



A-570-939
Sunset Review
Public Document
E&C/OIV: DP

April 30, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: 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

I. SUMMARY

We analyzed the substantive response of the domestic interested party¹ in this second sunset review of the antidumping duty (AD) order² covering certain tow behind lawn groomers and certain parts thereof (TBLG) from the People's Republic of China (China)³ and recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review of the *Order*.⁴ The following is a complete list of issues in this sunset review for which we received a substantive response:

1. Likelihood of Continuation or Recurrence of Dumping; and
2. Magnitude of the Dumping Margin Likely to Prevail.

¹ The domestic interested party is: Agri-Fab, Inc. (Agri-Fab).

² See *Antidumping Duty Order: Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China*, 74 FR 38395 (August 3, 2009) (*Order*).

³ See Domestic Interested Party's Letter, "Second Five-Year ("Sunset") Review of Antidumping Duty Order on Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from The People's Republic of China; Agri-Fab's Response to Notice of Initiation," dated January 31, 2020 (Substantive Response).

⁴ See *Procedures for Conducting Five-year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*, 70 FR 62061 (October 28, 2005) (Commerce normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response).



II. BACKGROUND

On August 3, 2009, the Department of Commerce (Commerce) published the *Order* in the *Federal Register*.⁵ On January 2, 2020, Commerce published the notice of initiation of this sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).⁶ On January 16, 2020, Commerce received a timely and complete notice of intent to participate in the sunset review from a domestic interested party within the deadline specified in 19 CFR 351.218(d)(1)(i).⁷ The domestic interested party claimed interested party status pursuant to section 771 (9)(C) of the Act as a manufacturer in the United States of the domestic like product.⁸ On January 31, 2020, pursuant to 19 CFR 351.218(d)(3)(i), the domestic interested party filed a timely and adequate substantive response.⁹ Commerce did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order*.

III. SCOPE OF THE *ORDER*

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

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

Lawn sweepers consist of a frame, as well as a series of brushes attached to an axle or shaft which allows the brushing component to rotate. Lawn sweepers also include a container (which is a receptacle into which debris swept from the lawn or turf is deposited) supported by the frame. Aerators consist of a frame, as well as an aerating component that is attached to an axle or shaft which allows the aerating component to rotate. The aerating component is made up of a set of knives fixed to a plate (known as a “plug aerator”), a series of discs with protruding spikes

⁵ See *Order*.

⁶ See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 67 (January 2, 2020).

⁷ See Domestic Interested Party’s Letter, “Second Five-Year (“Sunset”) Review of Antidumping Duty Order on Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from The People’s Republic of China; Notice of Intent to Participate,” dated January 16, 2020.

⁸ *Id.* at 2.

⁹ See Substantive Response.

(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.

IV. HISTORY OF THE *ORDER*

On June 19, 2009, Commerce published in the *Federal Register* its final affirmative determination of sales at less-than-fair-value (LTFV) in the investigation of TBLG from the China.¹⁰ On August 3, 2009, following an affirmative injury determination by the U.S. International Trade Commission (ITC), Commerce published the *Order*.¹¹ Commerce found a weighted-average dumping margin of 154.72 percent for two separate rate exporters, Nantong

¹⁰ See *Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 29167 (June 19, 2009).

¹¹ See *Order*.

D&B Machinery Co., Ltd. and Qingdao Huatian Truck Co., Ltd., and 386.28 percent for the China-wide entity.¹² In accordance with Commerce's *Final Modification for Reviews*, none of the margins calculated at any phase of the initial investigation of this case were calculated using the zeroing methodology.¹³ Since the issuance of the *Order*, there have been no administrative reviews, no new shipper reviews, and no duty absorption findings in connection with the *Order*.

