January 28, 2015.

Commission, effective February 4, 2015, Commerce issued a continuation of the antidumping duty order on imports of TBLGs from China.<sup>14</sup>

## **Previous and related investigations**

TBLGs have not been the subject of any prior related antidumping or countervailing duty investigations in the United States.

## **Commerce's five-year review**

Commerce is conducting an expedited review with respect to the order on imports of TBLGs from China and intends to issue the final results of this review based on the facts available not later than May 1, 2020.<sup>15</sup> Commerce's Issues and Decision Memorandum, published concurrently with Commerce's final results, contains complete and up-to-date information regarding the background and history of the order, including scope rulings, duty absorption, changed circumstances reviews, and anti-circumvention. A complete version of the Issues and Decision Memorandum can be accessed at <http://enforcement.trade.gov/frn/>. The Memorandum will also include any decisions that may have been pending at the issuance of this report. Any foreign producers/exporters that are not currently subject to the antidumping duty order on imports of TBLGs from China are noted in the sections titled "The original investigations" and "U.S. imports," if applicable.

## **The product**

### **Commerce's scope**

Commerce has defined the scope 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

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<sup>14</sup> 80 FR 6049, February 4, 2015.

<sup>15</sup> Letter from Steven Presing, Director, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce to Nannette Christ, Director of Investigations, February 25, 2020.

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 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 chasses, 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).

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, 8432.80.0010, 8432.90.0030, 8432.90.0080, 8479.89.9896, 8479.89.9897, 8479.90.9496, and 9603.50.0000. 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.<sup>16</sup>

## **U.S. tariff treatment**

TBLGs are currently provided for in HTS subheadings 8432.41.00, 8432.42.00, 8432.80.00, 8432.90.00, 8479.89.94, 8479.90.94, and 9603.50.00. U.S. imports of TBLGs would likely enter under HTS statistical reporting numbers 8432.41.0000, 8432.42.0000, 8432.80.0010, 8432.90.0060, 8432.90.0081, 8479.89.9496, 8479.90.9496, and 9603.50.0000.<sup>17</sup> HTS statistical reporting numbers 8432.41.0000 (manure spreaders), 8432.42.0000 (fertilizer spreaders), 8432.80.0010 (tow-behind spreaders, aerators, and dethatchers), and 8479.89.9496 (tow-behind sweepers) include products 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 include parts of the subject lawn groomers as well as out-of-scope products, while unassembled or disassembled machines (complete or relatively complete “kits”) are classified in the subheadings covering complete or finished goods. The general rate of duty for subheading 8479.89.94 is 2.5 percent ad valorem, while the other subheadings have general rates of free. Imports from China for subheadings 8432.41.00, 8432.42.00, 8432.80.00, 8432.90.00, 8479.89.94, and 8479.90.94 are subject to an additional 25 percent ad valorem duty under section 301 of the Trade Act of 1974. Similarly, imports from China for subheading 9603.50.00 are subject to an additional 7.5 percent ad valorem duty under section 301 of the Trade Act of 1974, effective February 14, 2020.<sup>18</sup> These subheadings

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<sup>16</sup> 80 FR 6049, February 4, 2015.

<sup>17</sup> Since the last five-year review, the following statistical reporting numbers have changed: 8432.40.0000 (manure spreaders and fertilizer distributors) became 8432.41.0000 (manure spreaders) and 8432.42.0000 (fertilizer spreaders); 8432.90.0030 (parts of seeders, planters, transplanters, manure spreaders, and fertilizer distributors) became 8432.90.0060; 8432.90.0080 (parts of other machinery) became 8432.90.0081; and 8479.89.9896 (tow behind sweepers) became 8479.89.9496.

<sup>18</sup> 85 FR 3741, January 22, 2020.

are not subject to additional duties under section 232 of the Trade Act of 1974. Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

### **Description and uses<sup>19</sup>**

For the 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.<sup>20</sup> Depending on the application, TBLGs are designed to perform through \*\*\*, which represents an average life cycle of approximately \*\*\* years.<sup>21</sup>

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.<sup>22</sup> In terms of use, each of the four TBLG types features a separate and distinct function – aerating, dethatching, spreading, and sweeping – to achieve the lawn grooming purpose.

