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1 April 2025

Our client: Caterpillar Xuzhou Ltd. ("CXL")

Dear Madam,

Dear Sir,

Re: AD0047 – Certain excavators from China - CXL Cost Adjustment Methodology

- (1) By the means of this submission, Caterpillar Xuzhou Ltd. (“CXL”) would like to reiterate that the TRA should make adjustments to its cost of steel and other excavator components, if any,¹ based on the cost data provided by Caterpillar Brasil Ltda. (“CBL”) and not based on the benchmarks established in the Statement of Essential Facts (“SEF”). CXL maintains that only CBL data can be used to calculate what CXL costs and profits would be in China (also, “PRC”) if costs, prices and profits in that market were substantially determined by market forces within the meaning of Regulation 13(2) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (S.I. 2019/450) (as amended) (“the Regulations”). At the same time, benchmarks developed in the SEF have nothing to do with CXL costs and profits in China under market conditions, do not reflect the specific circumstances and costs of CXL and thus cannot be used as a benchmark for CXL.
- (2) CXL furthermore maintains that in line with Regulation 47(2) of the Regulations TRA must have regard to information supplied to it by CXL since such information (a) is verifiable; (b) has been appropriately submitted such that the TRA may use the information without undue difficulty; and (c) has been supplied to it within any applicable time limit.

¹ This submission is without prejudice to CXL’s position that no particular market situation (“PMS”) in the PRC exists either with regard to the sales of excavators or steel or excavator components; and that regardless, any PMS has no impact on price comparability.

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1. SEF Cost Adjustment Methodology

- (3) As follows from the SEF that represents the latest TRA methodology to calculate dumping margins for the Chinese exporters, the TRA has determined that Regulation 13(3) of the Regulations applies because the cost of steel and key excavator components in the PRC reflect non-commercial factors, and so do not reasonably reflect the costs in a market if those costs were substantially determined by free market forces.²
- (4) The TRA then adjusted the cost of steel of Chinese producers as follows:
- The TRA used Platts Connect to obtain Brazilian steel plate prices to act as a benchmark for Chinese steel plate prices.³ As the data available was not at a sufficiently granular level, the TRA used two datasets to allow for a range of steel types to be included, reflecting the range of steel types that are used in excavator manufacturing:
 - SB01080 – CRC (cold-rolled coil) Brazil Dom Prod
 - SB01138 – HRC (hot-rolled coil) Brazil Dom Prod
 - An average price over the Period of Investigation (“**POI**”) was taken for these two datasets to provide a steel price for comparison with PRC steel prices.
 - Furthermore, to ensure a representative comparison, and to compensate for the lack of granularity of the available data, the TRA made an adjustment to the Brazilian Platts Connect data equal to the percentage difference between the equivalent PRC Platts Connect data and the price reported by the Sany Group. This was to adjust for potential variations in steel types between the datasets, as well as differences in level of trade.⁴
- (5) The TRA also adjusted the remainder of the excavator component cost as follows:
- The TRA excluded the steel element of excavator component inputs, so that the benchmark comparison was more representative of the exporting country (i.e. by making a proportional adjustment for steel and only to that proportion of the steel produced in the PRC);
 - The TRA calculated the per kilogram cost of the remaining inputs, in order to allow for differences of design and weight between the like goods produced by the benchmarking producer and the like goods produced by the exporters. This was particularly important as JCB Brasil produces a smaller number of Product Control Numbers (“**PCNs**”) compared to the PRC exporters;
 - The TRA excluded all material inputs that were not excavator components;⁵
 - The TRA also made an adjustment to Sany’s non-specified ‘other’ input costs in order to compensate for the difference in input categorisation.⁶

² SEF, at 248.

³ SEF, at 266.

⁴ SEF, at 267.

⁵ SEF, at 274.

⁶ SEF, at 275.

