



A-570-119  
Investigation  
**Public Document**  
E&C/OVII: Team

January 4, 2021

**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 Final Affirmative Determination of Sales at  
Less Than Fair Value and Final Affirmative Critical Circumstances  
Determination

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## I. SUMMARY

The Department of Commerce (Commerce) 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 "Final Determination" section of the accompanying *Federal Register* notice.

After analyzing the comments submitted by interested parties, we have made changes to the Preliminary Determination.<sup>1</sup> We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this investigation on which we received comments from interested parties.

- Comment 1: Whether Commerce Should Change the Surrogate Value for the Composite Magnetic Flywheel Input
- Comment 2: Whether Commerce Should Change the Surrogate Value for Polypropylene Plastic Material

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

- Comment 3: Whether Commerce Should Change the Surrogate Value for Cast Aluminum Crankcases
- Comment 4: Whether Commerce Should Change the Surrogate Value for Ignition Coils
- Comment 5: Whether Commerce Should Change the Surrogate Value for Balance Shafts
- Comment 6: Whether Commerce Should Change the Surrogate Values for Guide Hoods, Engine Shrouds, and Throttle Governors
- Comment 7: Whether Commerce Should Change the Surrogate Value for Cylinder Liners
- Comment 8: Whether Commerce Should Change the Surrogate Value for Governor Gears
- Comment 9: Whether Commerce Should Change the Surrogate Values for Throttle Linkages, Throttle Linkage Clamps, Cotter Pins, and Certain Other Inputs
- Comment 10: Whether Commerce should Continue to use the Financial Statements of Alarko Carrier Sanayi ve Ticaret A.S. to Calculate Surrogate Financial Ratios
- Comment 11: Whether Commerce Should Change the Surrogate Value for U.S. Inland Freight
- Comment 12: Whether Commerce Should Change the Surrogate Value for U.S. Rail Freight
- Comment 13: Whether Commerce Should Change the Surrogate Value for U.S. Brokerage
- Comment 14: Whether Commerce Should Change the Surrogate Value for Ocean Freight
- Comment 15: Whether Commerce Should Make a Double Remedy Pass-Through Adjustment
- Comment 16: Whether Commerce Should Limit its Massive Surge Analysis to a Three-Month Relatively Short Period

## II. BACKGROUND

On August 19, 2020, Commerce published its *Preliminary Determination* in the antidumping duty investigation of certain vertical shaft engines from China.<sup>2</sup> On August 21, 2020, Commerce notified the U.S. International Trade Commission (ITC) of the preliminary affirmative determination in this investigation.<sup>3</sup>

On August 19, 2020, Chongqing Zongshen General Power Machine Co., Ltd. (Zongshen) filed timely ministerial error allegations with respect to a surrogate value selection and our critical circumstances analysis.<sup>4</sup> On August 24, 2020, Briggs & Stratton LLC (Briggs & Stratton), one member of the petitioning coalition,<sup>5</sup> submitted comments on the first of Zongshen’s ministerial error allegations.<sup>6</sup> On September 30, 2020, Commerce found that Zongshen’s allegation with respect to the surrogate value selection was methodological rather than ministerial in nature but revised its critical circumstances finding with respect to Zongshen.<sup>7</sup> On October 7, 2020,

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<sup>2</sup> See *Preliminary Determination*.

<sup>3</sup> See Commerce’s Letter, “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 August 21, 2020.

<sup>4</sup> See Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China: Chongqing Zongshen Ministerial Error Comments,” dated August 19, 2020.

<sup>5</sup> The petitioners in this investigation are the Coalition of American Vertical Engine Producers, which is comprised of Kohler Co. and Briggs & Stratton, LLC.

<sup>6</sup> See Briggs & Stratton’s Letter, “Certain Vertical Shaft Between 225cc and 999cc, and Parts Thereof From China: Petitioner’s Comments on the Post-Preliminary Determination Submission by Chongqing Zongshen General Power Machine Co., Ltd.,” dated August 24, 2020.

<sup>7</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: Allegation of Ministerial Errors in Preliminary

Commerce published its amended critical circumstances finding with respect to Zongshen.<sup>8</sup>

On September 18, 2020, Briggs & Stratton, Loncin Motor Co., Ltd. (Loncin), and Zongshen each requested a hearing.<sup>9</sup> Loncin and Zongshen each timely submitted its Q&V data for July 2020<sup>10</sup> and Q&V data for August 2020.<sup>11</sup>

On October 15, 2020, we issued a post-preliminary supplemental questionnaire to Zongshen<sup>12</sup> and opened the record for additional surrogate value information.<sup>13</sup> On October 20, 2020, Zongshen timely submitted its response to Commerce's supplemental questionnaire.<sup>14</sup> Also on October 20, 2020, Zongshen and Briggs & Stratton each timely submitted surrogate value information.<sup>15</sup> On October 23, 2020, Zongshen submitted rebuttal surrogate value information.<sup>16</sup>

On November 5, 2020, we established the briefing schedule.<sup>17</sup> On November 12, 2020, we extended the deadlines for all interested parties to submit case briefs and rebuttal briefs to

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Determination,” dated September 30, 2020; and “Less Than Fair Value Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China: Correction of Zongshen’s Critical Circumstances Ministerial Error,” dated September 30, 2020.

<sup>8</sup> See *Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People’s Republic of China: Amended Negative Preliminary Determination of Critical Circumstances*, 85 FR 63248 (October 7, 2020) (*Amended Preliminary Critical Circumstances Determination*).

<sup>9</sup> See Briggs & Stratton’s Letter, “Certain Vertical Shaft Between 225cc and 999cc, and Parts Thereof From China: Petitioner’s Request for Hearing Pursuant to 19 CFR § 351.310(c),” dated September 18, 2020; see also Loncin’s Letter, “Loncin Hearing Request in the Antidumping and {sic} Investigation on Certain Vertical Shaft Between 225cc and 999cc, and Parts Thereof from the People’s Republic of China (A-570-119),” dated September 18, 2020; and Zongshen’s Letter, “Certain Vertical Shaft Between 225cc and 999cc, and Parts Thereof From China; AD Investigation; Chongqing Zongshen Request for A Public Hearing,” dated September 18, 2020.

<sup>10</sup> See Loncin’s Letter, “Loncin July Q&V Shipment Data in the Antidumping and Countervailing Duty Investigations on Certain Vertical Shaft Engines from the People’s Republic of China,” dated August 17, 2020; see also Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Chongqing Zongshen Monthly Q&V Data,” dated August 21, 2020.

<sup>11</sup> See Loncin’s Letter, “Loncin August Q&V Shipment Data in the Antidumping and Countervailing Duty Investigations on Certain Vertical Shaft Engines from the People’s Republic of China,” dated September 15, 2020; see also Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Chongqing Zongshen Monthly Q&V Data,” dated September 22, 2020 (Loncin’s August Q&V Response).

<sup>12</sup> See Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Post-Preliminary Supplemental Questionnaire for Chongqing Zongshen General Power Machine Co., Ltd.,” dated October 15, 2020.

<sup>13</sup> See Memorandum, “Less Than Fair Value Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Request for Additional Surrogate Value Comments and Information,” dated October 15, 2020.

<sup>14</sup> See Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation; Zongshen Post-Preliminary Supplemental Response,” dated October 20, 2020.

<sup>15</sup> See Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: AD Investigation; Post-Preliminary Additional Surrogate Value Submission,” dated October 20, 2020; see also Briggs & Stratton’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Petitioner’s Comments and Information on the Supplemental Surrogate Value Questionnaire,” dated October 20, 2020.

<sup>16</sup> See Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: AD Investigation: Post-Preliminary Additional Surrogate Value Rebuttal Submission,” dated October 23, 2020.

<sup>17</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: Cancellation of Verification and Establishment of Briefing Schedule,” dated November 5, 2020 (Cancellation of Verification Memo).

November 16, 2020 and November 23, 2020, respectively.<sup>18</sup> On November 11, 2020, MTD Products (MTD) filed a notification of intent to participate in a hearing;<sup>19</sup> the following day, November 12, 2020, MTD filed a timely case brief.<sup>20</sup> On November 16, 2020, Zongshen, Loncin and the Toro Company/Toro Purchasing Company (Toro) each timely filed a case brief.<sup>21</sup> On November 19, 2020, we extended the deadline for rebuttal briefs.<sup>22</sup> On November 24, 2020 Kohler Co. (Kohler) and Briggs & Stratton each timely filed a rebuttal brief.<sup>23</sup>

Between December 9, 2020 and December 10, 2020, Briggs & Stratton, Loncin and Zongshen each withdrew its request for a hearing.<sup>24</sup> Also, on December 10, 2020, Commerce rejected Loncin's case brief because it contained HSN explanatory notes from the World Customs Organization that were not previously on the record.<sup>25</sup> On December 11, 2020, Loncin filed a letter requesting that Commerce reconsider its decision and accept Loncin's originally filed case brief.<sup>26</sup> Loncin timely refiled its redacted brief.<sup>27</sup> On December 15, 2020, Commerce had an *ex*

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<sup>18</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: Extension of Briefing Schedule," dated November 12, 2020.

<sup>19</sup> See MTD's Letter, "Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China – MTD's Notification of Intent to Participate in Hearing," dated November 11, 2020.

<sup>20</sup> See MTD's Letter, "Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated November 12, 2020 (MTD's Brief).

<sup>21</sup> See Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: AD Investigation: Chongqing Zongshen Case Brief," dated November 16, 2020 (Zongshen's Brief); see also Loncin's Letter, "Loncin's Case Brief. Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated November 16, 2020 (Loncin's Brief); and Toro's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Letter in Lieu of Case Brief," dated November 16, 2020 (Toro's Brief).

<sup>22</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 – Extension of Briefing Schedule," dated November 19, 2020.

<sup>23</sup> See Kohler's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Letter in Lieu of Rebuttal Brief," dated November 24, 2020 (Kohler's Rebuttal); see also Briggs & Stratton's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof From China," dated November 24, 2020 (Briggs & Stratton's Rebuttal).

<sup>24</sup> See Briggs & Stratton's Letter, "Certain Vertical Shaft Engines Between 225cc And 999cc, And Parts Thereof From China: Withdrawal of Hearing Request," dated December 9, 2020; see also Loncin's Letter, "Loncin Hearing withdrawal in the Antidumping Investigation on Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China (A-570-119)," dated December 9, 2020; and Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: AD Investigation: Zongshen Hearing Request Withdrawal," dated December 10, 2020.

<sup>25</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: Rejection and Removal of Untimely New Factual Information Filed by Loncin Motor Co., Ltd. (Loncin)," dated December 10, 2020; see also Memorandum, "Reject and Retain Loncin Case Brief," dated December 11, 2020.

<sup>26</sup> See Loncin's Letter, "Loncin's Request for Reconsideration of Case Brief Rejection: Less Than Fair Value Investigation Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated December 11, 2020.

<sup>27</sup> See Loncin's Letter, "Loncin's Redacted Case Brief: Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China," dated December 14, 2020.

*parte* meeting with Loncin.<sup>28</sup> On December 31, 2020, Commerce notified Loncin that it would accept Loncin’s original case brief.<sup>29</sup> Loncin refiled its original case brief the same day.<sup>30</sup>

Due to travel restrictions in place, Commerce personnel were unable to conduct verification as Commerce normally would following the *Preliminary Determination*.<sup>31</sup> Accordingly, pursuant to section 776(a)(2)(D) of the Act, in situations where information has been provided but the information cannot be verified, Commerce has determined that it will rely on “facts otherwise available” (*i.e.*, the facts upon which we based our *Preliminary Determination*) in reaching its final determination in this investigation.

### **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.<sup>32</sup>

### **IV. SCOPE COMMENTS**

On September 18, 2020, Toro submitted scope comments.<sup>33</sup> On September 25, 2020, Kohler filed rebuttal scope comments.<sup>34</sup> Commerce addressed these comments in its Final Scope Determination Memorandum.<sup>35</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. CHANGES SINCE THE PRELIMINARY DETERMINATION**

- We excluded certain expenses from our surrogate financial ratio calculations.

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<sup>28</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: Telephone Call with Loncin Motor Co., Ltd.’s Counsel,” dated December 15, 2020.

<sup>29</sup> See Memorandum, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People’s Republic of China: Less Than Fair Value Investigation – Accepting Loncin’s Submission of Factual Information,” dated December 31, 2020.

<sup>30</sup> See Loncin’s Letter, “Loncin’s Refiling of Original Case Brief: Antidumping Duty Investigation of Certain Vertical Shaft Engines between 225 cc and 999 cc and Parts Thereof from the People’s Republic of China,” dated December 31, 2020.

<sup>31</sup> See Cancellation of Verification Memo.

<sup>32</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>33</sup> See Toro’s Letter, “Certain Vertical Shaft Engines from the People’s Republic of China: Letter in Lieu of Brief on Scope Issues,” dated September 18, 2020.

<sup>34</sup> See Kohler’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc from the People’s Republic of China: Letter in Lieu of Scope Rebuttal Brief,” dated September 25, 2020.

<sup>35</sup> See Memorandum, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Final Scope Decision Memorandum,” dated January 4, 2021.

- We revised Zongshen’s calculations to include freight expenses for certain inputs.
- We revised Zongshen’s calculations to include certain surrogate values submitted after the *Preliminary Determination*.
- We have determined that critical circumstances exist for Zongshen.

## VII. CHINA -WIDE ENTITY AND USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply “facts otherwise available” if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the 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. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce’s practice is to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide Commerce with complete and accurate information in a timely manner.”<sup>36</sup> Commerce’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”<sup>37</sup>

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is “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 concerning the subject merchandise.”<sup>38</sup> It is Commerce’s practice to consider information to be corroborated if it has probative value.<sup>39</sup> In analyzing whether information has probative value, it is Commerce’s practice to examine the reliability and

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<sup>36</sup> See, e.g., *Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

<sup>37</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA) at 870.

<sup>38</sup> See, e.g., SAA at 870.

