



A-570-119  
Investigation  
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August 12, 2020

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** 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

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## I. 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), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of the accompanying *Federal Register* notice.

## II. BACKGROUND

### A. Initiation and Case History

On January 15, 2020, Commerce received antidumping duty (AD) and countervailing duty (CVD) petitions concerning vertical shaft engines from China, filed in proper form, on behalf of

the petitioner.<sup>1</sup> We describe the supplements<sup>2</sup> to the Petition<sup>3</sup> in the *Initiation Notice* and accompanying AD Initiation Checklist.<sup>4</sup> On February 18, 2020, we published the initiation of the AD investigation of vertical shaft engines from China.<sup>5</sup>

In the *Initiation Notice*, Commerce notified parties of the application process by which exporters and producers may obtain separate rate status in a non-market economy (NME) proceeding.<sup>6</sup> The process requires exporters to submit a separate rate application (SRA).<sup>7</sup> In the *Initiation Notice*, we stated that SRAs would be due 30 days after publication of the notice, which fell on March 19, 2020.<sup>8</sup> Commerce received timely-filed SRAs from the following non-examined companies: (1) American Honda Motor Co., Inc., and Jialing-Honda Motors Co., Ltd. (Honda Motor); (2) Yamaha Motor Powered Products Jiangsu Co., Ltd., (Yamaha Jiangsu); and (3) Chongqing Rato Technology Co., Ltd. (Chongqing Rato).<sup>9</sup>

On February 4, 2020, we released the U.S. Customs and Border Protection (CBP) entry data under Administrative Protective Order and requested comments regarding the data and

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<sup>1</sup> The petitioner is the Coalition of American Vertical Engine Producers and its individual members: Kohler Co. and Briggs & Stratton Corporation. Briggs & Stratton Corporation was the only member of the coalition to file comments in this proceeding. We have referred to them as the petitioner in this memorandum.

<sup>2</sup> See Commerce's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China Supplemental Questions Concerning Volume II," dated January 17, 2020; see also Petitioner's Letters, "Responses to Supplemental Questions Concerning Volume I of the Petitions for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, As Amended on Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated January 22, 2020; "Responses to Supplemental Questions Concerning Volume II of the Petitions for the Imposition of Antidumping and Countervailing Duties Pursuant to Sections 701 and 731 of the Tariff Act of 1930, As Amended on Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated January 22, 2020; "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Responses to Second Supplemental Questions Concerning Volume I of the Petitions," dated January 29, 2020; and "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Responses to Second Supplemental Questions Concerning Volume II of the Petitions," dated January 29, 2020.

<sup>3</sup> See Petitioner's 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: Volume 1: Common Issues and Injury Petition," dated January 15, 2020 (Petition).

<sup>4</sup> 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*), and accompanying AD Initiation Checklist.

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

<sup>6</sup> *Id.*, 85 FR at 8813

<sup>7</sup> See Policy Bulletin 05.1: 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 website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>8</sup> See *Initiation Notice*, 85 FR at 8813.

<sup>9</sup> See Jialing Honda's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China, Case No. A-570-119: Separate Rate Application," dated March 30, 2020 (Jialing Honda SRA); see also Yamaha Motor's Letter, "Separate Rate Application and Required Supporting Documentation Vertical Shaft Engines from China," dated March 19, 2020 (Yamaha Motor SRA); and Chongqing Rato's Letter, "Certain Vertical Shaft Engines between 225cc and 999cc, and Parts Thereof from the People's Republic of China; Separate Rate Application," dated March 30, 2020 (Chongqing Rato SRA).

respondent selection.<sup>10</sup> We stated in the *Initiation Notice* that, if appropriate, we intended to base the selection of mandatory respondents on quantity and value (Q&V) questionnaires, sent to companies listed in the CBP entry data for the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>11</sup>

On February 12, 2020, Commerce mailed Q&V questionnaires to the ten largest producers/exporters identified in data from CBP.<sup>12</sup> Commerce also made the Q&V questionnaire available on ACCESS and on the Enforcement and Compliance website for any other party that wished to submit a response. These Q&V questionnaires were delivered to 9 companies. We received timely Q&V questionnaire responses from the following six companies: Chongqing Rato Technology Co., Ltd.;<sup>13</sup> American Honda Motor Co., Inc. and Jialing-Honda Motors Co., Ltd. (Jialing- Honda);<sup>14</sup> Liquid Combustion Technology and Jiangsu Lister Utility Engine Company;<sup>15</sup> Loncin Motor Co., Ltd. (Loncin);<sup>16</sup> Yamaha Motor Powered Products Jiangsu Co., Ltd. (Yamaha);<sup>17</sup> and Chongqing Zongshen General Power Machine Co., Ltd. and Chongqing Zongshen Automobile Industry Co., Ltd. (Zongshen).<sup>18</sup>

The petitioner and Zongshen each submitted comments on the CBP data and companies shown therein.<sup>19</sup> No other interested parties submitted comments regarding respondent selection.

On March 2, 2020, the U.S. International Trade Commission (ITC) determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of vertical shaft engines from China.<sup>20</sup>

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<sup>10</sup> See Memorandum, “Antidumping Duty Petition on Certain Vertical Shaft Engines between 225cc and 999cc, and Parts Thereof from the People’s Republic of China: Release of U.S. Customs and Border Protection Data,” dated February 4, 2020 (CBP Data Release Memorandum).

<sup>11</sup> See *Initiation Notice*, 85 FR at 8813.

<sup>12</sup> See CBP Data Release Memorandum at Attachment.

<sup>13</sup> See Chongqing Rato’s Letter, “Certain Vertical Shaft Engines between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China: Quantity & Value Questionnaire Response,” dated February 14, 2020.

<sup>14</sup> See Honda Motor’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People’s Republic of China, Case No. A-570-119: Response to the Department’s Quantity and Value Questionnaire,” dated February 24, 2020.

<sup>15</sup> See Liquid Combustion Technology and Jiangsu Lister Utility Engine Company’s Letter, “Vertical Shaft Engines and Part Thereof from People’s Republic of China: Submission of Certification of Accuracy,” dated March 4, 2020.

<sup>16</sup> See Loncin’s Letter, “Loncin Motor Quantity and Value Response: Antidumping Duty Investigation of Certain Vertical Shaft Engines between 225cc and 999cc, and Parts Thereof from the People’s Republic of China,” dated February 24, 2020.

<sup>17</sup> See Yamaha’s Letter, “Yamaha’s Quantity and Value Questionnaire Response Vertical Shaft Engines from China,” dated February 24, 2020.

<sup>18</sup> See Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation; Zongshen Companies Q&V Responses,” dated February 24, 2020.

<sup>19</sup> See Petitioner’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from China: Petitioner’s Comments on CBP Data,” dated February 14, 2020; see also Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation; Chongqing Zongshen Comments on CBP Data,” dated February 26, 2020.

<sup>20</sup> See *Vertical Shaft Engines from China: Determinations*, 85 FR 13184 (March 6, 2020) (*ITC Preliminary Determination*).

On March 17, 2020, pursuant to section 777A(c)(2) of the Act and 19 CFR 351.204(c)(2), we selected Loncin and Zongshen as mandatory respondents.<sup>21</sup> Furthermore, since the Petition included an allegation of critical circumstances,<sup>22</sup> Commerce issued requests for monthly Q&V shipment data from both Loncin and Zongshen.<sup>23</sup>

On March 24, 2020, Commerce issued the AD questionnaire to Loncin and Zongshen.<sup>24</sup> On April 7, 2020, Loncin notified Commerce of potential difficulties in responding to the questionnaire.<sup>25</sup>

On April 23, 2020, and May 8, 2020, Zongshen and Loncin each submitted a response to section A of the initial questionnaire.<sup>26</sup> On May 20, 2020, both Loncin and Zongshen responded to section C of the initial questionnaire.<sup>27</sup> On May 22, 2020, and May 26, 2020, Commerce received timely filed responses to section D of the initial questionnaire from Zongshen and Loncin.<sup>28</sup> On June 12, 2020, the petitioner submitted deficiency comments concerning Loncin's and Zongshen's sections C and D responses.<sup>29</sup> On June 15, 2020, and June 17, 2020, Commerce issued supplemental questionnaires to Loncin and Zongshen.<sup>30</sup> On June 30, 2020, and July 1, 2020, Loncin and Zongshen submitted responses to the first supplemental questionnaire.<sup>31</sup> On July 9, 2020, and July 13, 2020, the petitioner submitted deficiency comments concerning the supplemental questionnaire responses of Loncin and Zongshen.<sup>32</sup> On July 17, 2020, Commerce

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<sup>21</sup> See Memorandum, "Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Selection of Respondents for Individual Examination," dated March 17, 2020.

<sup>22</sup> See Petition at Volume IV.

<sup>23</sup> See Commerce's Letters, "Antidumping Duty Investigation of Certain Vertical Shaft Engines from China: Request for Monthly Quantity and Value Shipment Data," dated March 18, 2020.

