

15 May 2024

Trade Remedies Authority
North Gate House
21-23 Valpy Street
Reading
Berkshire
RG1 1AF

via UK Trade Remedies Services

OPEN

Dear Mesdames,
Dear Sirs,

Re: AD0047 – Comments on interested parties' comments and questionnaires
Our client: JCB Heavy Products Limited ("Applicant")

We refer to the questionnaire responses and comments submitted in the captioned investigations ("**Investigation**") by the following interested parties:

- LiuGong and its related entities (together: "**LiuGong**").¹
- SANY and its related entities (together: "**SANY**").²
- Xuzhou Construction Machinery Group and its related entities (together: "**XCMG**").³
- Fox Group Equipment Sales ("**FGES**"), a UK dealer for LiuGong.
- The Government of China ("**GOC**").⁴
- The China Chamber of Commerce for Import and Export of Machinery and Electronic Products ("**CCCME**").

In their questionnaire responses and comments, these interested parties make claims on which the Applicant hereby submits its comments. The Applicant also takes this opportunity to comment on other developments in the public file of the Investigation. In sum, the Applicant submits that:

- As concerns the scope of the Investigation (Section 1), the Trade Remedies Authority ("**TRA**") should not exclude :
 - Excavators with an operating weight of at least 50 tons ("**T**") (Section 1.1).

¹ Entities include Liuzhou LiuGong Excavator Co., Ltd. ("**LiuGong Liuzhou**"), LiuGong Changzhou Machinery Co., Ltd., Guangxi LiuGong Machinery Co., Ltd., LiuGong Machinery Hongkong Co., Ltd., and LiuGong Machinery (UK) Limited ("**LiuGong UK**").

² Entities include SANY Heavy Machinery Limited ("**SANY Kunshan**"), SANY Heavy Machinery (UK) Limited ("**SANY UK**") and Shanghai SANY Heavy Machinery Co., Ltd.

³ Entities include XCMG Excavator Machinery Co., Ltd. ("**XCMG China**"), XCMG UK Sales and Services Limited ("**XCMG UK**"), XCMG European Sales and Services GmbH ("**XCMG EU**") and Xuzhou Construction Machinery Group Import & Export Co., Ltd.

⁴ This includes the central, provincial and municipal governments of the People's Republic of China, as well as state-owned enterprises and private enterprises entrusted and directed by the GOC.

- Electric Excavators (Section 1.2).
- As concerns dumping (Section 2):
 - The TRA should treat Sunward Intelligent Equipment Co., Ltd. ("**Sunward**") as non-cooperating (Section 2.1).
 - There is clear evidence of a particular market situation ("**PMS**") in the Chinese Excavator industry (Section 2.2).
 - It is uncontested that Brazil is an appropriate representative country for constructing normal value (Section 2.3).
 - The TRA should adjust the normal value for differences in indirect taxation between normal value and export sales to the UK (Section 2.4).
 - Deduct from the export price selling, general and administrative ("**SG&A**") costs and profits of overseas traders (Section 2.5).
- As concerns injury and causation (Section 3):
 - The flood of Chinese imports is worse than expected (Section 3.1).
 - The injury suffered by the Applicant is caused by dumped and subsidized Chinese Excavator imports (Section 3.2).
- The TRA should not accept further comments from interested parties to avoid delaying the Investigation (Section 4).

1. Product scope of the Investigation

1.1 The TRA should keep $\geq 50T$ Excavators in scope

1. LiuGong, SANY and XCMG claim that $\geq 50T$ Excavators should be excluded from the scope of the Investigation.⁵ FGES also claims that $\geq 50T$ differ from $< 50T$ Excavators.⁶
2. As an initial point, the Chinese manufacturers' arguments about broad ranges of $\geq 50T$ Excavators are misleading.⁷ There are very few circumstances on the UK market in which a $\geq 50T$ Excavator is the most appropriate machine, and most – if not all – $\geq 50T$ Excavators sold on the UK market will have an operating weight rather close to $\geq 50T$.
3. The question for present purposes is thus whether $< 50T$ and $\geq 50T$ Excavators compete on the UK market. As the Applicant has explained, on the UK market, the end use of $\geq 50T$ and $30-50T$ Excavators is identical. As such, in almost all instances on the UK market, $30-50T$ Excavators, such as the Applicant's new $40T$ model 370X or its old $46T$ model JS500,⁸ compete with $\geq 50T$ Excavators, such as the SANY $50.1T$ model SY500H (Tier 4 & Stage V) or the XCMG $50.4T$ model XE490U.
4. Nothing in the Chinese manufacturers' submissions suggests otherwise. To the contrary, SANY acknowledges that there is competition between $< 50T$ and $\geq 50T$ Excavators.⁹ Similarly, XCMG UK's marketing materials suggest that the UK market for $\geq 50T$ Excavators is non-existent as its product range ends at an Excavator with an operating