<sup>39</sup> See SAA at 870.

relevance of the information to be used.<sup>40</sup> However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.<sup>41</sup>

In the *Preliminary Determination*, we relied on AFA in determining the dumping margin for the China-wide entity.<sup>42</sup> As explained in the *Preliminary Determination*, Zhejiang Xingyu Industry Trade, Suzhou Honbase MAC, and Wenling Jennfeng Industries Inc. did not respond to our requests for information, and thus, did not rebut the presumption of government control.<sup>43</sup> We have continued to rely on AFA with respect to the China-wide entity. Pursuant to section 776(c) of the Act, we have corroborated the third highest petition rate of 468.33 percent with individual transaction-specific margins from the respondents. Therefore, we have applied an AFA rate of 468.33 percent for the China-wide entity for this final determination.<sup>44</sup>

## VIII. AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES

Commerce preliminarily determined that critical circumstances existed with respect to Loncin, the non-individually investigated companies, and the China-wide entity.<sup>45</sup> No parties submitted comments regarding our preliminary critical circumstances determination with respect to Loncin, the non-individually investigated companies, or the China-wide entity. However, as discussed in Comment 16, Toro and Kohler have submitted comments with respect to whether critical circumstances exist with respect to Zongshen. Consistent with Commerce's practice, for the final determination, we have updated the base and comparison periods to account for the quantity and value data that Loncin and Zongshen reported following the *Preliminary Determination*.<sup>46</sup> It is Commerce's practice to base the critical circumstances analysis on all available data, and to limit the comparison period by the month that Commerce began suspension of liquidation resulting from an affirmative preliminary determination. Accordingly, we are continuing to define base and comparison periods within the bounds of our normal practice by extending the comparison period up through the month of the *Preliminary Determination*. For this final determination, we are comparing shipments over a period beginning in January 2020 through August 2020, with the period May 2019 through December 2019.<sup>47</sup> As we explained in the *Preliminary Determination*, as part of the critical circumstances analysis under section 703(e)(1)(B) and 19 CFR 351.206(i) Commerce must determine whether there are "massive imports" over a "relatively short period."<sup>48</sup> Commerce's regulations provide that, generally,

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<sup>40</sup> See, e.g., SAA at 869.

<sup>41</sup> See SAA at 869-70.

<sup>42</sup> See *Preliminary Results PDM* at 15-18.

<sup>43</sup> *Id.*

<sup>44</sup> See Memorandum, "Corroboration of the Adverse Facts Available Rate for the Final Determination in the Antidumping Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China," dated January 4, 2021.

<sup>45</sup> See *Preliminary Determination*; see also *Amended Preliminary Critical Circumstances Determination*.

<sup>46</sup> See Loncin's Letter, "Loncin August Q&V Shipment Data in the Antidumping and Countervailing Duty Investigations on Certain Vertical Shaft Engines from the People's Republic of China," dated September 15, 2020; see also Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China: Chongqing Zongshen Monthly Q&V Data," dated September 22, 2020.

<sup>47</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: Final Massive Imports Analysis," dated January 4, 2021 (Final Massive Imports Memorandum).

<sup>48</sup> See *Preliminary Results PDM* at 29.

imports must increase by at least 15 percent during the “comparison period” to be considered “massive.”<sup>49</sup> As a result of the updates discussed above, we continue to determine that critical circumstances exist for Loncin and Zongshen.<sup>50</sup>

For the non-individually investigated companies and the China-wide entity, Commerce attempted to rely on Global Trade Atlas data, adjusted to exclude shipments reported by the mandatory respondents, to conduct its massive imports analysis. We used May 2019 through December 2019 as the base period, and January 2020 through August 2020 as the comparison period. However, we find the resulting data unusable for the purposes of our massive import analysis.<sup>51</sup> Therefore, we have based our analysis for the non-individually investigated companies on the shipment data reported by Loncin and Zongshen.<sup>52</sup> As a result, we continue to find that the separate rate companies Chongqing Rato Technology Co., Ltd.; Jialing-Honda Motors Co., Ltd.; and Yamaha Motor Powered Products Jiangsu Co., Ltd. had a massive surge of imports and, as such, that critical circumstances exist for all non-individually investigated companies.<sup>53</sup> We also continue to find that critical circumstances exist for the China-wide entity.

## IX. DISCUSSION OF THE ISSUES

### Comment 1: Whether Commerce Should Change the Surrogate Value for the Composite Magnetic Flywheel Input

*Loncin, Zongshen and MTD’s Briefs:*

- Commerce should place great importance on the input that was actually used by the respondent in evaluating which surrogate value to use. In *Jacobi Carbons*, the U.S. Court of International Trade (CIT) agreed with plaintiff that “the factors of production actually used by a respondent are important, if not controlling, when determining normal value.” Moreover, the CIT further acknowledged that the use of surrogate values that accurately and specifically capture the inputs used by the respondent is key to calculating accurate antidumping duty margins.<sup>54</sup>
- The statutory objective of calculating dumping margins as accurately as possible can be achieved only when Commerce’s choice as to what constitutes the best available information evidences a rational and reasonable relationship to the factor of production (FOP) that it represents. Accordingly, the particular inputs that were used by the respondents must be taken into account.<sup>55</sup>

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<sup>49</sup> See 19 CFR 351.206(i).

<sup>50</sup> See Final Massive Imports Memorandum.

<sup>51</sup> *Id.*

<sup>52</sup> See *Certain New Pneumatic Off-The-Road Tires from Sri Lanka: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Determination*, 81 FR 39900 (June 20, 2016), and accompanying IDM at 8 (unchanged in *Certain New Pneumatic Off-the-Road Tires From Sri Lanka: Final Affirmative Countervailing Duty Determination, and Final Determination of Critical Circumstances*, 82 2949 (January 10, 2017)).

<sup>53</sup> *Id.*

<sup>54</sup> See Zongshen’s Brief at 4 (citing *Jacobi Carbons AB, et al. v. United States*, 992 F. Supp. 2d 1360, 1370–71 (CIT 2014) (*Jacobi Carbons*)).

<sup>55</sup> See Zongshen’s Brief at 4 and MTD’s Brief at 6 (citing *Zhengzhou Harmoni Spice Co. v. United States*, 617 F. Supp. 2d 1281, 1297 (CIT 2009); and *Zhejiang DunAn Hetian Metal Co. v. United States*, 652 F.3d 1333, 1341 (Fed. Cir. 2011) (*Zhejiang DunAn*)).

- The CIT has found that choosing surrogate value data that do not represent the specific input undermines the reasonableness of Commerce’s reliance on the best available information.<sup>56</sup> When an HTS subheading covers a basket of disparate products, such an HTS subheading may not be reasonably representative of the specific input used by the respondent. The CIT has also upheld that when alternative, input-specific data are available on the record, Commerce’s reliance on basket data may be found unreasonable as such surrogate data may not bear a reasonable relationship to the input used by the respondent.<sup>57</sup>
- Moreover, the selected surrogate values should not render aberrant results and Commerce needs to be able to defend the reliability of the surrogate values it has chosen. Indeed, the CIT has ruled in several cases that even if the agency enjoys discretion in selecting the best available information, when confronted with data undermining the reliability of the selected surrogate values, or when faced with challenges that the data used is aberrational, Commerce is “obligated, at a minimum, to discuss competing evidence and decide whether to credit or reject it.”<sup>58</sup>
- As a general matter, in an engine, particular components typically are associated with more than one function. As such, the fact that a flywheel, in conjunction with other components such as charging coils, also aids in the ignition of an engine, does not detract from the fact that it is an essential component, indeed a backbone, of the vertical shaft engine’s transmission system.<sup>59</sup>
- In contrast to its ignition function, which is transient, a flywheel’s transmission function is paramount and must endure through the entire working cycle of the engine. Therefore, in practical terms, a flywheel’s critical physical characteristics, constituent material composition and mechanical properties are determined by its enduring, overarching and critical transmission function. Conversely, the tiny magnets that aid a flywheel’s initial ignition function are relatively less important. Accordingly, the power transmission function of Loncin’s flywheel is more important than the ignition function.<sup>60</sup>
- HTS 851120009000 provides for ignition magnetos, magneto-dynamos, and magnetic flywheels for use in any non-aircraft spark ignition internal combustion engine, regardless of size, the type, or the end-product utilizing the engine. As a result, flywheels under this HTS subheading could be used for engines vastly larger than those covered by the scope of this investigation.<sup>61</sup>
- HTS 851120009000 covers a disparate set of goods. The HSN explanatory notes under HTS 8511 clarify that HTS 851120009000 encompasses “ignition equipment and appliances” and that magnetic flywheels are categorized therein along with two other

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<sup>56</sup> See Zongshen’s Brief at 4 (citing *Baroque Timber Indus. (Zhongshan) Co., Ltd. v. United States*, 925 F. Supp. 2d 1332, 1344-45 (CIT 2013) (*Baroque Timber*); and *Zhejiang DunAn*).

<sup>57</sup> See Zongshen’s Brief at 4-5 (citing *Jinan Yipin Corp. Ltd. v. United States*, 526 F. Supp. 2d 1347, 1376-79 (CIT 2007) (*Jinan Yipin*); and *Blue Field (Sichuan) Food Indus. Co., Ltd. v. United States*, 949 F. Supp. 2d 1311, 1337 (CIT 2013) (*Blue Field*) at 1328).

<sup>58</sup> *Id.* at 5 (citing *Blue Field* at 1311; and *Mittal Steel Galati S.A. v. United States*, 502 F. Supp. 2d 1295, 1308 (CIT 2007) (*Mittal Steel*)).

<sup>59</sup> See Loncin’s Brief at 6.

<sup>60</sup> *Id.*

<sup>61</sup> See MTD’s Brief at 4-5.

disparate ignition-based products - ignition magnetos and magneto dynamos - which are not comparable to cast iron flywheels.<sup>62</sup>

- Moreover, HTS 85112000900 includes products made of any material, and is not limited to products which are principally composed of cast iron. As such, this HTS heading includes multiple products which are not comparable to cast-iron flywheels. This being the case, HTS 848350200011: (1) more specifically describes flywheels than does HTS 851120009000; and (2) does not also include products which are significantly different than flywheels, as is the case with HTS 851120009000 (*e.g.*, magneto dynamos or magnetic flywheels of fiber glass).<sup>63</sup>
- As the U.S. Court of Appeals for the Federal Circuit (CAFC) stated in *Zhejiang Dunan*, where an “HTS heading, by definition, included materials that were not representative of the inputs utilized by the manufacturer...calculating a surrogate value on the basis of every material imported under the HTS heading.... might well conflict with Commerce’s obligation to use the best available evidence for its calculation of surrogate value.”<sup>64</sup>
- Loncin’s flywheels are composed primarily of cast iron. Therefore, its flywheels fall squarely within HTS 848350200011 (flywheels and pulleys, including pulley blocks; of cast iron/cast steel), a HTS heading that represents the predominant component material of the flywheel (cast iron) and the flywheel’s predominant function to continuously transmit power.<sup>65</sup>
- Loncin argues that HTS 848350200011 yields a reliable surrogate value of 25.20TL/KG for Loncin’s flywheel input.<sup>66</sup> In contrast, HTS851120009000 yields a surrogate value of 193.49 TL/Kg which is absurd.<sup>67</sup> Flywheels are one of seven of the most significant component parts of an engine, the other parts being crankcase, start component, crankshaft, crank cover, cylinder head, and the carburetor. Cast-iron flywheels do not comprise anywhere near one-half the material cost of Loncin’s vertical shaft engines.<sup>68</sup>
- Zongshen argues that Commerce should use HTS subheading 7325.9910.0000 (Other cast articles of iron or steel: Of malleable cast iron) since cast iron makes up the majority of the weight of its flywheel, with the magnet blocks making up only very tiny part by weight.<sup>69</sup> HTS 732599100000 yields a reliable surrogate value for Zongshen’s flywheel input.<sup>70</sup>

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<sup>62</sup> See Loncin’s Brief at 9; *see also* Zongshen’s Brief at 7-8.

<sup>63</sup> See Loncin’s Brief at 7; *see also* Zongshen’s Brief at 7-8.

<sup>64</sup> See Loncin’s Brief at 10.

<sup>65</sup> *Id.* at 6-7.

<sup>66</sup> *Id.* at 10.

<sup>67</sup> See Loncin’s Brief at 5; *see also* Zongshen’s Brief at 6.

<sup>68</sup> See Loncin’s Brief at 15.

<sup>69</sup> See Zongshen’s Brief at 7 (citing Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation; Zongshen Supplemental Section C-D Response,” dated July 1, 2020 (Zongshen’s Supplemental C&D Response) at Exhibit SD-3.1).

<sup>70</sup> See Zongshen’s Brief at 6-9; *see also* MTD’s Brief at 2-3 and 6.

- Judicial precedent cautions against the choice of a HTS heading merely because it technically covers the input when other record evidence shows that the overall AUV is distorted by the inclusion of non-comparable products.<sup>71</sup>
- CAFC precedent supports that Commerce has broad discretion in relying on a common sense approach for selecting appropriate surrogate values. In *SolarWorld*, the CAFC explained that a tariff heading which arguably is the most suitable for classification purposes may not be the most suitable choice for selection as the source of surrogate value.<sup>72</sup>
- When faced with two surrogate value choices both of which appear to be specific to the input – e.g., HTS 848350200011 is specific in terms of covering a cast iron flywheel while HTS 851120009000 is specific in terms of covering a magnetic flywheel – Commerce accords preference to a heading representing a specificity attribute that has a more direct relation to the price of the input.<sup>73</sup>
- Ultimately, Commerce’s surrogate value choice is dictated by a plain, common sense approach so that the resulting normal value and margin are accurate and not distorted by an aberrational surrogate value, which has no nexus with the real world cost calculations.<sup>74</sup>

*Briggs & Stratton’s Rebuttal:*

- Commerce selects surrogate values for FOPs by choosing “the best available information.”<sup>75</sup> To implement this mandate, “{Commerce} considers several factors when choosing the most appropriate surrogate values, including the quality, specificity, and contemporaneity of the data” when selecting surrogate values.<sup>76</sup>
- In the *Preliminary Determination*, Commerce appropriately found that Turkish HTS 851120009000, which specifically covers magnetic flywheels, constitutes the best information available for this FOP.<sup>77</sup>
- The starting point of any surrogate value analysis is a clear understanding of the input at issue. Here, both respondents report using magnetic flywheels in the production of subject merchandise. A magnetic flywheel is a key component required for starting vertical shaft engines. After ignition, the magnetic flywheel maintains an electric current, pushes cooling air through the engine block, and contributes to the distribution of power to the engine.<sup>78</sup>

<sup>71</sup> See Loncin’s Brief at 15-16 (citing *CS Wind Vietnam Co. v. United States*, 971 F. Supp. 2d 1271 (CIT 2014) (*CS Wind*) at 1277-84).

