

6 September 2024

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

via UK Trade Remedies Services

OPEN

Dear Mesdames,
Dear Sirs,

Re: AD0047 – Response to SANY's comments on the change to PCN table
Our client: JCB Heavy Products Limited ("Applicant")

We refer to SANY's comments ("**Comments**") on the Trade Remedies Authority's ("**TRA**") notification of a proposed change to the structure of the product control numbers ("**PCNs**"), which was published in the open file on 4 September 2024.¹

The Comments contain misleading statements and factual errors.

First, SANY claims that the UK industry does not produce in-scope excavators ("**Excavators**") with an operating weight of ≥ 50 tonnes ("**T**").²

Publicly available information contradicts SANY's claim. Komatsu UK repeatedly stated and continues to state that it manufactures Excavators up to 70T in the UK.³

Second, SANY claims that there are differences between ≤ 45 T and > 50 T Excavators that merit excluding > 50 T Excavators from the scope of the captioned investigation. The key tenet in SANY's claim is that ≤ 45 T and > 50 T Excavators are "not substitutable" as there is an "extremely limited competitive overlap" and a "clear dividing line."⁴ For instance, according to SANY, > 50 T Excavators are used exclusively for "heavy-duty earthmoving, large-scale infrastructure projects, and extensive mining operations."⁵

SANY glosses over the fact that the captioned investigation concerns imports into the UK. In the UK, there are very few of the large-scale operations (e.g., large mines) that typically require, say, a 70T Excavator. Instead, buyers of ≥ 50 T Excavators will seek to buy a machine that has

¹ SANY, AD0047, Comments on proposed change to PCN structure by the SANY group.

² SANY, AD0047, Comments on proposed change to PCN structure by the SANY group, pp. 4-5.

³ JCB, AD0047, Comments on interested parties' comments and questionnaires, para. 9; JCB, AD0047, Comments on change to PCN table, p. 2. See also Earthmovers Magazine, When Peter Haddock met Mr. Komatsu UK, 14 September 2022, **Annex 1**; Horizon Works, Q&A with Gemma Brotherton of Komatsu UK, 25 May 2022, **Annex 2**.

⁴ SANY, AD0047, Comments on proposed change to PCN structure by the SANY group, pp. 2-3.

⁵ SANY, AD0047, Comments on proposed change to PCN structure by the SANY group, p. 4.

sufficient uses on the UK market. That is why $\geq 50T$ Excavators sold on the UK market typically have an operating weight close to $\geq 50T$.⁶

For similar reasons, contrary to what SANY claims, there is no "clear dividing line" between $\leq 45T$ and $>50T$ Excavators. This is illustrated by:

- SANY's earlier acknowledgement that there is competition between $\leq 50T$ and $>50T$ Excavators.⁷
- SANY's earlier insistence that there was a clear difference between $\leq 50T$ and $>50T$ Excavators.⁸ When the Applicant provided evidence that there is a whole range of Chinese Excavators with an operating weight just below or just above $50T$,⁹ SANY changed tack and now claims the purportedly "clear" line is between $\leq 45T$ and $>50T$ Excavators. This is not credible, especially given the specific uses on the UK market.

Third, SANY notes that downstream industries would be disproportionately affected by anti-dumping duties on $>50T$ Excavators.¹⁰

This assertion is baseless. The Applicant has submitted evidence that the impact of duties on downstream industries would be minimal.¹¹ In any event, users can continue to purchase UK-made or non-Chinese $>50T$ Excavators and for the majority of applications, users can use $<50T$ Excavators.

For those reasons, the Applicant reiterates that the scope of the investigation should continue to include all in-scope Excavators and the PCN structure should not be revised.¹²

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⁶ JCB, AD0047, Comments on change to PCN table, p. 1; JCB, AD0047, Comments on interested parties' comments and questionnaires, paras. 2-3.

⁷ SANY Kunshan, AD0047: Exporter questionnaire, p. 11.

⁸ SANY Kunshan, AD0047: Exporter questionnaire, p. 10.

⁹ JCB, AD0047, Comments on interested parties' comments and questionnaires, para. 5.

¹⁰ SANY, AD0047, Comments on proposed change to PCN structure by the SANY group, pp. 5-6.

¹¹ JCB, AD0047, Response to deficiency letter, para. 25.

¹² JCB, AD0047, Comments on change to PCN table.