
To: Trade Remedies Authority

Via: Trade Remedies Service

From: The Applicant, Niftylift Limited

Date: 16 March 2026

Response to Notification of Proposed Appropriate Representative Third Country

1. Introduction

1.1 Niftylift Limited ("**Niftylift**") acknowledges receipt of the Trade Remedies Authority's ("**TRA**") notification regarding the proposed appropriate representative third country for investigation AD0075 (the "**Investigation**"). Niftylift provides its view on the proposal below.

2. Brazil as the appropriate representative third country

2.1 In the Application, Niftylift evidenced that there is a particular market situation ("**PMS**") in the boom lift market in the People's Republic of China ("**China**").¹

2.2 Niftylift therefore used an alternative method to determine the normal value of the goods concerned, namely constructing the normal value based on factors of production in Brazil.²

2.3 Niftylift considered Brazil to be an appropriate representative third country because:

(a) Brazil was used as the representative country in the TRA's anti-dumping investigation into certain excavators from China (AD0047), which similarly related to a type of construction machinery equipment. In that investigation, the TRA identified Brazil as suitable owing to various factors, one of those factors being *"A similar level of economic development to the PRC – determined by reference to an income-based assessment of the World Bank, and the United Nations Development Programme country classification by human development level."*³

(b) Brazil was also used as the representative country in the EU's anti-dumping investigation into mobile access equipment from China (AD698).

2.4 Niftylift recognises that one factor the TRA may take into account when determining whether a third country is an appropriate representative third country is *"whether and to what extent reliable information is made available to the TRA by overseas exporters in that country or territory at the time of selection of that country or territory"*.⁴ However, this is neither the sole nor the determinative factor in assessing which third country is appropriate.

¹ The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 ("**D&S Regulations**"), regulations 7(2)(b) and 7(4)(c).

² D&S Regulations, regulations 8(1)(a) and 13(1), 13(2), 13(3) and 13(4)(a).

³ AD0047 – Certain excavators from China, Final Determination, para. 332, available [here](#); D&S Regulations, regulation 13(5)(b).

⁴ D&S Regulations, regulation 13(5)(a).

2.5 The TRA must also take into account *"any other factors it considers relevant"*.⁵ Niftylift sets out below the relevant factors demonstrating why Mexico is not an appropriate representative third country, which it respectfully requests the TRA to consider in making its determination.

3. Mexico is not an appropriate representative third country

3.1 The TRA has provisionally chosen Mexico as the representative third country in the Investigation, provided the TRA finds there is a PMS in China's boom lift market.

3.2 Niftylift submits that Mexico is not an appropriate representative third country in the Investigation because:

(a) The main boom lift manufacturers in Mexico are related to the Chinese boom lift manufacturers in the Investigation.

(b) Foreign investors are encouraged to manufacture in Mexico by well-established incentives.

3.3 These factors combined mean that the costs of production, as well as AS&G costs together with profits necessary for constructing the normal value do not reasonably reflect Mexican market realities, therefore rendering them unrepresentative.

3.4 Further detail on each of these factors is set out below.

3.5 Presence of Chinese boom lift manufacturers in Mexico

3.5.1 The main boom lift manufacturers in Mexico are related to the Chinese boom lift manufacturers in the Investigation. This includes, among others, LGMG, XCMG and Sinoboom.

3.5.2 Choosing a representative third country that is dominated by producers affiliated with the investigated exporters cannot provide an independent benchmark for normal value and would therefore violate the fair comparison obligation under regulation 6(2)(c) of The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 and Article 2.4 of the WTO Anti-Dumping Agreement.⁶

3.5.3 Furthermore, the surrogate prices must reflect independent market conditions, not the same distortions that are being investigated in the present case.

3.5.4 It follows that because the Mexican boom lift industry is dominated by Chinese-related companies, then:

(a) Pricing information will likely reflect Chinese cost structures (for example: intra-company transfer pricing, vertically integrated supply chains);

(b) The chosen benchmark may incorporate Chinese subsidies or distortions;

(c) The representative country ceases to be an independent comparator and the risk of systematic bias in constructing normal value is present.

⁵ D&S Regulations, regulation 13(5)(c).

⁶ For example, see Appellate Body Report, *EC – Fasteners (China)*, WT/DS397/AB/RW, adopted 12 February 2016, para. 5.207, available [here](#): *"the fair comparison requirement of Article 2.4 applies in all anti-dumping investigations, including where normal value is determined on the basis of a surrogate third country."*

3.5.5 Choosing Mexico, which is dominated by the Chinese companies, will result in creating a "circular benchmark", which defeats the purpose of using the alternative methodology of choosing a representative country. In other words, the comparison will *de facto* become: Chinese export price vs. Chinese-influenced Mexican domestic price. Given that the representative country data must not introduce distorted costs, Mexico fails to meet that test.

