

BILLING CODE: 3510-DS-P

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: 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

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that 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. Interested parties are invited to comment on this preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Leo Ayala or Alex Cipolla, 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) 482-3945 or (202) 482-4956, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(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 June 2, 2020, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now August 12, 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 included 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 <https://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 the electronic versions of the Preliminary Decision Memorandum are identical in content.

### Scope of the Investigation

The products covered by this investigation are vertical shaft engines from China. 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 (scope).<sup>5</sup> Certain

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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 Antidumping Duty Investigation*, 85 FR 8809 (February 18, 2020) (*Initiation Notice*), and accompanying AD Initiation Checklist.

<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 Antidumping Duty Investigation*, 85 FR 33622 (June 2, 2020).

<sup>3</sup> *See* Memorandum, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Decision Memorandum for the Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Critical Circumstances Determination," 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*.

interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>6</sup> Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*.

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. In addition, Commerce has calculated constructed export prices in accordance with section 772(b) of the Act. Because China is a non-market economy, within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act. Furthermore, pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available, with adverse inferences, with respect to the China-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

### Preliminary Affirmative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determines that critical circumstances exist with respect to imports of vertical shaft engines from China for: Loncin Motor Co., Ltd. (Loncin); Chongqing Zongshen General Power Machine Co., Ltd. (Zongshen); the separate rate companies, and the China-wide entity. For a

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<sup>6</sup> *See* Memorandum, "Certain Vertical Shaft Engines Between 223cc and 999cc, and Parts Thereof from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determination" dated June 4, 2020 (Preliminary Scope Decision Memorandum).

full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

### Combination Rates

In the *Initiation Notice*,<sup>7</sup> Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.<sup>8</sup>

### Preliminary Determination

Commerce preliminarily 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.	219.07	206.82
Chongqing Zongshen General Power Machine Co., Ltd.	Chongqing Zongshen General Power Machine Co., Ltd.	401.14	380.46
Chongqing Rato Technology Co., Ltd	Chongqing Rato Technology Co., Ltd	326.17	308.64
Jialing-Honda Motors Co., Ltd.	Jialing-Honda Motors Co., Ltd.	326.17	308.64
Yamaha Motor Powered Products Jiangsu Co., Ltd.	Yamaha Motor Powered Products Jiangsu Co., Ltd.	326.17	308.64
China-Wide Entity		543.18	530.93

<sup>7</sup> See *Initiation Notice*, 85 FR at 8813.

<sup>8</sup> See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation 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*, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which normal value exceeds U.S. price, as indicated in the chart above as follows: (1) for the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Chinese producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Chinese producer/exporter combination (or China-wide entity) that supplied that third-country exporter.

Section 733(e)(2) 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. Commerce preliminarily finds that critical circumstances exist for Loncin, Zongshen, all separate rate companies, and the China-wide entity. In accordance with section 733(e)(2)(A) of the Act, the

suspension of liquidation shall apply to all unliquidated entries of merchandise from Loncin, Zongshen, all separate rate companies, and the China-wide entity that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

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 CVD proceeding when CVD provisional measures are in effect. As explained in the Preliminary Decision Memorandum, Commerce has made a preliminary affirmative determination not to grant a domestic subsidy pass-through. However, we have granted export subsidy offsets. Specifically, Commerce has offset the calculated estimated weighted-average dumping margin by the appropriate export subsidy rate(s). Any such, adjusted rates may be found in the Preliminary Determination section's chart of estimated weighted-average dumping margins above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for the export subsidies at the time the CVD provisional measures expire.

These suspension of liquidation instructions will remain in effect until further notice.

#### Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if

there is no public announcement, within five days of the date of publication 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 for all non-scope issues may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding, and 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>9</sup> Case briefs or other written comments on scope issues may be submitted no later than 30 days after the publication of this preliminary determination in the *Federal Register*, and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than seven days after the deadline for the case briefs. For any briefs filed on scope issues, parties must file separate and identical documents on the record for the concurrent CVD investigations. Parties who submit case briefs or rebuttal briefs in this proceeding 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.<sup>10</sup> This summary should be limited to five pages total, including footnotes.

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

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<sup>9</sup> See 19 CFR 351.309(c)-(d); see also 19 CFR 351.303 (for general filing requirements).

<sup>10</sup> See 19 CFR 351.309(c)(2) and (d)(2).

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 time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using Commerce's electronic records system, ACCESS.<sup>11</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>12</sup> on the due dates established above. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>13</sup>

#### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

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<sup>11</sup> See 19 CFR 351.303(b)(2)(i).

<sup>12</sup> See 19 CFR 351.303(b)(1).

<sup>13</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).



Pursuant to 19 CFR 351.210(e), Loncin requested that Commerce postpone the final determination and extend provisional measures to a period not more than six months in duration.<sup>14</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce's final determination will be issued no later than 135 days after the date of publication of this preliminary determination.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination of sales at LTFV. 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 whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

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<sup>14</sup> See Loncin's Letter, "Loncin Request for Postponement of Final Determination and Extension of Provisional Measures Period: Antidumping Duty Investigation on Certain Vertical Shaft Engines from the People's Republic of China (A-570-119)," dated August 10, 2020.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: August 12, 2020

*/S/ Jeffrey I. Kessler*

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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 Preliminary Decision Memorandum

- I. Summary
- II. Background
  - A. Initiation and Case History
  - B. Postponement of Preliminary Determination
- III. Period of Investigation
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Discussion of the Methodology
  - A. Non-Market Economy
  - B. Surrogate Country
  - C. Separate Rates
  - D. Separate Rate Recipients
  - E. Companies Not Receiving Separate Rates
  - F. Margin for the Separate Rate Companies
  - G. Combination Rates
  - H. The China-wide Entity
  - I. Date of Sale
  - J. Fair Value Comparisons
  - K. U.S. Prices
  - L. Value Added Tax (VAT)
  - M. Normal Value
- VII. Currency Conversion
- VIII. Adjustments Under Section 777A(f) of the Act
- IX. Adjustments to Cash Deposit Rates for Export Subsidies
- X. Preliminary Affirmative Determination of Critical Circumstances
- XI. ITC Notification
- XII. Recommendation