AD0047

Certain excavators from China

Anti-Dumping Investigation

Application for Review

On Behalf of:

LuiGong Machinery (UK) Limited

LiuGong Changzhou Machinery Co., Ltd.

Liuzhou LiuGong Excavator Co., Ltd.

Guangxi LiuGong Machinery Co., Ltd.,

LiuGong Machinery Hong Kong Co Limited

13 June 2025

On behalf of Liuzhou LiuGong Excavator Co., Ltd., LiuGong Changzhou Machinery Co., Ltd., two affiliated Chinese producers of the goods concerned, Guangxi LiuGong Machinery Co., Ltd., LiuGong Machinery Hongkong Co., Limited, the affiliated exporters, LiuGong Machinery (UK) Limited, the affiliated importer, (hereinafter collectively referred to as "LiuGong Group"), we hereby provide an application for review of the Final Determination issued by the Trade Remedies Authority (TRA) on 13 May 2025.

Background

1) The TRA initiated an investigation into anti-dumping of certain excavators originating in the People's Republic of China on 15 November 2023 (and, simultaneously, initiated an investigation into anti-subsidy of the same goods from the same country of origin). The case was initiated from an application by JCB who complained of sale prices increasing by less than inflation over the period of injury.[1] JCB represented that it had increased sale prices by 14%, increased productivity [2], increased employee productivity[3], that the UK sales volumes grew with the market share of the UK industry increasing by 12% over the injury period [4]. JCB identified that there were two manufacturers in the UK with the other manufacturer, Komatsu, not impacted by the allegations of "…Chinese Excavators [which] were being heavily dumped on the UK market…[and] the available evidence on subsidisation suggests that Chinese Excavators manufacturers are being heavily subsidised" and that Komatsu experiencing an increase in its' market share.[5]

2) During the investigation, ten exporters, three importers, the Foreign Government (of People's Republic of China), a trade body, seven UK-based downstream users and another part of the Applicant's group of companies registered an interest.[6] A further

[1] Application by JCB Sub-Section 11.A and Table 11
[2] Application by JCB Sub-Section 11.B and Table 12
[3] Application by JCB Sub-Section 1.D and Table 10
[4] Application by JCB Sub-Section 1.B
[5] Sub-Section 1.B and Table 7 JCB Application
[6] C2.2, C2.3, C2.4 and C2.5 of the Statement of Essential Facts

exporter and downstream dealer of the Goods were identified and, in the case of the exporter, sampled following the publication of the Statement of Essential Facts.

3) The TRA sampled two groups of exporters being Sany Group and LiuGong Group. Following the publication of the Statement of Essential Facts, Caterpillar (Xuzhou) Limited were also sampled.

4) During the investigation LiuGong Group identified that electric battery powered excavators were not available in the UK market, were characteristically and technologically different and should be excluded from any recommendation. It also highlighted errors with data calculations, error in relying on incorrect or incomplete data (including from HMRC and in relation to battery electric machines), the setting of the period of the POI, the lack of exploration of alternative theories due to reviewing data from only one source on behalf of the UK industry, determining there is a PMS, incorrectly determining there is injury, Benchmarking the costs and using data only from the Applicant's sister company, and a failure to provide disclosure in respect of the benchmarking data relied upon for steel and non-steel raw material and components

5) Komatsu did not take part in the investigation, however some evidence relating to Komatsu was accepted without their engagement[7] (although not in relation to information regarding Komatsu's increased market share and growth).

6) Despite a rise in profits, employees, investments and productivity in the UK market the TRA concluded that there was evidence of injury based on the review of JCB alone. The Final Determination identified a potential benefit for UK producers of up to £25.2m per annum (from predicted price increases) and an overall negative impact (on downstream users from price increase) resulting in total welfare in the UK economy decreasing by up to £106.4m per annum. Despite the negative impact (of over 4 times the benefit) the TRA decided that it was not a disproportionate outcome

[7] Final Determination para 106

and recommended tariffs of between 18.81% and 40.08% on self-propelled track-laying excavators with a 360° revolving superstructure and with an operating weight of between 11 tonnes and 80 tonnes regardless of fuel/engine type.