⁵ See, e.g., XCMG, AD0047: Exporter questionnaire, p. 9; SANY Kunshan, AD0047: Exporter questionnaire, p. 10; LiuGong Liuzhou, AD0047: Exporter questionnaire, pp. 8-10.

⁶ FGES, AD0047: Downstream industries questionnaire, pp. 8-9.

⁷ SANY Kunshan, AD0047: Exporter questionnaire, pp. 9-11.

⁸ JCB, 370X, **Annex 1**; JCB, JS500 Brochure, **Annex 2**.

⁹ SANY Kunshan, AD0047: Exporter questionnaire, p. 11.

weight of 50T.¹⁰ LiuGong refers to a website that groups Excavators into <10T, 10-25T and >25T, again confirming that there is no separate UK market for ≥50T Excavators.¹¹

5. A closer look at Chinese manufacturers' product portfolio further confirms that <50T and ≥50T Excavators compete. LiuGong offers models with operating weights just below and just above the 50T threshold, with one model even straddling the 50T threshold depending on the specifications. SANY's portfolio includes an Excavator with an operating weight of 49.5T and one with an operating weight of 50.1T. XCMG offers an Excavator with an operating weight of 48.1T and one with an operating weight of 50.4T. **Table 1** below lists the said models and their operating weights.

Excavator models	Operating weights
LiuGong 950E	47-49.8T
LiuGong 952E	48.7-51T
LiuGong 952E LL	55.8T
SANY SH500H	49.5T
SANY SY500H (Tier 4 & Stage V)	50.1T
SANY SY550HD	52T
XCMG XE490DK	48.1T
XXMG XE490U	50.4T

6. As **Table 1** demonstrates, excluding ≥50T Excavators from the scope of the Investigation would create a loophole for Chinese manufacturers to push customers to procure ≥50T Excavators instead of competing <50T Excavators. This would undermine the effectiveness of anti-dumping and anti-subsidy duties in remedying the injury suffered by the UK Excavator industry caused by imported Chinese Excavators.
7. For the same reason, there is no need to add an additional product control number ("**PCN**") for ≥50T Excavators, as SANY now claims.¹³ In this regard, SANY previously confirmed that it had "no comment" on the existing PCN structure,¹⁴ whereas it was clear from the (very simple) PCN structure in the Investigation that all ≥30T Excavators were grouped in a single PCN. SANY's comment is factually incorrect because <50T and ≥50T Excavators compete on the UK market, as explained above, as well as out of time.
8. For those reasons, the TRA should keep ≥50T Excavators in scope.
9. If the TRA were nonetheless to consider it appropriate to put in place an upper operating weight limit to delineate the scope of the Investigation, that limit should be set significantly higher than 50T in order to avoid the said loophole. In this regard, the Applicant notes that the other UK Excavator manufacturer, Komatsu UK Limited ("**Komatsu UK**") reports on its website that it "manufactures medium-size and large

¹⁰ XCMG UK, Excavators, **Annex 3**.

¹¹ LiuGong UK, AD0047: Importer questionnaire, p. 10, referring to Volvo, 'Different Excavator Types, Sizes, and Purposes Explained 2021,' 25 July 2021, **Annex 4**.

¹² FGES, 'LiuGong 950E/952E/952E LL Excavator,' **Annex 5**; SANY, Large excavators, **Annex 6**; XCMG, Excavators, **Annex 7**.

¹³ Contrary to what SANY claims. See SANY Kunshan, AD0047: Exporter questionnaire, pp. 9-10.

