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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

C-570-142

Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China:
Initiation of Countervailing Duty Investigation

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

DATES: Applicable April 19, 2021

FOR FURTHER INFORMATION CONTACT: Alex Cipolla or Kate Sliney, AD/CVD

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SUPPLEMENTARY INFORMATION:

The Petition

On March 30, 2021, the Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain walk-behind snow throwers and parts thereof (snow throwers) from the People's Republic of China (China) filed in proper form on behalf of MTD Products, Inc. (the petitioner).¹ The Petition was accompanied by an antidumping duty (AD) petition concerning imports of snow throwers from China.

Between April 1 and 9, 2021, Commerce requested supplemental information pertaining to certain aspects of the Petition in separate supplemental questionnaires and a phone call with

¹ See Petitioner's Letter, "Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Petitions for the Imposition of Antidumping and Countervailing Duties," dated March 30, 2021 (the Petition).

the petitioner.² On April 7 and 13, 2021, the petitioner filed timely responses to these requests for additional information.³

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of snow throwers in China and that such imports are materially injuring, or threatening material injury to, the domestic industry producing snow throwers in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.⁴

² See Commerce's Letters, "Petition for the Imposition of Countervailing Duties on Imports of Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Supplemental Questions," dated April 1, 2021; "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Supplemental Questions," dated April 2, 2021 (General Issues Supplemental); and Memorandum, "Phone Call with Counsel to the Petitioner," dated April 9, 2021 (Phone Call with Petitioner's Counsel).

³ See Petitioner's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Walk-Behind Snow Throwers from the People's Republic of China: Supplemental Questionnaire Response Volume III," dated April 7, 2021; "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Walk-Behind Snow Throwers from the People's Republic of China: General Issues Supplemental Questionnaire Response Volume I," dated April 7, 2021 (First General Issues Supplement); and "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Walk-Behind Snow Throwers from the People's Republic of China: General Issues Second Supplemental Questionnaire Response Volume I," dated April 13, 2021 (Second General Issues Supplement).

⁴ See "Determination of Industry Support for the Petition" section, *infra*.

Period of Investigation

Because the Petition was filed on March 30, 2021, the period of investigation is January 1, 2020, through December 31, 2020.⁵

Scope of the Investigation

The merchandise covered by this investigation is snow throwers from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

On April 2 and 9, 2021, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁶ On April 13, 2021, the petitioner revised the scope.⁷ The description of the merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁸ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,⁹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on May 10, 2021, which is the next

⁵ See 19 CFR 351.204(b)(2).

⁶ See General Issues Supplemental at 3; *see also* Phone Call with Petitioner's Counsel at 1-2.

⁷ See Second General Issues Supplement at 1 and Exhibit SSI-1.

⁸ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁹ See 19 CFR 351.102(b)(21) (defining "factual information").

business day after 20 calendar days from the signature date of this notice.¹⁰ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on May 20, 2021, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope comments must also be filed on the record of the concurrent AD investigation.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance (E&C)'s Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹¹ An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on March 31, 2021, we invited representatives of the GOC for consultations with respect to the CVD petition. We held the consultations via a conference call on April 13, 2021.¹²

¹⁰ See 19 CFR 351.303(b). Commerce's practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, February 22, 2021). See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

¹¹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹² See Memorandum, "Petition for the Imposition of Countervailing Duties on Imports of Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Consultations with Officials from the Government of China," dated April 13, 2021.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(1) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹³ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in

¹³ See section 771(10) of the Act.

different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁴

Section 771(10) of the Act defines the 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 title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁵ Based on our analysis of the information submitted on the record, we have determined that snow throwers, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁶

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided its own shipments of snow throwers in 2020.¹⁷ The petitioner estimated the production of the domestic like product for the entire industry based on shipment data, because production data for the entire domestic industry

¹⁴ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F. 2d 240 (Fed. Cir. 1989)).

¹⁵ See Petition at Volume I at 18-22 and Exhibits I-13, I-15 and I-19; *see also* First General Issues Supplement at 5-6.

¹⁶ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Checklist, “Countervailing Duty Investigation Initiation Checklist: Certain Walk-Behind Snow Throwers and Parts Thereof from the People’s Republic of China” dated concurrently with this notice and on file electronically via ACCESS (China CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Walk-Behind Snow Throwers and Parts Thereof from the People’s Republic of China (Attachment II).

¹⁷ See Second General Issues Supplement at 2 and Exhibit SSI-2.

are not available, and shipments are a close approximation of production in the snow throwers industry.¹⁸ The petitioner compared its shipments to the estimated total 2020 shipments of the domestic like product for the entire domestic industry.¹⁹ We relied on data provided by the petitioner for purposes of measuring industry support.²⁰

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²¹ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²² Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²³ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the

¹⁸ See Petition at Volume I at 4-6 and Exhibits I-1, I-7, and I-19; *see also* First General Issues Supplement at 7-8 and Exhibit SI-3; and Second General Issues Supplement at 2-4 and Exhibits SS1-2 and SS1-4.

¹⁹ See Petition at Volume I at 4-6 and Exhibits I-1, I-7, and I-19; *see also* First General Issues Supplement at 7-8 and Exhibit SI-3; and Second General Issues Supplement at 2-4 and Exhibits SS1-2 and SS1-4.