7) LiuGong Group seek a reconsideration of the trade remedy anti-dumping measure imposed as a result of the investigation.

Eligibility of Applicant

8) LiuGong Group is eligible to apply for a reconsideration of the TRA's Final Determination under the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019, specifically Regulation 9, which allows an "interested party" to request reconsideration of a TRA determination. The eligibility criteria are met as follows:

a. Interested Party Status: LiuGong Group comprises:

Liuzhou LiuGong Excavator Co., Ltd. and LiuGong Changzhou Machinery Co., Ltd., Chinese producers of the goods concerned (excavators).
Guangxi LiuGong Machinery Co., Ltd. and LiuGong Machinery Hong Kong Co., Limited, affiliated exporters.
LiuGong Machinery (UK) Limited, an affiliated importer in the UK. These entities are directly involved in the production, export, and import of the goods subject to the anti-dumping investigation, making them interested parties under Regulation 2, which defines interested parties as including foreign producers, exporters, and UK importers of the goods concerned.

b. Direct Interest in the Outcome: LiuGong Group was sampled during the investigation (as noted above) and actively participated by submitting evidence and responses, including to the Statement of Essential Facts (SEF). The imposition of tariffs (18.81% to 40.08%) on excavators, including battery

electric models, directly impacts their business operations, production costs, and market competitiveness in the UK.

c. Timely Application: The application is submitted on 13 June 2025, within the one-month period following the TRA's Final Determination on 13 May 2025, as required for requesting reconsideration in accordance with Regulation 10.

d. Specificity of Request: LiuGong Group restricts its reconsideration request to the inclusion of battery electric excavators within the scope of the goods and the associated tariffs.

Grounds for reconsideration

9) Although the applicant, LiuGong Group, takes exception to much of the investigation and findings, not least that there is injury to the UK market when not reviewing the sales of Komatsu and that the downstream industry will suffer negative impacts of over 4 times the potential benefit to JCB and Komatsu, LiuGong Group restricts its application for reconsideration to the decision to include battery electric machinery within the definition of the Goods and the tariff imposed.

Erroneous Inclusion of Battery Electric Excavators as "Like Goods"

10) The TRA's conclusion that battery electric excavators are "like goods" to internal combustion engine (ICE) excavators is flawed due to significant differences in characteristics, production, and end use, as supported by evidence provided by LiuGong Group and external sources.

Reliance on JCB's Representation

11) JCB themselves have invested heavily in non-fossil fuel combustion engines, machines which they have not included in the application. Whilst JCB are described in the Final

Determination as representing that non-fossil fuelled machines have "same basic physical characteristics and end uses" this is entirely inconsistent with their own £100m investment in hydrogen powered machines which follows a three-year development period, considerable R&D[8] and 25,000 hours of testing[9]. JCB also has an R&D facility which, it claims, specifically focusses on electric battery machines[10]. Clearly research and development tax relief is not available for machines which are basically the same as those which precede it. In this regard there is inconsistency in the approach of JCB who have represented (and the TRA accepted) that electric machines are basically the same and compete with internal combustion engine machines yet seek publicity, government support, appeal to customers and presumably R&D tax relief on the basis of having zero emissions and alternative fuel alone. In a promotional video, JCB's own customers describe the ability to purchase machines with zero emissions as "part of our future", "the way forward", helping with "energy security and reduce the risks of global supply chain shocks", "critical to long term objectives", necessary to adapt to "what our customers want" and to meet KPIs and carbon reduction targets and "100% the way to go". One customer confirms that customers are "interested in solutions that are stable, that are available and align with their own decarbonisation policy" and that "hydrogen powered, no fossil fuels is exactly what everyone is looking for". JCB proudly identify their own hydrogen powered engines as having "no real differences in performance at all" when compared to ICE machines yet Lord Bamford describes hydrogen machines as "critical" to the move to zero carbon construction, inviting the governments around the world to "get serious" about decarbonisation and incentivising investment to enable zero carbon construction "we so desperately need"[11]. JCB has invested in hydrogen to fuel its zero emissions machines, which it sees as critical and "paving the way for the net-zero worksite of the future"[12]. Yet despite the investment and focus on fuel and emissions of their own product offering, JCB has submitted to the TRA that alternative zero