¹⁴ SANY Kunshan, AD0047: Pre-sampling questionnaire, pp. 12-13.

crawler excavators (17 to 70 tonnes)."¹⁵ An appropriate upper operating weight limit (if any) could thus be 75 or 80T.

1.2 The TRA should keep electric Excavators in scope

10. LiuGong and SANY claim that electric Excavators should be excluded from the scope of the Investigation.¹⁶
11. It is undisputed that electric and internal combustion engine ("**ICE**") Excavators have the same basic physical characteristics and end uses. They (will) thus compete with otherwise similar ICE Excavators. For that reason alone, electric Excavators should remain in scope.
12. Further, while LiuGong's portfolio appears to include one electric Excavator model (the 922FE),¹⁷ this model is not available from LiuGong's EU/UK website.¹⁸ LiuGong confirmed that before and during the period of investigation ("**POI**"), it sold no electric Excavators on the UK market.¹⁹ Similarly, while there are some press reports of a SANY electric Excavator model (the SY215E), this model is not listed in SANY's global Excavator product portfolio or on SANY UK's website.²⁰ LiuGong and SANY's claim concerning electric Excavators is thus hypothetical and moot. This issue can, if an issue at all, be the subject of a future partial interim review.
13. *[Sensitive information removed - Applicant's confidential business information]*. Like LiuGong and SANY, the Applicant already offers a <10T electric excavator.²¹
14. In any event, EU and U.S. investigating authorities have already established that, and are currently investigating whether Chinese manufacturers sell dumped and subsidized electric vehicles/machinery. In the EU, the European Commission concluded anti-dumping and anti-subsidy investigations on electric bicycles,²² whereas investigations on mobile access equipment ("**MAE**")²³ and battery electric vehicles²⁴ are ongoing. In the U.S., the Department of Commerce concluded anti-dumping and anti-subsidy

¹⁵ Komatsu UK Ltd. (KUK), Homepage, **Annex 8**.

¹⁶ See, e.g., SANY Kunshan, AD0047: Exporter questionnaire, p. 9; LiuGong Liuzhou, AD0047: Pre-sampling questionnaire, p. 11; LiuGong Changzhou, AD0047: Exporter questionnaire, pp. 11, 22.

¹⁷ LiuGong, Excavators, 922FE, **Annex 9**.

¹⁸ LiuGong Europe, EV Machines, **Annex 10**.

¹⁹ LiuGong Changzhou, AD0047: Exporter questionnaire, p. 11.

²⁰ SANY, Medium excavators, **Annex 11**; SANY UK, Excavators, **Annex 12**.

²¹ JCB, 19C-IE, **Annex 13**.

²² Commission Implementing Regulation (EU) 2019/73 of 17 January 2019 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of electric bicycles originating in the People's Republic of China, OJ L 16, 18.1.2019, p. 108; Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China, OJ L 16, 18.1.2019, p. 5.

²³ Notice of initiation of an anti-dumping proceeding concerning imports of mobile access equipment (MAE), originating in the People's Republic of China C/2023/7504 OJ C, C/2023/783, 13.11.2023; Notice of initiation of an anti-subsidy proceeding concerning imports of mobile access equipment (MAE), originating in the People's Republic of China C/2024/1915 OJ C, C/2024/2362, 27.3.2024.

²⁴ Notice of initiation of an anti-subsidy proceeding concerning imports of new battery electric vehicles designed for the transport of persons originating in the People's Republic of China C/2023/6731 OJ C, C/2023/160, 4.10.2023.

investigations on MAE.²⁵ The EU and U.S. investigations on MAE concern LiuGong, SANY and XCMG.²⁶

15. In the said investigations, the EU and U.S. investigating authorities have established that Chinese manufacturers of electric vehicles/machinery benefit from unfair advantages up the battery chain.²⁷ Chinese Excavator manufacturers also benefit from the same unfair advantages.
16. Excluding electric Excavators (even before these machines are sold to the UK market) which undoubtedly compete with ICE Excavators would thus create a loophole and undermine the effectiveness of anti-dumping and anti-subsidy duties.
17. For those reasons, the TRA should keep electric Excavators in scope.

