

6 September 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: AS0046 – 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.<sup>1</sup>

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  $\geq 50$  tonnes ("**T**").<sup>2</sup>

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.<sup>3</sup>

Second, SANY claims that there are differences between  $\leq 45$ 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  $\leq 45$ T and  $> 50$ T Excavators are "not substitutable" as there is an "extremely limited competitive overlap" and a "clear dividing line."<sup>4</sup> For instance, according to SANY,  $> 50$ T Excavators are used exclusively for "heavy-duty earthmoving, large-scale infrastructure projects, and extensive mining operations."<sup>5</sup>

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  $\geq 50$ T Excavators will seek to buy a machine that has

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<sup>1</sup> SANY, AS0046, Comments on proposed change to PCN structure by the SANY group.

<sup>2</sup> SANY, AS0046, Comments on proposed change to PCN structure by the SANY group, pp. 4-5.

<sup>3</sup> JCB, AS0046, 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**.

<sup>4</sup> SANY, AS0046, Comments on proposed change to PCN structure by the SANY group, pp. 2-3.

<sup>5</sup> SANY, AS0046, 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  $\geq 50T$ .<sup>6</sup>

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.<sup>7</sup>
- SANY's earlier insistence that there was a clear difference between  $\leq 50T$  and  $>50T$  Excavators.<sup>8</sup> When the Applicant provided evidence that there is a whole range of Chinese Excavators with an operating weight just below or just above  $50T$ ,<sup>9</sup> 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-subsidy duties on  $>50T$  Excavators.<sup>10</sup>

This assertion is baseless. The Applicant has submitted evidence that the impact of duties on downstream industries would be minimal.<sup>11</sup> 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.<sup>12</sup>

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<sup>6</sup> JCB, AS0046, Comments on change to PCN table, p. 1; JCB, AS0046, Comments on interested parties' comments and questionnaires, paras. 2-3.

<sup>7</sup> SANY Kunshan, AS0047: Exporter questionnaire, p. 11.

<sup>8</sup> SANY Kunshan, AD0047: Exporter questionnaire, p. 10.

<sup>9</sup> JCB, AS0046, Comments on interested parties' comments and questionnaires, para. 5.

<sup>10</sup> SANY, AS0046, Comments on proposed change to PCN structure by the SANY group, pp. 5-6.

<sup>11</sup> JCB, AS0047, Response to deficiency letter, para. 25.

<sup>12</sup> JCB, AS0047, Comments on change to PCN table.