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<sup>19</sup> Unless otherwise noted, this information is based on Investigation No. 731-TA-1153 (Review): Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Confidential Report, INV-MM-118, November 17, 2014 (“First review confidential report”), pp. I-10-1-19.

<sup>20</sup> \*\*\*. 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.

<sup>21</sup> Agri-Fab has not seen an increase in the trend for consumers to repair TBLGs rather than replace them at the end of a product’s life cycle.

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

## 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 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 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/>.

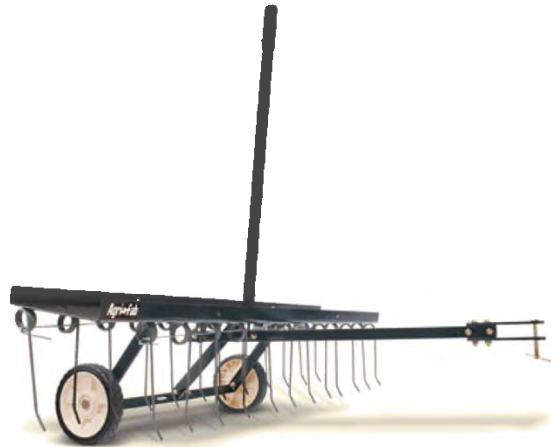
## Dethatchers

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 (primarily oxygen), 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 onto the lawn. Spreader sizes are usually distinguished by bin capacity in terms of either volume or weight (*e.g.* 14 gallon 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 “drop” spreader



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

**Figure I-4**  
TBLGs: Tow-behind “broadcast” 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,<sup>23</sup> height adjustments 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 types 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, while figure I-7 presents an image of a combo tow-behind sweeper and dethatcher produced by Agri-Fab.

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<sup>23</sup> 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.

**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™ turf shark curved blade aerator module, and a SmartLINK™ tine dethatcher module, respectively.

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



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

**Figure I-9**  
**TBLGs: SmartLINK™ turf shark curved blade aerator**



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

**Figure I-10**  
**TBLGs: SmartLINK™ tine dethatcher**



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

### **Manufacturing process<sup>24</sup>**

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 (in coil or sheet form), is used to make steel tubing for frames, supporting trays, and the brush housing for sweepers. Cold-rolled steel is used for axles or shafts. These steel parts are formed by stamping, cutting, and/or pressing them from the steel material in 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 \*\*\*.<sup>25</sup> 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 \*\*\*.

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<sup>24</sup> Unless otherwise noted, this information is based on the first review confidential report, pp. I-19-I-20.

<sup>25</sup> 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.

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-controlled assembly lines monitor each product unit, by weight, as a check for missing parts, \*\*\*. While production methods and technology for TBLGs remained largely unchanged since the last five-year review, Agri-Fab increased production efficiency and updated tooling, resulting in modest improvements to the functionality, performance, durability, and ease of use of TBLGs, as well as the development of new TBLG products.<sup>26</sup> However, end uses and applications for TBLGs remain unchanged.<sup>27</sup> In the overall lawn and garden equipment industry, computer-aided manufacturing is increasingly being used by producers to increase efficiency and lower labor costs.<sup>28</sup>

## **The industry in the United States**

### **U.S. producers**

During the final phase of the original investigations, the Commission received U.S. producer questionnaires from five firms, which accounted virtually all production of TBLGs in the United States between January 2006 and March 2009.<sup>29</sup>

During the first five-year review, the domestic interested party provided a list of eleven known and currently operating U.S. producers of TBLGs at that time.<sup>30</sup> Agri-Fab, the only domestic producer providing U.S. industry data in response to the Commission's notice of

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<sup>26</sup> Domestic interested party's response to the notice of institution, January 31, 2020, pp. 11, 14, 22.

<sup>27</sup> *Ibid.*, p. 13.