2. Dumping

2.1 The TRA should treat Sunward as non-cooperating

18. Sunward submitted a pre-sampling exporter questionnaire in which it reported that it had UK exports of Excavators during the POI.²⁸
19. As the TRA indicated that it does not intend to use sampling,²⁹ Sunward should have completed an exporter questionnaire. It appears from the public file that it did not.
20. For that reason, the TRA should treat Sunward as a non-cooperating Chinese manufacturer and subject it to the residual duty rate based on Regulation 38 of the Trade Remedies (Dumping and Subsidisation) Regulations 2019 ("**Regulations**").

2.2 There is clear evidence of a particular market situation

21. The GOC claims that there is no evidence of a particular market situation ("**PMS**") in the Chinese Excavator industry.³⁰ SANY claims that the Applicant has not provided "sufficient evidence" of the existence of a PMS that affects price comparability.³¹
22. As an initial point, Regulation 14(1)(b) of the Regulations applies to China. The question of whether a PMS exists is thus moot and the TRA should construct normal value for Chinese Excavators based entirely on the costs of production of the like goods plus a reasonable amount for administrative, selling and general costs and for profits in an appropriate third country.³²
23. Should the TRA disagree that Regulation 14(1)(b) applies to China, then at the very least, and as the Applicant explained, there is a PMS in the Chinese Excavator industry

²⁵ Certain Mobile Access Equipment and Subassemblies Thereof From the People's Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination, 86 FR 12.10.2021, p. 70439; Certain Mobile Access Equipment and Subassemblies Thereof From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, 87 FR, 22.02.2022, p. 9576.

²⁶ See, e.g., U.S.: Certain Mobile Access Equipment and Subassemblies Thereof From the People's Republic of China: Antidumping Duty Order, 87 FR, 14.04.2022, p. 22191; in the EU, XCMG and LiuGong are named in the anti-subsidy investigation (AS704) complaint request, **Annex 14**.

²⁷ See e.g., U.S.: Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Certain Mobile Access Equipment and Subassemblies Thereof from the People's Republic of China, C-570-140, p. 49; EU: Regulation 2019/72, recitals 100-130.

²⁸ Sunward, AD0047: Pre-sampling questionnaire response.

²⁹ TRA, AD0047: Notification of sampling approach, p. 1.

³⁰ GOC, AD0047: Comments on particular market situation.

³¹ SANY, AD0047: Comments on particular market situation and appropriate representative country, p. 2.

³² Regulation 14(3)(a) of the Regulations.

that affects price comparability in the sense of Regulation 7(4) of the Regulations. To support this claim, the Applicant provided 26 pages of analysis and 59 appendices with supporting evidence, none of which is rebutted by the GOC or SANY.³³ The GOC and SANY's claim that there is insufficient evidence on the record is thus baseless. To lend further support to the Applicant's claims, LiuGong confirmed that its supply chain (steel and parts) is almost entirely domestic/Chinese.³⁴

24. In this regard, SANY's claim that the Chinese Excavator industry is "free from any government interferences" rings hollow.³⁵ The deep-seated GOC interference in all areas of the economy has consistently been established hundreds of times by investigating authorities around the world.³⁶ SANY's general, superficial statements to the contrary do not call into question this long-established consistent practice.
25. The Applicant also recalls that the TRA has previously found that there is a PMS in China that affects price comparability due to, for instance, government support measures, preferential loans and finances, artificially low energy costs, artificially low raw material costs, and artificially low labour costs.³⁷ The same is true in the Chinese Excavator industry, as the Applicant has demonstrated.
26. As part of its analysis, the Applicant has demonstrated that the PMS has a different effect on domestic prices in China as compared to prices on the UK market. Citing half a paragraph in the Applicant's application, SANY claims that the Applicant has not made the correct comparison.³⁸ SANY appears to have misread the Applicant's application, which clearly makes what SANY claims is the right comparison.
27. For those reasons, the TRA should reject the GOC and SANY's arguments that there is insufficient evidence of a PMS.