<sup>72</sup> *Id.* at 12-13 (citing *SolarWorld Americas, Inc. v. United States*, 910 F.3d 1216 (Fed. Cir. 2018) (*SolarWorld*) at 1223-25; *Downhole Pipe & Equipment, L.P. v. U.S.*, 776 F.3d 1369 (Fed. Cir. 2015) (*Downhole Pipe*) at 1379; and *Home Meridian Int’l Inc. v. United States*, 772 F.3d 1289, 1296 (Fed. Cir. 2014) (*Home Meridian*)).

<sup>73</sup> *Id.* at 13 (citing *Fine Furniture (Shanghai) Limited v. United States*, 353 F.Supp.3d 1323 (CIT 2018) (*Fine Furniture*)).

<sup>74</sup> *Id.* at 16 (citing *Foshan Shunde Yongjian Housewares & Hardwares Co. v. United States*, 172 F. Supp. 3d 1353 (CIT 2016) (*Foshan Shunde*) at 1358-1359).

<sup>75</sup> See Briggs & Stratton’s Rebuttal at 5 (citing section 773(c)(1)(B)(2) of the Act).

<sup>76</sup> *Id.* at 5 (citing *Chlorinated Isocyanurates from the People’s Republic of China*, 74 FR 66087 (December 14, 2009) (*Chlorinated Isocyanurates from China*), and accompanying IDM at 14).

<sup>77</sup> *Id.* at 6.

<sup>78</sup> *Id.* at 6-7.

- Official guidance from the World Customs Organization on HTS 851120009000 confirms that this subheading contains “{m}agnetic flywheels {which} consist of a magnetic device fitted to a flywheel to produce a low-tension current for ignition purposes.”<sup>79</sup>
- This description of items falling into HTS 851120009000 aligns with the function and purpose of magnetic flywheels evident in the respondents’ questionnaire responses and other record evidence. This HTS subheading is not a broad, basket category, but is limited to engine parts related to ignition such as “ignition magnetos, magneto-dynamos and magnetic flywheels” for internal combustion engines.<sup>80</sup> In sum, to value magnetic flywheels, the import data for HTS 851120009000 are the best information available and plainly satisfy Commerce’s normal criteria for selecting surrogate values.
- The respondents’ and MTD’s argument that Commerce cannot use HTS 851120009000 because it results in an aberrational surrogate value for magnetic flywheels is unsupported. Instead of presenting compelling evidence of supposedly anomalous surrogate value data, the respondents and MTD turn to an unreliable source available in an effort to validate their claims (*i.e.*, production costs in China’s non-market economy).<sup>81</sup>
- Commerce should reject the parties’ contention that the cost of magnetic flywheels obtained in China relative to the overall cost of subject merchandise manufactured in China is not reflected in a surrogate value for magnetic flywheels based on HTS 851120009000.<sup>82</sup>
- Neither the statute nor Commerce’s regulations direct Commerce to consider non-market economy (NME) costs or prices to establish or benchmark surrogate values or normal value, and doing so would undermine the very rationale of the Commerce’s NME methodology.<sup>83</sup>
- The respondents’ emphasis on jurisprudence regarding the general principle requiring “reasonable” determinations by Commerce is entirely misplaced. None of the cases cited by the respondents addressed actual costs incurred in an NME, and they certainly did not compel Commerce to measure surrogate values against cost of production in China.<sup>84</sup>
- Contrary to the respondents’ assertions otherwise, there are numerous photographs, graphic depictions, and physical descriptions on the record – including materials submitted by respondents –demonstrating that the respondents use are multi-component, multi-function, magnetic flywheel assemblies.<sup>85</sup>
- Loncin’s argument that HTS 851120009000 is not appropriate because it also covers “ignition based products” – ignition magnetos and magneto dynamos is strained. Given the physical characteristics and functions of a magnetic flywheel, a composite item

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<sup>79</sup> *Id.* at 8 (citing Briggs & Stratton’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 (Briggs & Stratton’s Rebuttal Surrogate Value Comments) at 1 and Exhibit 3).

<sup>80</sup> *Id.* at 8 (citing Briggs & Stratton’s Rebuttal Surrogate Value Comments at Exhibit 1).

<sup>81</sup> *Id.* at 9.

<sup>82</sup> *Id.* at 9-10.

<sup>83</sup> *Id.* at 10.

<sup>84</sup> *Id.* at 11-12.

<sup>85</sup> *Id.* at 13.

made of numerous sub-parts with the primary purpose of igniting the engine, it is perfectly appropriate that such an item, which is part of the ignition system, be included in an HTS subheading with other ignition-related items.<sup>86</sup>

- Likewise, Loncin’s claim that HTS 851120009000 represents a “disparate set of goods...which are not comparable to Loncin’s cast iron flywheels” is premised on a mischaracterization of magnetic flywheels as simple cast iron articles.
- Moreover, contrary to the parties’ contention, HTS 851120009000 is not a “basket category.” It is narrowly focused on magnetic flywheels, ignition magnetos and magneto dynamos. Commerce has calculated surrogate values using HTS subheadings that are much broader in scope than HTS 851120009000. For example, in prior cases, Commerce has selected as surrogate values HTS subheadings covering products “not elsewhere specified” when it otherwise met Commerce’s criteria for surrogate value selection.<sup>87</sup>
- The parties have failed to show that magnetic flywheels imported into Turkey under HTS 851120009000 are not comparable to those used in subject merchandise, and they have not shown that the average unit values of these products are distortive or non-representative of magnetic flywheels.<sup>88</sup>
- Loncin’s reliance on *Zhejiang Dunan* is unavailing. Loncin suggests that this case stands for the proposition that Commerce cannot establish a surrogate value using import data for an HTS subheading that may include items in addition to the specific FOP. This case is not applicable here. There, the appellant established that the WTA Indian import data {for HTS 7407.21.10} included data for merchandise imported under the incorrect HTS heading.” As such, this case has no applicability, because there is no evidence or suggestion that items imported into Turkey under HTS 851120009000 were improperly classified.<sup>89</sup>
- Zongshen contends that Commerce should use HTS 732599100000 as the surrogate value, and Loncin argues that HTS 8483502000011 should be used, despite the fact that neither of these HTS subheadings includes magnetic flywheels.<sup>90</sup>
- Loncin’s claim that HTS 8483502000011 covers “flywheels and pulleys, including pulley blocks; of cast iron/cast steel” falls within a category for transmission shafts and includes pulleys which are similar in physical characteristics and profile to a magnetic flywheel assembly is without merit. Neither respondent uses pulleys, pulley blocks, or stand-alone cast iron flywheels to make the subject merchandise. Pulleys and pulley blocks are not part of a subject engine, and a malleable cast iron flywheel base, by itself, is unusable in a vertical shaft engine. Consequently, there is no basis in the characteristics or uses of the products covered by HTS 8483502000011 to justify using this subheading to value a distinctly different product, magnetic flywheels.<sup>91</sup>
- HTS 732599100000 covers “other articles of iron or steel: of malleable cast iron.” Zongshen bases its argument primarily on the fact that magnetic flywheels contain iron

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<sup>86</sup> *Id.* at 14.

<sup>87</sup> *Id.* at 15 (citing *Certain Steel Nails From the People’s Republic of China; 2016-2017*, 84 FR 17134 (April 24, 2019), and accompanying IDM at 33).

<sup>88</sup> *Id.* at 16-17.

<sup>89</sup> *Id.* at 17.

<sup>90</sup> *Id.* at 18.

<sup>91</sup> *Id.* at 18.

and HTS 732599100000 covers articles made of iron. It is not clear that this basket category contains anything like a magnetic flywheel. In fact, there is no functional limitation on this HTS subheading at all. The physical attributes and uses of magnetic flywheels have no connection to the products falling into the catch-all basket category for other cast iron articles.<sup>92</sup>

- The respondents’ reliance on *SolarWorld* and *Downhole Pipe* is misplaced. Each case stands for the uncontested principle that HTS subheadings do not have the binding force of law in trade remedy cases and that Commerce is not required to conduct a customs classification exercise in its surrogate value analysis. But simply recognizing that Commerce has discretion in its choice of surrogate values cannot possibly be read to “compel” the agency to select an HTS subheading that is not specific to the FOP at issue, like those suggested by respondents.<sup>93</sup>
- Loncin and MTD’s reliance on *Fine Furniture* is also misdirected. In *Fine Furniture*, Commerce analyzed the physical characteristics of the product and based its surrogate value on the more specific data source, thereby supporting Commerce’s selection of HTS 851120009000, which specifically identifies magnetic flywheels and similar items. The case does not suggest that Commerce should select surrogate values that approximate the non-market price of Chinese inputs.<sup>94</sup>
- Loncin’s reliance on *CS Wind* is erroneous. In *CS Wind*, there was “evidence that vast majority of steel falling within the selected basket tariff heading was not of the same grade as the steel used by the plaintiff. Here, HTS 851120009000 covers a narrow set of items including magnetic flywheels and related products and cannot be characterized as a “basket tariff heading.” Further, there is no evidence on the record of this investigation suggesting that imports into Turkey under HTS 851120009000 do not include magnetic flywheels.<sup>95</sup>
- The record of this investigation is different than that of *Foshan Shunde* where there were differing surrogate values for differing grades of carbon steel wire. Here, there is no ambiguity – the respondents use composite, magnetic flywheels as shown in photographs and specifications they provided. Thus, *Foshan Shunde* reaffirms the importance of rejecting the respondents’ proposed HTS subheadings, which cover a broader array of items with less value added than HTS 851120009000, the subheading that specifically includes magnetic flywheels.<sup>96</sup>

*Commerce’s Position:* Commerce continues to find that Turkish HTS 851120009000, which specifically covers magnetic flywheels, constitutes the best information available for this FOP. In assessing surrogate value data and data sources, it is Commerce’s practice to use period-wide price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with the period of investigation or review, and publicly available data.

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<sup>92</sup> *Id.* at 18-19.

<sup>93</sup> *Id.* at 19.

<sup>94</sup> *Id.* at 20.

<sup>95</sup> *Id.* at 21.

<sup>96</sup> *Id.* at 21-22.

In *Jacobi Carbons*, the CIT found that “the factors of production actually used by a respondent are important, if not controlling, when determining normal value.” The record of this investigation shows that both respondents used composite, magnetic flywheels in the production of subject merchandise.<sup>97</sup> A magnetic flywheel is a key component required for starting vertical shaft engines. After ignition, the magnetic flywheel maintains an electric current, pushes cooling air through the engine block, and contributes to the distribution of power to the engine.<sup>98</sup> Information on the record demonstrates that HTS 851120009000 contains “{m}agnetic flywheels {which} consist of a magnetic device fitted to a flywheel to produce a low-tension current for ignition purposes.”<sup>99</sup> Thus, contrary to the respondents’ and MTD’s argument that HTS 851120009000 covers a broad, disparate set of goods, the description of items falling into HTS 851120009000 aligns with the function and purpose of magnetic flywheels evident in the respondents’ questionnaire responses. This HTS subheading is limited to engine parts related to ignition such as “ignition magnetos, magneto-dynamos and magnetic flywheels” for internal combustion engines.<sup>100</sup> As the CAFC noted in *Home Meridian*, the data on which Commerce relies to value inputs must be the ‘best available information,’ but there is no requirement that the data be perfect.”<sup>101</sup> Parties’ reliance on *Zhejiang Dunan*, *Jinan Yipin* and *Blue Field* is misplaced as HTS 851120009000 is not a basket HTS category and the respondents have not submitted alternative input-specific surrogate values on this record. Unlike the scenarios in *Baroque Timber* and *CS Wind*, there is no evidence on the record of this investigation suggesting that imports into Turkey under HTS 851120009000 include magnetic flywheels that are not comparable to those used in subject merchandise. Moreover, unlike in *Zhejiang Dunan*, here there is no evidence that imports into Turkey under HTS 851120009000 were improperly classified.

We disagree with the respondents’ and MTD’s argument that Commerce should not use HTS 851120009000 merely because it results in a high surrogate value for magnetic flywheels. This argument is based on the comparison of acquisition cost of magnetic flywheels in China relative to the respondents’ overall cost of subject merchandise manufactured in China. Commerce does not use NME costs or prices to establish or benchmark surrogate values. Doing so would run counter to the rationale of Commerce’s NME methodology. The respondents’ reliance on jurisprudence regarding the general principle requiring “reasonable” determinations by Commerce is misplaced in this instance, as none of the cases addressed costs incurred in an NME or require Commerce to measure surrogate values against Chinese costs of production. Thus, Loncin’s and MTD’s reliance on *Fine Furniture* is inappropriate. In *Fine Furniture*, Commerce analyzed the physical characteristics of the product and based its surrogate value on the more specific data source.<sup>102</sup> Here, as in *Fine Furniture*, Commerce has analyzed the characteristics of the magnetic flywheels and has selected a surrogate value based on a more

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<sup>97</sup> See Loncin’s Letter, “Loncin Supplemental Sections C and D Questionnaire Response: Antidumping Duty Investigation on Certain Vertical Shaft Engines from the People’s Republic of China (A-570-119),” dated June 30, 2020 (Loncin’s Supplemental C&D Response) at Exhibits SD-10.1 & 10.2; see also Zongshen’s Supplemental Section C&D Response at Exhibit SD-3.1.

<sup>98</sup> See Loncin’s Supplemental C&D Response at Exhibits SD-10.1 & 10.2; see also Zongshen’s Supplemental Section C&D Response at Exhibit SD-3.1.

<sup>99</sup> See Briggs & Stratton’s Rebuttal Surrogate Value Comments at 1 and Exhibit 3.

<sup>100</sup> *Id.* at Exhibit 1.

<sup>101</sup> See *Home Meridian*.

