



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-130]

Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain walk-behind lawn mowers and parts thereof (lawn mowers) from the People's Republic of China (China).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Moses Song or Tyler Weinhold, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-7885 or (202) 482-1121, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioner in this investigation is MTD Products, Inc. In addition to the Government of China (GOC), the mandatory respondents in this investigation are Zhejiang Amerisun Technology Co., Ltd. (Zhejiang Amerisun) and Ningbo Daye Garden Machinery Co., Ltd. (Ningbo Daye).

On October 30, 2020, Commerce published in the *Federal Register* the *Preliminary Determination* and aligned this final determination with the final antidumping duty (AD) determination, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the

Act), and 19 CFR 351.210(b)(4)(i).¹ On March 5, 2021, Commerce issued a Post-Preliminary Determination regarding the petitioner's creditworthiness allegations.² A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.³ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Period of Investigation

The period of investigation is January 1, 2019, through December 31, 2019.

Scope of the Investigation

The products covered by this investigation are lawn mowers from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

During the course of this and the concurrent AD investigation, Commerce received scope comments from interested parties. On December 22, 2020, Commerce issued a Preliminary Scope Decision Memorandum to address these comments, and modified the scope language as it appeared in the *Preliminary Determination* to address the scope overlap issue between the lawn mowers proceedings and the antidumping and countervailing duty investigations of certain

¹ *See Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 85 FR 68848 (October 30, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² *See* Memorandum, "Analysis of Uncreditworthiness Allegations," dated March 5, 2021 (Post-Preliminary Determination).

³ *See* Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

vertical shaft engines between 99cc and up to 225cc, and parts thereof from China.⁴ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we address in the Final Scope Decision Memorandum.⁵ In the Final Scope Decision Memorandum, Commerce is not modifying the scope language as it appeared in the Preliminary Scope Decision Memorandum. *See* Appendix I for the final scope of this investigation.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties raised is attached to this notice at Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce is relying, in part, on facts otherwise available, including adverse facts available (AFA), pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of AFA, *see* the *Preliminary Determination* and the section “Use of Facts Otherwise Available and Adverse Inference” in the accompanying Issues and Decision Memorandum.⁷

Changes Since the Preliminary Determination

⁴ *See* Memorandum, “Antidumping and Countervailing Duty Investigations of Lawn Mowers from the People’s Republic of China and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum,” dated December 22, 2020 (Preliminary Scope Decision Memorandum).

⁵ *See* Memorandum, “Antidumping and Countervailing Duty Investigations of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China and the Socialist Republic of Vietnam: Scope Comments Decision Memorandum for the Final Determinations” dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

⁶ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ *See* Preliminary Decision Memorandum at “Use of Facts Otherwise Available and Adverse Inferences”; *see also* Issues and Decision Memorandum at “Use of Facts Otherwise Available and Adverse Inferences.”

Based on our review and analysis of the comments received from parties, as well as additional information collected in questionnaires issued subsequent to the *Preliminary Determination*, and our Post-Preliminary Determination,⁸ we made certain changes to subsidy rate calculations for Zhejiang Amerisun and Ningbo Daye. For a discussion of these changes, see the Issues and Decision Memorandum.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.⁹

All-Others Rate

We continue to calculate the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents (Zhejiang Amerisun and Ningbo Daye) using each company's publicly-ranged data for the value of their exports to the United States of subject merchandise.¹⁰

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate
Zhejiang Amerisun Technology Co., Ltd.	20.98 percent
Ningbo Daye Garden Machinery Co., Ltd. ¹¹	14.17 percent
All Others	16.29 percent

⁸ See Post-Preliminary Determination.

⁹ See Commerce's Letters, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: In Lieu of On-Site Verification Questionnaire," dated February 27, 2021; and "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: In Lieu of On-Site Verification Questionnaire – Ningbo Daye Garden Machinery Co., Ltd.," dated March 5, 2021.

¹⁰ See *Preliminary Determination*, 85 FR at 68849; see also Memorandum, "Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China; Revised All-Others Calculation for the Final Determination," dated concurrently with this memorandum.

¹¹ Commerce has found that the following company is cross-owned with Ningbo Daye Garden Machinery Co., Ltd.: Zhejiang Jindaye Holdings Limited. This rate applies to all cross-owned companies.

Disclosure

Commerce intends to disclose to interested parties its calculations and analysis performed in this final determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise from China that were entered, or withdrawn from warehouse, for consumption, effective October 30, 2020, which is the date of publication of the *Preliminary Determination* in the *Federal Register*.