2.3 It is uncontested that Brazil is an appropriate representative country for constructing normal value

28. SANY claims that it cannot meaningfully comment on whether Brazil is an appropriate representative country for the purpose of constructing normal value for Chinese Excavators. According to SANY, there is data concerning inputs, overheads, SG&A and profits for Brazilian Excavator manufacturers missing from the public file.³⁹
29. SANY's comments channel the European Commission's approach for selecting an appropriate representative country under the EU's significant distortion methodology. These comments are irrelevant, as the TRA uses an entirely different approach.
30. The Applicant notes that, in its comments, SANY does not contest that Brazil is an appropriate representative country. In this regard, the Applicant recalls that the TRA has previously used Brazil as an appropriate representative country.⁴⁰

³³ JCB, AD0047: Application, Appendices E.2.001-E.2.060.

³⁴ LiuGong Liuzhou, AD0047: Exporter questionnaire, p. 9.

³⁵ SANY, AD0047: Comments on particular market situation and appropriate representative country, p. 4.

³⁶ JCB, AD0047: Application, Appendix E.2.001, paras. 5-6.

³⁷ See UK TRA, AD0021: Final Determination – Optical Fibre Cables from China, Section G; UK TRA, AD0012: Final Determination – Aluminium Extrusions from China, Section F.

³⁸ SANY, AD0047: Comments on particular market situation and appropriate representative country, p. 3.

³⁹ SANY, AD0047: Comments on particular market situation and appropriate representative country, pp. 1-2.

⁴⁰ See UK TRA, AD0021: Final Determination – Optical Fibre Cables from China, Section G; UK TRA, AD0012: Final Determination – Aluminium Extrusions from China, para. 195.

31. For those reasons, the TRA should continue using Brazil as the appropriate representative country for constructing normal value.
- 2.4 The TRA should adjust the normal value for differences in indirect taxation between normal value and export sales to the UK**
32. LiuGong, SANY and XCMG report that they receive export VAT refunds.⁴¹ The GOC reported the VAT rate applicable for rebates on exports of Excavators, but not the VAT rate applicable on imports of raw materials.⁴²
33. As constructed normal value is typically computed net of VAT, the TRA should make an upward adjustment for the non-refundable VAT on export sales under Regulation 16(2) of the Regulations to ensure that it makes a tax-neutral comparison of the normal value and the export price of Excavators.
34. This approach – a standard European Commission practice – has been sanctioned by the Court of Justice of the EU.⁴³
- 2.5 The TRA should deduct from the export price SG&A and profits for overseas traders**
35. LiuGong reported that it sells Excavators on the UK market through related traders based in China and/or Hong Kong, who in turn sell the Excavators to LiuGong UK.⁴⁴ XCMG reported that it sells Excavators on the UK market through at least two but likely three traders.^{45, 46}
36. In such scenarios, when constructing the export price based on Regulations 15 and 16 of the Regulations, the TRA should make adjustments:
- For SG&A costs actually incurred by the UK importer.
 - For a reasonable profit that an unrelated importer would make.
 - For the SG&A costs actually incurred by each related overseas trader (in China and/or a third country).
 - For the profit that an unrelated trader would make.
37. The TRA has previously made the first and second adjustments (i.e., for the UK importer),⁴⁷ but has perhaps not yet faced a situation in which imports were also channelled through overseas traders. The approach outlined above for overseas traders follows the same logic as the TRA's approach for UK importers and is standard

⁴¹ See, e.g., LiuGong Liuzhou, AD0047: Exporter questionnaire, p. 32; SANY Kunshan, AD0047: Exporter questionnaire, p. 34; XCMG, AD0047: Exporter questionnaire, p. 32.

⁴² GOC, AS0046: Subsidies questionnaire, p. 27.

⁴³ See, e.g., recitals 387-388 to Commission Implementing Regulation (EU) 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China, OJ L 315, 29.9.2020, p. 1; judgment of 21 February 2024, *Sinopec v Commission*, T-762/20, EU:T:2024:113, paras. 140-158.

⁴⁴ See, e.g., LiuGong Liuzhou, AD0047: Exporter questionnaire, p. 12.

⁴⁵ See, e.g., XCMG EU, AD0047: Pre-sampling questionnaire, p. 6; XCMG UK, AD0047: Pre-sampling questionnaire, p. 6.

⁴⁶ Should SANY also channel export sales through a trader in China or a third country, the TRA should deduct from the export price SG&A and profits for this trader.

⁴⁷ See, e.g., TRA, AD0021: Final determination in Aluminium Extrusions from China, paras. 271-278.