<sup>102</sup> See *Fine Furniture*, 353 F. Supp. 3d 1323.

specific data source, thereby supporting Commerce’s selection of HTS 851120009000, which specifically identifies magnetic flywheels. The case does not suggest that Commerce should select surrogate values that approximate the non-market price of Chinese inputs.<sup>103</sup> Commerce considers the quality, specificity, and contemporaneity of the surrogate value information on the record. Absent record evidence that HTS 851120009000 contains aberrational data, which we do not have here, the relative pricing of surrogate values is not a sufficient basis upon which to exclude a particular surrogate value.<sup>104</sup>

The respondents’ reliance on *SolarWorld* and *Downhole Pipe* is misdirected. While each case recognizes that Commerce has discretion in choosing surrogate values from HTS categories, neither case directs Commerce to select surrogate values from HTS subheadings that are not specific to the FOP. Similarly, the record of this investigation is different than that of *Foshan Shunde* where the court considered different grades of carbon wire steel.<sup>105</sup> Here, each respondent clearly uses composite, magnetic flywheels which are specifically covered by HTS 851120009000.<sup>106</sup>

Consistent with *Blue Field* and *Mittal Steel*, we have analyzed the other surrogate value information on the record for this final determination. We disagree with Loncin’s argument that HTS 8483502000011 is the best information available. HTS 8483502000011 covers “flywheels and pulleys, including pulley blocks; of cast iron/cast steel” and falls within a category for transmission shafts and includes pulleys which are not similar in physical characteristics and profile to a magnetic flywheel assembly. As Briggs & Stratton noted, neither respondent reported using pulleys, pulley blocks, or stand-alone cast iron flywheels to make the subject merchandise. The vertical shaft engines at issue require magnetic flywheels for ignition and operation.<sup>107</sup> In its brief, Loncin argues that the principal purpose of its flywheels is to transmit power, and the record shows that the magnetic flywheels that it and Zongshen use have multiple principal functions. The record does not show how the flywheels covered by HTS 8483502000011 would be able to perform the principal functions of the flywheels used by Zongshen<sup>108</sup> or Loncin.<sup>109</sup> Consequently, there is no basis on the record to justify using HTS 8483502000011 to value magnetic flywheels.

Finally, we also disagree with Zongshen’s argument that HTS 732599100000 “other articles of iron or steel: of malleable cast iron” is the best information available largely because composite magnetic flywheels contain iron. HTS 732599100000 is a basket category covering a wide range

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<sup>103</sup> *Id.*

<sup>104</sup> See *Certain New Pneumatic Off-the-Road Tires from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2015-2016*, 83 FR 16829 (April 17, 2018), and accompanying IDM at 26; see also *Steel Wire Garment Hangers from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 2012-2013*, 80 FR 13332 (March 13, 2015), and accompanying IDM at Comment 5.

<sup>105</sup> See *Foshan Shunde*.

<sup>106</sup> See Loncin’s Supplemental C&D Response at Exhibits SD-10.1 & 10.2; see also Zongshen’s Supplemental Section C&D Response at Exhibit SD-3.1.

<sup>107</sup> *Id.*

<sup>108</sup> See Zongshen’s Supplemental Section C&D Response at Exhibit SD-3.1.

<sup>109</sup> See Loncin’s Supplemental C&D Response at Exhibits SD-10.1 & 10.2; see also Zongshen’s Supplemental Section C&D Response at Exhibit SD-3.1.

of goods made of iron or steel<sup>110</sup> with no apparent connection to the composite, magnetic flywheels used by either respondent. Moreover, it is unclear from the record how iron articles covered by HTS 732599100000 would be able to perform the principal functions of the flywheels used by Zongshen<sup>111</sup> or Loncin.<sup>112</sup> As such, there is no basis on the record to justify using HTS 7322599100000 to value magnetic flywheels. We, therefore, continue to determine that Turkish HTS 851120009000, which specifically covers magnetic flywheels, constitutes the source of the best information available for this FOP.

## **Comment 2: Whether Commerce Should Change the Surrogate Value for Polypropylene Plastic Material**

### *Loncin's Brief:*

- Loncin's polypropylene plastic material (PPM) inputs are black polypropylene materials in their primary form of pallets.<sup>113</sup> These palletized PPM are subjected to a process of injection molding to obtain general mechanical components that are flame retardant with high toughness and a superior surface finish.<sup>114</sup>
- HTS 39169010011 (Monofilament of which any cross-sectional dimension exceeds 1 mm, rods, sticks and profile shapes, whether or not surface-worked but not otherwise) covers miscellaneous plastic materials and is, therefore, not specific to polypropylene plastic material. Moreover, it covers a class of products – monofilaments – which are unrelated to and inapplicable for valuing a different category of polypropylene products - pallets.<sup>115</sup> The HSN Explanatory Notes show that HTS 391690 covers monofilaments of all other plastics (other than ethylene and vinyl chloride).
- In contrast, HTS 390210 covers PPM in its primary form. As described *supra*, Loncin's inputs are polypropylene pallets, which is a primary form of PPM. The HSN Explanatory notes elaborate on the uses of the primary form of PPM.<sup>116</sup>
- Accordingly, HTS 390210 is more specific to Loncin's PPM than is HTS 391690100011.<sup>117</sup>
- Finally, HTS 390210 is preferable to HTS 391690100011 because the surrogate value resulting from HTS 39169010011 is distorted while the surrogate value resulting from HTS 390210 comparable to PPM prices in China.<sup>118</sup>

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<sup>110</sup> See *Jinan Yipin*; and *Blue Field*.

<sup>111</sup> See Zongshen's Supplemental Section C&D Response at Exhibit SD-3.1.

<sup>112</sup> See Loncin's Supplemental C&D Response at Exhibits SD-10.1 & 10.2; see also Zongshen's Supplemental Section C&D Response at Exhibit SD-3.1.

<sup>113</sup> See Loncin's Brief at 31 (citing Loncin's Supplemental C&D Response at Exhibits SD-10.1 & 10.2).

<sup>114</sup> See Loncin's Brief at 31 (citing Loncin's Supplemental C&D Response at Exhibit SD-10.2).

<sup>115</sup> See Loncin's Brief at 31.

<sup>116</sup> See Loncin's Brief at 31 (citing HSN which states "The general physical properties of polypropylene are similar to those of high-density polyethylene. Polypropylene and propylene copolymers also have a very wide range of applications, for example, packaging film, moulded parts for automobiles, appliances, housewares, etc., wire and cable coating, food container closures, coated and laminated products, bottles, trays and containers for storing precision equipment, ducting, tank linings, piping for chemical plant, tufted carpet backing.")

<sup>117</sup> See Loncin's Brief at 33.

<sup>118</sup> *Id.*

*Briggs & Stratton Rebuttal:*

- Loncin’s PPM inputs are black polypropylene materials in their primary form of pallets.<sup>119</sup> Loncin reported that these palletized PPM are subjected to a process of injection molding to obtain general mechanical components that are flame retardant with high toughness and a superior surface finish.<sup>120</sup>
- Shaped pallets of PPM are covered by HTS 391690100011, which covers “monofilament of which any cross-sectional dimension exceeds 1 mm, rods, sticks and profile shapes, whether or not surface-worked but not otherwise worked, of plastics.” This product description captures shaped or formed PPM, such as PPM in palletized form.<sup>121</sup>
- In contrast, HTS 390210 is at a more general level of classification and includes PPM inputs regardless of form.<sup>122</sup>
- Loncin’s contention that the value of HTS 391690100011 is “distorted” while HTS 390210 renders a surrogate value that “is in the same range as the actual prices of this input” should be rejected. Loncin is effectively arguing that the market economy prices for polypropylene shapes are distorted, while the price for the same product in China is not.<sup>123</sup>

*Commerce’s Position:* HTS 391690100011 remains the best information available for valuing PPM and we continue to use it for purposes of this final determination.

The record shows that Loncin reported using PPM which was black polypropylene material in form of pellets which are subjected to a process of injection molding to obtain general mechanical components that are flame retardant with high toughness and a superior surface finish.<sup>124</sup> Loncin provided no additional information with respect to the PPM. There is no information on the record with respect to what type or form of PPM is covered by HTS 390210. HTS 391690100011 covers “monofilament of which any cross-sectional dimension exceeds 1 mm, rods, sticks and profile shapes, whether or not surface-worked but not otherwise worked, of plastics.” As such, the product description for HTS 391690100011 covers shaped or formed PPM, such as the pelletized PPM used by Loncin.<sup>125</sup>

We have rejected Loncin’s argument that Commerce should use HTS 390210 rather than HTS 391690100011 because the former renders a surrogate value more “similar” to the price for PPM in China. As noted above, Commerce does not use NME costs or prices to establish or benchmark surrogate values.

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<sup>119</sup> See Loncin’s Supplemental C&D Response at Exhibit SD-10.2.

<sup>120</sup> *Id.*

<sup>121</sup> See Briggs and Stratton’s Rebuttal at 31.

<sup>122</sup> *Id.*

<sup>123</sup> *Id.* at 32.

<sup>124</sup> See Loncin’s Supplemental C&D Response at Exhibit SD-10.2.

<sup>125</sup> See Loncin’s Supplemental C&D Response at Exhibit SD-10.2 at pdf 1436-1441.

### Comment 3: Whether Commerce Should Change the Surrogate Value for Cast Aluminum Crankcases

#### *Loncin's Brief:*

- Loncin's cast aluminum crankcases are partially hollow profiles of aluminum.<sup>126</sup>
- HTS 760421 (aluminum profiles) is more product-specific and yields an average unit value that is more representative of the average price of cast aluminum crankcases utilized by Loncin.<sup>127</sup>
- In contrast, HTS 761699100000 (Articles Casted from Aluminum) is a residual sub-heading that encompasses myriad varieties of aluminum products.<sup>128</sup>
- Therefore, in the final determination, Commerce should use HTS 760421 as the surrogate value for cast aluminum crankcases.<sup>129</sup>

#### *Briggs and Stratton's Rebuttal:*

- Loncin previously described its cast aluminum crankcases as cast aluminum.<sup>130</sup> Cast aluminum parts are distinct from aluminum profiles. Commerce has previously recognized that aluminum profiles are not cast, but are manufactured through an extrusion process.<sup>131</sup>
- Cast aluminum crankcases are best captured by HTS 761699100000 which covers cast aluminum items.<sup>132</sup>
- Commerce should reject Loncin's argument should use HTS 760421 is "more representative" of the price of crankcases. The relative pricing of surrogate values are not a consideration.<sup>133</sup>

*Commerce's Position:* HTS 761699100000 remains the best information available for valuing Loncin's cast aluminum crankcase inputs, and we continue to use it for this final determination.

In its questionnaire responses, Loncin described its production process for aluminum parts, which confirmed that "cast aluminum blanks . . . are utilized in the production of aluminum parts."<sup>134</sup> There is no information on the record that shows that the crankcases are aluminum profiles. Cast aluminum parts are distinct from aluminum profiles. We agree with Briggs & Stratton that Commerce has previously recognized that aluminum profiles are not cast, but are manufactured through an extrusion process.<sup>135</sup> Thus, Loncin's preferred HTS subheading for

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<sup>126</sup> See Loncin's Brief at 32 (citing Loncin's Supplemental C&D Response at Exhibit SD-10.2).

<sup>127</sup> *Id.* at 32.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> See Loncin's Letter, "Loncin Section D Questionnaire Response: Antidumping Duty Investigation on Certain Vertical Shaft Engines from the People's Republic of China (A570-119)," dated May 26, 2020 (Loncin's Section D Response) at 12.

<sup>131</sup> See Briggs and Stratton's Rebuttal at 28 (citing *Aluminum Extrusions from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 18524, 18525 – 26 (April 4, 2011) (*Aluminum Extrusions from China*)).

<sup>132</sup> *Id.* at 28.

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

<sup>134</sup> See Loncin's Section D Response at 12.

<sup>135</sup> See, e.g., *Aluminum Extrusions from China*.

aluminum profiles is inconsistent with its questionnaire response. Conversely, cast aluminum crankcases are captured by HTS 761699100000, which covers cast aluminum items.

We have not considered Loncin's argument that HTS 760421 is "more representative" of the price of crankcases. Commerce considers the quality, specificity, and contemporaneity of the surrogate value information on the record. Absent record evidence that HTS 761699100000 contains aberrational data, the relative pricing of the surrogate value is not a sufficient basis upon which to exclude it as the source of a surrogate value.<sup>136</sup>

#### **Comment 4: Whether Commerce Should Change the Surrogate Value for Ignition Coils**

##### *Loncin's Brief:*

- Record evidence shows that Loncin's coil ignitions are comprised of enameled copper wires that are insulated and attached to connectors."<sup>137</sup>
- Commerce should use HTS 854411100019 (Insulated (including enameled or anodised) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not cable) and other fitted with connectors: Of Copper: Winding wire: enameled coated copper other coil wires) as the surrogate value for coil ignition.<sup>138</sup>
- Thus, HTS 854411100019 is product specific in relation to the input as it matches all three specificity attributes – copper wires that are insulated and that are fitted with connectors and yields an average unit value that is significantly more representative of the average price of coil ignition inputs.<sup>139</sup>
- In contrast, HTS 851130009012 (Ignition Coils For Other Use) is a broad basket category encompassing myriad varieties of ignition coils. For instance; (a) such ignition coils could contain wires made out of metals other than copper; (b) the wires could be insulated or not; and (c) the ignition coil is without connectors. As such, the resulting surrogate value is distorted by goods that are fundamentally different than aluminum insulated enameled copper wires attached to connectors and therefore fails to represent the cost of Loncin's coil ignition input.<sup>140</sup>

##### *Briggs & Stratton's Rebuttal:*

- Commerce should continue to use HTS 851130009012 as the surrogate value of ignition coils.<sup>141</sup>
- HTS 851130009012 is limited to ignition coils and specifically covers the input at issue.<sup>142</sup> The material lists and photographs of the ignition coils on the record show that the ignition coils are properly classified under HTS 851130009012. Thus, information on

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<sup>136</sup> See *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2015-2016*, 83 FR 16829 (April 17, 2018), and accompanying IDM at 26; see also *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012-2013*, 80 FR 13332 (March 13, 2015), and accompanying IDM at Comment 5.

<sup>137</sup> See Loncin's Brief at 38 (citing Loncin's Supplemental C&D Response at Exhibits SD-10.1 & SD-10.2).

<sup>138</sup> *Id.*

<sup>139</sup> *Id.* at 38-39.

<sup>140</sup> *Id.* at 38.

<sup>141</sup> See Briggs & Stratton's Rebuttal at 29-30.

<sup>142</sup> *Id.* at 29.

the record shows that HTS 851130009012 constitutes the best available information for the ignition coils used in the production of subject merchandise.<sup>143</sup>

- In contrast, HTS 854411100019 does not cover ignition coils. Rather, the HTS covers insulated copper wire and cable with connectors. Loncin's argument that the subheading for insulated copper wires renders a surrogate value that is significantly more representative of the average price of the coil ignition input utilized by Loncin is not relevant.

