

Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (e.g., the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

### Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (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). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted 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. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule*,<sup>7</sup> available at <https://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>8</sup>

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule*.<sup>9</sup> Commerce intends to reject factual submissions in any proceeding segments if the submitting

party does not comply with applicable certification requirements.

### Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.<sup>10</sup> In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. 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 the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule*, available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: October 26, 2020.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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<sup>10</sup> See 19 CFR 351.302.

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C–570–130]

#### 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

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily 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). The period of investigation is January 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable October 30, 2020.

**FOR FURTHER INFORMATION CONTACT:** Moses Song or Tyler Weinholt, 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

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on June 22, 2020.<sup>1</sup> On August 3, 2020, Commerce postponed the preliminary determination of this investigation to October 23, 2020.<sup>2</sup> For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.<sup>3</sup> A list of topics

<sup>1</sup> See *Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 37426 (June 22, 2020) (*Initiation Notice*).

<sup>2</sup> See *Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 85 FR 46587 (August 3, 2020).

<sup>3</sup> See Memorandum, “Decision Memorandum for the Preliminary Determination of 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 (Preliminary Decision Memorandum).

<sup>7</sup> See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also the frequently asked questions regarding the *Final Rule*, available at [https://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

<sup>8</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19*, 85 FR 41363 (July 10, 2020).

<sup>9</sup> See section 782(b) of the Act; see also *Final Rule*; and the frequently asked questions regarding the *Final Rule*, available at [https://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

### 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.

At the time of the filing of the petition, there were ongoing antidumping (AD) and countervailing duty (CVD) investigations on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines), from China.<sup>4</sup> The scope of the small vertical engines from China investigations covers engines "whether mounted or unmounted, primarily for walk-behind lawn mowers. Engines meeting this physical description may also be for other non-handheld outdoor power equipment, including but not limited to, pressure washers." The small vertical engines scope also provides that "if a subject engine is imported mounted on such equipment, only the engine is covered by the scope. Subject merchandise includes certain small vertical shaft engines produced in the subject country whether mounted on outdoor power equipment in the subject country or in a third country."<sup>5</sup> This creates an overlap between the scopes of these proceedings.

Therefore, for the purpose of Customs and Border Protection (CBP)'s administration, where the engine of a lawn mower is also covered by the scope of the small vertical engines from

<sup>4</sup> See *Certain Vertical Shaft Engines Between 99cc and up to 225cc, 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 52086 (August 24, 2020); see also *Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof, from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 85 FR 66932 (October 21, 2020).

<sup>5</sup> *Id.*

China CVD proceeding, parties are instructed to enter their merchandise under the CVD case number associated with the small vertical engines proceedings (C-570-125) and post CVDs in accordance with the cash deposit rates applicable in that case. Specifically, at this time, the CVDs will be applicable to the value of the small vertical engine, not the residual value of the mower. We are making no change to the scope of this proceeding at this time. As discussed below, we will be setting aside a separate period of time for parties to comment on this issue.

### Scope Comments

In accordance with the preamble to Commerce's regulations,<sup>6</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>7</sup> No interested parties timely commented on the scope of the investigation and thus Commerce is not changing the scope language as it appeared in the *Initiation Notice*.<sup>8</sup>

Commerce will be setting aside a separate period of time for parties to comment on the issue of the overlap in the scopes of the lawn mowers and small vertical engines AD and CVD proceedings.

### Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily 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.<sup>9</sup>

In making these findings, Commerce is relying, in part, on facts available. Because we find that one or more respondents failed to cooperate by not acting to the best of their ability to respond to Commerce's requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.<sup>10</sup> For further information, see "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

<sup>6</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>7</sup> See *Initiation Notice*.

<sup>8</sup> On September 23, 2020, Ningbo Daye requested permission to file comments on the scope language in the *Initiation Notice*. Commerce rejected this request because it was submitted after the deadline.

<sup>9</sup> 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.

<sup>10</sup> See sections 776(a) and (b) of the Act.

### Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of lawn mowers from China based on a request made by the petitioner.<sup>11</sup> Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than March 8, 2021, unless postponed.

### All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Ningbo Daye Garden Machinery Co., Ltd. (Ningbo Daye) and Zhejiang Amerisun Technology Co. (Zhejiang Amerisun) that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using the mandatory respondents' publicly ranged U.S. export sales values for the subject merchandise.<sup>12</sup>

### Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

<sup>11</sup> See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Walk-Behind Lawn Mowers from China: Request to Align Final Countervailing Duty Determination with the Companion Antidumping Duty Final Determination," dated October 15, 2020.

<sup>12</sup> We calculated the all-others rate as the weighted average of the estimated subsidy rates for Ningbo Daye and Zhejiang Amerisun, using their publicly ranged U.S. export sales value for the subject merchandise because it is closer to the weighted average of the estimated subsidy rates calculated for the mandatory using their business proprietary export sales values than the simple average of the estimated subsidy rates.

<sup>13</sup> Commerce preliminarily determines that the following company is cross-owned with Ningbo Daye Garden Machinery Co., Ltd.: Zhejiang Jindaye Holdings Limited. See Preliminary Decision Memorandum at 36. This rate applies to all cross-owned companies.

Company	Subsidy rate (percent)
Zhejiang Amerisun Technology Co., Ltd .....	22.74
Ningbo Daye Garden Machinery Co., Ltd <sup>13</sup> .....	14.68
All Others .....	17.19

### Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

### Disclosure

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

### Verification

Commerce is currently unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. Accordingly, we intend to take additional steps in lieu of on-site verification. Commerce will notify interested parties of any additional documentation or information required.

### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Commerce will notify interested parties of the deadline for the submission of case briefs. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>14</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief

summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>15</sup>

### International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

### Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: October 23, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

### 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 the investigation cover 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 the 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 sub-assembly does not remove the lawn mower from the scope. A lawn mower is within the scope of this investigation regardless of the origin of its engine.

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 Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Injury Test
- V. Diversification of China's Economy
- VI. Use of Facts Otherwise Available and Adverse Inferences

<sup>14</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements); *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

<sup>15</sup> See *Temporary Rule*.

VII. Subsidies Valuation  
 VIII. Benchmarks and Interest Rates  
 IX. Analysis of Programs  
 X. Calculation of the All-Others Rate  
 XI. Recommendation

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C–570–125]

#### Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof From the People’s Republic of China: Preliminary Affirmative Determination of Critical Circumstances, in Part, in the Countervailing Duty Investigation

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that critical circumstances exist, in part, with respect to imports of certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines) from certain producers and exporters from the People’s Republic of China (China).

**DATES:** Applicable October 30, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ajay Menon or Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1993 or (202) 482–6172, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 18, 2020, Commerce received a countervailing duty (CVD) petition concerning imports of small vertical engines from China filed in proper form on behalf of the petitioner, Briggs & Stratton Corporation.<sup>1</sup> On April 7, 2020, we initiated this investigation,<sup>2</sup> and on August 24, 2020, we published an affirmative *Preliminary Determination*.<sup>3</sup>

<sup>1</sup> See Petitioner’s Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People’s Republic of China,” dated March 18, 2020 (the Petition).

<sup>2</sup> See *Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 20667 (April 14, 2020).

<sup>3</sup> See *Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the*

Commerce selected Chongqing Kohler Engines Ltd. (Chongqing Kohler) and Chongqing Zongshen General Power Machine Co. (Chongqing Zongshen) as the individually-examined respondents in this investigation.

On September 24, 2020, the petitioner alleged that critical circumstances exist with respect to imports of small vertical engines from China, pursuant to section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206.<sup>4</sup>

In accordance with section 703(e)(1) of the Act and 19 CFR 351.206(c)(1), because the petitioner submitted its critical circumstance allegations more than 30 days before the scheduled date of the final determination,<sup>5</sup> Commerce will make a preliminary finding as to whether there is a reasonable basis to believe or suspect that critical circumstances exist. Commerce will issue its preliminary finding of critical circumstances within 30 days after the petitioner submits the allegation.<sup>6</sup>

#### Period of Investigation (POI)

The POI is January 1, 2019 through December 31, 2019.

#### Critical Circumstances Allegation

The petitioner alleges that there was a massive increase of imports of small vertical engines from China and provided monthly import data for the period January 2020 through June 2020.<sup>7</sup> The petitioner states that a comparison of total imports, by quantity, for the base period January 2020 through March 2020 to the comparison period April 2020 through June 2020, shows that imports of small vertical engines from China increased by 37.01 percent,<sup>8</sup> which is “massive”

*People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 52086 (August 24, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>4</sup> See Petitioner’s Letter, “Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People’s Republic of China: Critical Circumstances Allegation,” dated September 24, 2020 (Critical Circumstances Allegation).

<sup>5</sup> The final determination for this CVD investigation is currently due no later than December 28, 2020.

<sup>6</sup> See 19 CFR 351.206(c)(2)(ii). In this case, 30 days after the petitioner submitted the allegation would place the deadline on Saturday, October 24, 2020. Commerce’s practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. 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).

<sup>7</sup> See Critical Circumstances Allegation at Exhibit 1.

<sup>8</sup> *Id.*

under 19 CFR 351.206(h)(2). The petitioner also alleges that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the Subsidies and Countervailing Measures Agreement of the World Trade Organization (SCM Agreement).<sup>9</sup>

#### Critical Circumstances Analysis

Section 703(e)(1) of the Act provides that Commerce will preliminarily determine that critical circumstances exist in a CVD investigation if there is a reasonable basis to believe or suspect that: (A) The alleged countervailable subsidy is inconsistent with the SCM Agreement;<sup>10</sup> and (B) there have been massive imports of the subject merchandise over a relatively short period.

In determining whether there are “massive imports” over a “relatively short period,” pursuant to section 703(e)(1)(B) of the Act and 19 CFR 351.206(h) and (i), Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the base period) to a comparable period of at least three months following the filing of the petition (*i.e.*, the comparison period). However, the regulations also provide that if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from the earlier time.<sup>11</sup> Imports must increase by at least 15 percent during the comparison period to be considered massive.<sup>12</sup>

#### Alleged Countervailable Subsidies Are Inconsistent With the SCM Agreement

##### Chongqing Kohler

In the *Preliminary Determination*, we found that Chongqing Kohler received countervailable subsidies under the “Export Buyer’s Credit Program” program, which was found to be export contingent in the *Preliminary Determination*.<sup>13</sup> Thus, because we

<sup>9</sup> *Id.* at 4–5.

<sup>10</sup> Commerce limits its critical circumstances findings to those subsidies contingent upon export performance or use of domestic over imported goods (*i.e.*, those prohibited under Article 3 of the SCM Agreement). See, *e.g.*, *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire from Germany*, 67 FR 55808, 55809–10 (August 30, 2002).

<sup>11</sup> See 19 CFR 351.206(i).

<sup>12</sup> See 19 CFR 351.206(h)(2).

<sup>13</sup> See *Preliminary Determination* PDM at 29; see also Memorandum, “Countervailing Duty