



Consultation minutes

Subsidy consultation – TRA/ DBT/ GOC

Date	Thursday 6 February	Time	09:00
Venue	MS Teams and Offices	Secretary	David George
Chair	Jack Connolly	Cc'd	- no-one -

Attendees:

- Jack Connolly (Deputy Director – Trade Remedies, DBT)
- Oliver Payne (Head of International Trade Remedies, DBT - Trade Remedies Policy)
- Katherine Harding (Head of Asia-Pacific, DBT - Trade Remedies Policy)
- Russell Stokes (Senior Lawyer, DBT - Legal Advisers)
- Kevin Lin (Translator, FCDO)
- Harriet Smith (Investigations Delivery Director, TRA)
- Zoe Manson (Head of Investigations, TRA)
- David George (Lead Investigator, TRA)
- Sean Fitzpatrick (Senior Investigator, TRA)
- Edward Smith (Senior Investigator, TRA)
- Matt Gass (Senior Lawyer, TRA)
- SHI Yiwei, Director General Level, Trade Remedy and Investigation Bureau, MOFCOM
- LI Hui, Division Director, Trade Remedy and Investigation Bureau, MOFCOM
- HE Shuangqi, Deputy Division Director, Trade Remedy and Investigation Bureau, MOFCOM
- FANG Weijia, Staff, Trade Remedy and Investigation Bureau, MOFCOM
- YE Zhao, Deputy Division Director, Department of European Affairs, MOFCOM
- GENG Linlin, First Secretary, Chinese Embassy in the UK
- SONG Yelei, Third Secretary, Chinese Embassy in the UK
- LI Ye, Senior Partner, AllBright (Beijing) Law Office
- LIU Songzian, Counsel (Translator), AllBright (Beijing) Law Office

1. Meeting commencement

- UK chair Deputy Director (DBT) commenced the meeting and welcomed all attendees.
- Government of China (GOC) invited to make opening remarks.

2. GOC opening remarks

- Wishing UK happy Chinese New Year.

- Purpose of subsidy consultation to discuss the excavator case.
- Noted the TRA has initiated six investigations into Chinese products.
- Hope for more general engagement and meetings with TRA in future.
- Introduction from GOC colleagues in attendance.

Actions	None.	Initials
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3. UK opening remarks

- Happy Chinese New Year wished to all.
- Expressed commitment to continue building relationship with GOC and to meet again soon.
- Introduction from UK colleagues in attendance.
- A brief overview was provided on:
 - The subsidy investigation initiation timeline.
 - The publication of the Statement of Essential Facts (SEF).
 - A reminder that the SEF is the TRA's preliminary findings ahead of a Final Determination.
- GOC invited to make further comments.

Actions	None.	Initials
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4. GOC comments.

- GOC is highly concerned with subsidy investigation and acknowledged the full cooperation from the PRC interested parties.
- GOC acknowledged the published subsidy SEF and margins but had no further comments on the margins at this point. Separate submissions have previously been filed to the case team.
- The GOC set out their concerns for the consultation as:
 - Product scope of the investigation.
 - XXL excavators should be excluded from the scope of the measure as there is no UK industry for these products. The UK domestic industry has a maximum capacity of 40 tonnes, and so there is no relationship for competition between XL and XXL categories.
 - Electric excavators should be excluded from the scope of the measure as the UK does not produce or sell any electric excavators. ICE and electric excavators are subject to distinct market segmentations, and the TRA have acknowledged this in the SEF. Zero emission equipment is important in the UK market for future infrastructure projects.

- Comments on Bank Acceptance Drafts Programme.
 - The substance of Bank Acceptance Drafts is that they are payments between the parties of the contracts, instead of short-term financing of loans. This means that they are not a Chinese subsidy programs.
- Comments on alleged provision of electricity at LTAR.
 - The ongoing market privatisation reform of electricity in China means that these types of programs haven't been considered as subsidy programs by the EU, so the TRA should take a similar consideration of these ongoing reforms.
- Calculation error of the subsidy margin.
 - The Sany Group's information shows that the calculation method should be changed from the current method of simply adding each subsidy margin of each Sany company to arrive at the group calculation. Sany believes a weighted average should be used.
- Data disclosure.
 - According to the PRC exporters and CCCME, the Applicant privately submitted the industry reports for UK excavators which contains more precise data. The TRA has not provided a meaningful confidential submission. We urge the TRA to fully disclose all relevant information to ensure transparency.
- Pre-initiation consultations.
 - We hope the TRA will provide facts and evidence in advance of future investigations and give the PRC government sufficient time to analysis the facts. This will allow both sides to carry out meaningful consultations and to seek mutually agreed solutions.

Actions	None.	Initials
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5. [TRA response to GOC comments.](#)

- Meeting chair thanked GOC for their comments.
- TRA response to GOC comments:
 - Product scope of the investigation.
 - We took the view prior to the SEF that the XL goods were like the XXL goods while considering comments we had received at that point.

- We took the view that they had characteristics that closely resemble one another, looking at physical and commercial similarities. We determined they were like goods.
 - We have received further submissions, alongside your comments today on XXL goods, and we will review all information ahead of our Final Determination.
 - We considered electric excavators as like goods in our SEF, based on physical and commercial characteristics.
 - We have received further submissions, alongside your comments today on electric excavators, and we will review all information ahead of our Final Determination.
- Comments on Bank Acceptance Drafts Programme.
 - In our assessment of BAD's in the SEF, we have considered information from verification alongside all submitted comments.
 - We have received further submissions, alongside your comments today on BAD's in general and on their nature of use within transactions,
 - All responses will be reviewed ahead of our Final Determination.
- Comments on alleged provision of electricity at LTAR.
 - In regard to energy reforms in the PRC, we will also consider these comments fully and our response will be in our final recommendation.
- Calculation error of the subsidy margin.
 - As disclosed in the SEF, the TRA considers the calculations appropriate as per the situation of this case and that it is consistent with UK and WTO legislation on countervailing measures.
 - We will fully review all comments provided on the calculation method of Sany's subsidies.
- Data disclosure.
 - In the SEF we had clarified that we have published non-confidential versions of the data that we have received.
 - We also explained that we have redacted confidential information, and external readers were provided with appropriate information.
 - We remain of the view that we have fulfilled our obligations when publishing information.
- Pre-initiation consultations.
 - The TRA acknowledges GOC's request for the TRA to hold meaningful consultations before future subsidy investigations.

- The TRA has adhered to its obligations under both the WTO ASCM and the UK Taxation Act 2018 in notifying GOC ahead of initiation.
- The TRA will keep its approach under consideration for future subsidy investigations.

Actions	None.	Initials
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6. DBT response to GOC comments.

- DBT hears GOC's views on initiation timings and reflects the TRA's response. We are committed to working within our legal obligations.

Actions	None.	Initials
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7. DBT closing remarks.

- Thank you for the time and commitment to the case from the GOC.
- We hope to work closely together going forward.

8. GOC closing remarks.

- We note the corresponding dumping investigation and the proposed high measures which undermines exports of these products. We urge you to consider the comments submitted on this case from all IP's.
- We hope that our two trade remedy authorities will have more opportunities in the future to meet.