<sup>24</sup> See Commerce's Letters, "Antidumping Duty Questionnaire," dated March 24, 2020.

<sup>25</sup> See Loncin's Letter, "Loncin Motor Notification of Difficulty to Respond: Antidumping Duty Investigation on Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated April 7, 2020.

<sup>26</sup> See Zongshen's April 23, 2020 Section A Questionnaire Response (Zongshen's April 23, 2020 AQR); *see also* Loncin's May 8, 2020 Section A Questionnaire Response (Loncin's May 8, 2020 AQR).

<sup>27</sup> See Loncin's May 20, 2020 Section C Questionnaire Response (Loncin's May 20, 2020 CQR); *see also* Zongshen's May 20, 2020 Section C Questionnaire Response (Zongshen's May 20, 2020 CQR).

<sup>28</sup> See Zongshen's May 22, 2020 Section D Questionnaire Response; *see also* Loncin's May 26, 2020 Section D Questionnaire Response.

<sup>29</sup> See Petitioner's Letters, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from China: Petitioner's Comments on the Section C and D Responses of Chongqing Zongshen General Power Machine Co., Ltd.," dated June 12, 2020; and "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from China: Petitioner's Comments on the Section C and D Responses of Loncin Motor Co., Ltd.," dated June 12, 2020.

<sup>30</sup> See Commerce's Letters, "Less Than Fair Value Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: First Supplemental Questionnaire for Loncin," dated June 15, 2020; and "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from China: Petitioner's Comments on the Section C and D Responses of Chongqing Zongshen General Power Machine Co., Ltd.," dated June 17, 2020.

<sup>31</sup> See Loncin's June 30, 2020 Supplemental Questionnaire Response; *see also* Zongshen's July 1, 2020 Supplemental Questionnaire Response.

<sup>32</sup> See Petitioner's Letters, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Petitioner's Comments on the Supplemental Section C and D Responses of Loncin Motor Co., Ltd.," dated July 9, 2020; and "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Petitioner's Comments on the Supplemental Section C and D Responses of Chongqing Zongshen General Power Machine Co., Ltd.," dated July 13, 2020.

issued a second supplemental questionnaire to both Loncin and Zongshen.<sup>33</sup> On July 24, 2020, and July 28, 2020, Loncin and Zongshen responded to the second supplemental questionnaires.<sup>34</sup>

Loncin and the petitioner each submitted comments in advance of this preliminary determination on July 23, 2020, and July 30, 2020, respectively.<sup>35</sup> Zongshen submitted comments in advance of this preliminary determination on August 6, 2020.<sup>36</sup> Due to the late timing of Zongshen's comments, we were unable to analyze them in time for this preliminary determination.

Commerce is conducting this investigation in accordance with section 733(b) of the Act.

#### B. Postponement of Preliminary Determination

On June 2, 2020, based on a request from the petitioner,<sup>37</sup> Commerce postponed the deadline for the preliminary determination until August 12, 2020, in accordance with section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).<sup>38</sup>

### III. PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2019 through December 31, 2019. This period corresponds to the most recently completed fiscal quarters prior to the month of the filing of the Petition, which was January 2020.

### IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,<sup>39</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, the scope) of vertical shaft engines.<sup>40</sup>

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<sup>33</sup> See Commerce's Letters, "Less Than Fair Value Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Second Supplemental Questionnaire for Loncin," dated July 17, 2020; and "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from China: Petitioner's Comments on the Supplemental Section C and D Responses of Chongqing Zongshen General Power Machine Co., Ltd.," dated July 17, 2020.

<sup>34</sup> See Loncin's July 24, 2020 Supplemental Questionnaire Response (Loncin's July 24, 2020 SQR); *see also* Zongshen's July 28, 2020 Supplemental Questionnaire Response (Zongshen's July 28, 2020 SQR).

<sup>35</sup> See Loncin's Letter, "Loncin's Pre-Preliminary Comments: Antidumping Duty Investigation of Certain Vertical Shaft Engines between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated July 23, 2020 (Loncin's Pre-Prelim Comments); *see also* Petitioner's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from China: Petitioner's Comments in Advance of the Preliminary Determination," dated July 30, 2020 (Petitioner's Pre-Prelim Comments).

<sup>36</sup> See Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation: Chongqing Zongshen Pre-Preliminary Comments," dated August 6, 2020.

<sup>37</sup> See Petitioner's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Petitioner's Request for Postponement of the Preliminary Determination," dated March 20, 2020.

<sup>38</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>39</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>40</sup> See *Initiation Notice*, 85 FR at 8809.

Commerce received comments regarding product coverage from The Toro Company and Toro Purchasing Company (collectively, Toro), and the petitioner.<sup>41</sup> Commerce addressed these comments in its Preliminary Scope Determination Memorandum.<sup>42</sup> We have not changed the scope of the investigation.

## V. SCOPE OF THE INVESTIGATION

For a full description of the scope of this investigation, *see* the accompanying *Federal Register* notice at Appendix I.

## VI. DISCUSSION OF THE METHODOLOGY

### A. Non-Market Economy Country

Commerce considers China to be an NME country.<sup>43</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Further, as part of this investigation, Commerce has received no request to reconsider its determination that China is an NME country. Therefore, we continue to treat China as an NME country for purposes of this preliminary determination.

### B. Surrogate Country

When Commerce is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base normal value (NV), in most circumstances, on the NME producer's factors of production (FOP), valued in a surrogate market economy (ME) country or countries considered to be appropriate by Commerce. Specifically, in accordance with section 773(c)(4) of the Act, in valuing the FOPs, Commerce "shall utilize, to the extent possible, the prices or costs of FOPs in one or more {ME} countries that are: (A) at a level of economic development comparable to that of the NME country; and (B) significant producers of comparable merchandise."<sup>44</sup> As a general rule, Commerce selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the potential surrogate

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<sup>41</sup> See Toro's Letter, "Certain Vertical Shaft Engines from the People's Republic of China: Comments on the Proposed Scope of the Investigations," dated February 24, 2020; *see also* Petitioner's Letters, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from China: Petitioner's Comments on Product Characteristics," dated February 24, 2020; and "Certain Vertical Shaft Engines Between 225cc and 999cc from the People's Republic of China: Rebuttal Comments on Toro's Proposed Scope of the Investigations," dated March 5, 2020.

<sup>42</sup> See Memorandum, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Preliminary Scope Decision Memorandum," dated June 4, 2020.

<sup>43</sup> See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum (PDM) (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017, unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018)).

<sup>44</sup> See Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (Policy Bulletin 04.1) available on Commerce's website at <http://enforcement.trade.gov/policy/bull04-1.html>.

countries are viable options because they either: (1) are not significant producers of comparable merchandise; (2) do not provide sufficient reliable sources of publicly-available SV data; or (3) are not suitable for use based on other reasons. Countries that are not at the same level of economic development as the NME country, but that are still at a level of economic development comparable to the NME country, are selected as the surrogate country only if data considerations outweigh the difference in levels of economic development.<sup>45</sup> To determine which countries are at a similar level of economic development as the NME country, Commerce generally relies solely upon per capita gross national income (GNI) data from the World Bank's *World Development Report*.<sup>46</sup> In addition, if more than one country satisfies the two criteria noted above, Commerce narrows the field of potential surrogate countries to a single country (pursuant to 19 CFR 351.408(c)(2), Commerce will normally value FOPs in a single surrogate country) based on data availability and quality.

On May 21, 2020, Commerce issued a memorandum that identified Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey as countries that are at the same level of economic development as China based on per capita 2018 GNI data.<sup>47</sup> In the same memorandum, we solicited comments from interested parties on the list of potential surrogate countries and the selection of the primary surrogate country, as well as provided deadlines for submitting surrogate value information for consideration in the preliminary determination.<sup>48</sup> Between May 27 2020 and June 26, 2020, we issued subsequent memoranda revising the deadlines for submissions of surrogate country and surrogate value information to be considered for the preliminary determination.<sup>49</sup>

On June 22, 2020, we received timely filed comments on surrogate country selection from the petitioner, Zongshen, and Loncin.<sup>50</sup> On June 26, 2020, the petitioner filed rebuttal comments concerning surrogate country selection.<sup>51</sup> On July 6, 2020, the petitioner, Loncin, and Zongshen

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<sup>45</sup> *Id.*

<sup>46</sup> See Commerce's Letter, "Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated May 21, 2020.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> See Memoranda, "Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Extension for Surrogate Country and Value Comments," dated May 27, 2020; and "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Extension of Deadline to Submit Comments and Information on Surrogate Values," dated June 26, 2020.

<sup>50</sup> See Petitioner's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Petitioner's Comments and Information on Surrogate Country Selection and Request for Extension to Submit Comments and Information on Surrogate Values," dated June 22, 2020 (Petitioner's SC Comments); see also Loncin's Letter, "Loncin's Comments on the List of Economically Comparable Countries and Surrogate Country Choice: Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China," dated June 22, 2020; and Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation; Chongqing Zongshen Comments on Selection of Primary Surrogate Country," dated June 22, 2020 (Zongshen's SC Comments).