This is the second sunset review of the *Order*. On November 4, 2014, in the first sunset review, Commerce determined that the revocation of the *Order* would likely lead to the continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be 386.28 percent.¹⁴ On February 4, 2015, Commerce published the notice of continuation of the *Order*.¹⁵

On January 13, 2015, the U.S. Trade Representative instructed Commerce to issue determinations under section 129 of the Uruguay Round Agreements Act (URAA), including the antidumping duty investigation of TBLG.¹⁶ The purpose of the Section 129 proceeding was to identify and account for the possibility of concurrent AD and countervailing duty (CVD) margins resulting in double remedies and to render Commerce's actions in the proceeding not inconsistent with the recommendations and rulings of the World Trade Organization's Dispute Settlement Body.¹⁷ The proceeding found that there was no basis for making an adjustment to the AD rates established in the *Order*, and the rates were not changed.¹⁸ On July 29, 2015, Commerce published its implementation of the final determinations under the section 129 proceedings.¹⁹

Since the *Continuation Notice* of the *Order*, there has been one scope ruling decision. On May 16, 2016, Jiashan Superpower Tools Co., Inc. (Superpower), a mandatory respondent in the LTFV investigation, filed a scope ruling request addressing two models of lawn rollers

¹² *Id.* at 3.

¹³ See *Antidumping Duty Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

¹⁴ See *Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 79 FR 65375 (November 4, 2014).

¹⁵ See *Certain Lawn Groomers and Certain Parts Thereof from the People's Republic of China: Continuation of Antidumping Duty Order*, 80 FR 6049 (February 4, 2015) (*Continuation notice*).

¹⁶ See Memorandum, "Section 129 Proceeding (WTO DS449): Antidumping Duty Investigation of Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China – Decision Memorandum for Preliminary Determination," dated May 28, 2015.

¹⁷ See Memorandum, "Section 129 Proceeding (WTO DS449): Antidumping Duty Investigation of Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China – Final Determination," dated July 10, 2015.

¹⁸ *Id.* at 6 and 7.

¹⁹ See *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: ... Certain Tow Behind Lawn Groomers and Certain Parts Thereof from the People's Republic of China*, 80 FR 45184 (July 29, 2015).

incorporating an aerator component.²⁰ On October 6, 2016 Commerce found that lawn rollers which incorporate an aerator component as described in Superpower’s scope ruling request are not covered by the scope of the *Order*.²¹

On August 31, 2016, Superpower filed a request for administrative review of the *Order* for the period August 1, 2015 through July 31, 2016.²² On October 19, 2016, Superpower timely withdrew its request for review and the administrative review was not conducted.²³ There have been no new shipper reviews and no duty absorption findings in connection with the *Order*.

In early 2017, at the request of U.S. Customs and Border Protection (CBP), Commerce changed the HTSUS codes subject to the *Order*. On February 2, 2017, Commerce removed HTSUS numbers 8479.89.9896 and 8479.89.9897 from the ACE Case Reference File (CRF) and added HTSUS number 8479.89.9496.²⁴ On February 16, 2017, Commerce removed HTSUS numbers 8432.40.0000, 8432.90.0030, and 8432.90.0080 from the CRF, and added HTSUS numbers 8432.41.0000, 8432.42.0000, 8432.90.0060, and 8432.90.0081.²⁵

V. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce conducted this sunset review to determine whether revocation of the *Order* would be likely to lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, Commerce shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and after the issuance of the AD order.

In accordance with the guidance provided in the legislative history accompanying the URAA, specifically the Statement of Administrative Action, H.R. Doc. 103-316, vol. 1 (1994) (SAA), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), Commerce’s likelihood determinations will be made on an order-wide, rather than company-specific, basis.²⁶ In addition, Commerce normally will

²⁰ See Superpower’s Letter, “Tow-Behind Lawn Groomers (A-570-939): Application for Scope Ruling Regarding Lawn Rollers Which Incorporate an Aerator Component,” dated May 16, 2016.

²¹ See Memorandum, “Antidumping Duty Order on Certain Tow-Behind Lawn Groomers and Certain Parts Thereof from the People’s Republic of China: Final Scope Ruling for the Scope Request from Jiashan Superpower Tools Co., Ltd.,” dated October 6, 2016.

