

FINNING UK LTD

SUBMISSION TO THE TRADE REMEDIES AUTHORITY

16 DECEMBER 2024

INVESTIGATION No. AD0047 – CERTAIN EXCAVATORS FROM CHINA

**COMMENTS OF FINNING UK LTD ON
THE STATEMENT OF ESSENTIAL FACTS (SEF)**

NON-CONFIDENTIAL

1. This submission is made by Finning UK Ltd (**Finning UK** or **the Company**) in the context of the above referenced anti-dumping investigation initiated by the Trade Remedies Authority (**TRA**) (the **Investigation**) and sets out Finning UK's comments with respect to the Statement of Essential Facts (**SEF**) published on the public file on 25 November 2024.
2. Finning UK was not notified of the Investigation by the TRA and has not been a registered interested party to date. We request that this submission is accepted and considered by the TRA pursuant to Regulation 48 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (the **D&S Regulations**) on the basis of the significance of the information set out below to the Investigation and the TRA's findings.
3. The SEF indicates that the TRA intends to make a final affirmative determination in respect of the goods concerned originating from the Peoples' Republic of China (**PRC**) that fall under commodity code 8429 5210 00 with an operating weight of between 11 - 80 tonnes (the **Relevant Goods**) and recommend to the Secretary of State the imposition of an *ad-valorem* anti-dumping duty for a period of five years. The recommended *ad-valorem* duty is 83.50% other than for sampled exporter/producers and two exporter/producers who participated in the Investigation as interested parties.
4. As the authorised dealer of products manufactured by Caterpillar for the United Kingdom, including the Relevant Goods, we support Caterpillar's submission for the TRA to reconsider its recommended antidumping duty of 83.5% on imports of Relevant Goods manufactured by Caterpillar Xuzhou Ltd (CXL) and imported from the PRC.
5. Should the TRA disagree with Finning UK's conclusion that the Relevant Goods manufactured by CXL are not like products with either excavators manufactured across the S-XL PCNs by the UK industry or the sampled PRC manufacturing exporters, we would request that the TRA sample Finning UK and provide a reasonable deadline for Finning UK to provide a questionnaire response in order that the impact of the proposed anti-dumping measure can be adequately assessed.

Finning UK

6. Finning UK is a private company limited by shares and registered in England & Wales at the registered address of Watling Street, Bridgetown, Cannock, Staffordshire, WS11 8LL with company number 00367090.
7. Based on the distribution agreements maintained with Caterpillar SARL, Finning UK is the authorised Caterpillar dealer for the United Kingdom. As such the principal activity of the Company's operations in the UK is the supply of CAT machines and engines/generators, Perkins engines, associated technology equipment and advisory services, and the provision of parts and after sales service and repair in respect of those products supplied.
8. The Finning Group, of which Finning UK forms a part, has a strong relationship with Caterpillar with dealerships established as far back as 1933. Finning UK has been a dealer in the UK since 1983, when it acquired companies which held previous UK dealerships.
9. The distribution and servicing of CAT products account for the major portion of Finning UK's operations. The sale and servicing of CAT tracked excavators in the 11-80 tonne range is a core part of our business.
10. Approximately *[the exact percentage has been deleted for reasons of commercial sensitivity]* of Finning UK revenue derives from sales and servicing of CAT products and *[the exact percentage has been deleted for reasons of commercial sensitivity]* derives from sales of new Caterpillar-manufactured construction equipment. Approximately *[the exact percentage has been deleted for reasons of commercial sensitivity]* of Finning UK revenue derives directly from the sale and servicing of CXL-manufactured Relevant Goods over the last three financial years.
 - a. FY 2021 revenue: £590 million, of which *[commercially sensitive data: non-confidential range: £80-105 million]* derives from the sale and servicing of Relevant Goods;
 - b. FY 2022 revenue: £756 million, of which *[commercially sensitive data: non-confidential range: £115-130 million]* derives from the sale and servicing of Relevant Goods;
 - c. FY 2023 revenue: £673 million, of which *[commercially sensitive data: non-confidential range: £75-100 million]* derives from the sale and servicing of Relevant Goods.
11. In addition to the sales of Relevant Goods manufactured by CXL, significant revenue is derived from the follow-on parts and service activities delivered by Finning UK in support of these machines.
12. Finning UK has 1,468 employees working at nineteen branches across England, Scotland, Northern Ireland and Wales. In Cannock, Staffordshire the Company employs *[commercially sensitive data: non-confidential range: 670-700]* members of staff in our