*Commerce's Position:* HTS 851130009012 remains the best information available for valuing ignition coils, and we continue to use it for the final determination.

The material lists and photographs on the record show that ignition coils are used in the production of subject merchandise.<sup>144</sup> HTS 851130009012 is limited to ignition coils and specifically covers the input at issue. In contrast, HTS 854411100019 covers insulated copper wire and cable with connectors. Finally, we have not considered Loncin's argument that HTS 854411100019 renders a surrogate value which is more "representative" of the average price of coil ignition inputs utilized by Loncin. As explained above, Commerce considers the quality, specificity, and contemporaneity of the surrogate value information on the record. Absent record evidence that HTS 854411100019 contains aberrational data, the relative pricing of the surrogate value is not a sufficient basis upon which to exclude it as a surrogate value.<sup>145</sup>

#### **Comment 5: Whether Commerce Should Change the Surrogate Value for Balance Shafts**

*Loncin's Brief:*

- Record evidence shows that Loncin's ductile iron or aluminum balance shaft inputs are transmission shafts, which are similar to its crankshafts in terms of physical characteristics.<sup>146</sup>
- HTS 848310959019 (Other Transmission Shafts Used in Other Places) is a residual category that excludes crankshafts. Further, it encompasses a broad basket category of transmission shafts and there is no record evidence to show that this residual and broad basket of transmission shafts is comparable to balance shafts. Moreover, import data reported in HTS 848310959019 is potentially distorted by non-comparable grades of transmission shafts.<sup>147</sup>
- Commerce should use HTS 84831029900 (crankshafts - Others) for the final determination. HTS 84831029900 is more product-specific and yields an average unit

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<sup>143</sup> *Id.* at 29-30 (citing Loncin's Supplemental C&D Response at Exhibits SD10.1 and SD-10.2).

<sup>144</sup> *See, e.g.*, Loncin's Supplemental C&D Response at Exhibits SD10.1 & d 10.2.

<sup>145</sup> *See Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2015-2016*, 83 FR 16829 (April 17, 2018), and accompanying IDM at 26; *see also Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012-2013*, 80 FR 13332 (March 13, 2015) and accompanying IDM at Comment 5.

<sup>146</sup> *See* Loncin's Brief at 31 (citing Loncin's Supplemental C&D Response at Exhibits SD10.1 & 10.2 urging Commerce to compare photos of its ductile iron or aluminum die casted balance shafts and with its crankshafts).

<sup>147</sup> *See* Loncin's Brief at 31.

value that is more representative of the average price of the two grades of balance shafts - ductile iron or aluminum die casting – utilized by Loncin.<sup>148</sup>

*Briggs and Stratton's Rebuttal:*

- Commerce should continue to use HTS 848310959019 as the surrogate value for balance shafts for the final determination.
- As Loncin concedes in its case brief, record evidence shows that Loncin's balance shaft input is a transmission shaft."<sup>149</sup> HTS 848310959019 for transmission shafts thus represents the best information available for valuing balance shafts.
- Commerce should dismiss Loncin's argument that balance shafts should be valued under HTS 848310299000. The fact that crankshafts are excluded from the subheading for is not relevant because Loncin's balance shafts are not crankshafts.<sup>150</sup>
- Loncin's argument that the value of crankshafts is more representative of the average price of its balance shafts is not relevant. Commerce should continue to value balance shafts using HTS 848310959019 for the final determination.<sup>151</sup>

*Commerce's Position:* HTS 848310959019 continues to be the source of the best information on the record to value balance shafts and we have used it for the final determination.

Loncin's argument that balance shafts should be valued under HTS 848310299000 is belied by its statement that balance shafts are transmission shafts.<sup>152</sup> Moreover, the record does not support Loncin's contention that its balance shafts have similar physical characteristics as crankshafts, as Loncin did not report using crankshafts in the production of subject merchandise.<sup>153</sup> Thus, Loncin's argument that balance shafts should be classified under HTS 84831029900 because balance shafts have similar physical characteristics to crankshafts which are classifiable under HTS 84831029900 is not convincing. Moreover, the fact that crankshafts are excluded under HTS 848310299000 has no bearing on whether balance shafts are properly classifiable under HTS 848310299000.

Loncin's arguments regarding relative price are similarly unavailing. Loncin has not pointed to any evidence that the import data under HTS 848310959019 are potentially distorted by non-comparable grade of transmission shafts. Loncin provided no quantitative analysis of Turkish import data or prices to support its arguments with respect to HTS 848310959019 or HTS 84831029900.

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<sup>148</sup> *Id.*

<sup>149</sup> *See* Briggs & Stratton's Rebuttal at 33 (citing Loncin's Brief at 34).

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *See* Loncin's Brief at 34.

<sup>153</sup> *See* Loncin's Supplemental C&D Response at Exhibits SD10.1 & 10.2.

## **Comment 6: Whether Commerce Should Change the Surrogate Values for Guide Hoods, Engine Shrouds, and Throttle Governors**

### *Loncin's Brief:*

- Commerce should use HTS 840991000011 (Parts For Use With Spark-Ignition Internal Combustion Piston Engines of headings 8407 or 8408 (Including Rotary Engines but excluding aircraft engines), Nesoi - Aluminum Cylinder heads) as the surrogate value for aluminum guide hoods, engine shrouds and throttle governors in the final determination.<sup>154</sup>
- Record evidence shows that Loncin's: guide hoods are aluminum plates that are slightly perforated;<sup>155</sup> engine shrouds are processed out of aluminum sheets,<sup>156</sup> and throttle governors are fabricated parts of aluminum.<sup>157</sup>
- HTS 840991000019 (Other Parts and Parts for Gasoline Piston Engines in Positions 84.07 or 84.08 (Except Aircraft)) is a residual basket category sub-heading that encompasses myriad varieties of engine parts produced out of several metals.<sup>158</sup>
- The surrogate value resulting from HTS 840991000019 is distorted by goods that are predominantly made out of metals that are fundamentally different than aluminum and, therefore, fails to represent the cost of Loncin's guide hoods,<sup>159</sup> engine shrouds<sup>160</sup> and throttle governors.<sup>161</sup>
- In contrast, HTS 840991000011 covers heads of cylinders that are produced from the same metal – aluminum – as Loncin's guide hoods, engine shrouds and throttle governors.<sup>162</sup> As such, HTS 840991000011 is more product-specific and yields a surrogate value that is significantly more representative of the average prices of the guide hoods,<sup>163</sup> engine shrouds<sup>164</sup> and throttle governors<sup>165</sup> utilized by Loncin in the production of subject merchandise.

### *Briggs & Stratton Rebuttal:*

- Loncin's contention that that its guide hoods, engine shrouds and throttle governors should be valued using HTS 840991000011 (aluminum cylinder heads) instead HTS 840991000019 (internal combustion engine parts) is erroneous.<sup>166</sup>
- Loncin bases its argument on the notion that the heads of cylinders are produced from aluminum – the same metal as its guide hoods, engine shrouds and throttle governors. However, HTS 840991000011, which is specific to aluminum cylinder heads does not

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<sup>154</sup> See Loncin's Brief at 35-38.

<sup>155</sup> *Id.* at 35 (citing Loncin's Supplemental C&D Response at Exhibit SD-10.2).

<sup>156</sup> *Id.* at 36 (citing Loncin's Supplemental C&D Response at Exhibit SD-10.2).

<sup>157</sup> *Id.* at 37 (citing Loncin's Supplemental C&D Response at Exhibit SD-10.2).

<sup>158</sup> *Id.* at 35-37.

<sup>159</sup> *Id.* at 36.

<sup>160</sup> *Id.* 37.

<sup>161</sup> *Id.* at 36-37.

<sup>162</sup> See Loncin's Brief at 36-37 (citing Loncin's Letter, "Loncin Final Surrogate Value Comments: Antidumping Duty Investigation on Certain Vertical Shaft Engines from the People's Republic of China," dated July 13, 2020 (Loncin's Final Surrogate Value Comments) at Exhibit 1).

<sup>163</sup> *Id.* at 36.

<sup>164</sup> *Id.* at 37.

<sup>165</sup> *Id.* at 37-38.

<sup>166</sup> See Briggs & Stratton's Rebuttal at 25.

include the guide hoods, engine shrouds or throttle governors used by Loncin. Thus, Loncin is incorrect in claiming that HTS 84099100011 is more specific to these inputs.<sup>167</sup>

- Even if Loncin’s guide hoods, engine shrouds and throttle governors were made of aluminum, as Loncin claims, HTS 84099100011 is specific to aluminum cylinder heads used as engine parts and does not include guide hoods, engine shrouds or throttle governors. HTS 84099100019 is specific to parts other than aluminum cylinder heads, pistons, piston rings, cylinder liner, valves, injectors, and connecting rods and therefore includes guide hoods, throttle governors, and engine shrouds. As such, HTS 84099100019 is more specific to guide hoods, engine shrouds, and throttle governors and remains the best information on the record.<sup>168</sup>

*Commerce’s Position:* HTS 84099100019 remains the best information on the record for the surrogate value for guide hoods, engine shrouds and throttle governors. We have continued to use HTS 84099100019 for this final determination.

Contrary to Loncin’s argument, the record does not show that its guide hoods, engine shrouds and throttle governors are made from aluminum.<sup>169</sup> Thus, HTS 84099100011, which is specific to aluminum cylinder heads, does not include the guide hoods, engine shrouds, or throttle governors used by Loncin. Thus, Loncin is incorrect in claiming that HTS 84099100011 is more specific to these inputs.

Even if Loncin’s guide hoods, engine shrouds, and throttle governors were made of aluminum, HTS 84099100011 is specific to aluminum cylinder heads used as engine parts. Guide hoods, engine shrouds, and throttle governors are not cylinder heads. HTS 84099100019 is specific to parts other than aluminum cylinder heads and certain other miscellaneous engine parts with specific HTS categories. As such, HTS 84099100019 is more specific to guide hoods, engine shrouds, and throttle governors and remains the best source for the surrogate value information on the record for guide hoods, engine shrouds, and throttle governors.

### **Comment 7: Whether Commerce Should Change the Surrogate Value for Cylinder Liners**

*Zongshen and MTD’s Briefs:*

- Commerce should use HTS subheading 7326.2000 (Articles Of Iron Or Steel, Nesoi) as the surrogate value for cylinder liners because this subheading appropriately captures the input’s chemical characteristics and bears a rational relationship to the input. Moreover, using HTS 84099100019 to value cylinder liners renders an aberrational result when comparing the cost of cylinder liners relative to the cost of certain components of the subject merchandise.<sup>170</sup>
- HTS heading 84099100019 notes that products must be (“{p}arts suitable for use solely or principally with the engines of heading 8407”). There is no evidence on the record

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<sup>167</sup> *Id.* at 26.

<sup>168</sup> *Id.*

<sup>169</sup> See Zongshen’s Supplemental C&D Response at Exhibit SD-10.1; see also Memorandum “Final Determination Margin Calculation for Loncin Motor Co., Ltd.,” dated concurrently with notice for a BPI discussion of this issue.

<sup>170</sup> See Zongshen’s Brief at 11-13.

showing that cylinder liners are used solely or principally as an engine part. Therefore, Commerce should not categorize cylinder liners as an engine part as they are effectively a raw material. Instead, Commerce should use HTS 73262000.<sup>171</sup>

*Briggs & Stratton's Rebuttal:*

- While Zongshen's questionnaire responses showed that it used cylinder liners in the production of subject merchandise, there is no information on the record regarding the "chemical characteristics" of Zongshen's cylinder liners or their function. The record simply shows that Zongshen uses cylinder liners in making the subject merchandise.<sup>172</sup>
- There is nothing on the record or in the description of Zongshen's production process to suggest that the cylinder liner was merely a raw material.<sup>173</sup> Moreover, there is no evidence on the record that cylinder liner is an article made of cast iron or that HTS 73262000 "appropriately captures the cylinder liner's chemical characteristics relationship to the input."
- Instead, the record establishes that the cylinder liner is a part of an internal combustion engine, and it should be valued as such under HTS 840991000019.<sup>174</sup>

*Commerce's Position:* HTS 840991000019 remains the best information on the record for the surrogate value for cylinder liners. We have continued to use HTS 840991000019 for this final determination.

There is little information on the record with respect the cylinder liners used by Zongshen. We agree with Briggs & Stratton that there is no information on the record regarding the "chemical characteristics" of Zongshen's cylinder liners. Thus, Zongshen and MTD's claims that cylinder liners are an article made of cast iron or that HTS 73262000 "appropriately captures the cylinder liner's chemical characteristics relationship to the input" are unsupported by the record. Moreover, there is no indication on the record that the ruling by U.S. Customs and Border Protection cited by MTD covers the same type of cylinder liners used for the subject engines.

Similarly, there is no information on the record or in the description of Zongshen's production process to suggest that the cylinder liner was merely a raw material.<sup>175</sup> Zongshen reported that it consumed cylinder liners in the production of vertical shaft engines.<sup>176</sup> The record does not indicate that Zongshen further processed its cylinder liners, but, even if Zongshen did so, that doesn't mean that cylinder liners are not parts used in a vertical shaft engine. In fact, the record establishes that the cylinder liner is a part of Zongshen's vertical shaft engine,<sup>177</sup> and we have

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<sup>171</sup> See MTD's Brief at 8-10 (citing Zongshen's Section D Response at D-2 and Exhibit D-7; and CBP Ruling NY K80014 (November 13, 2003), which notes that "cast iron cylinder sleeves (or cylinder liners)" should be classified as pipes, tubes or hollow profiles.").

<sup>172</sup> See Briggs & Stratton's Rebuttal at 26 (citing Zongshen's Supplemental C&D Response at Exhibit SD-7 (PDF p.706)).

<sup>173</sup> *Id.* (citing MTD's Case Brief at 9).

<sup>174</sup> *Id.*

<sup>175</sup> See Memorandum, "Final Determination Margin Calculation for Loncin Motor Co., Ltd.," dated January 4, 2021 for a BPI discussion of this issue.

<sup>176</sup> See Zongshen's Section D Response at Exhibit D-7.

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

continued to use HTS 840991000019 as the source of its surrogate value in this final determination.

