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 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 vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines), 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 [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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

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 April 14, 2020.¹ On May 20, 2020, Commerce postponed the preliminary
determination of this investigation to August 17, 2020.² For a complete description of the events
that followed the initiation of this investigation, see the Preliminary Decision Memorandum.³ 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 small vertical engines between 99cc and
up to 225cc, and parts thereof, 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,⁴ the Initiation Notice set
aside a period of time for parties to raise issues regarding product coverage, (i.e., scope).⁵

³ See Memorandum, “Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, from the People’s Republic of China,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).
⁴ See Antidumping Duties; Countervailing Duties, Final Rule, 62 FR 27296, 27323 (May 19, 1997).
⁵ See Initiation Notice.
Certain interested parties commented on the scope of the investigation as it appeared in the
\textit{Initiation Notice}. For a summary of the scope comments submitted on the record of this
preliminary determination, and accompanying discussion and analysis of all comments timely
received, see the Preliminary Scope Memorandum.\footnote{See Memorandum, “Antidumping and Countervailing Duty Investigations of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People’s Republic of China: Scope Comments Decision Memorandum for the Preliminary Determination,” dated August 17, 2020.} Commerce is preliminarily modifying the
scope language as it appeared in the \textit{Initiation Notice} to exclude commercial engines. \textit{See}
revised scope in Appendix I.

\textbf{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, \textit{i.e.}, a financial contribution by an “authority” that gives rise to a benefit to
the recipient, and that the subsidy is specific.\footnote{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.}

Commerce notes that, in making these findings, it relied, in part, on facts available and,
because it finds that one or more respondents did not act to the best of their ability to respond to
Commerce’s requests for information, it drew an adverse inference where appropriate in
selecting from among the facts otherwise available.\footnote{See sections 776(a) and (b) of the Act.}
For further information, see “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.

\textbf{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 countervailing
duty (CVD) determination in this investigation with the final determination in the companion
an antidumping duty (AD) investigation of small vertical engines from China based on a request made by the petitioner. 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 December 28, 2020, 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 Chongqing Kohler Engines Ltd. (Chongqing Kohler) and Chongqing Zongshen General Power Machine Co. Ltd. (Chongqing Zongshen) that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a simple average of the individual estimated subsidy rates calculated for the examined respondents.

**Preliminary Determination**

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

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*We calculated the all-others rate using the simple average of Chongqing Kohler and Chongqing Zongshen’s subsidy rates.*
<table>
<thead>
<tr>
<th>Company</th>
<th>Subsidy Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chongqing Kohler Engines Ltd.(^{11})</td>
<td>13.45 percent</td>
</tr>
<tr>
<td>Chongqing Zongshen General Power Machine Co.(^{12})</td>
<td>21.29 percent</td>
</tr>
<tr>
<td>All Others</td>
<td>17.37 percent</td>
</tr>
</tbody>
</table>

**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.

**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.

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\(^{11}\) As discussed in the Preliminary Decision Memorandum, Commerce has found the following company to be cross-owned with Chongqing Kohler: Kohler (China) Investment Company.

\(^{12}\) As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Chongqing Zongshen: Chongqing Zongshen Power Machinery Co., Ltd.; Zong Shen Industrial Group; Chongqing Zongshen Automobile Air Intake System Manufacturing Co., Ltd.; Chongqing Zongshen High Speed Boat Development Co., Ltd.; Chongqing Zong Shen Electrical Appliance Co., Ltd.; and Chongqing Dajiang Power Equipment Co., Ltd.
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 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 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.

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


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, whether mounted or unmounted, primarily for walk-behind lawn mowers. Engines meeting this physical description may also be for other non-hand-held outdoor power equipment, including but not limited to, pressure washers. The subject engines are spark ignition, single-cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 99 cubic centimeters (cc) and a maximum displacement of up to, but not including, 225cc. Typically, engines with displacements of this size generate gross power of between 1.95 kilowatts (kw) to 4.75 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.

Certain small vertical shaft engines, whether or not mounted on non-hand-held outdoor power equipment, including but not limited to walk-behind lawn mowers and pressure washers, are included in the scope. However, 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. Subject engines are covered whether or not they are
accompanied by other parts.

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 a sump,
carburetor spacer, 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 coils) for synchronizing with the
ingine 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.

Specifically excluded from the scope of the investigation are “Commercial” or “Heavy
Commercial” engines under 40 CFR 1054.107 and 1054.135 that have (1) a displacement of 160
cc or greater, (2) a cast iron cylinder liner, (3) an automatic compression release, and (4) a
muffler with at least three chambers and volume greater than 400 cc.

The engines subject to this investigation are predominantly classified in the Harmonized Tariff
Schedule of the United States (HTSUS) at subheading 8407.90.1010. The engine subassemblies
that are subject to this investigation enter under HTSUS 8409.91.9990. The mounted engines
that are subject to this investigation enter under HTSUS 8433.11.0050, 8433.11.0060, and
8424.30.9000. Engines subject to this investigation may also enter under HTSUS 8407.90.1020,
8407.90.9040, and 8407.90.9060. 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

VII. Subsidies Valuation

VIII. Benchmarks and Interest Rates

IX. Analysis of Programs

X. Conclusion

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