- (6) The SEF cost adjustment methodology therefore is based on the following assumptions and/or findings as far as steel costs are concerned:
- Brazilian steel prices per Platts Connect are a suitable and accurate benchmark for Chinese steel prices.
 - The lack of granularity in the Platts Connect data can be adequately compensated by using two datasets (CRC and HRC) to reflect the range of steel types used in excavator manufacturing.
 - Taking an average price over the POI provides a representative steel price for comparison.
 - Adjusting the Brazilian Platts Connect data by the percentage difference between the PRC Platts Connect data and the price reported by one of the sampled Chinese producers adequately accounts for potential variations in steel types and differences in the level of trade.
- (7) Similarly, with regard to the excavator components the SEF cost adjustment methodology assumes the following:
- Excluding the steel element of inputs makes the benchmark comparison more representative of the exporting country.
 - Calculating the per kilogram cost of remaining inputs accurately accounts for differences in design and weight between the goods produced by the benchmarking producer and the exporters.
 - Excluding all material inputs that are not excavator components ensures a more accurate cost comparison.
 - Making an adjustment to Sany's non-specified 'other' input costs adequately compensates for differences in input categorization.
- (8) These assumptions are critical to the methodology's validity and accuracy in determining the adjusted costs for Chinese exporters.

2. Cost Adjustment Legal Standard

- (9) Regulation 13(3) of the Regulations applies where the TRA considers that the amounts calculated in accordance with regulation 11 (costs of production) or regulation 12 (the amounts for administrative, selling and general costs and for profits) are unrepresentative because they do not reasonably reflect the overseas exporter's production, administrative, selling or general costs or profits in a market if those costs and profits were substantially determined by market forces. Regulation 13(2) of the Regulations provides in this connection that the purpose of the adjustments made in accordance with this regulation is to calculate what the overseas exporter's costs and profits would be in the market of the exporting country or territory if costs, prices and profits in that market were substantially determined by market forces.
- (10) Regulation 13(2) of the Regulations thus provides a clear directive that the purpose of adjustments made in accordance with this regulation is to calculate what the overseas exporter's costs and profits would be in the market of the exporting country or territory if costs, prices, and profits in that market were substantially determined by market forces and not what costs and profits would be in such situation for China overall. This provision underscores the

importance of ensuring that cost adjustments and underlying benchmarks reflect the specific circumstances and costs of the exporter, rather than generic conditions in the exporting country.

- (11) The Regulations' emphasis on the exporter's costs suggests that adjustments and underlying benchmarks should be tailored to reflect the specific conditions and costs faced by the exporter. Only such exporter-specific approach would ensure an accurate and fair assessment, as it would take into account the unique cost structure of the exporter rather than an aggregate or average benchmark that would apply across the entire country of China. Different exporters have varying production efficiencies, input costs, and operational practices, which generalized benchmark for China may not accurately capture. For instance, factors such as economies of scale, supplier relationships, and technological advancements can significantly impact an individual exporter's costs, and these nuances would be overlooked when relying on a single country-wide benchmark set for China.
- (12) Regulation 13(2) of the Regulations thus suggests – and certainly does not exclude – that different benchmarks can be used to adjust the cost of production of different exporters of China. Furthermore, Regulation 13(2) of the Regulations mandates that when choosing an appropriate benchmark TRA should use the benchmark that is as close as possible to the cost structure of a respective Chinese exporter.

3. CXL Cost Should Be Adjusted Using CBL Cost

- (13) By means of an email dated 14 March 2025, CXL submitted data that allows to compare, on the same basis, the cost of the two identical excavator models, [CONFIDENTIAL] and [CONFIDENTIAL], that are manufactured by Caterpillar at the same time in China (at CXL) and in Brazil (at CBL). CXL believes that this is the best possible evidence of what CXL's cost would be if adjusted to the cost of production in Brazil. It should therefore be used by the TRA in line with Regulation 13(2) of the Regulations to calculate CXL costs, regardless of the benchmarks or factors of production that the TRA uses for other Chinese exporters. On that basis, a difference between material costs constitutes on average [CONFIDENTIAL]% for a [CONFIDENTIAL] model and [CONFIDENTIAL]% for a [CONFIDENTIAL] model or, on average, [CONFIDENTIAL]%. Assuming a comparison should be made between the variable costs overall, i.e. including labor and other direct inputs, then the difference between variable costs constitutes on average [CONFIDENTIAL]% for a [CONFIDENTIAL] model and [CONFIDENTIAL]% for a [CONFIDENTIAL] model or, on average, [CONFIDENTIAL]%. CXL requests on that basis that the amount of adjustment of CXL variable costs, if any, should amount to [CONFIDENTIAL]%.⁷
- (14) CXL notes that, on the other hand, the SEF cost adjustment methodology does not meet requirements of Regulation 13(2) of the Regulations with regard to CXL:
- CXL purchases [CONFIDENTIAL] steel grades which are priced at [CONFIDENTIAL] to the prices of standard steel grades as reflected in industry publications, such as Platts Connect. As a result, CXL steel purchase prices cannot be adjusted based on the steel prices reflected in Platts Connect.
 - While the SEF adjusts cost of steel based on a difference between hot-rolled coils and cold-rolled coils in China and in Brazil using Platts Connect, such comparison cannot properly adjust the steel cost of CXL. Steel plates and steel coils are characterized by significant differences in