3.5.6 Further, the Chinese exporting producers which have affiliated parties in Mexico would gain an unfair advantage in this Investigation should their affiliated companies established in Mexico decide to participate, thus resulting in unfair treatment as compared to the UK domestic industry.

3.5.7 [CONFIDENTIAL INFORMATION GATHERED THROUGH MARKET INTELLIGENCE CONCERNING BUSINESS ACTIVITIES OF CHINESE PRODUCERS IN MEXICO]

3.6 Incentives

3.6.1 Secondly, manufacturers are encouraged to manufacture in Mexico by well-established incentives.⁷ This includes:

(a) **IMMEX (Maquiladora) Program.**⁸ This program:

- (i) Permits the temporary import of materials, components and machinery without VAT or import duties, provided those goods are used in an industrial or service process for subsequent export;
- (ii) Improves cash flow and working capital efficiency.

(b) **"Plan México" (January 2025 onwards),** including:⁹

- (i) Accelerated depreciation on capital equipment;¹⁰
- (ii) Additional tax deductions for training and innovation;¹¹
- (iii) Incentives available across multiple industries and regions.¹²

3.6.2 Niftylift understands that these incentives have encouraged manufacturers not only from China but also from the US and France to establish manufacturing operations in Mexico. For example, JLG, a US-headquartered company that has registered one of its companies as a Chinese exporter in the Investigation, also has manufacturing operations in Mexico.¹³

⁷ WTO Trade Policy Review of 10 August 2022 for Mexico (WT/TPR/S/429), available [here](#): "Mexico continues to grant tax concessions, under different programmes, to the manufacturing sector, such as the programme for the manufacturing, maquila and export services industry (IMMEX), to promote exports, and the sectoral promotion (PROSEC) programmes".

⁸ Decree for the Promotion and Operation of the Maquiladora Export Industry, available [here](#) and [here](#). A helpful summary is provided at 'A Legal Overview Of The IMMEX Program', 12 June 2025, available [here](#).

⁹ Plan México, available [here](#). To support the objectives of Plan México, the Mexican government issued a "Tax Incentives Decree" to boost liquidity, stimulate capital investment, and streamline project implementation, available [here](#).

¹⁰ Plan México, p. 4, Action 5, available [here](#): "Publish Reshoring Decree for accelerated depreciation of new investment in fixed assets for Mexican global companies, without sector discrimination, valid until 2030."

¹¹ Plan México, p. 5, available [here](#): "Additional deduction of 25% of incremental spending to train workers in collaboration with educational and research institutions. The Decree will end in October 2030."

¹² Plan México, p. 12, available [here](#).

¹³ The JLG website shows that it has two manufacturing companies in Mexico: JLG Manufacturing Planta León and JLG Maquinaria México. JLG, 'Corporate Locations', available [here](#).

- 3.6.3 Labour costs in Mexico are expected to be lower to attract manufacturers to produce goods in Mexico for export to the US market. In contrast, Brazil's costs base is not influenced to the same degree by proximity to, or integration with, the US market.
- 3.6.4 The presence of such incentives means that the costs of production, SG&A expenses and profits of Mexican producers are distorted. Incentives of this type are similar in effect to those identified in China and therefore risk producing a cost base that is distorted rather than reflective of normal market conditions. As a result, Mexico is unlikely to provide a suitable benchmark for determining a normal value in the presence of a PMS in China.

4. Conclusion

- 4.1 Niftylift recognises that the third countries proposed as the representative third country will likely each have distortions in their markets, to a certain extent. However, in this Investigation the main issue is that the dominant producers in Mexico are the same companies that are also established in China – the exporting country under investigation. This, combined with the distortions present in the Mexican boom-lift industry and the incentives for foreign investors, means that an objective comparison cannot be made, even with adjustments.
- 4.2 In view of the above, Niftylift respectfully requests that the TRA not select Mexico as the representative third country, as doing so would result in an unfair price comparison.
- 4.3 In the alternative, should the TRA decide to retain Mexico as the appropriate representative third country, Niftylift submits that the TRA should rely on publicly available and official Mexican statistical sources for cost data (including input, raw material and utility prices), rather than company-specific data from Mexican producers. Such statistical data is objective, transparent and based on averaged market information, and is therefore less susceptible to distortion from outliers or one-off commercial arrangements. By contrast, producer-specific cost data – particularly where producers are affiliated with the investigated exporters – risks reflecting unrepresentative cost structures. Furthermore, relying on company-specific data of Mexican producers will require on spot verifications by the TRA in order to verify their accuracy. In principle, however, SG&A and profit data from Mexican producers may be considered, as it is industry-specific and based on their balance sheets and financial statements.

Yours sincerely,

For Niftylift