<sup>51</sup> See Petitioner's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Petitioner's Rebuttal Comments on Surrogate Country Selection," dated June 26, 2020.

submitted surrogate value comments.<sup>52</sup> On July 9, 2020, the petitioner submitted information to rebut Loncin and Zongshen’s surrogate value comments.<sup>53</sup> Finally, on July 13, 2020, Loncin and Zongshen submitted final comments on surrogate values, pursuant to 19 CFR 351.301(c)(3)(i).<sup>54</sup>

The petitioner argues that Commerce should select Turkey as the primary surrogate country.<sup>55</sup> The petitioner also argues that Commerce should select Brazil as a secondary surrogate country, if necessary.<sup>56</sup> The petitioner notes that Turkey and Brazil are not only comparable with China in terms of economic development, but they are also significant exporters of merchandise that is identical or comparable to subject merchandise and they offer reliable import data to value the respondents’ FOPs.<sup>57</sup> Zongshen argues that Commerce should select Turkey or Mexico as the primary surrogate country because they are economically comparable to China, significant producers of merchandise that is identical or comparable to subject merchandise, and offer reliable import data to value respondents’ FOPs.<sup>58</sup>

### 1. Economic Comparability

Section 773(c)(4) of the Act states that Commerce “shall utilize, to the extent possible, the prices or costs of {FOP}s in one or more market economy countries that are. . . at a level of economic development comparable to that of the {NME} country.” However, the applicable statute does not expressly define the phrase “level of economic development comparable” or what methodology Commerce must use in evaluating this criterion. Commerce’s regulations at 19 CFR 351.408(b) state that, in determining whether a country is at a level of economic development comparable to the NME country, Commerce will place primary emphasis on per capita gross domestic product (GDP) as the measure of economic comparability. Commerce uses per capita GNI as a proxy for per capita GDP.<sup>59</sup> The Court of International Trade (CIT) has found the use of per capita GNI to be a “consistent, transparent, and objective metric to identify and compare a country’s level of economic development” and “a reasonable interpretation of the

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<sup>52</sup> See Petitioner’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China: Petitioner’s Comments and Information on Surrogate Values,” dated July 6, 2020 (Petitioner’s SV Comments); see also Loncin’s Letter, “First Surrogate Value Comments by Loncin in the Antidumping Duty Investigation on Certain Vertical Shaft Engines from the People’s Republic of China (A-570-119),” dated July 6, 2020 (Loncin’s SV Comments); and Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation; Preliminary Surrogate Value Submission,” dated July 6, 2020 (Zongshen’s SV Comments).

<sup>53</sup> See Petitioner’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China: Petitioner’s Rebuttal Comments and Information on Surrogate Values,” dated July 9, 2020 (Petitioner’s Rebuttal SV Comments).

<sup>54</sup> See Loncin’s Letter, “Loncin Final Surrogate Value Comments: Antidumping Duty Investigation on Certain Vertical Shaft Engines from the People’s Republic of China (A-570-119),” dated July 13, 2020 (Loncin’s Final SV Comments); see also Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation: Final Surrogate Value Submission,” dated July 13, 2020 (Zongshen’s Final SV Comments).

<sup>55</sup> See Petitioner’s SV Comments at 1-7.

<sup>56</sup> *Id.* at 7-11.

<sup>57</sup> *Id.* at 1-11.

<sup>58</sup> See Zongshen’s SC Comments at 1-4.

<sup>59</sup> GNI is GDP plus net receipt of primary income (compensation of employees and property income) from nonresident sources. See Policy Bulletin 04.1.

statute.”<sup>60</sup>

Unless it is determined that none of the countries identified above are viable surrogate country options because they either: (1) are not significant producers of comparable merchandise, (2) do not provide sufficient reliable sources of publicly available SV data, or (3) are not suitable for use based on other reasons, we will rely on data from one of these countries to value FOPs. Consistent with its practice, and section 773(c)(4)(A) of the Act, as noted above, Commerce identified Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey, as countries at the same level of economic development as China based per capita GNI from the most current annual issue of the World Bank’s *World Development Report*.<sup>61</sup>

## 2. Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires Commerce, to the extent possible, to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor Commerce’s regulations provide further guidance on what may be considered comparable merchandise. Among the factors that we consider in determining whether a country is a significant producer of comparable merchandise is whether the country is an exporter of comparable merchandise.<sup>62</sup>

Information on the record indicates that all six countries, Brazil, Bulgaria, Malaysia, Mexico, Russia, and Turkey, are exporters of the merchandise covered by the Harmonized Tariff Schedule numbers identified in the scope of this investigation.<sup>63</sup> Accordingly, we preliminarily find that all six countries, Brazil, Bulgaria, Russia, Mexico, Malaysia, and Turkey, meet the significant-producer-of-comparable-merchandise prong of the surrogate country selection criteria, as provided in section 773(c)(4)(B) of the Act.

## 3. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as the primary surrogate country, Commerce selects the primary surrogate country based on SV data availability and reliability.<sup>64</sup> When evaluating SV data, Commerce considers several factors, including whether the SVs are publicly available, contemporaneous with the POI, representative of a broad market average, tax and duty-exclusive, and specific to the inputs being

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<sup>60</sup> See *Jiaying Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

<sup>61</sup> See Commerce’s Letter, “Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information,” dated May 21, 2020 at Attachment I.

<sup>62</sup> See *Certain Fabricated Structural Steel from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 84 FR 47491 (September 10, 2019) (*FSS from China Preliminary Determination*), and accompanying PDM at 10, unchanged in *Certain Fabricated Structural Steel from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 5376 (January 30, 2020) (*FSS from China Final Determination*), and accompanying Issues and Decision Memorandum (IDM) at Comment 2 (collectively, *FSS from China Investigation*).

<sup>63</sup> See Petitioner’s SC Comments at Exhibit 1.

<sup>64</sup> See Policy Bulletin 04.1.

valued.<sup>65</sup> There is no hierarchy among these criteria.<sup>66</sup> Commerce's preference is to satisfy the breadth of these aforementioned selection criteria.<sup>67</sup> Moreover, it is Commerce's practice to carefully consider the available evidence in light of the particular facts regarding the industry under consideration when undertaking its analysis of valuing the FOPs.<sup>68</sup> Commerce must weigh the available information with respect to each input value and make a product-specific and case-specific decision as to what constitutes the "best" available SV for each input.<sup>69</sup> Additionally, pursuant to 19 CFR 351.408(c)(2), Commerce has a preference for valuing all FOPs in a single surrogate country.

Parties have placed complete SV data for Turkey and Brazil on the record.<sup>70</sup> Complete SV data for the other countries on the list (*i.e.*, Bulgaria, Malaysia, Mexico, and Russia), are not on the record, nor has any party argued in favor of using SV data from any of these countries to value FOPs.<sup>71</sup> Therefore, we have not further considered relying on these other countries as the primary surrogate country in this investigation.

The petitioner argues that we should use Global Trade Atlas (GTA) data from Turkey to value the respondents' FOPs.<sup>72</sup> Additionally, the petitioner submitted four sets of financial statements from Turkish machinery manufacturers.<sup>73</sup> The mandatory respondents argue that Commerce should use GTA or Trade Data Monitor (TDM) data from Turkey. Loncin has provided four sets of financial statements from Turkish companies as well.<sup>74</sup>

Since both the respondents and the petitioner agree that GTA or TDM data from Turkey should be used, and that data is publicly available, contemporaneous with the POI, and generally include tax-exclusive broad market averages, and the petitioner argues that Commerce should select Brazil as a secondary surrogate country only if needed,<sup>75</sup> Commerce preliminarily determines that Turkish SV data are the best available SV data on the record, and overall best meets our selection criteria, and, for these reasons, we are selecting Turkey as the primary surrogate country for this preliminary determination. Moreover, we find that the financial statements for Alarko Carrier Sanayi ve Ticaret A.S. (Alarko)<sup>76</sup> are the best financial statements on the record. Alarko produces submersible motors, pumps, gas-powered heaters and equipment, radiators,

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<sup>65</sup> *Id.*

<sup>66</sup> *See, e.g., Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477 (July 17, 2006) (*Mushrooms from China*), and accompanying IDM at Comment 1.

<sup>67</sup> *See, e.g., Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 2010-2011*, 78 FR 17350 (March 21, 2013), and accompanying IDM at Comment I(C).

<sup>68</sup> *See* Policy Bulletin 04.1.

<sup>69</sup> *See Mushrooms from China* IDM at Comment 1.

<sup>70</sup> *See* Zongshen's Final SV Comments; *see also* Loncin's Final SV Comments; and Petitioner's SV Comments at Exhibits 1-21 (for Turkey) and Exhibits 22-35 (for Brazil).

<sup>71</sup> *See* Zongshen's SC Comments at 2. We note that Zongshen initially argued that Mexico and Turkey are appropriate surrogate countries for this investigation. However, Zongshen did not provide any SV data from Mexico.

<sup>72</sup> *See* Petitioner's SV Comments at Exhibits 1-2.