National Distribution Centre and Operational teams. Full details of our employee headcounts per branch are set out below:

Branch	Headcount
Aberdeen	<i>[commercially sensitive data: non-confidential range: 30-40]</i>
Ashford	<i>[commercially sensitive data: non-confidential range: 25-40]</i>
Bristol	<i>[commercially sensitive data: non-confidential range: 40-50]</i>
Cannock Operations	<i>[commercially sensitive data: non-confidential range: 570-590]</i>
Cannock - National Distribution Centre	<i>[commercially sensitive data: non-confidential range: 80-95]</i>
Cardiff	<i>[commercially sensitive data: non-confidential range: 45-55]</i>
Chesterfield	<i>[commercially sensitive data: non-confidential range: 65-75]</i>
Gateshead	<i>[commercially sensitive data: non-confidential range: 10-20]</i>
Glasgow - Finning	<i>[commercially sensitive data: non-confidential range: 70-80]</i>
Inverness	<i>[commercially sensitive data: non-confidential range: 0-10]</i>
Leeds	<i>[commercially sensitive data: non-confidential range: 125-145]</i>
Lisburn	<i>[commercially sensitive data: non-confidential range: 45-60]</i>
Nanpean	<i>[commercially sensitive data: non-confidential range: 20-30]</i>
Norton Canes	<i>[commercially sensitive data: non-confidential range: 30-45]</i>
Peterborough	<i>[commercially sensitive data: non-confidential range: 75-90]</i>
Poole	<i>[commercially sensitive data: non-confidential range: 15-25]</i>
Slough	<i>[commercially sensitive data: non-confidential range: 25-40]</i>
Winsford	<i>[commercially sensitive data: non-confidential range: 65-80]</i>
Witham	<i>[commercially sensitive data: non-confidential range: 0-10]</i>
Total	<i>[commercially sensitive data: non-confidential range: 1,335 - 1,580]</i>

13. All members of Finning UK staff, whether in engineering, sales or business support roles, are part of the network that supports either the sale or servicing of CAT tracked excavators. For example:

- a. There is, across the UK, a sales team of [*commercially sensitive data: non-confidential range: 28-40*] for which the sale of CAT tracked excavators forms a core part of their day-to-day responsibility. Sustaining that team, at its current size, is contingent on the continued sale of the Relevant Goods.
 - b. Finning UK is proud to offer apprenticeships which allow school leavers to begin their engineering careers. We currently have [*commercially sensitive data: non-confidential range: 75-90*] apprentice service engineers in the business, who are extensively trained to repair and maintain CAT equipment, including tracked excavators, which form a key part of Finning's portfolio.
14. Caterpillar and Finning have a combined workforce of approximately 10,000 staff across the UK.

Finning UK's Contribution to Critical Infrastructure Projects

15. Finning UK's sale of the Relevant Goods are to customers across critical sectors of the UK economy, including construction, mining, energy, quarry and aggregates, and electric power.
16. The Company has played an important role on many major infrastructure projects across the country over thirty years, including by supplying the Relevant Goods to support the delivery of those projects. For example, on the HS2 project Finning UK has supplied a complete earthmoving package solution to some of the main consortia contractors, including [*commercially sensitive data: non-confidential range: 180-200*] excavators and [*commercially sensitive data: non-confidential range: 295-310*] UK manufactured CAT articulated trucks, along with telemetry and training.
17. In addition to supplying these products, on HS2 Finning UK have developed an industry first data management and reporting platform to aggregate data and insights from all construction equipment on the project. These insights, in conjunction with our advisory services are delivering efficiencies and cost savings to the section of the HS2 project managed by EKFB, a joint venture of Eiffage, Kier, Ferrovial Construction and BAM Nuttall, on an ongoing basis.
18. The Company is an important supplier to the waste and recycling industry as well as quarrying and extraction at sites, key in supporting UK infrastructure projects.
19. The imposition of the proposed anti-dumping measure would have significant consequences for the Company's ability to support key sectors of the UK economy and meet the demands of critical infrastructure projects in the future.