### **Comment 8: Whether Commerce Should Change the Surrogate Value for Governor Gears**

#### *Zongshen's Brief:*

- The record shows that Zongshen's governor gears are made mainly of steel with plastic components. Commerce should use HTS 732619100000 (other articles of iron or steel: forged or stamped, but not further worked: other: open-die forged) as the surrogate value for governor gears as this HTS subheading is specific to the major component of governor gears.<sup>178</sup>

#### *Briggs & Stratton Rebuttal:*

- Zongshen reported that it used governor gears in producing subject engines. Commerce correctly used HTS 848340 (gears {and} gearing (excl. toothed wheels, chain sprockets & other transmission elements presented sep.) as the surrogate value for governor gears. Zongshen's argument that Commerce should use HTS 732619100000 is devoid of merit. HTS 73261900000 is a general heading for iron and steel items and does not cover the governor gears used by Zongshen which, according to the company, are gears made of "steel with plastic components."<sup>179</sup>

*Commerce's Position:* We have continued to use HTS 848340 as the source of the surrogate value for governor gears for the final determination.

The record of this review shows that Zongshen uses governor gears made from steel with plastic components when producing vertical shaft engines.<sup>180</sup> HTS 848340 specifically covers governor gears and remains the best available information on the record. In contrast, HTS 73261900000 is a general heading for iron and steel items and is not specific to governor gears.

### **Comment 9: Whether Commerce Should Change the Surrogate Values for Throttle Linkages, Throttle Linkage Clamps, Cotter Pins, and Certain Other Inputs**

#### *Zongshen and MTD's Briefs:*

- In general, Commerce should not use HTS 84099100019 (Other Parts and Parts for Gasoline Piston Engines in positions 8407 or 8408 (except aircraft)) for forty-seven of Zongshen's FOPs in exhibit 1 of its case brief.<sup>181</sup>

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<sup>178</sup> See Zongshen's Brief at 15 (citing Zongshen's Supplemental C&D Response at Exhibit SD-3.1).

<sup>179</sup> See Briggs & Stratton's Rebuttal at 32-33 (citing Zongshen's Section D Response at Exhibit 4; and 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 Surrogate Value Comments) at Exhibit FSV-1).

<sup>180</sup> See e.g., Zongshen's Section D Response at Exhibit 4.

<sup>181</sup> See Zongshen's Brief at 10-11 and Exhibit 1.

- HTS 840991000019 is a basket HTS subheading, which covers many disparate products that in fact bear no reasonable relationship to any of the inputs identified by Zongshen in its brief.<sup>182</sup>
- Commerce should use HTS 392690920019 (Other Articles Made of Plastic Sheets) as the surrogate value for throttle linkage lock clamps as the record evidence shows that the throttle linkage lock clamp used by Zongshen are made of plastic.<sup>183</sup>
- Commerce should use HTS 732619100000 (Other articles of iron or steel: Forged or stamped, but not further worked: Other: Open-die forged) for throttle linkages because the record shows that this product was made entirely of steel wire.<sup>184</sup>
- For the remaining FOPs shown in exhibit 1, Commerce should use the HTS subheadings provided by Zongshen as they specifically capture the inputs at issue, therefore, constitute the “best available information.”<sup>185</sup>
- Finally, Commerce should use HTS 731824 (Cotters And Cotter Pins, Of Iron Or Steel) as the surrogate value for cotter pins as it is product specific.<sup>186</sup>

*Briggs & Stratton’s Rebuttal:*

- Commerce should deny Zongshen’s request to modify the surrogate value selections made in the *Preliminary Determination*. Zongshen’s arguments are premised on factual inaccuracies and a misunderstanding of Commerce’s surrogate value analysis. Accordingly, Commerce should continue to use the HTS subheadings that it selected in the *Preliminary Determination* to value the Zongshen’s FOPs.<sup>187</sup>
- The same analysis holds true for the other parts valued by Commerce using HTS 840991000019 and identified by Zongshen in its case briefs, such as throttle linkages, throttle lock clamps, and others. The evidence on the record establishes that each of these inputs are part of an internal combustion engine, and each should be valued as such under HTS 840991000019.<sup>188</sup>

*Commerce’s Position:* We have not changed our surrogate value choices for this final determination. We have continued to use HTS 731824 as the surrogate value for the cotter pins clearly identified in Zongshen’s responses.<sup>189</sup> Moreover, we continue to use HTS 840991000019 as the surrogate value for throttle linkages. HTS 732619100000 is a basket category limited to other articles of iron or steel which are forged or stamped, but not further worked. While the record shows that throttle linkages are made of steel,<sup>190</sup> there is no information on the record as to how the throttle linkages are manufactured. In contrast, the record shows that throttle linkages are parts of vertical shaft engines. Consequently, we

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<sup>182</sup> See Zongshen’s Brief at 11 and Exhibit 1.

<sup>183</sup> *Id.* at 13 (citing Zongshen’s Supplemental C&D Response at Exhibit SD-3.2).

<sup>184</sup> *Id.* at 13-14 (citing Zongshen’s Supplemental C&D Response at Exhibit SD-3.2).

<sup>185</sup> *Id.* at 11-14 (citing Zongshen’s Final Surrogate Value Comments at Exhibit 1).

<sup>186</sup> *Id.* at 13.

<sup>187</sup> See Briggs & Stratton’s Rebuttal at 28.

<sup>188</sup> *Id.* at 26.

<sup>189</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 - Surrogate Value Memorandum for the Preliminary Determination,” dated August 12, 2020 at Attachment 1 at Worksheet “Summary.

<sup>190</sup> See Zongshen’s Supplemental C&D Response at Exhibit SD-3.2.

continue to find that HTS 840991000019 is the best available source of surrogate value information with respect to throttle linkages.

We continue to use HTS 840991000019 as the source of the surrogate value for throttle linkage clamps. HTS 392690920019 is a basket category covering other articles made of plastic sheets. While the record shows that throttle linkages are made of plastic,<sup>191</sup> there is no information on the record as to from what form(s) of plastic from which throttle linkage clamps are manufactured. In contrast the record shows that throttle linkage clamps are parts of vertical shaft engines. Consequently, we continue to find that HTS 840991000019 is the best available source of surrogate value information with respect to throttle linkages.

We note that Zongshen did not make input-specific arguments with respect to multiple FOPs shown in exhibit 1 of its brief. For these FOPs, Zongshen has merely argued that Commerce should use the HTS subheadings provided by Zongshen as they specifically capture the inputs at issue, therefore, constitute the “best available information.”<sup>192</sup> We have not made any changes to our surrogate value selection for the FOPs for which Zongshen has not made input specific arguments.

#### **Comment 10: Whether Commerce should Continue to use the Financial Statements of Alarko Carrier Sanayi ve Ticaret A.S. to Calculate Surrogate Financial Ratios**

##### *Loncin and Zongshen’s Briefs:*

- Pursuant to 19 CFR 351.408(c)(4), surrogate financial ratios should be based on the financials of companies that produce merchandise that is identical or comparable to the subject merchandise. While the statute does not define “comparable merchandise,” Commerce’s practice, where appropriate, is to apply a three-pronged test that considers: (1) physical characteristics; (2) end uses; and (3) production processes to determine whether the surrogate company’s financial ratios are “representative” of the respondent’s production experience.<sup>193</sup>
- The production experience of Alarko Carrier Sanayi ve Ticaret A.S. (Alarko) is not comparable to Loncin’s experience. The record evidence establishes that Alarko does not produce any type of engines. As such, Alarko does not produce merchandise that is identical or comparable to vertical shaft engines. Commerce also has failed to explain how Alarko’s other products - submersible motors, pumps, gas-powered heaters and equipment, radiators, residential and commercial air conditions, and related accessories – constitute comparable merchandise to merchandise produced by Loncin, in terms of the first two prongs of the 3-part test.<sup>194</sup>
- Regarding the third prong, end-use, Commerce’s rationale that is similar to Loncin and Zongshen, Alarko sells its products to downstream customers for use in larger systems or

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<sup>191</sup> *Id.*

<sup>192</sup> See Zongshen’s Brief at 11- 14.

<sup>193</sup> See Loncin’s Brief at 18 (citing, e.g., *Folding Metal Tables and Chairs from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 71355 (December 17, 2007) at Comment 1; and *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) at Comment 12).

<sup>194</sup> See Loncin’s Brief at 23-24.

products does not establish that Alarko has production experience comparable to the respondents' production experience. In order to establish comparable end-use, the record must establish a comparable end-use of these components with Loncin's products, such as in the agriculture or farming sector, where lawnmowers with Loncin's subject vertical shaft engines are used.<sup>195</sup>

- Data quality is also an important consideration in the selection of financial statements. Specifically, in order to yield accurate ratios, a suitable financial statement should report disaggregated expenses, including raw materials, labor and energy. To that end, when afforded with financial statements from multiple companies with similarly comparable production experience, Commerce “disregard{s} financial statements that are not sufficiently detailed to permit the calculation of one or more of the surrogate financial ratios and do not constitute the best available information on the record.”<sup>196</sup>
- The financial statements of Alarko are unsuitable for several reasons. Alarko's financial statements fails to disaggregate all of the critical cost elements. They contain a basket category “Cost of sales” and fail to disaggregate the three essential elements of these costs: raw materials, labor and energy. Commerce's well-established practice has been to reject such insufficiently disaggregated financials that contain basket category cost reporting.<sup>197</sup>
- Alarko's financial statements also fail to break out energy costs. Where a financial statement simply fails to separately itemize energy expenses, Commerce's practice is not to use it, if the record provides suitable alternatives.<sup>198</sup>
- Alarko's unitary “Cost of goods sold” line item also precludes computation of accurate factory overhead costs embedded within such basket category line item. The cost of goods sold section includes the cost of non-depreciation related manufacturing overhead, such as cost of research and development, which undergirds manufacturing activities.<sup>199</sup>
- Finally, Alarko's financial statements fail to itemize the individual cost of excludible elements such as cost of transportation. Such transportation expenses are likely included in the two line items pertaining to “Other expenses” under “Marketing expenses” and “Selling general and administrative Expenses.”<sup>200</sup>
- In its preliminary ratio calculation, Commerce erroneously allocated a line item, “Cost of services sold” under overhead. This allocation is improper and Commerce failed to explain how “services” could be allocated under manufacturing overhead, especially

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<sup>195</sup> *Id.* at 24.

<sup>196</sup> See Loncin's Brief at 20 (citing *e.g.*, *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 74 FR 16838 (April. 13, 2009) (*Citric Acid from China*), at Comment I).

<sup>197</sup> *Id.* at 21-22 (citing *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4539 (January 28, 2015), and accompanying IDM at Comment 2; *Certain Activated Carbon from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017-2018*, 84 FR 27758 (June 14, 2019), and accompanying PDM at 15-16; and *Utility Scale Wind Towers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 75992-997 (December 26, 2012)).

<sup>198</sup> *Id.* at 21 (citing *Utility Scale Wind Towers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 75992 (December 26, 2012)).

<sup>199</sup> *Id.* at 21-22 (citing *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 77 FR 65668 (October 30, 2012), and accompanying IDM at Comment 4).

<sup>200</sup> *Id.* at 23.

when there is no record evidence explaining the nature of such services or their linkage with manufacturing operations. Therefore, should Commerce continue to rely on the Alarko's financial statements for the final determination, it should exclude the "Cost of services sold" from its calculation of overhead.<sup>201</sup>

- The production experience of Turk Traktor ve Ziraat Makineleri A.S. (Turk Traktor) is more comparable to Loncin in terms of the three-part test. Turk Traktor is a producer of engines that are used in tractors, the identical class of goods as vertical shaft engines, or, at a minimum, the most comparable merchandise among all of the available surrogate financials available on the record.<sup>202</sup>
- In terms of end-use, tractor engines propel agricultural tractors and construction equipment in the same manner and for a similar application as vertical shaft engines propel lawn mowers. As such, both engines propel machines used in the agricultural or farm sector. Accordingly, Turk Traktor satisfies the third prong "end-use" criterion for the same reason Commerce determined that Alarko satisfied this criterion, its products are "sold to downstream customers for use in larger systems or products." And since Turk Traktor's sales were to producers of agricultural machinery its end-use prong is superior to the end-use prong of Alarko's products.<sup>203</sup>
- Turk Traktor's financial statements are also the best choice in terms of data quality. The financial statements: disaggregate the three most important cost elements – raw materials, labor (Personnel and provision for employment termination benefits expenses) and energy expenses; breaks out the cost of several of several non-depreciation related overhead under Research & Development cost; and provides a separate breakout for excludible expenses, "Transportation and insurance expenses." Its itemization of SGA expenses is comprehensive, accounting for several types of sales, management and administrative expenses.<sup>204</sup>
- The financial statements of Ayes Celik Hasir ve Cit Sanayi A.S. ve Baglic Ortakliklari (Ayes) and Eregli Demir ve Celik Fabrikalari T.A.S. and its subsidiaries (Eregli) are also preferable to the financial statements of Alarko.
- Record evidence confirms that Ayes is "engaged in steel and primary metal products manufacturing" and also produces "wire bending machine, drawing machine, cutting machine and ends welding machine." Based on the fact that Ayes produces a variety of machines made out of steel and other metals, which involves similar fabrication and machining operations that are used for producing the subject engines, Ayes' products, at a minimum, satisfy the first two prongs – physical characteristics and production process – of the 3-part test.<sup>205</sup>
- Further, in terms of data quality, the financial statements of Ayes are superior to those of Alarko because they separately itemize excludible "transportation costs."<sup>206</sup>
- Eregli satisfies all of the established criteria. Eregli's principal activities are the "production of iron and steel rolled products, alloyed and non-alloyed iron, steel and pig

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<sup>201</sup> *Id.* at 21-22.

<sup>202</sup> *Id.* at 27.

<sup>203</sup> *Id.* at 28.

<sup>204</sup> See Loncin's Brief at 26-27 (citing Loncin's Final Surrogate Value Comments at Exhibit 10C).

<sup>205</sup> *Id.* at 28 (citing Loncin's Final Surrogate Value Comments at Exhibit 10E).

<sup>206</sup> *Id.* (citing Loncin's Final Surrogate Value Comments at Exhibit 10A).

iron castings, cast and pressed products, coke and their by-products.”<sup>207</sup> Loncin’s production processes include the casting and pressing of metal products.<sup>208</sup> Therefore, Eregli’s production experience is more comparable to Loncin’s than are Alarko’s.