<sup>73</sup> *Id.* at Exhibits 14-17.

<sup>74</sup> *See* Loncin's SV Comments at Exhibits 1-2, and 9; *see also* Zongshen's SV Comments at Exhibits 1-2.

<sup>75</sup> *See* Petitioner's SV Comments at 7.

<sup>76</sup> *Id.* at Exhibit 14.

residential and commercial air conditions, and related accessories.<sup>77</sup> Similar to our respondents, Alarko's products are then sold to downstream customers for use in larger systems or products. In contrast, Turk Traktor ve Ziraat Makineleri A.S. (Turk Traktor)<sup>78</sup> produces and sells finished agricultural vehicles: tractors, harvesters, loaders, combines, and similar vehicles.<sup>79</sup> While Turk Traktor does manufacture certain types of internal combustion engines, the engine is only one part of many that go into the finished vehicles produced.<sup>80</sup>

Therefore, for the reasons outlined above, Commerce preliminarily determines, pursuant to section 773(c)(4) of the Act, that it is appropriate to use Turkey as the primary surrogate country because: (1) Turkey is at the same level of economic development as China; (2) Turkey is a significant producer of merchandise comparable to the subject merchandise; and (3) the Turkish SV data on the record is the best available data for valuing FOPs. Therefore, Commerce has used Turkish data, where appropriate, to value the respondents' FOPs. For a detailed discussion of the SVs used in this investigation, *see* the "Factor Valuation" section of this memorandum and the Preliminary SV Memorandum.<sup>81</sup>

### C. Separate Rates

In a proceeding involving an NME country, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control, and, therefore, should be assessed a single weighted-average dumping margin.<sup>82</sup> It is Commerce's policy to assign all exporters of subject merchandise in an NME country a single rate unless an exporter can demonstrate an absence of government control over their export activities, both in law (*de jure*) and in fact (*de facto*).<sup>83</sup> Commerce analyzes whether each entity exporting the merchandise under consideration is sufficiently independent under a test established in *Sparklers*,<sup>84</sup> and further developed in *Silicon Carbide*.<sup>85</sup> According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities. If Commerce determines that a company is wholly foreign-owned, the separate rate analysis is not necessary to determine whether that company is independent from government control.

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<sup>77</sup> *Id.* at 5-6 and Exhibit 14.

<sup>78</sup> *See* Loncin's Final SV Comments at Exhibit 10C.

<sup>79</sup> *Id.*; *see also* Petitioner's Pre-Prelim Comments at 21-22 (citing Loncin's Final SV Comments at Exhibit 10E).

<sup>80</sup> *See* Loncin's Final SV Comments at Exhibit 10E.

<sup>81</sup> *See* Memorandum, "Less Than Fair Value Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Surrogate Value Memorandum for the Preliminary Determination," dated concurrently with this memorandum (Preliminary SV Memorandum).

<sup>82</sup> *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55040 (September 24, 2008).

<sup>83</sup> *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

<sup>84</sup> *Id.*

<sup>85</sup> *See 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*).

Commerce continues to evaluate its practice with regard to the separate rates analysis in light of the *Diamond Sawblades* proceeding, and its determinations therein.<sup>86</sup> In particular, in litigation involving the *Diamond Sawblades* from China AD proceeding, the CIT found Commerce's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the respondent exporter.<sup>87</sup> Following the CIT's reasoning, in recent proceedings, we have concluded that where a government holds a majority ownership share, directly or indirectly, in the respondent exporter, the majority holding *per se* means that the government exercises, or has the potential to exercise, control over the company's operations generally.<sup>88</sup> This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership, where necessary.

As mentioned above for the non-examined companies, Commerce received timely filed SRAs from Jialing Honda, Yamaha Motor, and Chongqing Rato.<sup>89</sup> In addition, the mandatory respondents Zongshen and Loncin each provided answers to our separate rate questions as part of their section A questionnaire responses.<sup>90</sup>

For all separate rate applicants, we consider the *de jure* and *de facto* criteria below.

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<sup>86</sup> See *Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China* (May 6, 2013) (*Diamond Sawblades*), in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), *aff'd* *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff'd* Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying PDM at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying IDM at Comment 1.

<sup>87</sup> See, e.g., *Advanced Technology I*, 885 F. Supp. 2d at 1349 ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); and at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor *de jure* 'separation' that Commerce concludes.") (footnotes omitted); and at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations, ' including terms, financing, and inputs into finished product for export."); and at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

<sup>88</sup> See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying PDM at 5-9; unchanged in *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014).

<sup>89</sup> See Jialing Honda SRA; see also Yamaha Motor SRA; and Chongqing Rato SRA.

<sup>90</sup> See Zongshen's May 8, 2020 AQR; see also Loncin's May 8, 2020 AQR at 1-17.

#### D. Separate Rate Recipients

As noted above, we received timely SRAs from Jialing Honda, Yamaha Motor, and Chongqing Rato.<sup>91</sup> Our analysis of all companies claiming separate rate status is below.

##### 1. Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of companies; and (3) other formal measures by the government decentralizing control over export activities of companies.<sup>92</sup>

The evidence provided by Zongshen, Loncin, Jialing Honda, Yamaha Motor, and Chongqing Rato supports a preliminary finding of an absence of *de jure* government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control over export activities of companies; and (3) the implementation of formal measures by the government decentralizing control over export activities of companies.<sup>93</sup>

##### 2. Absence of *De Facto* Control

Typically, Commerce considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the prices are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.<sup>94</sup> Commerce has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude Commerce from assigning separate rates.

The evidence provided by Zongshen, Loncin, Jialing Honda, Yamaha Motor, and Chongqing Rato supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that these companies: (1) set their own prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and

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<sup>91</sup> See Jialing Honda SRA; see also Yamaha Motor SRA; and Chongqing Rato SRA.

<sup>92</sup> See *Sparklers*, 56 FR at 20589.

<sup>93</sup> See Loncin's May 8, 2020 AQR at 1-9; see also Zongshen's April 23, 2020 AQR at 6-10; Jialing Honda SRA; Yamaha Motor SRA; and Chongqing Rato SRA.

<sup>94</sup> See *Silicon Carbide*, 59 FR at 22586-87; and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR at 22545 (May 8, 1995).

(4) retain the proceeds of their respective export sales and make independent decisions regarding the disposition of profits or financing of losses.<sup>95</sup>

Based on the foregoing, we preliminarily determine that the evidence placed on the record of this investigation by Zongshen, Loncin, Jialing Honda, Yamaha Motor, and Chongqing Rato demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*.<sup>96</sup> Accordingly, Commerce preliminarily grants separate rates to each of these companies.

#### E. Companies Not Receiving a Separate Rate

In the *Initiation Notice*, Commerce explained that it:

requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.<sup>97</sup>

Zhejiang Xingyu Industry Trade, Suzhou Honbase MAC, and Wenling Jennfeng Industries Inc. each failed to file a Q&V questionnaire response and, therefore, we are preliminarily not granting these companies a separate rate.

#### F. Margin for the Separate Rate Companies

Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation for guidance when calculating the rate for separate rate respondents which we did not individually examine in an NME investigation. Section 735(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using rates which are zero, *de minimis*, or based entirely on adverse facts available.<sup>98</sup> Accordingly, Commerce's usual practice has been to average the weighted-average dumping margins for the individually-examined companies, excluding rates that are zero, *de minimis*, or based entirely on adverse facts available, in calculating the separate rate.<sup>99</sup> Section 735(c)(5)(B) of the Act also provides that, where all rates determined for individually examined exporters or producers are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate, including "averaging the

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<sup>95</sup> See Loncin's May 8, 2020 AQR at 9-17; see also Zongshen's April 23, 2020 AQR at 10 and 20; Jialing Honda SRA; Yamaha Motor's SRA; and Chongqing Rato's SRA.

<sup>96</sup> See *Sparklers*, 56 FR at 20589; see also *Silicon Carbide*, 59 FR at 22586-89.

<sup>97</sup> See *Initiation Notice*, 85 FR at 8813.

<sup>98</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

<sup>99</sup> See *Ball Bearings from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying IDM at Comment 16.

estimated weighted-average dumping margins determined for the exporters and producers individually investigated.”

In this investigation, we calculated above *de minimis* weighted-average dumping margins for both of the mandatory respondents. Therefore, consistent with our practice described above, we based the preliminary dumping margin for the separate rate recipients not individually examined on an average of the weighted-average dumping margins calculated for the individually-examined respondents.<sup>100</sup>

#### G. Combination Rates

Consistent with the *Initiation Notice*, Commerce has determined combination rates for respondents that are eligible for a separate rate in this investigation.<sup>101</sup> This practice is described in Policy Bulletin 05.1.<sup>102</sup>

#### H. The China-wide Entity

For the reasons discussed below, we have preliminarily based the dumping margin for the China-wide entity, which includes Zhejiang Xingyu Industry Trade, Suzhou Honbase MAC, and Wenling Jennfeng Industries Inc., on adverse facts available (AFA).