²² See Superpower’s Letter, “Tow-Behind Lawn Groomers from the People’s Republic of China, A-570-939; Request for Administrative Review,” dated August 31, 2016.

²³ See Superpower’s Letter, “Tow-Behind Lawn Groomers from the People’s Republic of China, A570-939; Withdrawal of Request for Administrative Review,” dated October 19, 2016.

²⁴ See Memorandum, “Request from Customs and Border Protection to Update the ACE Case Reference File,” dated February 2, 2017.

²⁵ See Memorandum, “Request from Customs and Border Protection to Update the ACE Case Reference File,” dated February 16, 2017.

²⁶ See SAA at 879; and House Report at 56.

determine that revocation of an AD order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.²⁷ In addition, as a base period of import volume comparison, it is Commerce's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.²⁸ Also, when analyzing import volumes for second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last *continuation notice*.²⁹

Further, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, Commerce selects the dumping margin from the final determination in the investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.³⁰ However, in certain circumstances, a more recently calculated rate may be more appropriate (e.g., "if dumping margins have declined over the life of an order and imports have remained steady or increased, Commerce may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review.").³¹

In February 2012, Commerce announced it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization (WTO)-inconsistent.³² In the *Final Modification for Reviews*, Commerce stated that "only in the most extraordinary circumstances" would it rely on dumping margins other than those calculated and published in prior determinations.³³ Commerce further stated that apart from the "most extraordinary circumstances," it did not anticipate needing to recalculate dumping margins in the vast majority of future sunset determinations and, instead would "limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be

²⁷ See SAA at 889-90; House Report at 63-64; and Senate Report at 52 for a description of our practice; see also *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

²⁸ See, e.g., *Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

²⁹ See *Ferrovandium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying IDM.

³⁰ See SAA at 890; and *Sunset Policy Bulletin* at section II.B.1; see also, e.g., *Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying IDM at Comment 2.

³¹ See SAA at 890-91; and *Sunset Policy Bulletin* at section II.B.2.

³² See *Final Modification for Reviews*.

³³ *Id.*

WTO-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”³⁴

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.³⁵

Below we address the comments submitted by the domestic interested parties.

VI. DISCUSSION OF THE ISSUES

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Parties’ Comments:

- Revocation of the *Order* would lead to the continuation or recurrence of sales at LTFV of subject imports. Revocation would also result in a significant increase in the volume of dumped merchandise into the U.S. market, which would lead to a continuation or recurrence of material injury to the domestic TBLG industry by reason of subject imports.
- The record demonstrates that imports of TBLGs from China decreased drastically after issuance of the order and have remained at substantially lower volumes. What imports continue to enter from China were assessed antidumping duty rates at well above *de minimis* levels.
- Since the order was published in 2009, the antidumping duty margins have remained in place “unquestioned by Chinese producers and exporters of subject merchandise.”³⁶
- Public import data show a slight increase in imports of subject merchandise following the *continuation notice* of the *Order*. However, these numbers do not meet pre-initiation levels, and many of these HTSUS codes include out-of-scope merchandise which inflate reported quantities.³⁷
- Public import data indicate a change in import behavior by Chinese exporters and producers of subject merchandise such that imports of completed TBLGs have declined

³⁴ *Id.*

³⁵ See *Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying IDM at Comment 1.

³⁶ See Substantive Response at 15.

³⁷ *Id.* at 17-18 and Exhibit B.

and imports of component parts have increased. This behavior suggests that pre-initiation production behavior is not possible under the discipline of the *Order*.³⁸

- Agri-Fab is not aware of any major U.S. purchaser importing commercial quantities of TBLG products from China.³⁹
- Taken collectively, this information demonstrates that exporters/producers from China are unable to export at pre-initiation levels without dumping.