- In terms of data quality, Eregli’s financial statements are superior to those of Alarko. Unlike these Alarko’s financial statements, Eregli’s financial statements afford discrete breakouts for all the important cost categories: raw materials; labor; and energy. In addition, Eregli’s financial statements also break out costs and income for several nondepreciating overhead categories such as research & development, repair & maintenance, other manufacturing overhead, and the cost of excludible expense, “Freight costs for sales delivered to customers.”<sup>209</sup> Therefore, using Eregli’s financial statements would result in accurate and undistorted financial ratios.

*Briggs & Stratton’s Rebuttal:*

- Loncin’s argument that Alarko’s production experience is dissimilar to the respondents’ experience is factually incorrect. The respondents manufacture multi-component gas-powered internal combustion engines using a number of aluminum, steel, copper, plastic, rubber, and composite parts. The respondents produce or procure these parts and then assemble them into vertical shaft engines which are sold to customers, who integrate them into finished equipment (*e.g.*, lawnmowers).<sup>210</sup>
- Alarko’s production experience is very similar to that of the respondents. Alarko manufactures multi-component mechanical items comparable to vertical shaft engines from the same type of materials used by the respondents to manufacture subject merchandise. Alarko produces submersible motors, pumps, gas-powered heaters and equipment, radiators, residential and commercial air conditioners, and related accessories for use in equipment for heating, cooling, and water machinery and systems.<sup>211</sup> Certain heating and air conditioning products rely on an electric motor and pump or a gas engine for power. The types of goods produced by Alarko are generally made from aluminum, plastics, copper, and other materials.<sup>212</sup>
- Once Alarko manufactures its products, it sells them to downstream customers for use in larger systems or finished products. On this basis Alarko’s production experience is the most similar to producers of the subject merchandise because, like respondents, it fabricates items of machinery (including gas-burning equipment and powered parts such as motors) that are ultimately sold for incorporation into other finished products or larger systems.<sup>213</sup> Thus, Alarko’s production experience is more similar to our respondents’ production experience” than that of any of the other Turkish companies on the record.
- Similarly, the level of disaggregation of raw materials, labor, and energy in Alarko’s financial statements is not materially different than the financial statements of Turk

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<sup>207</sup> *Id.* (citing Loncin’s Final Surrogate Value Comments at Exhibit 10B).

<sup>208</sup> *See* Loncin’s Brief at 30 (citing Loncin’s Section D Response at Exhibit 1).

<sup>209</sup> *Id.* (citing Loncin’s Final Surrogate Value Comments at Exhibit 10B).

<sup>210</sup> *See* Briggs & Stratton’s Rebuttal at 35.

<sup>211</sup> *Id.* at 36 (citing Briggs & Stratton’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 (Briggs & Stratton’s Surrogate Value Comments) at Exhibit 19).

<sup>212</sup> *Id.* (citing Loncin’s Final Surrogate Value Comments at Exhibit 7C (Public Version)).

<sup>213</sup> *See* Briggs & Stratton’s Rebuttal at 36-37.

Traktor, Ayes or Eregli. The Commerce decisions cited by Loncin regarding disaggregation are pulled from situations where Commerce was choosing between financial statements for producers where the comparability of production experience was not contested and where the financial statements at issue had materially divergent levels of detail.<sup>214</sup> Moreover, in certain other cases cited by Loncin, Commerce had access to financial statements of producers of identical merchandise.<sup>215</sup> There are no financial statements available for producers of identical merchandise available. With respect to labor, the financial statements for Alarko and other machinery producers break out salaries and wages and allocate them between costs of goods sold (COGS) and selling, general, and administrative expenses (SG&A), which is the most important information needed for the purposes of calculating surrogate financial ratios.<sup>216</sup>

- With respect to energy costs, Turk Traktor’s financial statements simply provide a total company line item titled “energy expenses,” but do not break this out in any useful way between COGS and SG&A.<sup>217</sup>
- While Turk Traktor financial statements break out transportation and insurance expenses, there is no way to tell from Turk Traktor’s statements the share of these costs attributable to incoming materials and outgoing finished goods.<sup>218</sup> Consequently, the treatment of transportation and insurance expenses do not distinguish Alarko’s financial statements in any meaningful way.
- Loncin and Zongshen also err in their challenge to Commerce’s calculation methodology for the surrogate value ratios based on Alarko’s financial statements. Specifically, respondents argue that Commerce should exclude Alarko’s cost of services from the surrogate financial ratios. However, Commerce has previously included service costs in surrogate financial ratios, and it should continue to include such costs in the manufacturing overhead ratio in this case.<sup>219</sup>

*Commerce’s Position:* Alarko’s financial statements remain the sources of the best available information for calculating surrogate financial ratios. We have continued to use them, exclusive of the cost of services as explained below, for this final determination.

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

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<sup>214</sup> *Id.* at 38.

<sup>215</sup> *Id.* (citing *e.g.*, *Certain Activated Carbon from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 68881 (December 17, 2019), and accompanying IDM at 8).

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

<sup>218</sup> *Id.* at 38-39 (citing Loncin’s Final Surrogate Value Comments at Exhibit 10C (Public Version)).

<sup>219</sup> *Id.* at 40 (citing *Wooden Bedroom Furniture from the People’s Republic of China: Final Results and Final Rescission in Part*, 75 FR 50992 (August 18, 2010), and accompanying IDM at 95-96; and *Hand Trucks and Certain Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission of Review in Part; 2012-2013*, 80 FR 33246 (June 11, 2015), and accompanying IDM at 5-7).

using financial statements covering a period that is contemporaneous with the POI,<sup>220</sup> that show a profit, from companies with a production experience similar to the respondents' production experience,<sup>221</sup> and that are not distorted or otherwise unreliable, such as financial statements that indicate the company received countervailable subsidies.<sup>222</sup>

The record of this investigation shows that the mandatory respondents manufacture multi-component gas-powered internal combustion engines using a number of aluminum, steel, copper, plastic, rubber, and composite parts. The respondents produce or procure these engine parts and then assemble them into vertical shaft engines.<sup>223</sup> The respondents then sell the vertical shaft engines to manufacturers who then integrate the engines into lawnmowers.<sup>224</sup>

Consistent with *Folding Metal Tables and Chairs from China* and *Certain Polyester Staple Fiber from China*, we have reexamined whether Alarko's production experience is more similar to that of the respondents than the production experiences of Turk Traktor, Ayes or Eregli.<sup>225</sup> The record of this investigation shows that Alarko manufactures multi-component mechanical items comparable to vertical shaft engines from the same type of materials (*e.g.*, aluminum, plastics, copper, and other materials) used by the respondents to manufacture subject merchandise. The intermediate products produced by Alarko include submersible motors, pumps, gas-powered heaters and equipment, radiators, residential and commercial air conditioners, and related accessories for use in equipment for heating, cooling, and water machinery and systems.<sup>226</sup> Moreover, information on the record indicates that certain heating and air conditioning products rely on an electric motor and pump or a gas engine for power.<sup>227</sup>

As noted in the *Preliminary Determination*, similar to the mandatory respondents, Alarko sells its intermediate products to downstream manufacturers who incorporate them into larger systems or finished products. Contrary to Loncin's claims, Turk Traktor manufactures ready-to-use agricultural machinery, construction equipment, and their spare parts and sells them to the ultimate consumer (*e.g.*, the users of construction equipment) through its network of

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<sup>220</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>221</sup> See *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 68 FR 6712 (February 10, 2003), and accompanying IDM at Comments 9-10.

<sup>222</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>223</sup> See, *e.g.*, Loncin's Section D Response.

<sup>224</sup> See Loncin's Letter, "Loncin Section C Questionnaire Response: Antidumping Duty Investigation on Certain Vertical Shaft Engines from the People's Republic of China (A-570-119)," dated May 20, 2020 (Loncin's Section C Response); see also Zongshen's Letter, "Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation; Chongqing Zongshen Section C Response," dated May 20, 2020 (Zongshen's Section C Response).

<sup>225</sup> See *Folding Metal Tables and Chairs from China*; and *Certain Polyester Staple Fiber from China*.

<sup>226</sup> See Briggs & Stratton's Surrogate Value Comments at Exhibit 19.

<sup>227</sup> See Loncin's Final Surrogate Value Comments at Exhibit 7C.

dealerships.<sup>228</sup> Accordingly, Turk Traktor’s production experience is less similar to that of the respondents than is Alarko’s production experience. In addition, Ayes “is engaged in steel and primary metal products manufacturing” and also produces wire bending machines, drawing machines, cutting machines, and ends-welding machine.<sup>229</sup> Also, 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>230</sup> Thus, the production experience of Turk Traktor, Ayes, or Eregli is less similar to that of the respondents than is Alarko’s production experience. Alarko’s production experience is more similar to the experiences of the respondents than these three companies because, like the respondents, it fabricates items of machinery, including gas-burning equipment and powered parts such as motors, that are ultimately sold to other manufacturers/producers for incorporation into other finished products or larger systems. Thus, Alarko’s production experience is more similar to the respondents’ production experience than that of any of the other Turkish companies on the record.

In *Certain Activated Carbon from China*, financial statements of producers of identical merchandise were on the record.<sup>231</sup> There are no financial statements available for producers of identical merchandise available. Moreover, Loncin’s reliance on *Citric Acid and Certain Citrate Salts from China*, *Chlorinated Isos from China*, and *Utility Scale Wind Towers from China* is misplaced. In these decisions, Commerce considered financial statements for producers where the comparability of production experience was not contested and where the financial statements at issue had materially divergent levels of detail. Here, the comparability of the various producers’ production experience is contested and, therefore, Loncin’s argument with respect to *Citric Acid and Certain Citrate Salts from China*, *Chlorinated Isos from China*, and *Utility Scale Wind Towers from China* is not compelling. As explained above, the record shows that the production experience of Alarko is most comparable. Moreover, the level of disaggregation of raw materials, labor, and energy in Alarko’s financial statements is not materially different than the financial statements of Turk Traktor, Ayes, or Eregli. With respect to labor, the financial statements for Alarko and other machinery producers break out salaries and wages and allocate them between COGS and SG&A, which is the information needed for the purposes of calculating surrogate financial ratios.<sup>232</sup> With respect to energy costs, Turk Traktor’s financial statements provide a total company line item titled “energy expenses,” but do not break this out in any useful way between COGS and SG&A.<sup>233</sup> While Turk Traktor financial statements break out transportation and insurance expenses, Turk Traktor’s financial statements do not differentiate transportation costs attributable to incoming materials and outgoing finished

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<sup>228</sup> *Id.* at Exhibit 10C. Page 7 of Turk Traktor’s financial statements state that it “conducts marketing and selling activities in the domestic market, through its 123 tractor sales dealers, 143 spare part dealers and 42 construction equipment dealers (31 December 2018 : 129 tractor sales dealers, 148 spare part dealers, 43 construction equipment dealers).”

<sup>229</sup> See Loncin’s Final Surrogate Value Comments at Exhibit 10A.

<sup>230</sup> *Id.* at Exhibit 10B.

<sup>231</sup> See *Certain Activated Carbon from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 68881 (December 17, 2019), and accompanying IDM at 8.

<sup>232</sup> See Briggs & Stratton’s Surrogate Value Comments at Exhibit 14, pp. 43–45.

<sup>233</sup> See Loncin’s Final Surrogate Value Comments at Exhibit 10C, pp. 46–48.

goods.<sup>234</sup> Consequently, the treatment of transportation and insurance expenses do not distinguish Alarko's financial statements when compared to those of Alarko.

Finally, we have excluded Alarko's cost of services from the surrogate financial ratios. We note that Alarko's cost of services sold consist of the costs of "maintenance, repair, installation and commissioning services provided."<sup>235</sup> There is no information on the record to suggest that Loncin or Zongshen provide maintenance, repair, installation, or commissioning services to their U.S. customers. On this basis, we have excluded Alarko's cost of services from the surrogate financial ratios for the final determination.<sup>236</sup>

### **Comment 11: Whether Commerce Should Change the Surrogate Value for U.S. Inland Freight**

*Loncin's Brief:*

- Commerce should not use surrogate values reported in Turkey for valuing truck freight in the United States because Turkey is not economically comparable to the United States<sup>237</sup>
- Commerce should use the surrogate values contained in the World Bank's Doing Business in USA, which provides surrogate values more specific to road transportation costs in the United States.<sup>238</sup>

*Commerce's Position:* We have continued to use Turkish data as the surrogate value for U.S. inland freight. The record of this review shows that Loncin purchases U.S. inland freight from a Chinese company.<sup>239</sup> As such, Loncin purchased the freight services in China, not in the United States and, as a result, should be valued as such. As explained in our *Preliminary Determination* and as remains unchanged for this final determination, we have selected Turkey as our primary surrogate country, and we have reliable and usable data on the record with which to value truck freight.<sup>240</sup> On this basis, we have continued to use Turkish data as the sources of the surrogate value for U.S. inland freight.

### **Comment 12: Whether Commerce Should Change the Surrogate Value for U.S. Rail Freight**

*Loncin's Brief:*

- Commerce's preliminary surrogate value memo does not have a line item for U.S. rail freight since Commerce erroneously deemed all of the U.S. movement expenses as related to road transport.<sup>241</sup>

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<sup>234</sup> *Id.* at Exhibit 10C.

<sup>235</sup> See Briggs & Stratton's Surrogate Value Comments at Exhibit 14 (Note 17 on page 42 of Alarko's financial statements).

<sup>236</sup> See Memoranda, "Final Determination Margin Calculation for Loncin Motor Co., Ltd.," dated January 4, 2021 and "Final Determination Margin Calculation for Chongqing Zongshen General Power Machine Co., Ltd.," dated January 4, 2021.

<sup>237</sup> See Loncin's Brief at 39.

<sup>238</sup> *Id.* (citing Loncin's Final Surrogate Value Comments at Exhibits 1 & 7B).

<sup>239</sup> See Loncin's Section C Response at 19.

<sup>240</sup> See *Preliminary Determination* PDM at 11.

<sup>241</sup> See Loncin's Brief at 40.