[8] Landmark start to 2025 as JCB's Hydrogen engine approved for use | News
[9] Hydrogen is working | JCB customers on hydrogen-powered machines
[10] Hydrogen is working | JCB customers on hydrogen-powered machines
[11] Hydrogen is working | JCB customers on hydrogen-powered machines
[12] Hydrogen | Building a Greener Future | JCB.com

emission machines (in the form of battery electric machines) are, to all intents and purposes, the same as diesel fuelled machines.

12) . This inconsistency undermines the TRA's reliance on JCB's assertions.

TRA's Conclusion – Lack of Evidence and Internal Inconsistency.

13) The TRA concluded that it was:

"…. satisfied that, for the purposes of the like goods assessment, the available evidence would indicate that the UK produced goods with an ICE, will have characteristics closely resembling those of an electric-powered excavator originating from the PRC. These excavators are also alike in all other respects including physical characteristics and end use."[13]

14) The TRA has made no effort to share that evidence to enable it to be scrutinised and reached its conclusion despite evidence on the contrary from LiuGong Group and in the public domain (including from JCB). Evidence was provided to the TRA that electric machines are not "…a technical and/or commercial substitute to excavators operating on diesel powered engine since there is substantial difference in production technology, manufacturing process, raw material consumed, operating cost, carbon emission as well as production and retail cost" [14] and further that the largest proportion of manufacturing costs was determined by diesel engine costs[15]. Evidence was also provided that fuel type and tailpipe emissions are a differentiator for governments and for many customers[16]. Evidence was also provided that the fuel used by the machine was for some customers the single characteristic of the machine which was determinative of purchase, for example depending on the project (for example

[13] Final Determination para 108
[14] Non-Confidential Exporter Questionnaire Liugong Changzhou Machinery Co., Ltd. ("CZLG") Q4 and Non-Confidential Exporter Questionnaire Liuzhou Liugong Excavator Co., Ltd. ("LZLG") Q4
[15] Non-Confidential Exporter Questionnaire Liugong Changzhou Machinery Co., Ltd. ("CZLG") D13 and Non-Confidential Exporter Questionnaire Liuzhou Liugong Excavator Co., Ltd. ("LZLG") D13
[16] Non-Confidential Exporter Questionnaire Liugong Changzhou Machinery Co., Ltd. ("CZLG") Q1 and Non-Confidential Exporter Questionnaire Liuzhou Liugong Excavator Co., Ltd. ("LZLG") Q1 and Anti-Dumping Investigation Response to Statement of Essential Facts LiuGong Group para 15

where there is a risk of asphyxiation[17]), depending on whether the project is to take place in an area with restrictions on emissions[18] (see also below) or the company has a commitment to a green energy, environmental or zero carbon policy[19]. Confirmation was provided that similar goods with an internal combustion engine are not competitive with electric fuelled machines in such circumstances, notwithstanding that both excavate the ground. In the same way that when a consumer chooses an electric fuelled car they are differentiated, primarily, based on fuel/emissions alone (including by the government), the car still takes the occupants from A to B but they cannot be said to be the same, fuel type is a key factor in a car, in the manufacturer's production and marketing, taxing, service and maintenance, cost and the customer's choice of car.