Finning UK's imports of the Relevant Goods

20. We have detailed below the total volume and value of Relevant Goods imported by the Company from the PRC during the Period of Investigation. These Relevant Goods were manufactured by CXL.

[*commercially sensitive data: table redacted*]

Finning UK's supply chain

21. The Relevant Goods imported by Finning UK are manufactured by CXL, Tuolanshan Road, Xuzhou, Jiangsu. Caterpillar SARL is the seller, and Finning UK is the importer of record.
22. Title for the Relevant Goods transfers from Caterpillar SARL to Finning UK [*redacted - commercially sensitive information*]. Caterpillar SARL has responsibility for the following additional import costs: [*redacted - commercially sensitive information*]. Finning UK is responsible for [*redacted - commercially sensitive information*].
23. As is common across the industry, dealer final cost of goods sold (COGS) in the table above may include discount programmes offered by Caterpillar which are negotiated between Finning UK and Caterpillar. These programmes exist to run campaigns or remain competitive in high volume or strategic business. The value of these typically range from [*commercially sensitive data: non-confidential range: 5-20*] %, and, as referred above, are included in the final price on the table above.
24. Finning focuses on pricing the Relevant Goods at a suitable premium against our competitors, whereby the benefits of contracting with Finning UK will pay back within our customer's ownership plan.

CAT excavators – like goods assessment

25. In paragraph 80 of the SEF, the TRA indicates that "*when comparing UK produced like goods to the goods concerned, within the same PCN category, there are no fundamental differences in physical or commercial characteristics*".
26. Finning UK respectfully disagrees with this characterisation as it relates to CXL-manufactured excavators in PCN categories S, M, L and XL and excavators of a similar weight manufactured by the UK industry.
27. Finning UK agrees that the excavators are largely similar in their physical and technical characteristics. We acknowledge that any potential excavator customer could interchange between JCB or CAT brands across the S-XL PCNs and find either product acceptable in many applications.
28. However, there are important commercial distinctions which support a conclusion that CAT and JCB excavators are not like products. Guidance published by the TRA confirms that in identifying like goods, the Authority will – or should - consider "*commercial likeness, including competition and distribution channels*" in addition to physical likeness.¹ Finning UK customers attribute value to the additional production capacity (i.e., greater average output in every hour worked) and fuel efficiency of CAT excavators to the extent that they are willing to pay a higher up-front purchase price in support of long-term savings.
29. JCB provides a stronger proposition to customers who measure their lifecycle cost differently since the equipment is less expensive to purchase but still provides a

¹ [SME Handbook TRA.pdf](#)

comfortable, reliable and strong-performing machine. Caterpillar excavators (and the wider CAT product portfolio) require a higher up-front investment with savings made back through the ownership period, additional production and through fuel saving.

30. On the basis of our understanding of the market in the S and M PCN categories, there was price premium for CXL-manufactured Relevant Goods of *[commercially sensitive data: non-confidential range: 0-20]* % when compared to JCB excavators in the same PCNs.
31. In the L and XL PCN categories, the long-term value of higher production or lower running costs is more pronounced. As a result, CAT products in these sizes are designed to focus on performance and in the POI were priced between *[commercially sensitive data: non-confidential range: 15-130]* % above equivalent JCB models. Finning UK's role as dealer is to provide long term ownership and operating simulations and market leading aftercare to potential customers to demonstrate the extra investment is worthwhile long-term.

[commercially sensitive data: table redacted]

32. The price premium of CAT's excavators in the S – XL PCNs against other PRC manufactured excavators, including those considered by the TRA in the Investigation, is even more pronounced. Premiums for Caterpillar products in the POI were between *[commercially sensitive data: non-confidential range: 55-120]* % when compared to other PRC manufactured excavators. There are important physical and commercial differences between PRC-manufactured excavators assessed by the TRA and excavators in the same PCNs manufactured by CAT.
33. For example, a performance test in the L size category resulted in the other PRC manufactured excavators having a *[commercially sensitive data: non-confidential range: 20-35]* % reduced level of fuel efficiency over the equivalent CAT L size machine. Additionally, CAT products have clearly differentiated features in areas such as operator comfort and onboard technology to other PRC manufactured excavators.