##### 1. Statutory Framework

Sections 776(a)(1) and (2) of the Act provide that, if necessary information is missing from the record, or if an interested party: (A) withholds information that has been requested by Commerce, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the AD statute, or (D) provides such information but the information cannot be verified, Commerce shall, subject to section 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses from that party, as appropriate. Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the

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<sup>100</sup> See Memorandum, “Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China: Preliminary Determination Margin Calculation for the Separate Rate Companies,” dated concurrently with this memorandum; see also, e.g., *Hardwood and Decorative Plywood from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying IDM at “Separate Rate Companies.”

<sup>101</sup> See *Initiation Notice*, 85 FR at 8813.

<sup>102</sup> See Policy Bulletin No. 05.1: 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 website at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the Petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.

## 2. Use of Facts Available

Commerce issued Q&V questionnaires to 10 exporters/producers of vertical shaft engines in China but only received responses to the Q&V questionnaire from six of these companies.<sup>103</sup> We confirmed that nine companies received our Q&V questionnaire. Zhejiang Xingyu Industry Trade, Suzhou Honbase MAC, and Wenling Jennfeng Industries Inc., the companies that received a Q&V questionnaire but did not respond, are not eligible for separate rate status, and are part of the China-wide entity. Thus, the China-wide entity withheld information requested by Commerce, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested Q&V information. Moreover, necessary Q&V information is not available on the record because each of these non-responsive companies did not provide it. Accordingly, we preliminarily determine that use of facts available is warranted in determining the dumping margin of the China-wide entity, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.<sup>104</sup>

## 3. Use of Adverse Inferences

Section 776(b) of the Act provides that Commerce, in selecting from among the facts otherwise available, may use an inference that is adverse to the interests of a party if that party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Given the China-wide entity's failure to provide the requested information, it is reasonable to conclude that the China-wide entity was not cooperative.<sup>105</sup> The companies that did not respond to the Q&V questionnaire did not indicate they were having difficulty providing the requested information, nor did they request to submit the information in an alternate form. Therefore, we preliminarily find that the China-wide entity failed to cooperate to the best of its ability, and that an adverse inference is warranted in selecting from among the facts otherwise available with respect to the China-wide entity in accordance with section 776(b) of the Act and 19 CFR

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<sup>103</sup> See Memorandum, "Antidumping Duty Investigation of Certain Vertical Shaft Engines between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Quantity and Value Questionnaire Recipients," dated March 3, 2020.

<sup>104</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

<sup>105</sup> See *Nippon Steel Corporation v. United States*, 337 F. 3d 1373, 1383 (Fed. Cir. 2003) (noting that Commerce need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown.")).

351.308(a).<sup>106</sup>

#### 4. Selection and Corroboration of the AFA Rate

As noted above, relying on an adverse inference in selecting from the facts available may include reliance on information derived from the Petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record. Section 776(c) of the Act provides that when Commerce relies on secondary information (such as the Petition) in resorting to AFA, rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the Petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.<sup>107</sup> The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information used has probative value.<sup>108</sup> To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information upon which it is basing the AFA dumping margin, although Commerce is not required to estimate what the dumping margin of an uncooperative interested party would have been if the interested party failing to cooperate had cooperated or to demonstrate that the AFA dumping margin used for the uncooperative party reflects an “alleged commercial reality” of the party.<sup>109</sup> Finally, under section 776(d) of the Act, Commerce may use any dumping margin from any segment of an antidumping proceeding when applying an adverse inference, including the highest of such margins.<sup>110</sup> If Commerce is unable to corroborate the highest petition margin using individual-transaction specific margins; Commerce may use the component approach.<sup>111</sup>

Specifically, in attempting to corroborate the petition margin, we compared the highest petition rate of 637.73 percent to the individually-investigated respondents’ highest transaction-specific dumping margins within the appropriate comparison method and found the petition rate to be significantly higher than any of the highest calculated transaction-specific dumping margins. Because we were unable to corroborate the highest petition margin of 637.73 percent with individual transaction-specific margins from the respondents, we next applied a component approach and compared the NVs and net U.S. prices underlying the highest petition margin to the NVs and net U.S. prices calculated for the respondents. We were unable to corroborate the

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<sup>106</sup> *Id.*, 337 F. 3d at 1382-83.

<sup>107</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (SAA) at 870.

<sup>108</sup> *Id.*; see also 19 CFR 351.308(d).

<sup>109</sup> See section 776(d)(3) of the Act; see also, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>110</sup> See section 776(d)(1)-(2) of the Act.

<sup>111</sup> See *Polyester Textured Yarn from India: Final Determination of Sales at Less Than Fair Value*, 84 FR 63843 (November 19, 2019), and accompanying IDM at Comment 7.

highest petition margin of 637.73 percent through this component approach. Specifically, Commerce finds that NVs and net U.S. prices calculated for the respondents are not within the range of the NVs and net U.S. prices underlying the highest margin alleged in the Petition.<sup>112</sup> Because we were unable to corroborate the highest dumping margin contained in the Petition, we compared the second highest petition rate of 543.18 percent to the highest calculated transaction-specific dumping margins of the mandatory respondents. We were able to corroborate the second highest petition rate of 543.18 percent with individual transaction-specific margins from the respondents.<sup>113</sup> Accordingly, we have corroborated the second highest Petition margin to the extent practicable within the meaning of section 776(c) of the Act, and we have preliminarily assigned to the China-wide entity a dumping margin of 543.18 percent.

#### I. Date of Sale

Commerce's regulations at 19 CFR 351.401(i) provides that Commerce will normally use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business, as the date of sale of the subject merchandise unless it determines that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>114</sup> Furthermore, we have a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale were established.<sup>115</sup>

#### Zongshen

Zongshen argues that the date of the commercial invoice should be the date of sale for all sales because prices and delivery terms can change between shipment and the commercial invoice date.<sup>116</sup> However, documentation provided by Zongshen does not show any differences in the material terms of sale between the date of shipment from China and the commercial invoice date.<sup>117</sup> As such, we find that Zongshen failed to show that its terms of sale change after shipment such that the date of commercial invoice should always be date of sale. Therefore, consistent with our practice, we have used the earlier of the date of shipment or the commercial invoice date as Zongshen's date of sale.

#### Loncin

Information on the record shows that the quantity and value of Loncin's export price (EP) and

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<sup>112</sup> See Memorandum, "Corroboration of the Adverse Facts Available Rate for the Preliminary 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 memorandum.

<sup>113</sup> *Id.*

<sup>114</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

<sup>115</sup> See, e.g., *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 10670 (March 12, 2018), and accompanying PDM at 6-7, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 32629 (July 13, 2018).

<sup>116</sup> See Zongshen's May 20, 2020 CQR at 9.

<sup>117</sup> See Zongshen's April 23, 2020 AQR at 26 and Exhibit A-12; see also Zongshen's July 28, 2020 SQR at Exhibit 2SC-2.

constructed export price (CEP) sales change after order date. Therefore, consistent with our practice, we have used the earlier of the date of shipment or the commercial invoice date as Loncin's date of sale for its EP and CEP sales.

## J. Fair Value Comparisons

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether the mandatory respondents' sales of the subject merchandise to the United States were made at less than NV, we compared EP to NV as described in the "Export Price" and "Normal Value" sections below.

### 1. Determination of Comparison Method

Pursuant to section 777A(d)(1)(A) of the Act and 19 CFR 351.414(c), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs, *i.e.*, the average-to-average method, or transaction specific NVs to transaction-specific EPs or CEPs, *i.e.*, the transaction-to-transaction method, unless Commerce determines that another method is appropriate in a particular situation. In LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales, *i.e.*, the average-to-transaction method, as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In numerous LTFV investigations and AD reviews, Commerce has applied a "differential pricing" analysis for determining whether application of an alternative comparison method is appropriate in a particular situation pursuant to 19 CFR 351.414(c) and consistent with section 777A(d)(1)(B) of the Act.<sup>118</sup> Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses a standard comparison method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the

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<sup>118</sup> See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, state, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean, *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium, or large (0.2, 0.5, and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large, *i.e.*, 0.8, threshold. Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage, *i.e.*, the Cohen’s *d* test and the ratio test, demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two

calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if (1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or (2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.<sup>119</sup>

## 2. Results of the Differential Pricing Analysis

### Zongshen

A total of 83.60 percent of Zongshen's sales pass the Cohen's *d* test, which confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods.<sup>120</sup> However, we find that there is not a meaningful difference in the weighted-average dumping margins calculated using the average-to-average comparison method and the average-to-transaction comparison method when applied to all sales. Accordingly, we preliminarily determine to use the average-to-average comparison method for all U.S. sales to calculate the weighted-average dumping margin for Zongshen.

### Loncin

A total of 24.20 percent of Loncin's sales pass the Cohen's *d* test, which does not confirm the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods.<sup>121</sup> Thus, the results of the Cohen's *d* test do not support consideration of an alternative comparison method. Accordingly, we preliminarily determine to use the average-to-average comparison method for all U.S. sales to calculate the weighted-average dumping margin for Loncin.