Commerce's Position:

Consistent with the legal framework laid out above and section 752(c)(1)(A) of the Act, we first considered the weighted-average dumping margins determined in the investigation and subsequent reviews in the proceeding. As stated above, in the LTFV investigation, Commerce found dumping margins ranging from 154.72 percent to 386.28 percent.⁴⁰ The first expedited sunset review determined the rate for the China-wide entity was 386.28 percent.⁴¹ The section 129 proceedings found there was no basis for adjusting the AD rates established in the *Order*, so the rates originating from the investigation remained in place. Accordingly, since publication of the *Order*, any entries of subject merchandise have been assessed at above *de minimis* rates. As noted above, Commerce normally determines that revocation of an AD order would be likely to lead to continuation or recurrence of dumping when dumping continued at any level above *de minimis* after issuance of the order.

Separately, pursuant to section 752(c)(1)(B) of the Act, we considered the volume of imports of the subject merchandise in determining whether revocation of the *Order* is likely to lead to continuation or recurrence of dumping. As noted above, when analyzing import volumes for second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding initiation of the underlying investigation (*i.e.*, 2007 for this sunset review) to import volumes since the issuance of the last *continuation notice*.⁴² Commerce published the notice of continuation of the *Order* on February 4, 2015.⁴³

Commerce analyzed import volumes for the four years following the issuance of the last continuation notice using U.S. Bureau of Census import statistics which the domestic interested party obtained from the ITC Dataweb. The data show that the volume of U.S. imports classified under in-scope HTSUS codes between the years 2015 and 2018 remain lower than the pre-initiation volume. Following the issuance of the *continuation notice*, imports of subject merchandise ranged from 73.56 percent (2016) to 96.71 percent (2017) of import levels from 2007, the year before initiation. While these reported numbers approach the pre-initiation levels of imports, the HTSUS codes importantly also include non-subject merchandise. Therefore, the

³⁸ *Id.* at 19-21.

³⁹ *Id.* at 9.

⁴⁰ *See Order* at 3.

⁴¹ *See First Sunset Review*.

⁴² *See Substantive Response*.

⁴³ *See Continuation Notice*.

numbers alone do not portray a wholly accurate picture of imports subject to the *Order*. The two primary HTSUS codes under which subject merchandise is imported, 8432.80.0010 and 8479.89.9496, may include powered industrial or commercial grooming equipment that is excluded or otherwise not described in the *Order*. Therefore, the actual volume of imports of subject merchandise is likely lower than these reported quantities, which are already lower than pre-initiation levels.

Commerce then analyzed the second argument posed by the domestic interested party—per unit value of imports under relevant HTSUS codes as evidence of behavioral change resulting from the discipline of the order. The domestic interested party argues that low per-unit-value within the data obtained from the ITC Dataweb demonstrates a behavioral shift away from imports of complete assembled products to imports of incomplete sets of parts or components. The ITC data confirms this import behavior, with imports under HTSUS code 8479.89.9496 from China ranging between \$4.08 per unit in 2015 and \$17.48 per unit in 2018. For comparison, the interested party states that aside from the domestic industry, Vietnam has the largest share in the U.S. TBLG market, and its imports ranged between \$89.50 per unit in 2019 and \$100.10 per unit in 2017.⁴⁴ Taiwan, also with a large presence in the U.S. TBLG market, had imports ranging between \$37.06 per unit in 2016 and \$110.57 in 2018. The domestic interested party argues these data suggest importation of parts, not fully assembled lawn groomers, and the shift toward the export of parts, instead of a completed lawn groomer, may explain the increase in import volumes during the years subject to this sunset review. The *Order* unambiguously includes “lawn groomers, assembled or unassembled” that “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.”⁴⁵ Thus, while component parts are within the scope of the *Order*, the shift from completed lawn groomers to parts could explain the increase in Chinese exports of subject merchandise since the last sunset review. Because Chinese exporters have shifted to export of cheaper per-unit-value shipments, enabling increased exports of merchandise under the HTSUS codes covered by the *Order*, the implementation of the *Order* has resulted in a behavioral change in the imports of subject merchandise. Therefore, the behavior of imports of TBLG would likely change if the *Order* was revoked.⁴⁶

As noted in the *SAA* and the House Report, “if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed.”⁴⁷ Record evidence shows lower import volumes during the years covered by this sunset review compared to the year preceding initiation of the underlying investigation (*i.e.*, 2007).⁴⁸ This indicates that Chinese exporters may not be able to maintain pre-initiation import levels without selling subject merchandise at dumped prices.⁴⁹ Therefore, pursuant to section

⁴⁴ See Substantive Response at exhibit C.