[commercially sensitive data: table redacted]

34. CAT excavators across the S – XL PCNs and those manufactured by Liugong, Sany, XCMG are not "like products" and should not be treated as such by the TRA for the purposes of the anti-dumping duties that it has indicated in the SEF it will recommend to the Secretary of State.
35. While a customer does not generally receive published price lists from dealers or retailers of excavators, our expectation is that the TRA could verify these estimated price premiums against both JCB products and other PRC manufactured excavators on the basis of the data it has reviewed during the Investigation.

CAT excavators - dumping and injury

36. Based on the price analysis performed by Caterpillar, prices by Finning UK of CAT-branded excavators do not undercut, undersell or suppress prices of the complainant. On average, Caterpillar goods imported from the PRC are more expensive than those of JCB.

37. CAT excavators are priced [*commercially sensitive data: non-confidential range: 0-120*] % above JCB equivalent excavators, as described above, and Finning UK's commercial strategy requires us to [*redacted: commercially sensitive information*]. When a customer is interested purely in the lowest upfront price, they would not typically buy CAT excavators from Finning UK.
38. Therefore, the conclusions that the TRA reaches in section G1.2 of the SEF in respect of price undercutting and the depression or suppression of domestic prices of UK manufactured excavators do not apply to CAT excavators across the PCNs imported by Finning UK.
39. Paragraph 360 of the SEF confirms that the TRA found significant evidence of price undercutting with an average margin of 23.99% in the POI. As we have described above, there is no price undercutting of UK produced excavators by CAT products. In fact, the opposite is true – CAT excavators are purchased by Finning UK's customers at a premium price in excess of JCB's sales prices.
40. It further stands to reason that Relevant Goods manufactured by CAT in the PRC cannot have depressed the price of UK produced excavators. The assessment the TRA has conducted of price depression, described at G1.2.2 was calculated on the basis of changes during the injury period between UK industry's domestic sales prices for its like goods and the sales prices of the sampled PRC exporters. As evidenced above, the sales prices of CXL manufactured Relevant Goods sold by Finning UK were significantly higher than those of the sampled PRC producers throughout the POI on the basis of the physical and commercial differences described above. Similarly, the conclusions in respect of price suppression at G1.2.3 result from price pressure driven by the sampled PRC exporters. CAT excavators imported by Finning UK could not have contributed to any such price pressure, on the basis that Finning's sales prices across the PCNs carry a [*commercially sensitive data: non-confidential range: 1-120*] % premium above those of UK industry.
41. On the basis that:
- a. the TRA is statutorily required to determine an injury margin which it is satisfied is necessary to prevent injury to UK industry;
 - b. the default method to calculate the injury margin for an exporter is on the basis of its underselling margin (i.e. comparing a benchmark UK price with the import price) for each PCN; and
 - c. for the reasons detailed above, Relevant Goods manufactured by CXL in the PRC and imported by Finning UK during the POI were not undersold and therefore could not have contributed to any injury to the UK industry in any of the PCNs,

the Company respectfully submits that it would be inappropriate and contrary to the objectives of the UK trade remedies framework to apply the residual injury margin of 83.50% to Relevant Goods manufactured by CXL in the PRC.