15) LiuGong group also identified significant evidence prepared and produced by the government, in the shape of the Industrial Non-Road Mobile Machinery Decarbonisation Options: Techno-Economic Feasibility Study [20] for the TRA for consideration on the issue of whether to include battery electric machines as "like goods". The report looked in great detail at evidence and engaged with multiple stakeholders on issues such as the location of sites, the duration of sites, the utilisation of excavators, machine usage, machine lifetime and the size of site. The report began with desk-based research in November 2022, followed by stakeholder workshops and interviews in spring 2023 and before presenting the findings in August 2023. In completing the report the authors reviewed 121 reports and interviewed or workshopped with 75 different stakeholders from across the piece, including JCB . The report engaged with multiple industries, including construction, ports, mining and waste. The report considered the views of manufacturers, operators, lease and hire suppliers and second life purchasers. The report is comprehensive and based upon a wealth of evidence and research. It is the firm conclusion of the report that emissions and fuel type are a defining factor in characteristics, physicality, customer choice and

[17] Anti-Dumping Investigation Response to Statement of Essential Facts LiuGong Group Confidential para 14
[18] Anti-Dumping Investigation Response to Statement of Essential Facts LiuGong Group Confidential para 14
[19] Anti-Dumping Investigation Response to Statement of Essential Facts Confidential para 14
[20] Industrial Non-Road Mobile Machinery Decarbonisation Options: Techno-Economic Feasibility Study

end use. The report highlights that key drivers arise for battery electric machines which are specific to non-ICE machines:

- Carbon reduction ambition (of the customer and of the government); and
- Air and/or noise pollution reduction.

16) The report's authors give several examples from stakeholders, factors which influence the customers along with those key drivers (or enablers), which include:

- Purchase costs (which are directly related to manufacturing and R&D costs) – particularly identified as an issue for the hire market, which is disproportionately high in the UK market (compared to Europe), where lessors are not able to be persuaded by fuel costs savings as a continuing use customer would be (this is also referenced in the SEF response from LiuGong Group) .
- End of life value and use – this is known and predictable for ICE machines but remains different for battery electric. This is identified in the report as a key consideration for a number of customers. Not only is the potential value considerably less than the capex investment (proportionately more of a price reduction compared to ICE as technological advances develop a pace, as is seen in the battery electric vehicle market) but third world countries may have less demand for second hand machines where the infrastructure may not support large battery recharging.
- Limited availability of battery electric machines and suitable related infrastructure - although the report looks across non-road machinery (including excavators) where there are some battery electric machines available, in the Goods category there are currently no battery electric machines available in the UK. However, as the report identifies NRMM battery electric machines are reliant upon the existing infrastructure which is a concern (as highlighted in the SEF responses) for end users and is not hypothetical.
- Lack of supply chain skills – meaning the cost and availability or maintenance and servicing is different across ICE and battery electric machines, another consideration for users.

17) A sub-section of the report is dedicated to reviewing some of the performance differences between the machines. Sub-section 3.2 highlights differences in fuel density, efficiency, lifetime and size. The report goes on to identify (sub section 3.3) differences in capital expenditure, operating costs, infrastructure costs and the cost of efficiency measures required for the machine.

18) Table 57 within the report summarises some of the considerations specific to battery electric machines, it recognises run cycle times, a skills gap for EVs in the UK labour market which is particularly significant for NRMM, infrastructure constraints, air and noise reduction, health and safety concerns of manual handling of batteries, high voltage charging infrastructure, concern around the disposal of batteries (and associated costs and liabilities), cost and utilisation.

19) The report, prepared for the government, clearly and unambiguously states "Abatement options such as battery electric do not match the incumbent solutions on all technical specifications…"[21].

20) Yet the findings of the report have seemingly been discarded in favour of confirmation only that the TRA has reviewed "evidence" that battery powered and ICE machines are closely alike characteristically, physically and in end use. Such inconsistency, particularly without clear evidential references to scrutinise the conclusions, is unacceptable.

21) The TRA further commented that:

"Having reviewed the SEF responses, the TRA has identified that the additional commentary predominately references more recent, as well as future, developments within the UK excavator market. This is opposed to what actually occurred during the POI….

