



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-120]

Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances 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 producers and/or exporters subject to this investigation received countervailable subsidies.

Interested parties are invited to comment on this preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4261.

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 February 18, 2020.<sup>1</sup> On March 26, 2020, Commerce postponed the preliminary determination of this investigation and reset the deadline to June 15, 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 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 certain large vertical shaft engines. For a complete description of the scope of this investigation, *see* Appendix I.

#### Scope Comments

In accordance with the Preamble to Commerce's regulations,<sup>4</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation*

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<sup>1</sup> *See Certain Vertical Shaft Engines Between 223cc and 999cc, and Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 8835 (February 18, 2020) (*Initiation Notice*).

<sup>2</sup> *See Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 85 FR 17042 (March 26, 2020).

<sup>3</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination and Preliminary Negative Critical Circumstances Determination in the Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>5</sup> *See Initiation Notice*.

*Notice.* For a summary of the product coverage comments submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Decision Memorandum. Commerce has not modified the scope language as it appeared in the *Initiation Notice*. *See* Appendix I.

#### Period of Investigation

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

#### 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 confers a benefit on the recipient, and that the subsidy is specific.<sup>6</sup> For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

In making these findings, Commerce relied, in part, on facts available. For further information, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.

#### Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), and based on the petitioners’<sup>7</sup> request,<sup>8</sup> we are aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of certain large vertical shaft engines from China. Consequently, the final CVD

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<sup>6</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>7</sup> The petitioners are the Coalition of American Vertical Engine Producers and its individual members.

<sup>8</sup> *See* Petitioners’ Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People’s Republic of China: Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination,” dated June 5, 2020.

determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than October 26, 2020, unless postponed.

#### Preliminary Negative Determination of Critical Circumstances

The Petition<sup>9</sup> included an allegation that critical circumstances exist with respect to imports of the subject merchandise. The petitioners alleged, based on trade statistics, that there is a reasonable basis to believe or suspect that critical circumstances exist with regard to imports of large vertical shaft engines<sup>10</sup> Based on monthly shipment information requested from the mandatory respondents as well as publicly available trade statistics, Commerce is preliminarily determining that critical circumstances do not exist within the meaning of section 703(e)(1) of the Act. For further information, *see* the Preliminary Decision Memorandum.

#### All-Others Rate

Sections 703(d)(1)(A)(i) 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 rates that are zero, *de minimis*, or based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Loncin Motor Co. (Loncin) and Chongqing Zongshen General Power Machine Co., Ltd. (Zhongshen) that are not zero, *de minimis*, or based entirely on the facts otherwise available.

Commerce calculated the all-others rate using a weighted average of the individual estimated

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<sup>9</sup> *See* Petitioners' Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated January 15, 2020 (the Petition).

<sup>10</sup> *See* Volume IV of the Petition at 3-6.

subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.<sup>11</sup>

#### Preliminary Determination

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

<b>Producers/Exporters</b>	<b>Subsidy Rate (percent)</b>
Loncin Motor Co.	19.61
Chongqing Zongshen General Power Machine Co.	37.75
All Others	30.98

#### 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 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.

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<sup>11</sup> With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, see the All-Others Rate Calculation Memorandum, dated concurrently with this *Federal Register* notice.

## Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties 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

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

## Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days<sup>12</sup> after the deadline date for case briefs. 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

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<sup>12</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days prior to 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 July 17, 2020, unless extended.<sup>13</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 Commerce's final determination is affirmative, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's 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: June 15, 2020.

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**Jeffrey I. Kessler,**  
*Assistant Secretary for Enforcement and Compliance.*

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<sup>13</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 29615 (May 18, 2020).

## Appendix I

### Scope of the Investigation

The merchandise covered by this investigation consists of spark-ignited, non-road, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, primarily for riding lawn mowers and zero-turn radius lawn mowers. Engines meeting this physical description may also be for other non-hand-held outdoor power equipment such as, including but not limited to, tow-behind brush mowers, grinders, and vertical shaft generators. The subject engines are spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 225 cubic centimeters (cc) and a maximum displacement of 999cc. Typically, engines with displacements of this size generate gross power of between 6.7 kilowatts (kw) to 42 kw.

Engines covered by this scope normally must comply with and be certified under Environmental Protection Agency (EPA) 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. Engines that otherwise meet the physical description of the scope but are not certified under 40 CFR part 1054 and are not certified under other parts of subchapter U of the EPA air pollution controls are not excluded from the scope of this proceeding. Engines that may be certified under both 40 CFR part 1054 as well as other parts of subchapter U remain subject to the scope of this proceeding.

For purposes of this investigation, an unfinished engine covers at a minimum a sub-assembly comprised of, but not limited to, the following components: crankcase, crankshaft, camshaft, piston(s), and connecting rod(s). Importation of these components together, whether assembled or unassembled, and whether or not accompanied by additional components such as an oil pan, manifold, cylinder head(s), valve train, or valve cover(s), constitutes an unfinished engine for purposes of this investigation. The inclusion of other products such as spark plugs fitted into the cylinder head or electrical devices (*e.g.*, ignition modules, ignition coils) for synchronizing with the motor to supply tension current does not remove the product from the scope. The inclusion of any other components not identified as comprising the unfinished engine subassembly in a third-country does not remove the engine from the scope.

The engines subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8407.90.1020, 8407.90.1060, and 8407.90.1080. The engine subassemblies that are subject to this investigation enter under HTSUS 8409.91.9990. Engines subject to this investigation may also enter under HTSUS 8407.90.9060 and 8407.90.9080. 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**

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[FR Doc. 2020-13270 Filed: 6/18/2020 8:45 am; Publication Date: 6/19/2020]