



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: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination**

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

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing a countervailing duty order on certain vertical shaft engines between 225cc and 999cc, and parts thereof (vertical shaft engines) from the People's Republic of China (China). In addition, Commerce is amending its final determination with respect to vertical shaft engines from China to correct ministerial errors.

**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

In accordance with sections 705(a), 705(d), and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on January 11, 2021, Commerce published its affirmative final determination that countervailable subsidies are being provided to producers and exporters of vertical shaft engines from China.<sup>1</sup> In the investigation of vertical shaft engines

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<sup>1</sup> 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*

from China, the petitioners and a mandatory respondent submitted timely allegations on the record that Commerce made certain ministerial errors in the final countervailing duty determination on vertical shaft engines from China. Section 705(e) of the Act and 19 CFR 351.224(f) define ministerial errors as errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which Commerce considers ministerial. We reviewed the allegations and determined that we made certain ministerial errors in the final countervailing duty determination on vertical shaft engines from China. *See* “Amendment to the Final Determination” section below for further discussion.

On February 24, 2021, the ITC notified Commerce of its affirmative final determination that pursuant to sections 705(b)(1)(A)(i) and 705(d) of the Act, that an industry in the United States is materially injured by reason of subsidized imports of subject merchandise from China.<sup>2</sup>

#### Scope of the Order

The products covered by this order are certain large vertical shaft engines from China. For a complete description of the scope of the order, *see* the appendix to this notice.

#### Amendment to the Final Determination of Vertical Shaft Engines from China

On January 21, 2021, co-petitioner Kohler Co. (Kohler) and mandatory respondent Loncin Motor Co., Ltd. (Loncin) submitted timely ministerial error allegations regarding the *Final Determination*.<sup>3</sup> On January 29, 2012, Kohler, mandatory respondent Chongqing

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*Determination*, 86 FR 1933 (January 11, 2021) (*Final Determination*), and accompanying Issues and Decision Memorandum.

<sup>2</sup> *See* ITC Letter, “Notification of ITC Final Determination,” dated February 24, 2021 (ITC Notification Letter).

<sup>3</sup> *See* Kohler’s Letter, “*Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China: Ministerial Error Allegations*,” dated January 21, 2021 (Kohler Allegations); Loncin’s Letter, “*Loncin Comments on Ministerial Errors in the Final Determination and the Disclosed Calculations for Loncin: Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 225CC and 999CC, and Parts Thereof From the People’s Republic of China (C-570-120)*,” dated January 21, 2021 (Loncin Allegations).

Zongshen General Power Machine Co., Ltd. (Zongshen) and interested party MTD Products Inc. (MTD) submitted timely responses to the ministerial allegations.<sup>4</sup>

Commerce reviewed the record and agreed that certain errors referenced in Kohler and Loncin's allegations constituted ministerial errors within the meaning of section 705(e) of the Act and 19 CFR 351.224(f).<sup>5</sup> Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Determination* to reflect the corrections of the ministerial errors described in the Ministerial Error Memorandum. Based on these corrections, the subsidy rate for Loncin changed from 17.75 to 18.96 percent, and the subsidy rate for Zongshen changed from 19.29 percent to 20.38 percent. Because we based the all-others rate on Loncin's and Zongshen's *ad valorem* subsidy rates, the all-others rate has also changed from 18.72 percent to 19.85 percent.

#### Countervailing Duty (CVD) Order

On February 24, 2021, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured by reason of subsidized imports of vertical shaft engines from China.<sup>6</sup> Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing this countervailing duty order. Because the ITC determined that imports of vertical shaft engines from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

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<sup>4</sup> See Kohler's Letter, "*Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Response to Ministerial Error Comments*," dated January 29, 2021 (Kohler Response); Zongshen's Letter, "*Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; CVD Investigation; Chongqing Zongshen Response to Petitioner Ministerial Error Comments*," dated January 29, 2021 (Zongshen Response); and MTD's Letter, "*Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof (VSEs) from the People's Republic of China: MTD's Response to Kohler Ministerial Error Comments*," dated January 29, 2021 (MTD Response).

<sup>5</sup> See Memorandum, "Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Ministerial Error Allegations in the Final Determination," dated concurrently with, and hereby adopted by, this notice (Ministerial Error Memorandum), at 2-6.

<sup>6</sup> See ITC Notification Letter.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of vertical shaft engines from China which are entered, or withdrawn from warehouse, for consumption on or after June 19, 2020, the date of publication of the *Preliminary Determination*,<sup>7</sup> but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final injury determinations under section 705(b) of the Act, as further described below.

#### Suspension of Liquidation and Cash Deposits

In accordance with section 706 of the Act, Commerce will instruct CBP to reinstitute the suspension of liquidation of vertical shaft engines from China, as described in the appendix to this notice, effective on the date of publication of the ITC's notice of final determinations in the *Federal Register*, and to assess, upon further instruction by Commerce, pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates below. On or after the date of publication of the ITC's final injury determinations in the *Federal Register*, CBP must require, at the same time as importers would deposit estimated normal customs duties on this merchandise, a cash deposit equal to the rates noted below. The all-others rate applies to all producers or exporters not specifically listed below.

<b>Producers/Exporters</b>	<b>Subsidy Rate (percent)</b>
Loncin Motor Co.	18.96
Chongqing Zongshen General Power Machine Co.	20.38
All Others	19.85

#### Provisional Measures

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<sup>7</sup> See *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*, 85 FR 37061 (June 19, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

Section 703(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigations, Commerce published the *Preliminary Determinations* on June 19, 2020. As such, the four-month period beginning on the date of the publication of the *Preliminary Determination* ended on October 16, 2020. Furthermore, section 707(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 703(d) of the Act, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of vertical shaft engines from China, entered, or withdrawn from warehouse, for consumption, on or after October 17, 2020, the date on which the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determinations in the *Federal Register*. Suspension of liquidation will resume on the date of publication of the ITC's final determinations in the *Federal Register*.

#### Notification to Interested Parties

This notice constitutes the CVD orders with respect to vertical shaft engines from China pursuant to section 706(a) of the Act. Interested parties can find a list of CVD orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>. This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: February 26, 2021.

Christian Marsh,  
Acting Assistant Secretary for Enforcement and Compliance.

## Appendix

### Scope of the Order

The merchandise covered by this order 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 order, 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 order. 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 order 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 order 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 subject to this order is dispositive.