[21] Industrial Non-Road Mobile Machinery Decarbonisation Options: Techno-Economic Feasibility Study Sub-Section 4.1.3

…It follows the current assessment of the like goods should not be based on developments that have yet to occur."[22]

22) The TRA therefore dismissed concerns about infrastructure and government policy as issues which are future based and therefore hypothetical and subject to change, notwithstanding those issues were identified and explored in the Industrial Non-Road Mobile Machinery Decarbonisation Options: Techno-Economic Feasibility Study produced for the Department of Energy Security and Net Zero, and notwithstanding that the tariff imposed in on electric machines which are not sold in the UK and cannot be causing injury to the market (and therefore themselves purely future based and hypothetical). Such internal inconsistency undermines the credibility of the conclusion. This approach based on accepting one hypothetical scenario (sales of battery electric machines would compete with ICE machines in the future in the UK) and dismissing other hypothetic scenarios (customer choice and functionality would be dictated to by government policy, availability of charging infrastructure, specific project requirements and the cost of the machine) is further undermined by the acceptance that the TRA did not request, research or review any evidence of the actual current costs of production and sales outside the UK or acknowledged factors identified by the Industrial Non-Road Mobile Machinery Decarbonisation Options: Techno-Economic Feasibility Study.

<u>Data Analysis and Calculation – Failure to Include Battery Electric</u>

23) Despite confirmation that data from electric battery machines were not included in the submissions[23] and that the manufacturing costs were significantly impacted by the engine costs[24], the TRA when carrying out its investigation and verification did not seek any information regarding the cost of production of battery electric machines or

[22] Final Determination para 118
[23] Anti-Dumping Investigation Response to Statement of Essential Facts LiuGong Group Non-Confidential para 12
[24] Non-Confidential Exporter Questionnaire Liugong Changzhou Machinery Co., Ltd. ("CZLG") D13 and Non-Confidential Exporter Questionnaire Liuzhou Liugong Excavator Co., Ltd. ("LZLG") D13

the sales values in the PRC. LiuGong Group did not include the information within its submission on the basis of the requirement for like goods sold in the UK and on the basis of the submission confirming that battery electric machines are not like goods, however, LiuGong Group did confirm that it produced battery electric machines and that it had excluded that data and the data has not been requested[25]. This omission undermines the TRA's determination of a Particular Market Situation (PMS) and the use of a Constructed Normal Value (CNV), as these calculations cannot accurately reflect the higher manufacturing costs of battery electric machines. Clearly in determining there was a PMS it would be inappropriate to use a CNV for Goods which are of a significantly higher manufacturing cost than the goods sold in the domestic market. The TRA should have gathered this information in order to determine whether to treat battery electric machines as within the scope of the investigation. Having failed to request or examine any information regarding the production and sales of battery electric machines (despite maintaining these are like goods) the TRA then seeks to rely on its failure to justify including battery electric machines within scope[26]. The only way in which data on battery electric machines can be reliably incorporated in assessing and calculating dumping margins is to perform such analysis after there are sales into the domestic market. The current state of ignoring data or manufacturing costs and having no data in respect of sales values undermines the requirement for procedural fairness as outlined in Regulation 6 of The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019.

<u>Government Policy and Statute - External Inconsistency.</u>

26) The government accepts zero or low emissions as a differentiator across a number of areas including in relation to tariffs. In the index matter, the TRA appears to conclude that the emissions of the machinery are not significant or not sufficiently significant such as to treat the machines differently. Tariffs based on emissions alone are in place in London (ULEZ and LEZ), Birmingham, Bath, Bradford, Bristol, Portsmouth, Sheffield,

[25] Anti-Dumping Investigation Response to Statement of Essential Facts Non- Confidential para 13
[26] Final Determination para 115 - 121

Tyneside (Newcastle and Gateshead), Glasgow, Dundee, Aberdeen and Edinburgh. Construction projects or use of excavators in those areas warrant consideration on the fuel of the machine as a defining and central characteristic. The TRA seeks to treat combustion engines and electric battery engines as "essentially the same" because it does not seek to distinguish on fuel consumption alone, yet the state creates significant public policy and associated tariffs across these geographical areas based upon fuel alone. Such inconsistency across government creates a lack of confidence and fairness. Similarly, road tax for roadworthy vehicles is calculated by reference to emissions, it is clear then that the government is prepared to treat emissions as a defining differentiator between vehicles for the purpose of applying tariffs but not to the goods within the category of tracked excavators.