In accordance with section 703(d) of the Act, effective February 27, 2021, we instructed CBP to discontinue the suspension of liquidation of all entries at that time, but to continue the suspension of liquidation of all entries between October 30, 2020, and February 26, 2021.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, and continue to require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of the final affirmative determination that countervailable subsidies are being provided to producers and exporters of lawn mowers from China. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45

days, whether the domestic industry in the United States is materially injured or threatened with material injury. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 771(i) of the Act, and 19 CFR 351.210(c).

Dated: May 14, 2021.

Ryan Majerus,
Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of certain rotary walk-behind lawn mowers, which are grass-cutting machines that are powered by internal combustion engines. The scope of this investigation covers certain walk-behind lawn mowers, whether self-propelled or non-self-propelled, whether finished or unfinished, whether assembled or unassembled, and whether containing any additional features that provide for functions in addition to mowing.

Walk-behind lawn mowers within the scope of this investigation are only those powered by an internal combustion engine with a power rating of less than 3.7 kilowatts. These internal combustion engines are typically spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a maximum displacement of 196cc. Walk-behind lawn mowers covered by this scope typically must be certified and comply with the Consumer Products Safety Commission Safety Standard For Walk-Behind Power Lawn Mowers under 16 CFR Part 1205. However, lawn mowers that meet the physical descriptions above, but are not certified under 16 CFR Part 1205 remain subject to the scope of this proceeding.

The internal combustion engines of the lawn mowers covered by this scope typically must comply with and be certified under Environmental Protection Agency air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. However, lawn mowers that meet the physical descriptions above but that do not have engines certified under 40 CFR Part 1054 or other parts of subchapter U remain subject to the scope of this proceeding.

For purposes of this investigation, an unfinished and/or unassembled lawn mower means, at a minimum, a sub-assembly comprised of an engine and a cutting deck shell attached to one another. A cutting deck shell is the portion of the lawn mower—typically of aluminum or steel—that houses and protects a user from a rotating blade. Importation of the subassembly whether or not accompanied by, or attached to, additional components such as a handle, blade(s), grass catching bag, or wheel(s) constitute an unfinished lawn mower for purposes of this investigation. The inclusion in a third country of any components other than the mower subassembly does not remove the lawn mower from the scope. Lawn mowers that meet the physical description above are covered by the scope of this investigation regardless of the origin of its engine, unless such lawn mowers contain an engine that is covered by the scope of the ongoing proceedings on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines) from China. If the proceedings on small vertical engines from China are terminated, the lawn mowers containing small vertical engines from China will be covered by the scope of this proceeding.

The lawn mowers subject to this investigation are typically at subheading: 8433.11.0050. Lawn mowers subject to this investigation may also enter under Harmonized Tariff Schedule of the United States (HTSUS) 8407.90.1010 and 8433.90.1090. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Final Decision Memorandum

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- IV. Scope of the Investigation
- V. Subsidies Valuation
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Analysis of Programs
- VIII. Analysis of Comments
 - Comment 1: Whether Individually-Owned Cold-Rolled Steel Input Suppliers are “Authorities”
 - Comment 2: Whether the Application of Facts Available is Warranted in Constructing Benchmark Inland Freight Charges Used for the Benefit Calculation for Zhejiang Amerisun under the Provision of Cold-Rolled Steel for Less Than Adequate Remuneration Program
 - Comment 3: Whether Commerce Committed a Ministerial Error in the Benefit Calculation for a Certain Subsidy Reported by Zhejiang Amerisun
 - Comment 4: Whether Commerce Should Remove Inland Freight and Value Added Tax from the Cold-Rolled Steel Benchmark under the Provision of Cold-Rolled Steel for Less Than Adequate Remuneration Program
 - Comment 5: Whether Commerce Improperly Found that Zhejiang Dobest was Uncreditworthy in 2017 and 2018
 - Comment 6: Whether Commerce Should Find the Export Buyers Credit Program to be Countervailable Based on Adverse Facts Available
 - Comment 7: Whether Certain Parties did not Receive Due Process and Whether Commerce Should Modify the Cash Deposit Rates for Certain Parties
 - Comment 8: Whether the Provision of Electricity for Less Than Adequate Remuneration Program is Specific
 - Comment 9: Whether Commerce’s Selection of Inland Freight Benchmarks for Ningbo Daye Under the Cold-Rolled Steel for Less Than Adequate Remuneration Program Is Correct
 - Comment 10: Whether Commerce Should Include Negative Transaction Benefit Values in the Calculation of Benefits Under the Cold-Rolled Steel for Less Than Adequate Remuneration and Policy Loans Programs
- IX. Calculation of the All-Others Rate
- X. Recommendation