## K. U.S. Prices

In accordance with section 772(a) of the Act, we used an EP methodology for all sales made by

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<sup>119</sup> The Court of Appeals for the Federal Circuit (CAFC) has affirmed much of Commerce's differential pricing methodology. *See, e.g., Apex Frozen Foods v. United States*, 862 F. 3d 1322 (Fed. Cir. 2017). We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

<sup>120</sup> *See* Memorandum, "Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Preliminary Determination Margin Calculation for Chongqing Zongshen General Power Machine Co., Ltd.," dated concurrently with this memorandum (Zongshen's Preliminary Calc Memorandum).

<sup>121</sup> *See* Memorandum, "Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Preliminary Determination Margin Calculation for Loncin Motor Co., Ltd.," dated concurrently with this memorandum (Loncin's Preliminary Calc Memorandum).

Zongshen, and certain sales made by Loncin during the POI because each sold subject merchandise to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts on the record. For the remainder of Loncin's sales, we used a CEP methodology, in accordance with section 772(b) of the Act, because the subject merchandise was sold in the United States by Loncin after importation and an EP methodology was not otherwise warranted.

### 1. Zongshen

For Zongshen's reported sales, in accordance with section 772(a) of the Act, we based the U.S. price of subject merchandise on EP, and calculated EP based on the prices for packed subject merchandise that Zongshen charged to unaffiliated customers in the United States. We made adjustments to those prices, where appropriate, for billing adjustments associated with change orders. We also deducted from those prices, where appropriate, movement expenses (*i.e.*, foreign inland freight, foreign inland insurance, foreign brokerage and handling, marine insurance, international freight, and U.S. customs duties) in accordance with section 772(c)(2)(A) of the Act. We based movement expenses on SVs where the service was purchased from a Chinese company.<sup>122</sup>

### 2. Loncin

For Loncin's EP sales, we calculated EPs based on the sales price to the unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, as appropriate, Commerce deducted from the sales price certain foreign inland freight, brokerage and handling (B&H), and international movement costs. Because the inland freight and B&H services were either provided by an NME vendor or paid for using NME currency, Commerce based the deduction of these charges on SVs. For the international freight provided by ME vendors and paid in U.S. dollars, Commerce used the reported expense.

For Loncin's CEP sales, we calculated CEP based on prices to unaffiliated purchasers in the United States. In accordance with sections 772(c)(2)(A) and 772(d)(1) of the Act, Commerce made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, and U.S. movement expenses. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by NME service providers or paid for in an NME currency, Commerce valued these services using SVs. For those expenses that were provided by an ME provider and paid for in an ME currency, Commerce used the reported expense, or a weighted average of the SV and ME price where the ME purchases do not represent substantially all of the input. In accordance with section 772(d)(1) of the Act, Commerce also deducted those selling expenses associated with economic activities occurring in the United States. Commerce deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses.

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<sup>122</sup> See the "Factor Valuation Methodology" section of this memorandum below.

L. Value Added Tax (VAT)

Commerce's recent practice in NME cases is to adjust EP (or the CEP) for the amount of any unrefunded, (herein irrecoverable) VAT in certain NMEs in accordance with section 772(c)(2)(B) of the Act.<sup>123</sup> In changing the practice, Commerce explained that, when an NME government imposes an export tax, duty, or other charges on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, Commerce will reduce the respondent's EP and CEP prices accordingly, by the amount of the tax, duty, or charge paid, but not rebated.<sup>124</sup> Where the irrecoverable VAT is a fixed percentage of EP or CEP, Commerce explained that the final step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.<sup>125</sup>

Commerce's methodology, as explained above and applied in this investigation, incorporates two basic steps: (1) determine the amount of irrecoverable VAT on subject merchandise, and (2) reduce EP or CEP by the amount determined in step one.<sup>126</sup> Record information indicates that there was no difference between the standard VAT rates and the refund rates during the POI and thus no irrecoverable VAT.<sup>127</sup> Hence, no reduction of Eps or CEPs for VAT is necessary.

M. Normal Value

Section 773(c)(1) of the Act provides that Commerce shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the information does not permit the calculation of NV using home market prices, third-country prices, or constructed value under section 773(a) of the Act. Commerce bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under Commerce's normal methodologies.<sup>128</sup> Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs.<sup>129</sup> Therefore, in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c), we calculated NV in this investigation by valuing FOPs with SVs as discussed below.

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<sup>123</sup> See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481 (June 19, 2012).

<sup>124</sup> See *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014), and accompanying IDM at Comment 5.A.

<sup>125</sup> *Id.*

<sup>126</sup> See Loncin's May 20, 2020 CQR at 25 and Exhibit C-7D; see also Zongshen's May 20, 2020 CQR at 31-32 and Exhibit C-3.

<sup>127</sup> See Loncin's May 20, 2020 CQR at 25 and Exhibit C-7D; see also Zongshen's May 20, 2020 CQR at 31-32 and Exhibit C-3.

<sup>128</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079 (September 8, 2006).

<sup>129</sup> See sections 773(c)(3)(A)-(D) of the Act.

## 1. Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV by summing the cost of the FOPs reported by Zongshen and Loncin with surrogate factory overhead costs, selling, general and administrative (SG&A) expenses, and profit. To calculate the cost of FOPs, we multiplied the reported per-unit consumption rates for inputs, including materials, by publicly available SVs. In accordance with section 773(c)(1) of the Act, we used the best available information on the record for valuing FOPs by selecting, to the extent practicable, SVs which are: (1) broad market averages, (2) product-specific, (3) tax-exclusive, non-export average values, and (4) contemporaneous with, or closest in time to, the POI.<sup>130</sup> As appropriate, we adjusted FOP costs by including freight costs to make them delivered values. Specifically, we added a surrogate freight cost, where appropriate, to surrogate input values using the shorter of the reported distance from the domestic supplier of the input to the respondent's factory or the distance from the nearest seaport to the respondent's factory.<sup>131</sup> A detailed description of the SVs used can be found in the Preliminary SV Memorandum.<sup>132</sup>

### a. Direct and Packing Materials

We valued direct and packing materials using Turkish import data, as published by GTA. The GTA import data, are broad market averages, product-specific, tax-exclusive, and contemporaneous with the POI.<sup>133</sup>

We disregarded certain Turkish import data when calculating SVs. Specifically, pursuant to section 773(c)(5) of the Act and Commerce's long-standing practice, we disregarded certain import values for which there was a reason to believe or suspect the source data may comprise subsidized prices.<sup>134</sup> In this regard, Commerce previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because Commerce determined that these countries maintain broadly available, non-industry specific export subsidies.<sup>135</sup> Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POI, we find that it is reasonable

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<sup>130</sup> See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

<sup>131</sup> See, e.g., *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407-08 (Fed. Cir. 1997).

<sup>132</sup> See Preliminary SV Memorandum.

<sup>133</sup> *Id.*

<sup>134</sup> See section 773(c)(5) of the Act (permitting Commerce to disregard prices or costs without further investigation if it determines that certain subsidies exist with respect to those values).

<sup>135</sup> See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013), and accompanying IDM at 7-19; *Certain Lined Paper Products from Indonesia: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 76 FR 73592 (November 29, 2011), and accompanying IDM at 1; *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying IDM at 4; and *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of the Third Expedited Five-Year (Sunset) Review of the Countervailing Duty Order*, 84 FR 27085 (June 11, 2019), and accompanying IDM at 9.

to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, we have not used prices from these countries in calculating the Turkish import-based SVs. Additionally, when calculating Turkish import-based per-unit SVs, we disregarded data from NME countries<sup>136</sup> and imports labeled as originating from an “unidentified” country because we could not be certain that these imports were not from either an NME country or a country with generally available export subsidies.<sup>137</sup>

Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from an ME supplier in meaningful quantities and pays for the inputs in an ME currency, Commerce uses the actual price paid by the respondent to value those inputs, except when prices may have been distorted by findings of dumping and/or subsidization.<sup>138</sup> Where Commerce finds ME purchases to be of significant quantities (*i.e.*, 85 percent or more of total purchases of the input), in accordance with the statement of policy as outlined in *Market Economy Inputs*,<sup>139</sup> Commerce uses the actual purchase prices to value the inputs. Alternatively, when the volume of an NME firm’s purchases of an input from ME suppliers during the period is below 85 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the purchase prices, Commerce will typically weight-average the ME purchase prices with an appropriate SV, according to their respective shares of the total volume of purchases.<sup>140</sup> When a firm’s ME purchases may have been based on dumped or subsidized sales, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, Commerce will exclude them from its calculation to determine whether there were significant quantities of ME purchases (the 85 percent threshold).<sup>141</sup> Where either of the mandatory respondents purchased inputs that were produced in ME countries from ME suppliers and paid for the inputs in a ME currency, we valued those inputs in accordance with 19 CFR 351.408(c).