Net Carbon Zero and Climate Change Act

27) The UK government is committed to a target to reach net zero by 2050[27], that commitment sits alongside the commitment on emissions enshrined in the Climate Change Act of 2008. A number of countries have similar and/or collective targets on climate change, such as the signatories to the UN Net Zero Coalition and the Paris Agreement of 2015, these are a global recognition that the climate crisis is a long-term threat to the world and that global warming needs to be reduced by 1.5C. The commitment is long standing and fundamental.

28) In order to comply with the Climate Change Act, the Secretary of State **must** have regard to the target of net zero by 2050 (section 15). The decision by the Secretary of State in this matter is in breach of this section of the Act.

29) Government as a result has introduced a number of measures and monitors to ensure its targets remain central to decision making, policy and objectives. The TRA itself is required to report annually on its sustainability in accordance with the HM Treasury guidance for public bodies on sustainability reporting and reports within the Annual

[27] CBP-9888.pdf

Report that it is "…committed to embedding the principle of sustainable development" [28] and that it will continue to "actively promote environmental sustainability through communication and training with staff"[29]. Whilst the objective of embedding environmental awareness and sustainability into all public bodies is commendable and consistent with the commitment to Net Zero it is made a mockery of with a decision by the TRA which effectively finds ICE and battery electric machines are fundamentally the same.

30) The current Labour Government (like those before) have proposed measures to assist in reducing emissions such as increasing the amount of public electric chargers available, introducing a publicly owned clean power company and investing in gigafactories. One of their main policies is to reduce the number of cars with internal combustion engines and assist people in purchasing electric cars. The government have aimed to phase-out cars with internal combustion engines by 2030[30]. Secretary of State for the Department of Business and Trade, Jonathan Reynolds, has supported the measure and signally the significant role of industry in the goal of net zero[31].

31) In 2022 the industry sector contributed to 14% of carbon emissions, and the construction industry accounted for around 50m tonnes of CO2 emissions. The CCC highlighted industry as one of the key sectors where there are still insufficient plans for emission reductions and a key concern for the government and a priority for policy for 2024.[32]

32) The government has particularly focussed on decarbonising construction and reviewed projects, such as HS2, as examples of the necessary measures required to tackle the carbon footprint of large construction projects in enabling the government

[28] TRA Annual Report and Accounts Report 2024.pdf Page 30
[29] TRA Annual Report and Accounts Report 2024.pdf Page 34
[30] Phasing out sales of new petrol and diesel cars from 2030 and supporting the ZEV transition: summary of responses and joint government response - GOV.UK
[31] Industry encouraged to shape UK transition to zero emission vehicles - GOV.UK
[32] CBP-9888.pdf

to meet its ambitions and targets. The Guidance includes the rationalisation of reducing carbon in construction:

"For the UK to meet its statutory climate targets, including its carbon budgets, requirements are only likely to increase in their stringency. Thus, being forward thinking and innovative, especially on high-value construction projects, is in the interests of both the government and industry. The most effective way to reduce carbon is to 'design it out', or rethink how we can achieve our objective without necessarily relying on the traditional infrastructure required to do so, getting the thinking right at the outset remains key. Once this has been done – applying the same approach to the design and execution of the procurement is important. Major infrastructure projects give us the chance to lead the way, experiment and innovate as we seek to decarbonise."[33]

33) The TRA itself has a Business Plan for 2023 to 2026[34] which identifies that the UK Government's plan for decarbonising all sectors of the UK economy meeting a net zero target as important elements which influence the delivery of the plan. In particular the TRA committed to the policy Net Zero Strategy: Build Back Greener[35] whereby the government of the day committed to an agenda of electrification of vehicles, low emissions, helping industry and reducing barriers and costs to encourage and drive climate responsible ambitions. In the Forward to the report the then Prime Minister, Borris Johnson, stated "This strategy sets out how we will make historic transitions to remove carbon from our power, retire the internal combustion engine from our vehicles and start to phase out gas boilers from our homes. But it also shows how we will do this fairly by making carbon free alternatives cheaper"[36] and that in doing so the UK would focus on "Removing dirty fossil fuels from the global economy will lead to the creation of vast new global industries from offshore wind to electric vehicles