⁴⁵ See *Order*.

⁴⁶ See Substantive Response at exhibit C.

⁴⁷ See *SAA* at 889; see also House Report at 63-64.

⁴⁸ See Substantive Response.

⁴⁹ See, e.g., *Certain Activated Carbon from the People’s Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 77 FR 33420 (June 6, 2012), and accompanying IDM at Comment 1.

752(c)(1) of the Act, because we found lower levels of imports in each of the years covered by this sunset review compared to the year before initiation, accompanied by the continued existence of dumping at above *de minimis* levels after issuance of the *Order*, we recommend finding that dumping is likely to continue or recur if the *Order* was revoked.

Section 752(c)(2) of the Act provides that Commerce shall also consider “other factors” than those listed in section 752(c)(1) of the Act if “good cause is shown.” We have concluded that no such “good cause” exists in this case, because we find that the continued above *de minimis* margins and the decline in the volume of imports alone support the statutory test for determining if likelihood of dumping would continue or recur in the event of the revocation of the *Order*.

2. Magnitude of the Dumping Margin Likely to Prevail

Domestic Interested Parties’ Comments:

- In determining the magnitude of the dumping margin likely to prevail in the event of revocation and that should be reported to the ITC, the SAA and Commerce’s *Policy Bulletin* state that the agency will normally select the dumping margins established in the investigation, because they are the only calculated rates that reflect the behavior of exporters without the discipline of an order or suspension agreement in place.⁵⁰
- Because none of these dumping margins were calculated using zeroing, the *Final Modification for Reviews* has no effect on this conclusion.⁵¹
- Accordingly, the dumping margins that should be reported to the ITC are the margins from the investigation; specifically, 154.72 percent for Nantong D & B Machinery Co, Ltd., 154.72 percent for Qingdao Huatian Hand Truck Co., Ltd., and 386.28 percent for the China-wide entity.⁵²

Commerce’s Position:

Pursuant to section 752(c)(3) of the Act, Commerce shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if an AD order was revoked. Normally, Commerce will select a weighted-average dumping margin from the investigation to report to the ITC.⁵³ Commerce’s preference is to select a weighted-average dumping margin from the LTFV investigation because it is the only calculated rate that reflects the behavior of the producers and exporters without the discipline of an order or suspension agreement in place.⁵⁴ Under certain circumstances, however, Commerce may select a more recent rate to report to the ITC.

⁵⁰ See Substantive Response at 21.

⁵¹ *Id.* at 22-23.

⁵² *Id.* at 11 and 22.

⁵³ See SAA at 890.

⁵⁴ *Id.*

As explained above, in accordance with the *Final Modification for Reviews*, Commerce will not rely on weighted-average dumping margins that were calculated using the zeroing methodology found to be WTO-inconsistent.⁵⁵ Consistent with Commerce's practice, we considered the dumping margins from the LTFV investigation, as amended by the section 129 proceeding, to be the best evidence of the exporters' behavior in the absence of an order. The dumping margin calculated in the investigation does not include zeroing and, thus, this margin is consistent with the *Final Modification for Reviews*.⁵⁶

VII. FINAL RESULTS OF SUNSET REVIEW

We determine that revocation of the *Order* would likely lead to continuation or recurrence of dumping. We also determine that the magnitude of the dumping margin likely to prevail would be weighted-average dumping margins up to 386.28 percent.

VIII. RECOMMENDATION

Based on our analysis of the substantive response received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this expedited sunset review in the *Federal Register* and notify the ITC of our determination.

Agree

Disagree

4/30/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler

Assistant Secretary

for Enforcement and Compliance

⁵⁵ See *Final Modification for Reviews*.

⁵⁶ See *First Sunset Determination*.