#### b. Energy

We valued water using data from the Istanbul Water and Sewerage Administration (ISKI), valued electricity using the International Energy Agency’s *Energy Prices and Taxes for OECD Countries* publication, and valued natural gas using the Turkish Government’s Investment Office’s published values for natural gas within Turkey.<sup>142</sup>

#### c. Labor

In *Labor Methodologies*,<sup>143</sup> Commerce determined that the best methodology to value labor is to

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<sup>136</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People’s Republic of China*, 69 FR 75294, 75301 (December 16, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People’s Republic of China*, 70 FR 24502 (May 10, 2005).

<sup>137</sup> *Id.*

<sup>138</sup> See, e.g., *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27366 (March 19, 1997).

<sup>139</sup> See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013) (*Market Economy Inputs*).

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> See Preliminary SV Memorandum; see also Petitioner’s SV Comments at Exhibits 4-6.

<sup>143</sup> See Preliminary SV Memorandum.

use industry-specific labor rates from the primary surrogate country. Commerce does not, however, preclude the use of other sources for valuing labor. Rather, we continue to follow our practice of selecting the best available information. Here, we valued labor using industry-specific hourly labor data from Turkstat, within the “Manufacturing of machinery” industry, and find no record evidence that the labor data include taxes similar to VAT or excise tax. We inflated these rates because they were not contemporaneous with the POI.<sup>144</sup>

#### d. Movement Services

As appropriate, we added certain movement expenses to the SVs used to value direct and/or packing materials, and subtracted certain movement expenses from the reported gross unit U.S. sales prices. We based inland truck freight rates and brokerage and handling rates on data from the World Bank’s *Doing Business 2020: Turkey* publication. We valued marine insurance using values from PAF Insurance Services LLC’s cargo insurance rates.<sup>145</sup> We based inland freight on the World Bank’s publication *Doing Business 2020: Turkey*.<sup>146</sup> We based ocean freight rates on Maersk rates. These rates are publicly available and constitute an average of the rates for two separate routes.<sup>147</sup>

#### e. Financial Ratios

According to 19 CFR 351.408(c)(4), Commerce is directed to value overhead, SG&A expenses, and profit using non-proprietary information gathered from producers of merchandise that is identical or comparable to the merchandise under consideration in the surrogate country. Commerce’s preference is to derive surrogate overhead expenses, SG&A expenses, and profit using financial statements covering a period that is contemporaneous with the POI,<sup>148</sup> that show a profit, from companies with a production experience similar to respondents’ production experience, and that are not distorted or otherwise unreliable, such as financial statements that indicate the company received countervailable subsidies.<sup>149</sup>

The record contains financial statements for eight companies in Turkey: Ayes Celik Hasir ve Cit Sanayi A.S. ve Baglic Ortakliklari (Ayes);<sup>150</sup> Alarko;<sup>151</sup> Arcelik A.S. (Arcelik);<sup>152</sup> Eregli Demir ve Celik Fabrikalari T.A.S. and its subsidiaries (Eregli);<sup>153</sup> Safkar Ege Sogutmacilik Klima

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<sup>144</sup> *Id.*

<sup>145</sup> See Loncin’s SV Comments at Exhibit 11a.

<sup>146</sup> See Petitioner’s SV Comments at Exhibit 7.

<sup>147</sup> *Id.* at Exhibit 9.

<sup>148</sup> See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2010-2011*, 78 FR 17350 (March 21, 2013), and accompanying IDM at Comment 1.

<sup>149</sup> See *Hand Trucks and Certain Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 28801 (May 16, 2013), and accompanying IDM at Comment 2; see also *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review*, 78 FR 5414 (January 25, 2013), and accompanying IDM at Comment 1.

<sup>150</sup> See Loncin’s Final SV Comments at Exhibit 10A.

<sup>151</sup> See Petitioner’s SV Comments at Exhibit 14.

<sup>152</sup> *Id.* at Exhibit 16.

<sup>153</sup> See Loncin’s Final SV Comments at Exhibit 10B.

Soguk Hava Tesisleri Ihr. Ith. Sanayi ve Ticaret Anonim Sirketi (Safkar);<sup>154</sup> Turk Traktor;<sup>155</sup> Vestel Beyaz Esya (Vestel);<sup>156</sup> and Vestel Elektronik Sanayi ve Ticaret Anonim Sirketi (Vestel Elektronik).<sup>157</sup> The financial statements on the record for these companies all cover 2019, which overlaps with the POI, show a profit, are for a company that produces merchandise comparable to the merchandise under consideration, and are not distorted or otherwise unreliable due to countervailable subsidies or the financial condition of the company.

Alarko produces submersible motors, pumps, gas-powered heaters and equipment, radiators, residential and commercial air conditions, and related accessories. Similar to our respondents, Alarko's products are then sold to downstream customers for use in larger systems or products. Record information suggests that Safkar produces powered air conditioning equipment to be mounted on buses, trains, and residential and commercial properties.<sup>158</sup> While Arcelik does produce motors, it also produces a myriad of different products including televisions, smart phones, microwave ovens, and washing machines.<sup>159</sup> Vestel produces refrigerators, room air conditioning units, washing machines, cookers, dishwashers, and water heaters.<sup>160</sup> Eregli's principal activities are the "production of iron and steel rolled products, alloyed and non-alloyed iron, steel and pig iron castings, cast and pressed products, coke and their by-products."<sup>161</sup> Vestel Elektronik produces and sells a "range of brown goods and white goods."<sup>162</sup> There is no information on the record that describes what brown goods and white goods are. Furthermore, Vestel Elektronik's "production facilities are located in Manisa Organized Industrial Zone, İzmir Aegean Free Zone, Poland and Russia."<sup>163</sup> There is no information on the record that describes what Ayes produces, but its subsidiaries are in the field of "renewable solar energy and agriculture."<sup>164</sup> Finally, Turk Traktor produces tractors, harvesters, loaders, and other agricultural vehicles.<sup>165</sup> We find that Alarko's production experience is more similar to our respondents' production experience than is Safkar's, Arcelik's, Vestel's, Vestel Elektronik's, Eregli's, Ayes', and Turk Traktor's. Therefore, we calculated surrogate financial ratios using Alarko's financial statements.<sup>166</sup>

## VII. CURRENCY CONVERSION

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act and 19 CFR 351.415 based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

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<sup>154</sup> See Petitioner's SV Comments at Exhibit 15.

<sup>155</sup> See Loncin's Final SV Comments at Exhibit 10C.

<sup>156</sup> See Petitioner's SV Comments at Exhibit 17.

<sup>157</sup> See Loncin's Final SV Comments at Exhibit 10D.

<sup>158</sup> See Petitioner's SV Comments at Exhibit 20.

<sup>159</sup> *Id.* at Exhibit 21.

<sup>160</sup> *Id.* at Exhibit 17.

<sup>161</sup> See Loncin's Final SV Comments at Exhibit 10B.

<sup>162</sup> *Id.* at Exhibit 10D.

<sup>163</sup> *Id.* at Exhibit 10C.

<sup>164</sup> *Id.* at Exhibit 10A.

<sup>165</sup> *Id.* at Exhibit 10E.

<sup>166</sup> See Preliminary SV Memorandum.

## VIII. ADJUSTMENT UNDER SECTION 777A(f) OF THE ACT

In applying section 777A(f) of the Act, Commerce examines: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise; (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period; and (3) whether Commerce can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.<sup>167</sup> For a subsidy meeting these criteria, the statute requires Commerce to reduce the dumping margin by the estimated amount of the increase in the weighted-average dumping margin due to a countervailable subsidy, subject to a specified cap.<sup>168</sup> In conducting this analysis, Commerce has not concluded that concurrent application of NME dumping duties and countervailing duties necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.<sup>169</sup>

Our analysis shows that while countervailable subsidies have been provided with respect to vertical shaft engines, we have not found a general decrease in the U.S. average import price during the relevant period. Section 777A(f) of the Act requires Commerce to determine whether such countervailable subsidies have been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period. To make this determination, we normally examine the preliminary report issued by the ITC.<sup>170</sup> In that report the ITC concluded that “{i}n general, prices increased during January 2016 to June 2019.”<sup>171</sup> In particular, the ITC preliminary report shows an upward movement in prices during the POI. Based on this information, we preliminarily find that import prices of the class or kind of merchandise at issue during the relevant period increased. Based on these data, we do not find a general decrease in the U.S. average import price during the relevant period. Thus, we preliminarily find that the requirement under section 777A(f)(1)(B) of the Act has not been met; and hence we did not make an adjustment under section 777A(f) of the Act to Zongshen or Loncin’s AD cash deposit rate or to the AD cash deposit rate of the companies that are not being individually examined but that preliminarily are being granted separate-rate status.

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<sup>167</sup> See sections 777A(f)(1)(A)-(C) of the Act.

<sup>168</sup> See sections 777A(f)(1)-(2) of the Act.

<sup>169</sup> See, e.g., *Certain Hardwood Plywood Products from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Determination of Critical Circumstances, in Part*, 82 FR 28629 (June 23, 2017), and accompanying PDM at 43, unchanged in *Certain Hardwood Plywood Products from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 53460 (November 16, 2017).