- Commerce should use the records contained in BTS Average Freight Revenue 2018 reported for the United States, which is a more reliable surrogate value.<sup>242</sup>

*Briggs & Stratton’s Brief:*

- To the extent Commerce makes this change, it should ensure that the value is appropriately inflated so that it is contemporaneous with the POI.<sup>243</sup>

*Commerce’s Position:* We have continued to use Turkish data as the sources of the surrogate value for U.S. rail freight. The record of this review shows that Loncin purchases U.S. freight from a Chinese company.<sup>244</sup> As such, Loncin purchased the rail freight services in China, not in the United States, and these services should be valued as such. As explained above and in our *Preliminary Determination*, we have selected Turkey as our primary surrogate country.<sup>245</sup> No parties have placed surrogate value data for Turkish rail freight on the record. In line with our practice, where we have selected a primary surrogate country and where there is competing data both from the primary surrogate country and from a country that is not the primary surrogate country (and, indeed, outside the “bookends” of the surrogate country list), we will endeavor to use data from the primary surrogate country to reduce the risk of distortion in our calculations.<sup>246</sup> On this basis, consistent with the *Preliminary Determination*, we have continued to use Turkish data for “import freight and handling” as the surrogate value for U.S. rail expense for the final determination.

**Comment 13: Whether Commerce Should Change the Surrogate Value for U.S. Brokerage**

*Loncin’s Brief:*

- Commerce’s preliminary determination used the same surrogate value for U.S. brokerage and handling (B&H) and foreign B&H.<sup>247</sup>
- The record contains surrogate value data specific to U.S. B&H charges, as reported in the World Bank’s *Doing Business in US: 2020*, that are specific to the FOP and constitute the best available information for valuing U.S. B&H charges.<sup>248</sup>

*Commerce’s Position:* Where appropriate, we have continued to use the U.S. B&H charges reported by Loncin in its USBROKU field<sup>249</sup> in this final determination. The record of this review shows that Loncin paid a broker in the United States for its U.S. brokerage for certain U.S. sales.<sup>250</sup>

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<sup>242</sup> *Id.* (citing Loncin’s Final Surrogate Value Comments at Exhibits 1 & 7C).

<sup>243</sup> See Briggs & Stratton’s Rebuttal at 46.

<sup>244</sup> See Loncin’s Section C Response at 19-20.

<sup>245</sup> See *Preliminary Determination* PDM at 11.

<sup>246</sup> See 19 CFR 351.408; see also *Zhejiang Dunan*, 652 F.3d at 1341 (noting that Commerce has “broad discretion” to determine the best available information to value of FOPs).

<sup>247</sup> See Loncin’s Brief at 40.

<sup>248</sup> *Id.* (citing Loncin’s Final Surrogate Value Comments at Exhibits 1 & 7B).

<sup>249</sup> See Loncin’s Section C Response at 2-3; see also Memorandum, “Preliminary Determination Margin Calculation for Loncin Motor Co., Ltd.,” dated August 12, 2020 (Loncin’s Preliminary Analysis Memorandum).

<sup>250</sup> See Loncin’s Section C Response at 2-3.

## **Comment 14: Whether Commerce Should Change the Surrogate Value for Ocean Freight**

### *Loncin's Brief:*

- Commerce applied two Descartes ocean freight data points but did not include the thirteen other contemporaneous and route specific data points.<sup>251</sup>
- Commerce should use all fifteen Descartes data points to obtain a more representative and reliable ocean freight surrogate value.<sup>252</sup>

### *Briggs & Stratton's Rebuttal:*

- Commerce averaged two sea routes from China to the United States (Shanghai to Seattle and Shanghai to Savannah), which provide for broad coverage of U.S. regions, and the associated quotes are for the container types used by Loncin. The data points referred to by Loncin are not specific to its ocean freight practices as eight of the quotes submitted pertain to container types not used by Loncin.<sup>253</sup>
- If Commerce incorporates additional data points, it should recalculate the surrogate value for ocean freight using the data points with the container types used by Loncin.<sup>254</sup>

*Commerce's Position:* We have not recalculated ocean freight expenses for the final determination. The 13 additional Descartes datapoints identified by Loncin<sup>255</sup> do not reflect the container types used by Loncin.<sup>256</sup>

## **Comment 15: Whether Commerce Should Make a Double Remedy Pass-Through Adjustment**

### *Zongshen's Brief:*

- As required by statute, Commerce must make a double remedy pass-through adjustment for the provision of inputs, electricity, and land at less than adequate remuneration (LTAR) programs in the final determination.<sup>257</sup>
- Commerce is required by statute to adjust a respondent's U. S. prices upward by the countervailing duty (CVD) rate for applicable subsidies countervailed in the accompanying CVD investigation.<sup>258</sup>
- In the accompanying CVD investigation, Commerce determined that Zongshen benefited from the provision of aluminum, electricity, and land-use rights for LTAR.<sup>259</sup>

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<sup>251</sup> See Loncin's Brief at 41.

<sup>252</sup> *Id.* (citing Loncin's Final Surrogate Value Comments at Exhibit 8).

<sup>253</sup> See Briggs & Stratton's Rebuttal at 45-46.

<sup>254</sup> *Id.*

<sup>255</sup> See Loncin's Final Surrogate Value Comments at Exhibit 8A.

<sup>256</sup> See Zongshen's Section A Response at Exhibit A-2.

<sup>257</sup> See Zongshen's Brief at 17 (citing section 777A(f)(1)(B) of the Act).

<sup>258</sup> *Id.* at 17-18 (citing section 777A(f)(1)(B) of the Act).

<sup>259</sup> *Id.* at 18 (citing Memorandum, "Countervailing Duty Investigation of Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China (C-570-120), Preliminary Determination Calculations for Zongshen," dated (June 15, 2020) at Attachment II).

- The record shows that Zongshen’s prices for subject engines are directly impacted by the costs of unwrought aluminum, electricity, and land.<sup>260</sup>

*Briggs & Stratton’s Rebuttal:*

- Commerce should deny Zongshen’s request for a double-remedy adjustment.<sup>261</sup> Based on section 777A(f)(1) of the Act, Commerce was correct to not make an adjustment for Zongshen in the *Preliminary Determination*.<sup>262</sup>
- In the *Preliminary Determination*, Commerce noted that there was a general increase in the U. S. average import prices for subject merchandise according to ITC data.<sup>263</sup>
- Zongshen has ignored the findings of the *Preliminary Determination* by not addressing the fact that the ITC import data demonstrated an increase in the U.S. average import price for the subject merchandise.<sup>264</sup>
- Moreover, Zongshen failed to prove the subsidies-to-cost and cost-to-price linkages in its double remedy questionnaire.<sup>265</sup>

*Commerce’s Position:* Commerce continues to find that Zongshen does not qualify for a double-remedy adjustment. Section 777A(f)(1)(B) 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 of kind of merchandise during the relevant period. To make this determination, we examined ITC import data from the POI.<sup>266</sup> Based on this information, we found that import prices of the class or kind of merchandise at issue during that relevant period increased.<sup>267</sup> As there is no general decrease in the U.S. average import price during the relevant period, we found that the requirement under section 777A(f)(1)(B) of the Act was not met and, hence, we did not make an adjustment under section 777A(f) of the Act. Zongshen has argued that Commerce should have examined the link between its costs for aluminum, electricity, and land and its prices for subject merchandise. However, Commerce’s *Preliminary Determination* is consistent with other recent proceedings and the requirement of section 777A(f)(1)(B) of the Act that we examined whether average import prices decreased or not and have disallowed the adjustment if they did not.<sup>268</sup> Also, as in previous determinations, Commerce examined only whether average import prices had decreased, not whether any increase had been less than it otherwise would have been.<sup>269</sup>

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<sup>260</sup> See Zongshen’s Brief at 18-19 (citing Zongshen’s Letter, “Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from China; AD Investigation; Chongqing Zongshen Double Remedy Response,” dated June 11, 2020).

<sup>261</sup> See Briggs & Stratton’s Rebuttal at 47.

<sup>262</sup> *Id.* (citing Zongshen’s Brief at 17-20; and *Preliminary Results PDM* at 28).

<sup>263</sup> *Id.* at 47-48 (citing *Preliminary Results PDM* at 28).

<sup>264</sup> *Id.* at 48.

<sup>265</sup> *Id.*

<sup>266</sup> See *Preliminary Results PDM* at 28.

<sup>267</sup> *Id.*

<sup>268</sup> See, e.g., *Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 22396 (April 22, 2020), and accompanying IDM at 32.

<sup>269</sup> See, e.g., *Ceramic Tile from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Preliminary Negative Critical Circumstances Determination, and Postponement of Final Determination*, 84 FR 61877 (November 24, 2019) (unchanged in *Ceramic Tile from the People’s Republic of*

## Comment 16: Whether Commerce Should Limit its Massive Surge Analysis to a Three-Month Relatively Short Period

### *Toro's Brief:*

- Commerce deviated without explanation from its “normal” practice of using the three-month “relatively short period” in making its preliminary critical circumstance determination. This standard is set in both Commerce’s regulations and practice and does not allow Commerce to focus on the longest period for which data is available.<sup>270</sup>
- The record of this investigation makes clear that an extended “relatively short period” is inappropriate due to seasonality and other unique forces that influenced imports in 2020. The petitioner has confirmed this point, and both the governing statute and the regulations dictate, that seasonality must be considered in the analysis.<sup>271</sup>
- Commerce should employ its standard three-month “relatively short” period to assess in the final determination whether the record evidence supports a critical circumstances finding.<sup>272</sup>
- As set forth previously, the correct period in this investigation is January through March 2020. During this period, Loncin imports were below the 15 percent threshold, demonstrating no surge in imports and, thus, compels a negative determination.<sup>273</sup>
- Commerce should conclude that Loncin’s imports were not “massive” over the relatively short period following the filing of the Petitions, and critical circumstances are not warranted in this proceeding.<sup>274</sup>

### *Kohler's Rebuttal:*

- Commerce should not continue to reject the petitioner’s request that imports from June through November 2019 be compared with the same period in calendar year 2018.<sup>275</sup>
- If Commerce continues to reject the petitioners’ alternative base and comparison periods, Commerce has discretion to examine a period longer than three months. It is Commerce’s practice to examine the longest period for which information is available, and Commerce frequently expands the time period as more information becomes available.<sup>276</sup>
- Commerce should not ignore the import surge that occurred later in April through August 2020 because sales are normally lower than earlier in the year due to seasonality. To the contrary, data from Loncin and Zongshen’s year-on-year imports show that the respondents were trying to beat the impending duties from the *Preliminary Determination*.<sup>277</sup>

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*China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Partial Affirmative Critical Circumstances Determination*, 85 FR 19425 (April 7, 2020)).

<sup>270</sup> See Toro’s Brief at 5 (citing 19 CFR 351.206(i)).

<sup>271</sup> *Id.* at 5-6.

<sup>272</sup> *Id.* at 3-6.

<sup>273</sup> See Toro’s Brief at 7 (citing Loncin’s August Q&V Response at Attachment 1; and Zongshen’s August Q&V Response at Attachment 1).

<sup>274</sup> *Id.* at 3-6.

<sup>275</sup> See Kohler’s Rebuttal at 7.

<sup>276</sup> *Id.* at 4-6.

<sup>277</sup> *Id.*

- Comparing imports from January 2020 through August 2020 with May 2019 through December 2019, the comparable time period before the Petition was filed, imports by Loncin and Zongshen each surged well above the Commerce’s 15 percent massive imports threshold.<sup>278</sup>

*Commerce’s Position:* Pursuant to long-standing Commerce practice with respect to the massive imports analysis in final determinations,<sup>279</sup> we have examined the longest period for which respondents’ shipment information is available up to the date of the *Preliminary Determination* which published on August 19, 2020. Therefore, we have compared Loncin and Zongshen’s respective shipment data for the eight-month period of January 2020 through August 2020 with the eight-month period of May 2019 through December 2019. Based on shipment information for these periods as reported by Loncin<sup>280</sup> and Zongshen,<sup>281</sup> each company’s shipments have been massive, as defined by 19 CFR 351.206(h)(1)(iii)(2).<sup>282</sup>

Toro has mischaracterized Commerce’s regulations and practice with respect to the “relatively short period.” Section 351.206(i) of Commerce’s regulations states that “the Secretary normally will consider a ‘relatively short period’ as the period beginning on the date the proceeding begins and ending at least three months later. However, if the Secretary 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, then the Secretary may consider a period of not less than three months from that earlier time.” Thus, 19 CFR 351.206(i) does not prevent Commerce from examining the longest period for which shipment data are available. Moreover, as noted above, Commerce frequently extends the time period in its final determinations as more shipment data becomes available and are placed on the record.<sup>283</sup>

Toro and Kohler have each argued that Commerce should choose alternative base and comparison periods in order to account for seasonality and the unusual circumstances caused by the imposition of 25 percent Section 301 duties. Kohler has argued that we should compare the period June 2019 through November 2019 against the same period in calendar year 2018.<sup>284</sup> Toro has argued that we should limit our analysis to the three month period of January 2020 through March 2020 with the eight month period of October 2019 through December 2019.<sup>285</sup>

We find that each of these alternative periods is inappropriate. The purpose of the massive surge analysis is to determine whether there was a surge in shipments in anticipation of the imposition

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<sup>278</sup> *Id.* at 4-6 (citing Loncin’s August Q&V Response at Attachment 1; and Zongshen’s August Q&V Response at Attachment 1).

<sup>279</sup> See, e.g., *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires 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*, 80 FR 34893 (June 18, 2015), and accompanying IDM at 6.

<sup>280</sup> See Loncin’s August Q&V Response at Attachment 1.

<sup>281</sup> See Zongshen’s August Q&V Response at Attachment 1.

<sup>282</sup> See Final Massive Imports Memorandum.

<sup>283</sup> See, e.g., *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires 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*, 80 FR 34893 (June 18, 2015), and accompanying IDM at 6.

<sup>284</sup> See Kohler’s Rebuttal at 7.

<sup>285</sup> See Toro’s Brief at 5-6.

of provisional measures.<sup>286</sup> 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). Given that AD provisional measures were imposed in August 2020, it is unclear how the alternative period suggested by Toro or Kohler provides any indication that a surge in imports took place in anticipation of provisional measures. For these reasons, Commerce has compared the eight-month period of January 2020 through August 2020 with the eight-month period of May 2019 through December 2019 for this final determination,<sup>287</sup> the longest period for which respondents’ shipment information is available up to the date of the *Preliminary Determination*.

## X. RECOMMENDATION

We recommend approving all of the above positions. If these positions are accepted, we will publish the final determination in the *Federal Register* and will notify the U.S. International Trade Commission of our determination.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

1/4/2021

X



Signed by: JEFFREY KESSLER

\_\_\_\_\_  
Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

<sup>286</sup> See *Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364 (October 15, 1998).

<sup>287</sup> See *Final Massive Imports Memorandum*.