<sup>28</sup> Moses, "Lawn and Garden Equipment Manufacturing in the US," *IBISWorld Industry Report OD6151*, July 28, 2019, p. 28.

<sup>29</sup> Original publication, p. III-1.

<sup>30</sup> Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Investigation No. 731-TA-1153 (Review), USITC Publication 4516, January 2015 ("First review publication"), pp. I-19-I-20.

institution in the first five-year review, accounted for approximately \*\*\* percent of production of TBLGs in the United States during 2013.<sup>31</sup>

In response to the Commission's notice of institution in this current review, domestic interested party Agri-Fab provided a list of ten known and currently operating U.S. producers of TBLGs. Agri-Fab, the only domestic producer providing U.S. industry data in response to the Commission's notice of institution in this current five-year review, accounted for approximately \*\*\* percent of production of TBLGs in the United States during 2019.<sup>32</sup>

## Recent developments

There have been few recent developments in the U.S. industry of TBLGs since the last five-year review. According to Agri-Fab, the TBLGs market is a mature market, and since the last five-year review, there have been only a few minor firms that have entered or exited the market.<sup>33</sup> Agri-Fab and Brinly-Hardy continue to be the leading U.S. producers of TBLGs, and with Agri-Fab alone accounting for \*\*\* percent of U.S. production in 2019.<sup>34</sup> Agri-Fab increased investment since the last five-year review, including the addition of two new TBLG assembly lines in 2019 in Decatur, Illinois.<sup>35</sup>

Agri-Fab characterizes the conditions of competition, supply, and demand in the U.S. market have remained relatively stable since the last five-year review.<sup>36</sup> Similarly, according to Agri-Fab, section 301 duties on imports from China and section 232 duties on steel and aluminum have not had significant impacts on competition or sourcing decisions in the U.S. industry.<sup>37</sup> However, in the overall lawn and garden equipment manufacturing industry, slow growth in homeownership has had a negative effect on demand.<sup>38</sup>

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<sup>31</sup> First review confidential report, p. I-27.

<sup>32</sup> Domestic interested party's response to the notice of institution, January 31, 2020, p. 2 and exh. Q.

<sup>33</sup> First review publication, p. I-25; and Domestic interested party's response to the notice of institution, January 31, 2020, exh. Q.

<sup>34</sup> Domestic interested party's response to the notice of institution, January 31, 2020, pp. 11, 13.

<sup>35</sup> *Ibid.*, p. 32.

<sup>36</sup> *Ibid.*, pp. 11, 13-14.

<sup>37</sup> *Ibid.*, p. 18.

<sup>38</sup> Moses, "Lawn and Garden Equipment Manufacturing in the US," *IBISWorld Industry Report OD6151*, July 4, 2019, p. 4.



## U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in their responses to the notice of institution in the current five-year review.<sup>39</sup> Table I-2 presents a compilation of the data submitted by the responding U.S. producer Agri-Fab, as well as trade and financial data submitted by U.S. producers in the original investigations and prior five-year review.

**Table I-2**  
**TBLGs: Trade and financial data submitted by U.S. producers, 2008, 2013, and 2019**

| Item  | 2008 | 2013 | 2019 |
|---|------|------|------|
| Capacity (units)                            | ***  | ***  | ***  |
| Production (units)                          | ***  | ***  | ***  |
| Capacity utilization (percent)              | ***  | ***  | ***  |
| U.S. shipments:                             |      |      |      |
| Quantity (units)                            | ***  | ***  | ***  |
| Value (\$1,000)                             | ***  | ***  | ***  |
| Unit value (dollars per unit)               | ***  | ***  | ***  |
| Net sales (\$1,000)                         | ***  | ***  | ***  |
| COGS (\$1,000)                              | ***  | ***  | ***  |
| COGS/net sales (percent)                    | ***  | ***  | ***  |
| Gross profit (loss) (\$1,000)               | ***  | ***  | ***  |
| SG&A expenses (\$1,000)                     | ***  | ***  | ***  |
| Operating income (loss) (\$1,000)           | ***  | ***  | ***  |
| Operating income (loss)/net sales (percent) | ***  | ***  | ***  |

Note: For a discussion of data coverage, please see "U.S. producers" section.