European Commission practice,⁴⁸ as sanctioned by the WTO and the Court of Justice of the EU.⁴⁹

38. On that basis, the TRA should deduct from the export price SG&A and profits for overseas traders involved in exports of Excavators to the UK.

3. Injury and causation

3.1 The flood of Chinese imports is worse than expected

39. Information put on the record by the Chinese Excavator manufacturers confirms that the flood of Chinese Excavator imports is worse than expected.
40. Based on data from LiuGong, SANY, Sunward and XCMG,⁵⁰ the actual number of Excavators imported into the UK during the POI is significantly higher than the [*Sensitive information removed - Copyrighted material, disclosure of which breach copyrights*] units reported in the Application. Instead, the number is somewhere between 462 and a whopping 613. This means, as set out in **Table 2** below, that the market share of Chinese Excavator manufacturers may have increased [*Sensitive information removed - From 323% as per the original estimate in the Application to 562% in the revised estimate*] in the POI. (This is a conservative estimate as it assumes that the total market size increased by as much as the additional Chinese Excavator sales. In reality, the additional Chinese Excavator sales very likely were at the expense of other manufacturers' sales.)

Table 2 – Market shares in the POI (based on volume) ⁵¹		
Origin	Original market share estimate	Revised market share estimate
China	[<i>Sensitive information removed - Applicant's business data and copyrighted material, disclosure of which breach copyrights</i>]	
EU		
Japan		
Korea		
Komatsu UK		
U.S.		
JCB		

3.2 The injury suffered by the Applicant is caused by dumped and subsidized Chinese Excavator imports

41. The CCCME claims that there is no injury caused by Chinese Excavator imports because (a) the UK Excavator industry's sales and market share increased between

⁴⁸ See, e.g., for adjustments for the related importer, see recital 50 of Commission Implementing Regulation (EU) 2021/854 of 27 May 2021 imposing a provisional anti-dumping duty on imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ L 188, 28.5.2021, p. 61. Additional adjustments were made for the involvement of a first third-country trader in recitals 49 and 52, and for a second third-country trader (so the third intermediate entity in total) in recital 54.

⁴⁹ See, e.g., Panel Report, *EU – Fatty Alcohols (Indonesia)*, paras. 7.36-7.38, 7.88, 7.97; judgment of 25 June 2015, *PT Musim Mas v Council*, EU:T:2015:437, paras. 100-102.

⁵⁰ SANY Shanghai, AD0047: Pre-sampling questionnaire, p. 9; SANY Kunshan, Pre-sampling questionnaire, p. 9; LiuGong Liuzhou, AD0047: Pre-sampling questionnaire, p. 9; LiuGong Changzhou, AD0047: Pre-sampling questionnaire, p. 9; XCMG UK, AD0047: Pre-sampling questionnaire, p. 10.

⁵¹ JCB, AD0047: Application, Appendix G.1.001, updated to use 613 units for the POI.

2019 and the POI and the increase in Chinese imports came at the expense of imports from third countries; and (b) the Applicant's investments increased between 2019 and POI.⁵² LiuGong UK claims that injury was caused by other factors, such as Brexit and COVID-19.⁵³

42. These claims are baseless.⁵⁴
43. First, as to the UK Excavator industry's sales and third country sales, the Applicant notes that it cannot be certain that all sales attributed to Komatsu UK are indeed of Excavators manufactured in the UK, as Komatsu UK is a subsidiary of the Japan-headquartered Komatsu, which also produces Excavators in Brazil, Germany, Italy, Japan, and the United States.
44. For the Applicant [*Sensitive information removed - Confidential information about the Applicant's market size*] the increase in its UK sales volumes was lower than the growth of the UK market. As a result, the Applicant lost market share despite dropping its prices to unsustainably low levels in order to try to avoid losing more sales to subsidised Chinese Excavator manufacturers who are aggressively dumping on the UK market.⁵⁵
45. As one SANY dealer aptly summarised how Chinese Excavators are priced, "SANY is distinguished due to its extremely low purchase price."⁵⁶ This unfair pricing strategy in what a LiuGong dealer in the UK confirms is a market where customers are "very price sensitive"⁵⁷ has allowed Chinese manufacturers to make significant inroads in the mature UK Excavator market at a very high pace, increasing sales by 676% and market share by 562% between 2019 and the POI.⁵⁸ It is clear from the record that they have no intention of slowing down.⁵⁹
46. This increase stands in stark contrast to the imports from third countries. It is true, as the CCCME says,⁶⁰ that imports from Japan increased by ~20% between 2019 and the POI. The Applicant has no evidence that Excavators from Japan – which have been a mainstay on the UK market for many years – are being dumped or that Japanese manufacturers receive significant government support. The unfair competition on the UK market stems from the injuriously low prices that Chinese manufacturers use to rapidly gain market share – a classic page from their playbook.
47. Second, the CCCME's myopic focus on investments is misguided. Investments are crucial to ensure that the Applicant continues to build top of class Excavators that meet the highest customer demand. [*Sensitive information removed - Confidential information about the Applicant's business*].
48. However, as the Applicant has demonstrated, it has not managed to return to profitability due to the abnormal price pressure from Chinese Excavator manufacturers. This price pressure becomes most clear in the 115% injury margin that the Applicant calculated, as