[33] 20220901 Carbon Net Zero Guidance Note para 1.1.3
[34] Trade Remedies Authority Corporate and Business Plan 2023 to 2026 - GOV.UK
[35] Net Zero Strategy: Build Back Greener - GOV.UK
[36] Net Zero Strategy: Build Back Greener - GOV.UK Page 8

and carbon capture and storage"[37]. In setting out the strategy for decarbonisation the Executive Summary identifies four key concepts and commitments, including "We will work with businesses to continue delivering deep cost reductions in low carbon tech"[38]. Despite a commitment to sharing those principles as "important elements" in the TRA's business plan, the TRA has in fact worked against business to increase the cost of the low emission alternative and concluded, in this case, that electric machines (and the skilled green jobs they will create in the UK) are not fundamentally different from fossil fuel combustion engines.

34) In the TRA Blog article "Trade remedies and climate change policy – allies or enemies? – Trade Remedies Authority" [39] of 2 August 2022 by Aproop Bhave, Chief Economist and Joanne Gill, Head of Economics Unit, the TRA identified that climate factors can be considered as part UK's economic interest test and that it is possible to argue for the Secretary of State not to impose a recommendation for a measure recommended by the TRA where "…access to cheaper environmental goods is considered necessary in the short to medium term for the UK's transition to a low-carbon economy.". Despite both being raised by LiuGong group this appears to have been ignored in this case. We would agree with the thoughts of the authors of the TRA Blog that both trade remedies and climate change are topical policy issues but that, as the Blog appears to suggest, they ought to be pulling in the same direction and not considered in isolation.

35) Various sources have also recognised the potential cost to the UK economy of failing to meet decarbonisation targets, for example the House of Lords estimated the cost of climate change to be around 5% of GDP per year[40], those costs are not considered in relation to the potential welfare outcomes of the TRA's recommendation.

[37] Net Zero Strategy: Build Back Greener - GOV.UK Page 8
[38] Net Zero Strategy: Build Back Greener - GOV.UK Page 16
[39] Trade remedies and climate change policy – allies or enemies? – Trade Remedies Authority
[40] Costs of net zero by 2050 - House of Lords Library

36) The potential costs to the economy were also highlighted in the Industrial Non-Road Mobile Machinery Decarbonisation Options: Techno-Economic Feasibility Study which identified that misalignment with global markets presented a real and significant risk to the machines exported by UK manufacturers; "Whilst decarbonisation policy for industrial NRMM is at an early stage internationally, if UK policy develops in a different direction to other markets, this could affect the UK's position as a net exporter of industrial NRMM. This particularly impacts machines that require specific infrastructure (e.g., hydrogen supply….).[41]

37) The TRA and the Secretary of State have failed to have due regard to the duties under the Climate Change Act 2008, the government strategy for net zero and decarbonisation and the potential cost to the UK economy of increasing the cost and therefore providing further barriers for UK consumers to move to machinery with zero tail pipe emissions.

Outcome sought

38) Given the potential consequences (not only on the PRC exporters but on customers, UK jobs, the government's commitments and the climate) LiuGong group respectfully urges the TRA to conduct a review and reconsideration of the Final Determination issued on 13 May 2025 (dated 14 May 2025) and to remove battery electric machines from the description of the Goods and all related tariffs. Battery electric machines are incapable of causing the injury to the UK market complained of, and the inclusion of these machines is based on flawed assumptions, incomplete data, and contradicts UK government policies on decarbonisation. A review will ensure fairness, align with net zero commitments, and mitigate disproportionate economic impacts on downstream users and the UK economy.

[41] Industrial Non-Road Mobile Machinery Decarbonisation Options: Techno-Economic Feasibility Study - Risks and opportunities to the transition to low carbon NRMM pg13