Source: For the year 2008, data are compiled using data submitted in the Commission's original investigations. The data presented for 2008 do not include U.S. producer Ohio Steel Industries because the Commission excluded this U.S. producer from the domestic industry as a related party in its original determinations. For the year 2013, data are compiled using data submitted in the Commission's first five-year reviews. See *app. C*. For the year 2019, data are compiled using data submitted by the domestic interested party. Domestic interested party's response to the notice of institution, January 31, 2020, *exh. U*.

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<sup>39</sup> Individual company trade and financial data are presented in *app. B*.

## Definitions of the domestic like product and domestic industry

The domestic like product is defined as the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is defined as the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. Under the related parties provision, the Commission may exclude a related party for purposes of its injury determination if “appropriate circumstances” exist.<sup>40</sup>

In its original determination and its expedited first five-year review determination, the Commission defined a single domestic like product encompassing the continuum of certain tow-behind lawn groomers and certain parts thereof coextensive with Commerce’s scope. Also in its original determination, the Commission defined the domestic industry as all domestic producers of certain tow-behind lawn groomers and certain parts thereof, with the exception of one producer, \*\*\*, which was excluded from the domestic industry as a related party. Certain Commissioners defined the domestic industry differently. In its expedited first five-year review, the Commission defined the domestic industry as all domestic producers of certain tow-behind lawn groomers and certain parts thereof.<sup>41</sup>

## U.S. imports and apparent U.S. consumption

### U.S. importers

During the final phase of the original investigations, the Commission received U.S. importer questionnaires from nine firms, which, according to data provided in the petition, accounted for an estimated \*\*\* percent of total U.S. imports of TBLGs from China during 2008.<sup>42</sup> Import data presented in the original investigations are based on questionnaire responses.<sup>43</sup>

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<sup>40</sup> Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

<sup>41</sup> 85 FR 117, January 2, 2020; Original confidential opinion, p. 14.

<sup>42</sup> 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. Investigation Nos. 701-TA-457 and 731-TA-1153 (Final): Certain Tow-Behind Lawn Groomers and Parts Thereof from China, Confidential Report, INV-GG-055, July 2, 2009, as supplemented in INV-GG-060, July 13, 2009 (“Original confidential report”), p. IV-1.

<sup>43</sup> Original publication, p. IV-1.

Although the Commission did not receive responses from any respondent interested parties in its first five-year review, the domestic interested party provided a list of 15 potential U.S. importers of TBLGs.<sup>44</sup> The domestic interested party indicated that it did not believe any TBLGs had been imported from China since the imposition of the antidumping and countervailing duty orders in 2009.<sup>45</sup> Import data presented in the first review are based on official Commerce statistics.

Although the Commission did not receive responses from any respondent interested parties in this current review, in its response to the Commission's notice of institution, the domestic interested party provided a list of 17 potential U.S. importers of TBLGs.<sup>46</sup>

## **U.S. imports**

Table I-3 presents the quantity, value, and unit value of U.S. imports from China as well as the other top sources of U.S. imports (shown in descending order of 2019 imports by quantity).

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<sup>44</sup> First review publication, p. I-21.

<sup>45</sup> In the first five-year review, the domestic interested party indicated that reported imports from China were actually TBLG parts that were not within the scope of the orders, other out-of-scope products (*e.g.*, rollers or ground-engaging implements), or incorrectly classified products. First review publication, p. I-23.

<sup>46</sup> Domestic interested party's response to the notice of institution, January 31, 2020, exh. R.