²⁰ See Petition at Volume I at 4-6 and Exhibits I-1, I-7, and I-19; *see also* First General Issues Supplement at 7-8 and Exhibit SI-3; and Second General Issues Supplement at 2-4 and Exhibits SS1-2 and SS1-4.

²¹ See CVD Initiation Checklist at Attachment II.

²² *Id.*; *see also* section 702(c)(4)(D) of the Act.

²³ See China CVD Initiation Checklist at Attachment II.

Petition.²⁴ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.²⁵

Injury Test

Because China is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁶

The petitioner contends that the industry’s injured condition is illustrated by significant and increasing volume and market share of subject imports; lost sales and revenues; underselling and price depression and/or suppression; and decline in profitability, employment variables, capital expenditures, and capacity utilization.²⁷ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility,

²⁴ *Id.*

²⁵ *Id.*

²⁶ See Petition at Volume I at 22-23 and Exhibit I-8; *see also* General Issues Supplement at 9.

²⁷ See Petition at Volume I at 22-34 and Exhibits I-7, I-9 through I-11, I-17, I-18, and I-21 through I-23; *see also* First General Issues Supplement at 3, 9 and Exhibits SI-1 and SI-5; *see also* Second General Issues Supplement at 4-5 and Exhibit SSI-3.

and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁸

Initiation of CVD Investigation

Based upon our examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of snow throwers from China benefit from countervailable subsidies conferred by the GOC. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all but one of the alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* China CVD Initiation Checklist. The initiation checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petitioner named 36 companies in China as producers/exporters of snow throwers.²⁹ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) entry data for U.S. imports under the appropriate

²⁸ See CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China (Attachment III).

²⁹ See Petition at Volume I at Exhibit I-5.

Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the “Scope of the Investigation,” in the appendix.

On April 19, 2021, Commerce released CBP data on imports of snow throwers from China under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this investigation.³⁰ We further stated that we will not accept rebuttal comments. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b).

Instructions for filing such applications may be found on E&C’s website at

<http://enforcement.trade.gov/apo>.

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

³⁰ See Memorandum, “Countervailing Duty Petition on Certain Walk-Behind Snow Throwers and Parts Thereof from the People’s Republic of China: Release of U.S. Customs and Border Protection Entry Data,” dated April 19, 2021.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of snow throwers from China are materially injuring, or threatening material injury to, a U.S. industry.³¹ A negative ITC determination will result in the investigation being terminated.³² Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³³ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³⁴ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

³¹ See section 703(a)(1) of the Act.

³² *Id.*

³³ See 19 CFR 351.301(b).

³⁴ See 19 CFR 351.301(b)(2).

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.³⁵ For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review Commerce's regulations concerning the extension of time limits prior to submitting extension requests or factual information in this investigation.³⁶

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁷ Parties must use the certification formats provided in 19 CFR 351.303(g).³⁸ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

³⁵ See 19 CFR 351.302.

³⁶ See 19 CFR 351; *see also* *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

³⁷ See section 782(b) of the Act.

³⁸ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of document submission procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).³⁹ Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.⁴⁰

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: April 19, 2021

/S/ Christian Marsh

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

³⁹ See *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008).

⁴⁰ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Appendix

Scope of the Investigation

The merchandise covered by this investigation consists of gas-powered, walk-behind snow throwers (also known as snow blowers), which are snow moving machines that are powered by internal combustion engines and primarily pedestrian-controlled. The scope of the investigation covers certain snow throwers (also known as snow blowers), 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 snow throwing. Subject merchandise also includes finished and unfinished snow throwers that are further processed in a third country or in the United States, including, but not limited to, assembly or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope snow throwers.

Walk-behind snow throwers subject to the scope of this investigation are powered by internal combustion engines which are typically spark ignition, single or multiple cylinder, and air-cooled with power take off shafts.

For the purposes of this investigation, an unfinished and/or unassembled snow thrower means at a minimum, a sub-assembly comprised of an engine, auger housing (*i.e.*, intake frame), and an auger (or “auger paddle”) packaged or imported together. An intake frame is the portion of the snow thrower – typically of aluminum or steel – that houses and protects an operator from a rotating auger and is the intake point for the snow. Importation of the subassembly whether or not accompanied by, or attached to, additional components including, but not limited to, handle(s), impeller(s), chute(s), track tread(s), or wheel(s) constitutes an unfinished snow thrower for purposes of this investigation. The inclusion in a third country of any components other than the snow thrower sub-assembly does not remove the snow thrower from the scope. A snow thrower is within the scope of this investigation regardless of the origin of its engine.

Specifically excluded is merchandise covered by the scope of the antidumping and countervailing duty orders on certain vertical shaft engines between 225cc and 999cc, and parts thereof from the People’s Republic of China. *See Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China: Amended Final Antidumping Duty Determination and Antidumping Duty Order*, 86 FR 12623 (March 4, 2021) and *Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof From the People’s Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination*, 86 FR 12619 (March 4, 2021).

The snow throwers subject to this investigation are typically entered under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8430.20.0060. Certain parts of snow throwers subject to this investigation may also enter under HTSUS 8431.49.9095. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.