



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-119]

Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination

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

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain vertical shaft engines between 225cc and 999cc, and parts thereof (vertical shaft engines) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is July 1, 2019 through December 31, 2019.

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

FOR FURTHER INFORMATION CONTACT: Leo Ayala and Jacqueline Arrowsmith, AD/CVD Operations, Office VII, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3945 and (202) 482-5255, respectively.

SUPPLEMENTARY INFORMATION

Background

On August 19, 2020, Commerce published its *Preliminary Determination* of sales at LTFV of from China.¹ For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.² A list of topics included in the

¹ See *Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 51015 (August 19, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Issues and Decision Memorandum is included as Appendix II to this notice. 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 <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope Comments

On September 18, 2020, the Toro Company/Toro Purchasing Company (Toro) submitted scope comments.³ On September 25, 2020, Kohler Co. (Kohler) filed rebuttal scope comments.⁴ Commerce addressed these comments in its Final Scope Determination Memorandum.⁵ We have not changed the scope of the investigation.

Scope of the Investigation

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

Analysis of Comments Received

All 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 in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the margin calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances

³ *See* Toro's Letter, "Certain Vertical Shaft Engines from the People's Republic of China: Letter in Lieu of Brief on Scope Issues," dated September 18, 2020.

⁴ *See* Kohler's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc from the People's Republic of China: Letter in Lieu of Scope Rebuttal Brief," dated September 25, 2020.

⁵ *See* Memorandum, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Final Scope Decision Memorandum," dated concurrently with this final determination.

We find that critical circumstances exist for imports of vertical shaft engines from China for Loncin Motor Co., Ltd. (Loncin), Chongqing Zongshen General Power Machine Co., Ltd. (Zongshen), all non-individually investigated companies, and the China-wide entity pursuant to sections 735(a)(3)(A) and (B) of the Act and 19 CFR 351.206.⁶

Separate Rate Companies

For this *Final Determination*, we determine that the evidence placed on the record of this investigation by Loncin, Zongshen, Chongqing Rato Technology Co., Ltd., Jialing-Honda Motors Co., Ltd., and Yamaha Motor Powered Products demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*.⁷ Accordingly, Commerce continues to grant separate rates to each of these companies.

China-Wide Rate

In selecting the adverse facts available (AFA) rate for the China-wide entity, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁸ Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition; or (b) the highest calculated dumping margin of any respondent in the investigation.⁹

In the *Preliminary Determination*, we relied on AFA in determining the dumping margin for the China-wide entity.¹⁰ As explained in the *Preliminary Determination*, Zhejiang Xingyu Industry Trade, Suzhou Honbase MAC, and Wenling Jennfeng Industries Inc. did not respond to

⁶ See Issues and Decision Memorandum at 7 and Comment 16.

⁷ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*); see also *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

⁸ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethyl Cellulose from Finland*, 69 FR 77216 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethyl Cellulose from Finland*, 70 FR 28279 (May 17, 2005).

⁹ See, e.g., *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436, 17438 (March 26, 2012); *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum.

¹⁰ See Preliminary Decision Memorandum at 15-18.

our requests for information.¹¹ We have relied on AFA to determine the dumping margin of 468.33 percent for the China-wide entity for this final determination.¹²

Combination Rates

In the *Initiation Notice*, Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation.¹³ Accordingly, we have assigned combination rates to certain companies, as provided in the “Final Determination” section below.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Producer	Exporter	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Export Subsidy Offset) (percent)
Loncin Motor Co., Ltd.	Loncin Motor Co. Ltd.	177.65	165.42
Chongqing Zongshen General Power Machine Co., Ltd.	Chongqing Zongshen General Power Machine Co., Ltd.	336.26	324.93
Chongqing Rato Technology Co., Ltd.	Chongqing Rato Technology Co., Ltd.	270.95	259.17
Jialing-Honda Motors Co., Ltd.	Jialing-Honda Motors Co., Ltd.	270.95	259.17
Yamaha Motor Powered Products Jiangsu Co., Ltd.	Yamaha Motor Powered Products Jiangsu Co., Ltd.	270.95	259.17
China-Wide Entity		468.33	457.00

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final

¹¹ *Id.*

¹² See Memorandum, “Corroboration of the Adverse Facts Available Rate for the Final Determination in the Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China,” dated concurrently with this notice.

¹³ See *Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People’s Republic of China: Initiation of Antidumping Duty Investigation*, 85 FR 8809 (February 18, 2020) (*Initiation Notice*).

determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of vertical shaft engines from China, as described in the appendix to this notice, which were entered, or withdrawn from warehouse, for consumption on or after August 19, 2019, the date of publication of the *Preliminary Determination* of this investigation in the *Federal Register*. Further, Commerce will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

Section 735(c)(4) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. As discussed in the Issues and Decision Memorandum, Commerce finds that critical circumstances exist for Loncin, Zongshen, all non-individually investigated companies, and the China-wide entity. In accordance with section 733(c)(4) of the Act, the suspension of liquidation shall continue to apply to all unliquidated entries of merchandise from Loncin, all non-individually investigated companies, and the China-wide entity that were entered, or withdrawn from warehouse, for consumption on or after May 21, 2020, which is 90 days before the publication of the *Preliminary Determination*. In addition, based on our final affirmative critical circumstances determination for Zongshen,¹⁴ suspension of liquidation shall apply to all unliquidated entries of merchandise from Zongshen, that were entered, or withdrawn from warehouse, for consumption on or after May 21, 2020, which is 90 days before the publication of the *Preliminary Determination*.

¹⁴ See Issues and Decision Memorandum at 38-39

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offsets the calculated estimated weighted-average dumping margin by the appropriate rates. Commerce continues to find that neither Zongshen nor Loncin qualifies for a double-remedy adjustment.¹⁵ However, we have continued to adjust the cash deposit rates for Loncin, Zongshen, all non-individually-examined companies, and the China-wide entity for export subsidies in the companion CVD investigation by the appropriate export subsidy rates¹⁶ as indicated in the above chart. However, suspension of liquidation of provisional measures in the companion CVD case has been discontinued effective October 17, 2020; therefore, we are not instructing CBP to collect cash deposits based upon the adjusted estimated weighted-average dumping margin for those export subsidies at this time.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which NV exceeds U.S. price as follows: (1) for all combinations of exporters/producers of merchandise under consideration that have not received their own separate rate, the cash-deposit rate will be the cash deposit rate established for the China-wide entity; and (2) for all non-Chinese exporters of the merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter. These suspension of liquidation instructions will remain in effect until further notice.

¹⁵ *Id.* at 37.

¹⁶ See *Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, dated concurrently with this notice.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of vertical shaft engines from China before the later of 120 days after our preliminary determination or 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: January 4, 2021.

Jeffrey I. Kessler,
Assistant Secretary

for Enforcement and Compliance.

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 Issues and Decision Memorandum

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