**Table I-3**  
**TBLGs: U.S. imports, 2014-19**

| Item                 | 2014                                     | 2015     | 2016     | 2017     | 2018     | 2019     |
|----------------------|--|----------|----------|----------|----------|----------|
|                      | <b>Quantity (units)</b>                  |          |          |          |          |          |
| China (subject)      | 7,636                                    | 84,977   | 82,613   | 108,318  | 92,640   | 32,917   |
| Taiwan               | 143,382                                  | 104,840  | 52,959   | 99,717   | 47,334   | 48,170   |
| Italy                | 1,500                                    | 190      | 652      | 2,031    | 2,838    | 12,905   |
| Germany              | 544                                      | 426      | 3,986    | 2,674    | 5,282    | 7,941    |
| Canada               | 1,261                                    | 924      | 4,288    | 4,022    | 3,664    | 5,457    |
| All other sources    | 2,879                                    | 8,673    | 83,347   | 28,619   | 122,834  | 30,353   |
| Subtotal, nonsubject | 149,566                                  | 115,053  | 145,232  | 137,063  | 181,952  | 104,826  |
| Total imports        | 157,202                                  | 200,030  | 227,845  | 245,381  | 274,592  | 137,743  |
|                      | <b>Landed, duty-paid value (\$1,000)</b> |          |          |          |          |          |
| China (subject)      | 612                                      | 1,072    | 1,897    | 1,720    | 2,623    | 1,571    |
| Taiwan               | 6,991                                    | 6,819    | 3,702    | 5,939    | 3,755    | 4,151    |
| Italy                | 1,474                                    | 723      | 694      | 1,410    | 885      | 1,122    |
| Germany              | 6,079                                    | 3,277    | 5,260    | 9,408    | 7,850    | 8,756    |
| Canada               | 5,283                                    | 5,632    | 27,190   | 36,125   | 6,287    | 5,609    |
| All other sources    | 2,034                                    | 6,386    | 6,069    | 17,538   | 24,706   | 15,317   |
| Subtotal, nonsubject | 21,861                                   | 22,836   | 42,915   | 70,420   | 43,483   | 34,955   |
| Total imports        | 22,474                                   | 23,909   | 44,812   | 72,140   | 46,106   | 36,526   |
|                      | <b>Unit value (dollars per unit)</b>     |          |          |          |          |          |
| China (subject)      | 80.21                                    | 12.62    | 22.96    | 15.88    | 28.32    | 47.72    |
| Taiwan               | 48.75                                    | 65.04    | 69.91    | 59.56    | 79.33    | 86.18    |
| Italy                | 982.79                                   | 3,806.71 | 1,064.79 | 694.42   | 311.92   | 86.93    |
| Germany              | 11,175.21                                | 7,691.87 | 1,319.68 | 3,518.18 | 1,486.25 | 1,102.60 |
| Canada               | 4,189.51                                 | 6,094.95 | 6,340.85 | 8,981.75 | 1,715.76 | 1,027.90 |
| All other sources    | 706.61                                   | 736.27   | 72.81    | 612.79   | 201.13   | 504.63   |
| Subtotal, nonsubject | 146.17                                   | 198.48   | 295.49   | 513.77   | 239.98   | 333.46   |
| Total imports        | 142.96                                   | 119.53   | 196.68   | 293.99   | 167.91   | 265.17   |

Note: Because of rounding, figure may not add to total shown.

Note: Agri-Fab cautions that official import statistics likely reflect out-of-scope products (e.g., drum spike aerators) and/or incorrectly classified products. Domestic interested party's response to notice of institution, January 31, 2020, pp. 17, 19, 20, and 23.

Note: The Commission reported in the first five-year review that significant nonsubject sources (such as Canada, Germany, and Italy) did not have TBLG producing industries and that the reported imports from those countries were items that did not meet the scope description for TBLGs. First review publication, table I-2.

Source: Compiled from official Commerce statistics for HTS statistical reporting numbers 8432.80.0010, 8479.89.9896, and 8479.89.9496. HTS statistical reporting number 8479.89.9896 became 8479.89.9496 in July 2016.