Economic Interest Test - Impact of ADD on Finning UK

42. In paragraph I4.3 of the SEF, the TRA notes that it had identified 136 retailers and importers of excavators, sourcing excavators from both UK and non-UK producers. The Authority selected nine businesses to analyse the economic significance of this group, for the purposes of the economic interest test assessment.
43. Over the last 7 years, Finning UK sales of Relevant Goods manufactured by CXL have constituted between [*commercially sensitive data: non-confidential range: 5-20%*] % of sales of excavators in PCN categories S – XXL. Over the POI the market share for Finning UK is [*commercially sensitive data: non-confidential range: 10-18%*] %. We receive our information through the Caterpillar Business Information Centre, sourced on the basis of the Association of Equipment Manufacturers which is the worldwide industry recognised market analysts. For the UK, we subscribe to market analyst data Systematics for detailed market information but not all producers subscribe to this service, and therefore the data set is smaller and less representative.
44. Over the last three financial years, the Company has sold [*commercially sensitive data: non-confidential range: 1,500-2,300*] units of Relevant Goods to [*commercially sensitive data: non-confidential range: 250-350*] unique customers.
45. As such, we would request that the TRA carefully considers the impact of the proposed anti-dumping duty at the residual injury margin of 83.50% to our business, which is distinct from those small businesses that the TRA has used to assess the economic impact of the proposed duty on retailers and importers.
46. From a pricing perspective, at I5.2 of the SEF the TRA assumes that if the anti-dumping duty was imposed, PRC producers would raise their prices by the level of the measures and that PRC producers would exit the market as a result of the measure. Given that, as described above, CXL-manufactured Relevant Goods imported by Finning UK are – in contrast with the sampled PRC exporting producers – already higher than those currently imposed by the UK producers, a duty of 83.50% would eliminate the UK market for Relevant Goods manufactured by CXL in the PRC.
47. Finning UK's supply of Relevant Goods [*redacted: commercially sensitive information*]. [*commercially sensitive data: non-confidential range: 90-150*] excavators for delivery to Finning UK in the first half of 2025 have already been sold on to UK end users.
48. The commercial consequences of the anti-dumping measure would not be limited to the sale and servicing of excavators. Between 2021 and 2023 Finning UK sold on average [*commercially sensitive data: non-confidential range: £40-60 million*] of UK-manufactured articulated trucks annually. Finning UK customers often purchase excavators alongside associated products such as articulated trucks, as they value the benefits of procuring multiple pieces of equipment from the same supplier. [*commercially sensitive data: non-confidential range: 80-100%*] % of the sales of Caterpillar UK-manufactured articulated trucks between 2021 and 2023 were made to customers who also purchased tracked excavators during the same period. We anticipate that the anti-dumping measure would reduce Finning UK's sales of articulated trucks by [*commercially sensitive data: non-confidential range: 40-120*] units per year as fleet package choices could not be created. Therefore, Finning UK withdrawing excavators

from its product inventory would have a significant effect on our broader sales, including that of UK manufactured products.

49. At paragraph 569 of the SEF, the TRA has suggested that the financial consequences of the measure for retailers and importers could be a decrease in producer surplus of between £0.3-£0.5 million per annum compared to the current state of play. This figure is a significant underestimate as the financial consequences of the measure for Finning UK alone. In FY 2023, Finning UK revenue from the sale and servicing of CXL-manufactured Relevant Goods was [*commercially sensitive data: non-confidential range: £70-100 million*].

Economic Interest Test – Competitive environment and structure of the market

50. The TRA acknowledges in section I7 of the SEF that:

- a. The current UK excavator market is concentrated; and
- b. That there are high barriers to entry into the UK excavator market and as such there is unlikely to be an increase in the number of UK producers with or without the imposition of the anti-dumping measure.

51. Despite this, the TRA has concluded at paragraph 593 of the SEF that it does not anticipate "*any impact on the choices or information available to customers. More than 50% of the UK excavator market is supplied by third country producers and, as such, consumer choice across all PCNs will remain high*".

52. Finning UK respectfully submits that this is not a reasonable assessment as to the impact of the imposition of the proposed anti-dumping measures on competition in the UK market. In the investigation period, Finning sales of CXL-manufactured Relevant Goods imported from PRC constituted [*commercially sensitive data: non-confidential range: 12,500-13,800*] tons out of the total volume of imports of excavators from PRC of 15,958 tons or [*commercially sensitive data: non-confidential range: 75-90%*]. As such, the imposition of 83.50% residual injury margin to Relevant Goods manufactured by CXL in the PRC would have a significant effect on competition for customers of excavators for those PCNs. For those customers who take a long-term assessment of cost effectiveness and are willing to place a premium on the high productivity and fuel economy of CAT excavators, they would be faced with significantly reduced choice should the anti-dumping measure be imposed.