⁵² CCCME, AD0047: Contributor questionnaire, pp. 8-11.

⁵³ LiuGong UK, AS0046: Importer questionnaire, pp. 32-36.

⁵⁴ The CCCME also makes a series of generic, unsupported claims (e.g., that the Applicant's management decisions are a cause of injury or that the Applicant cannot represent the UK industry because of purported "strong ties" with Chinese manufacturers). These claims are entirely meritless.

⁵⁵ JCB, AD0047: Application, Section G.1.

⁵⁶ JCB, AD0047: Application, Section G.1, p. 61.

⁵⁷ FGES, AD0047: Downstream industries questionnaire, p. 9.

⁵⁸ Comparing market share [*Sensitive information removed. From 323% as per the original estimate in the Application to 562% in the revised estimate*] to 613 in the POI.

⁵⁹ JCB, AD0047: Application, Section G.1.

⁶⁰ CCCME, AD0047: Contributor questionnaire, p. 10.

it compares the actual cost of producing Excavators in the UK with the price at which subsidised Chinese Excavators are being dumped.⁶¹

49. Third, LiuGong UK's general references to purported other factors such as Brexit and COVID-19 all deny the root cause of the injury suffered by the Applicant, which is the flood of injuriously low-priced imports from China. As LiuGong UK itself stated, it sells below cost in order to build relationships and find new customers in the UK.⁶² This unfair behaviour is precisely why the Applicant suffers injury.
50. For those reasons, the TRA should reject the CCCME's arguments that there is no injury caused by Chinese Excavator imports.

4. The TRA should not accept further comments to avoid delaying the Investigation

51. As a final point, the Applicant notes that several interested parties reserved the right to submit additional comments on various aspects of the Investigation. For instance, the CCCME repeatedly stated that it would provide further comments.⁶³
52. The Applicant notes that the TRA imposed deadlines to submit comments, which have now lapsed. These deadlines ensure that the TRA can complete the Investigation in a timely fashion.
53. For that reason, the TRA should reject and disregard any further, out-of-time comments.

5. Conclusion

54. In sum, the Applicant submits that:
- As concerns the scope of the Investigation, the TRA should:
 - Keep ≥50T Excavators in scope.
 - Keep Electric Excavators in scope.
 - As concerns dumping, the TRA should:
 - Treat Sunward as non-cooperating and subject it to the residual duty amount.
 - Reject the GOC and SANY's arguments that there is insufficient evidence of a PMS.
 - Continue using use Brazil as the appropriate representative country for constructing normal value.
 - Adjust the normal value for differences in indirect taxation between normal value and export sales to the UK.
 - Deduct from the export price SG&A and profits for overseas traders involved in exports of Excavators to the UK.
 - As concerns injury and causation:
 - The flood of Chinese imports is worse than expected.

⁶¹ JCB, AD0047: Application, Annex, Table 7.

⁶² See above, para. 45.

⁶³ E.g., CCCME, AD0047: Contributor questionnaire, p. 7.

- The TRA should reject the CCCME's arguments that there is no injury caused by Chinese Excavator imports.
- The TRA should reject and disregard any further, out-of-time comments to avoid delaying the Investigation.

* * *