## Apparent U.S. consumption and market shares

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

**Table I-4**

**TBLGs: U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares 2008, 2013, and 2019**

| Item                           | 2008                         | 2013 | 2019    |
|--------------------------------|------------------------------|------|---------|
|                                | <b>Quantity (units)</b>      |      |         |
| U.S. producers' U.S. shipments | ***                          | ***  | ***     |
| Excluded U.S. producer ***     | ***                          | NA   | NA      |
| U.S. imports from—             |                              |      |         |
| China                          | ***                          | ***  | 32,917  |
| All other sources              | ***                          | ***  | 104,826 |
| Total imports                  | ***                          | ***  | 137,743 |
| Apparent U.S. consumption      | ***                          | ***  | ***     |
|                                | <b>Value (1,000 dollars)</b> |      |         |
| U.S. producers' U.S. shipments | ***                          | ***  | ***     |
| Excluded U.S. producer ***     | ***                          | NA   | NA      |
| U.S. imports from—             |                              |      |         |
| China                          | ***                          | ***  | 1,571   |
| All other sources              | ***                          | ***  | 34,955  |
| Total imports                  | ***                          | ***  | 36,526  |
| Apparent U.S. consumption      | ***                          | ***  | ***     |

Table continued on next page.

**Table I-4****TBLGs: U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares 2008, 2013, and 2019 – Continued**

| Item  | 2008 | 2013 | 2019 |
|---|------|------|------|
| <b>Share of consumption based on quantity (percent)</b> |      |      |      |
| U.S. producer's share                                   | ***  | ***  | ***  |
| Excluded U.S. producer ***                              | ***  | NA   | NA   |
| U.S. imports from—                                      |      |      |      |
| China   | ***  | ***  | ***  |
| All other sources                                       | ***  | ***  | ***  |
| Total imports   | ***  | ***  | ***  |
| <b>Share of consumption based on value (percent)</b>    |      |      |      |
| U.S. producer's share                                   | ***  | ***  | ***  |
| Excluded U.S. producer ***                              | ***  | NA   | NA   |
| U.S. imports from—                                      |      |      |      |
| China   | ***  | ***  | ***  |
| All other sources                                       | ***  | ***  | ***  |
| Total imports   | ***  | ***  | ***  |

Note: For 2008, apparent U.S. consumption is derived from U.S. shipments of imports, rather than U.S. imports.

Note: For a discussion of data coverage, please see “U.S. producers” and “U.S. importers” sections.

Source: For the year 2008, data are compiled using data submitted in the Commission's original investigations. For the year 2013, data are compiled using data submitted in the Commission's first five-year review. See app. C. For the year 2019, U.S. producers' U.S. shipments are compiled from the domestic interested party's response to the Commission's notice of institution and U.S. imports are compiled using official Commerce statistics under HTS statistical reporting numbers 8432.80.0010, 8479.89.9896, and 8479.89.9496. HTS statistical reporting number 8479.89.9896 became 8479.89.9496 in July 2016.

## The industry in China

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from three firms. Two of the responding Chinese producers, \*\*\* provided estimates of their share of Chinese production and exports to the United States of TBLGs. \*\*\* reported its share of Chinese production and exports to the

United States were 15 and 20 percent, respectively, and \*\*\* reported its share of both Chinese production and exports to the United States were 1 percent.<sup>47</sup>

Although the Commission did not receive responses from any respondent interested parties in its first five-year review, the domestic interested party provided a list of nine possible producers of TBLGs in China in that proceeding.<sup>48</sup>

Although the Commission did not receive responses from any respondent interested parties in this five-year review, the domestic interested party provided a list of twelve possible producers of TBLGs in China in its response to the notice of institution in this proceeding.<sup>49</sup> Agri-Fab indicated in its response to the notice of institution that the Chinese industry continues to have substantial production capacity.<sup>50</sup>

Global Trade Atlas (“GTA”) export data at the 6-digit HTS classification level that includes TBLGs are not presented because they cover a broad range of equipment that are generally not specific to TBLGs.