⁷ Annex 1 to this submission attached a full version of the presentation of the cost comparison between CXL and CBL as made during the verification. The relevant slides for the comparison of variable costs are at pages 3 and 6.

terms of the shape and thickness, are subject to different competitive conditions and different pricing. SEF attempts to address this difference by adjusting the Brazilian Platts Connect data by the percentage difference between the PRC Platts Connect data and the price reported by one of the sampled Chinese producers. However, in CXL experience, there is no basis to assume that the relationship between plate and coil prices in Brazil is the same as in China and, even less, that a spread between those prices is the same.

- JCB Brazil manufactures only four types of excavators, namely of 13, 21, 22 and 23 tons.⁸ At the same time, CXL manufactures a significantly wider range of excavators weighing between [CONFIDENTIAL] and [CONFIDENTIAL] tons. Because of a difference in configurations and their respective bills of materials (“BOMs”) and components, average cost per kg of other materials of JCB Brazil and CXL is materially different and non-comparable.
 - Finally and importantly, each excavator model within Caterpillar, - let alone each excavator model of Caterpillar and JCB, - has an individual BOM and an individual cost structure. It is manifestly uninformative and inappropriate to make a per kg comparison of the cost of components between different models as well as between different models of excavators manufactured by different producers.
- (15) In sum, assumptions used in the SEF to select Brazilian factors of production for the adjustment of costs in China are incorrect and improper to calculate CXL’s costs bearing in mind (a) cost structure and cost items of CXL and (b) readily available cost of production of the same excavators at CBL.

4. The TRA Must Have Regard to the CXL and CBL Comparative Cost Data

- (16) Pursuant to Regulation 47(2) of the Regulations, the TRA must have regard to information supplied to it by an interested party from whom it has requested information, provided that the information (a) is verifiable; (b) has been appropriately submitted such that the TRA may use the information without undue difficulty; and (c) has been supplied to it within any applicable time limit.
- (17) CXL considers that the data that it submitted by means of an email dated 14 March 2025 meets requirements of the Regulation 47(2) of the Regulations since:
1. Information was supplied in response to a request for information from the TRA;⁹
 2. Information was backed with detailed supporting data extracted from the company’s SAP and is thus verifiable;
 3. Information was submitted while verification was ongoing and prior to the TRA’s dumping margin disclosure. It was therefore appropriately submitted such that the TRA may use the information without undue difficulty.
 4. Information was submitted a day after it was requested by the TRA and thus within the applicable time limit.

⁸ <https://www.jcb.com/pt-br/produto/escavadeiras-hidr%C3%A1ulicas> CXL notes that it did not identify in the non-confidential file of the investigation, a questionnaire response by JCB Brasil.

⁹ “During Verification Caterpillar also presented costs/adjustments from its Brazilian associate and suggested that the TRA could use these as a benchmark. We advised Caterpillar to request this in writing separately as this request was not in the scope of verification.” CXL Verification Report, at page 15.

- (18) On that basis, the TRA is not precluded from the relying on the CXL-CBL relative cost comparison information. Even more, pursuant to Regulation 47(2) of the Regulations, the TRA must have regard to such information.

5. Conclusion

- (19) CXL considers that the cost adjustment methodology in the SEF is not suitable to calculate what the CXL costs and profits would be in the Chinese market if costs, prices, and profits in China were substantially determined by market forces. CXL reiterates its request that instead the TRA should use CXL-CBL relative cost comparison information as submitted on 14 March 2025.

Yours sincerely

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