<sup>170</sup> See, e.g., *Forged Steel Fittings from the People’s Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 83 FR 22948 (May 17, 2018), and accompanying PDM at section “IX. Adjustment Under Section 777A(f) of the Act,” unchanged in *Forged Steel Fittings from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 50339 (October 5, 2018).

<sup>171</sup> See *ITC Preliminary Determination* at V-14, tables V-3, V-5, and V-7.

## IX. ADJUSTMENTS TO CASH DEPOSIT RATES FOR EXPORT SUBSIDIES

In an AD investigation with a companion CVD investigation, it is Commerce’s practice to adjust the AD cash deposit rates for any related export subsidies found in the companion CVD investigation. Doing so is in accordance with section 772(c)(1)(C) of the Act, which provides that U.S. price “shall be increased by the amount of any countervailing duty imposed on the subject merchandise ... to offset an export subsidy.”<sup>172</sup>

In the preliminary determination for the companion CVD investigation, Commerce preliminarily found that both Loncin and Zongshen benefitted from export subsidies.<sup>173</sup> Accordingly, we adjusted the AD cash deposit rates by 12.25 percent and 20.68 percent, respectively, for these export subsidies.

## X. PRELIMINARY AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES

The Petition included an allegation that critical circumstances exist with respect to imports of the subject merchandise within the meaning of section 733(e)(1) of the Act. The petitioner alleged, based on trade statistics, that there is a reasonable basis to believe or suspect that critical circumstances exist with regard to imports of vertical shaft engines.<sup>174</sup>

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, Commerce will find that such circumstances exist, at any time after the date of initiation, when there is a reasonable basis to believe or suspect: (A) that “there is a history of dumping in the United States or elsewhere of the subject merchandise, or that “the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the subject merchandise at less than its fair values and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.” 19 CFR 351.206(h)(2) provides that, generally, imports must increase by at least 15 percent during the “relatively short period” to be considered “massive,” and section 19 CFR 351.206(i) defines a “relatively short period” as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed),<sup>175</sup> and ending at least three months later.<sup>176</sup> The regulations also provide, however, that, if Commerce “finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely,” Commerce “may consider a period of not less than three months from that earlier time.”<sup>177</sup>

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<sup>172</sup> See *FSS from China Investigation*.

<sup>173</sup> See *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*, 85 FR 37061 (June 19, 2020), and accompanying PDM at 26-27, and 33-34.

<sup>174</sup> See Petition Volume IV at 3-6.

<sup>175</sup> See 19 CFR 351.102(b)(40) (providing that a proceeding begins on the date of the filing of a petition).

<sup>176</sup> See 19 CFR 351.206(i).

<sup>177</sup> *Id.*

To determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current orders imposed by other countries regarding imports of the same merchandise. However, in the Critical Circumstances Allegation, the petitioner did not provide information on the history of dumping.<sup>178</sup> To determine whether importers knew or should have known that exporters were selling the subject merchandise at less than fair value pursuant to section 733(e)(1)(A)(ii) of the Act, we typically consider the magnitude of dumping margins, including margins alleged in the petition.<sup>179</sup> Commerce has found margins of 15 percent or more (for constructed export price) to 25 percent or more (for export price) to be sufficient for this purpose.<sup>180</sup> The company-specific dumping margins ranging from 219.07 percent to over 400 percent significantly exceed the 15 to 25 percent threshold.<sup>181</sup> Therefore, on that basis, we preliminarily conclude that importers knew, or should have known, that Loncin, Zongshen, all non-individually investigated companies, and the China-wide entity were selling at LTFV.

To determine whether importers knew, or should have known, that there was likely to be material injury caused by reason of such imports pursuant section 733(e)(1)(A)(ii) of the Act, Commerce normally will look to the preliminary injury determination of the ITC.<sup>182</sup> If the ITC finds a reasonable indication of material injury to the relevant U.S. industry, Commerce will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports. In these investigations, the ITC found that there is a “reasonable indication” of material injury to the domestic industry because of the imported subject merchandise.<sup>183</sup> Therefore, the ITC’s preliminary injury determination in the AD investigation is sufficient to impute importer knowledge.

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<sup>178</sup> See Petitioner’s Letter, “Certain Vertical Shaft Engines Between 223cc and 999cc, and Parts Thereof from the People’s Republic of China: Volume IV: Critical Circumstances Petition,” dated January 15, 2020 (Critical Circumstances Allegation).

<sup>179</sup> See, e.g., *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from Australia, the People’s Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157, 19158 (April 18, 2002), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, 67 FR 47509 (July 19, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold Rolled Carbon Steel Flat Products from the People’s Republic of China*, 67 FR 62107 (October 3, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from India*, 67 FR 47518 (July 19, 2002), *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Korea*, 67 FR 62124 (October 3, 2002); *Notice of Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from The Netherlands*, 67 FR 62112 (October 3, 2002); and *Notice of the Final Determination Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from the Russian Federation*, 67 FR 62121 (October 3, 2002).

<sup>180</sup> *Id.*

<sup>181</sup> See Loncin’s Preliminary Calc Memorandum; see also Zongshen’s Preliminary Calc Memorandum.

<sup>182</sup> See, e.g., *Antidumping and Countervailing Duty Investigations of Certain Softwood Lumber Products from Canada: Preliminary Determinations of Critical Circumstances*, 82 FR 19219, 19220 (April 26, 2017), unchanged in *Certain Softwood Lumber Products from Canada: Final Affirmative Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 82 FR 51806, 51807-08 (November 8, 2017).

<sup>183</sup> See ITC Determination.

In its Critical Circumstances Allegation, the petitioner asserts that there have been massive imports of vertical shaft engines over a relatively short period.<sup>184</sup> The petitioner’s allegation does not, however, rely on the standard comparison period beginning on the date the proceeding began. Instead, the petitioner compared the period June 2019 through November 2019 against the same period in calendar year 2018.<sup>185</sup> The petitioner states that it chose these base and comparison periods in order to account for seasonality and the unusual circumstances caused by the imposition of 25 percent Section 301 duties. This percentage increase exceeds Commerce’s 15 percent threshold for a finding that imports are “massive.”<sup>186</sup>

Consistent with our preliminary finding in the companion CVD investigation, Commerce disagrees that these alternative periods are appropriate.<sup>187</sup> The purpose of the analysis is to determine whether there was a surge in shipments in anticipation of the imposition of provisional measures. Thus, the comparison period must consist of a time after importers, exporters, or producers became aware of the possibility that cash deposits might be imposed in the near future. Such knowledge is imputed to importers, exporters, and producers by the filing of a petition or by some other event that indicates they “had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely,” pursuant to 19 CFR 351.206(i). The petitioner did not make such a claim in the Petition or in its comments submitted after initiation. Therefore, it is unclear how the alternative periods suggested by the petitioner (which cover periods of time entirely preceding the filing of the Petition) provide any indication that a surge in imports took place in anticipation of provisional measures. For this reason, Commerce has preliminarily relied on the “standard” comparison period, comparing January through June 2020 (the latest month for which data was available) with the base period of July through December 2019.

To determine preliminarily whether there has been a massive surge in imports for each participating mandatory respondent which provided shipment data, Commerce compared the total volume of shipments from January 2020 through June 2020, the comparison period (*i.e.*, all months for which shipment data was available), with the preceding six-month period of June 2019 through December 2019, the base period. Based on this analysis, Commerce preliminarily determines that Loncin and Zongshen each had a massive surge of imports with respect to this AD investigation and, therefore, that critical circumstances exist for Loncin and Zongshen.<sup>188</sup>

For the non-individually investigated companies and the China-wide entity, Commerce relied on Global Trade Atlas (GTA) data, adjusted to exclude shipments reported by the mandatory respondents, to conduct its massive imports analysis. We used July 2019 through December 2019 as the base period, and January 2020 through June 2020 as the comparison period. Based

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<sup>184</sup> See Petition Volume IV at 8.

<sup>185</sup> *Id.* at 3-5.

<sup>186</sup> See 19 CFR 351.206(h)(1)(ii).

<sup>187</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), and accompanying PDM (*Preliminary CVD Determination*) at 5-6.

<sup>188</sup> See Memorandum, “Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People’s Republic of China: Calculation Memorandum for the Preliminary Critical Circumstances Determination,” dated concurrently with this memorandum.

on this analysis, we preliminarily determine that the non-individually investigated companies and the China-wide entity had a massive surge of imports and, as such, that critical circumstances exist for all non-individually investigated companies and the China-wide entity.<sup>189</sup>

We will make a final determination concerning critical circumstances when we issue our final determination of sales at LTFV for this investigation.

## **XI. ITC NOTIFICATION**

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance. In accordance with section 735(b)(2) of the Act, 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 makes its final affirmative determination.

## **XII. RECOMMENDATION**

We recommend that you approve the preliminary findings described above.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

8/12/2020

X



\_\_\_\_\_  
Signed by: JEFFREY KESSLER

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Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

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<sup>189</sup> *Id.*