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New Antidumping and Countervailing Duty Petitions on Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China

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January 16, 2020 – On January 15, 2020, the Coalition of American Vertical Engine Producers, which is comprised of U.S. producers Kohler Co. and Briggs & Stratton Corporation, filed petitions with the U.S. Department of Commerce (“DOC”) and the U.S. International Trade Commission (“ITC”). Petitioners seek antidumping (“AD”) and countervailing (“CVD”) duties on imports of certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof (“CVSE”) from the People’s Republic of China. CVSEs are principally used in riding lawn mowers, including tractors, riding mowers, and zero-turn radius mowers.

Under U.S. law, a domestic industry can petition the government to initiate an AD investigation into the pricing of an imported product to determine whether it is sold in the United States at less than fair value (i.e., “dumped”). A domestic industry can also petition for the initiation of a CVD investigation of alleged subsidization of foreign producers by a foreign government. Additional duties can be imposed if DOC determines that imported goods are “dumped” and/or subsidized and if the ITC also determines that the domestic industry is materially injured or threatened with such injury by reason of subject imports.

If the ITC and DOC make preliminary affirmative determinations, U.S. importers will be required to post cash deposits in the amount of the AD and/or CVD duties for all entries on or after the date DOC’s preliminary determination is published in the Federal Register. The preliminary AD/CVD rates can change in the final DOC determination, especially if foreign producers and their governments participate fully in the investigations. Some of these CVSEs are already subject to 25% Section 301 duties.

Scope

New Antidumping and Countervailing Duty Petitions on Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People’s Republic of China

The merchandise covered by this investigation consist of spark-ignited, non-road, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, designed primarily for use in riding lawn mowers and zero-turn radius lawn mowers. Engines meeting this physical description may also be designed for use in other non-hand-held outdoor power equipment. The subject engines are spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 225 cubic centimeters ("cc") and a maximum displacement of 999cc. Typically, engines with displacements of this size generate gross power of 6.7 kilowatts ("kw") to 42 kw.

Engines covered by this scope normally must comply with and be certified under Environmental Protection Agency (EPA) air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. Engines that otherwise meet the physical description of the scope but are not certified under 40 CFR part 1054 and are not certified under other parts of subchapter U of the EPA air pollution controls are not excluded from the scope of this proceeding. Engines that may be certified under both 40 CFR part 1054 as well as other parts of subchapter U remain subject to the scope of this proceeding.

For purposes of this investigation, an unfinished engine covers at a minimum a sub-assembly comprised of, but not limited to, the following components: crankcase, crankshaft, camshaft, pistons(s), connecting rod(s), and oil pan. Importation of these components together, whether assembled or unassembled, and whether or not accompanied by additional components such as a manifold, cylinder head(s), valve train, or valve cover(s), constitutes an unfinished engine for purposes of this investigation. The inclusion of other products such as spark plugs fitted into the cylinder head or electrical devices (e.g., ignition modules, ignition coils) for synchronizing with the motor to supply tension current does not remove the product from the scope. The inclusion of any other components not identified as comprising the unfinished engine subassembly in a third-country does not remove the engine from the scope.

The engines subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8407.90.1020, 8407.90.1060, and 8407.90.1080. Engines subject to this investigation may also enter under HTSUS 8407.90.9060 and 8407.90.9080. The engine subassemblies that are subject to this investigation enter under HTSUS 8409.91.5085, and 8409.91.9990. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

Foreign Producers and Exporters of Subject Merchandise

A list of foreign producers and exports, as identified by the petitioner, is provided in [Attachment 1](#).

U.S. Importers of Subject Merchandise

A list of U.S. importers, as identified by the petitioner, is provided at [Attachment 2](#).

Alleged Margins of Dumping/Subsidization

Because the DOC considers China to be a non-market economy, petitioner calculated the estimated dumping margin based on values and costs in a surrogate country: Turkey. Based on these calculations, petitioner alleges dumping margins ranging from 320.41% to 539.45%.

DOC generally assigns duties at these alleged dumping rates to exporters that fail to cooperate with the investigation.

Petitioner alleges that CVSEs have benefitted from a variety of subsidies, including: provision of certain inputs (aluminum, pig iron, electricity, steam coal, and land) for less than adequate remuneration; government directed debt restructuring; preferential loans; capital injections; as well as export assistance grants and loans. Petitioner asserts that any subsidies specific to motorcycle or auto parts industries would also include CVSE producers. No specific subsidy margins are included in the petition.

Potential Trade Impact

Petitioner provided estimates regarding the volume and value of subject merchandise because the scope of the petition does not precisely correspond to HTSUS headings. According to the petitioner, 139,693 CVSE units were imported from China in 2016 and these units increased to 247,770 in 2018, despite the imposition of a 25% Section 301 tariff in August of that year. CVSE imports increased at the end of 2019 after exclusions from the 301 tariffs were granted for some of the subject merchandise. Petitioner estimates that 221,570 CVSE units were imported from China in 2019.

Estimated Schedule of Investigations

January 15, 2020 – Petition filed

February 5, 2020 – ITC staff conference

March 2, 2020 – ITC preliminary injury determination

March 20, 2020 – DOC preliminary CVD determination, if not postponed

May 26, 2020 – DOC preliminary CVD determination, if fully postponed

June 3, 2020 – DOC preliminary AD determination, if not postponed

July 23, 2020 – DOC preliminary AD determination, if fully postponed

December 14, 2020 – DOC final AD and CVD determinations, if both preliminary and final determinations are fully postponed

February 2, 2021 – ITC final injury determination, if DOC’s determinations are fully postponed

February 16, 2021 – AD/CVD orders published

If you have any questions about the petitions, please contact the experienced attorneys in HHR’s international trade group.

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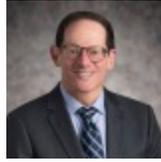
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