## **Antidumping or countervailing duty orders in third-country markets**

None of the parties in the original investigation or first review identified any dumping findings or antidumping remedies imposed on TBLGs in third-country markets.<sup>51</sup> Likewise, Agri-Fab did not identify in its response to the Commission’s notice of institution in this second five-year review the existence of any third-country antidumping or countervailing duties on, or other barriers to imports of, TBLGs from China.<sup>52</sup>

## **The 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 response to the Commission’s notice on 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

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<sup>47</sup> Original confidential report, p. VII-2-VII-3.

<sup>48</sup> First review publication, p. I-26.

<sup>49</sup> Domestic interested party’s response to the notice of institution, January 31, 2020, exh. S.

<sup>50</sup> Domestic interested party’s response to the notice of institution, January 31, 2020, p. 23.

<sup>51</sup> First review publication, p. I-25.

<sup>52</sup> Domestic interested party’s response to the notice of institution, January 31, 2020, p. 11.

in Mexico (\*\*\*)<sup>53</sup> During the first five-year review, Agri-Fab 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 was reported by Agri-Fab to be owned or directed by Kevin Huang, a director of Princeway, a subject Chinese supplier of TBLGs.<sup>54</sup> Since the first five-year review, Agri-Fab notes that it \*\*\*.<sup>55</sup> Agri-Fab also notes that U.S. imports of TBLGs from Taiwan have decreased since the last five-year review, with some importers shifting to new suppliers from Vietnam.<sup>56</sup> Overall, Agri-Fab found that since the last five-year review, nonsubject imports of TBLGs \*\*\*.<sup>57</sup>

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<sup>53</sup> Original confidential report, p. VII-8-VII-9.

<sup>54</sup> Agri-Fab questioned Bestrident's claim to produce TBLGs in Taiwan. \*\*\*. First review confidential report, p. I-37.

<sup>55</sup> Domestic interested party's response to the notice of institution, January 31, 2020, p. 12.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.



**APPENDIX A**

***FEDERAL REGISTER NOTICES***



The Commission makes available notices relevant to its investigations and reviews on its website, [www.usitc.gov](http://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  |
|------------------------------|---|---|
| 85 FR 67<br>January 2, 2020  | <i>Initiation of Five-Year (Sunset) Reviews</i>   | <a href="https://www.govinfo.gov/content/pkg/FR-2020-01-02/pdf/2019-28344.pdf">https://www.govinfo.gov/content/pkg/FR-2020-01-02/pdf/2019-28344.pdf</a> |
| 85 FR 117<br>January 2, 2020 | <i>Certain Tow-Behind Lawn Groomers and Parts Thereof from China; Institution of a Five-Year Review</i> | <a href="https://www.govinfo.gov/content/pkg/FR-2020-01-02/pdf/2019-28038.pdf">https://www.govinfo.gov/content/pkg/FR-2020-01-02/pdf/2019-28038.pdf</a> |



**APPENDIX B**  
**COMPANY-SPECIFIC DATA**



**RESPONSE CHECKLIST FOR U.S. PRODUCERS**

\* \* \* \* \*





**APPENDIX C**

**SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS**



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

\* \* \* \* \*



**APPENDIX D**

**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 the domestic like product. A response was received from domestic interested parties and it named the following six firms as the top purchasers of certain tow-behind lawn groomers and parts thereof: \*\*\*. Purchaser questionnaires were sent to these six firms and two firms (\*\*\*) provided responses which are presented below.

1. Have there been any significant changes in the supply and demand conditions for certain tow-behind lawn groomers and parts thereof that have occurred in the United States or in the market for certain tow-behind lawn groomers and parts thereof in China since January 1, 2015?

| <b>Purchaser</b> | <b>Anticipated changes</b> |
|------------------|----------------------------|
| ***              | ***                        |
| ***              | ***                        |

2. Do you anticipate any significant changes in the supply and demand conditions for certain tow-behind lawn groomers and parts thereof in the United States or in the market for certain tow-behind lawn groomers and parts thereof in China within a reasonably foreseeable time?

| <b>Purchaser</b> | <b>Anticipated changes</b> |
|------------------|----------------------------|
| ***              | ***                        |
| ***              | ***                        |

