



Trade Remedies
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Statement of Essential Facts

INVESTIGATION No. AS0046

Subsidy investigation into certain excavators imported into the United Kingdom from the People's Republic of China

12 December 2024



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Section A: Introduction

A1. Investigation

1. This investigation covers the alleged subsidisation of certain excavators into the United Kingdom (UK) from the People's Republic of China (PRC). A full description of the goods concerned can be found in [Section D](#).
2. This section briefly summarises the legal framework for this Statement of Essential Facts (SEF) and the Trade Remedies Authority (TRA)'s main findings. The background to and details of the investigation are explained fully in the subsequent sections.
3. This SEF sets out a summary of the facts considered by the TRA during the investigation, those facts that have formed the basis of the TRA's intended final determination and the countervailing measure that the TRA intends to recommend to the Secretary of State for Business and Trade (Secretary of State).
4. It should be read in conjunction with other public documents available for this case, which are available on the public file at <https://www.trade-remedies.service.gov.uk/public/case/AS0046/>.
5. This SEF also informs interested parties who have supplied information how the TRA has considered and used the information provided to it. The SEF provides details of the analysis forming the basis of the intended determination and allows interested parties to make submissions in response.
6. Interested parties, contributors and any other person who has supplied information to the TRA are invited to make submissions within 28 calendar days of the publication date of this SEF, i.e., before 23:59 hours (BST) on 9 January 2025, as per regulation 62(2) of The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (S.I. 2019/450) (as amended) (the Regulations).
7. Any submissions received after this date may not be accepted by the TRA if to do so would significantly impede the progress of this investigation. Where the TRA rejects information for any reason, it will publish the reasons for rejection in the final determination.



8. Registered interested parties to the case can make submissions on the Trade Remedies Service online platform (TRS). These submissions must be accompanied by a non-confidential version of the submission for the public file. Those not registered on the TRS may send submissions by email to AS0046@traderemedies.gov.uk. These submissions must also be accompanied by a non-confidential version for the public file.
9. In exceptional circumstances it may not be possible to summarise confidential information. If this is the case, interested parties must provide a 'statement of reasons' setting out the reasons why the TRA should treat the information as confidential and why summarisation of the information is not possible, as defined under regulation 45(6)(b) of the Regulations.
10. For further information about the TRA's investigations, please see the published [public guidance](#).

A2. Legal framework

11. This SEF is made pursuant to regulation 62 of the Regulations. It includes:
 - the recommendation that the TRA intends to make;
 - a summary of the facts considered during the investigation;
 - those facts referred to in the summary that formed the basis of the intended recommendation;
 - details of how the TRA has used the information supplied by interested parties in making the intended final determination; and
 - details of the analysis forming the basis of the intended recommendation.

A3. Period of investigation and injury period

12. The period of investigation (POI) is 1 July 2022 to 30 June 2023.
13. To assess injury, the TRA has chosen to examine the period from 1 July 2019 to 30 June 2023 as the injury period.



Section B: Summary and findings

B1. Subsidy

14. In accordance with paragraph 3(1) and 8(3)(a) of Schedule 4 to the Taxation (Cross-border Trade) Act 2018 (the Act) the TRA has examined whether goods which have been or are being imported into the UK are subsidised.
15. The TRA has concluded that the relevant goods, in relation to which this determination is made (as identified in [Section D2](#) and defined in paragraph 17(2) of Schedule 4 of the Act), which have been or are being imported into the UK from the PRC are subsidised (see [Section F](#)).

B2. Injury

16. In accordance with paragraphs 5 and 8(3)(b) of Schedule 4 to the Act, the TRA has examined whether the importation of the subsidised goods concerned has caused or is causing injury to a UK industry in the like goods.
17. The TRA has concluded that the UK industry has suffered injury and that the importation of subsidised relevant goods from the PRC has caused injury to the UK industry (see [Section G](#)).

B3. Economic interest test (EIT)

18. The TRA has considered the evidence before it and the following factors set out under paragraph 25 of Schedule 4 to the Act:
 - the injury caused by the importation of the subsidised goods to a UK industry in the like goods and the benefits to that UK industry in removing that injury;
 - the economic significance of affected industries and consumers in the UK;
 - the likely impact on affected industries and consumers in the UK;
 - the likely impact on particular geographic areas, or particular groups, in the UK;
 - the likely consequences for the competitive environment, and for the structure of markets for like goods, in the UK; and
 - such other matters as we considered relevant.
19. The TRA has concluded that the application of a countervailing measure that it intends to recommend to the Secretary of State meets the EIT (see [Section I](#)).



B4. Intended final determination and recommended measure

20. In accordance with regulation 62(1) of the Regulations, before making a final affirmative determination for the purpose of paragraph 11(5) of Schedule 4 to the Act, the TRA must publish a SEF that sets out the intended final determination, a summary of the facts considered during the investigation, and a summary of those facts that formed the basis of the intended final determination.
21. For the purposes of making final determinations under paragraph 11(7) of Schedule 4 to the Act the TRA may make different final determinations in relation to different goods.
22. The TRA intends to make a final affirmative determination in respect of the relevant goods originating from the PRC that fall under commodity code 8429 5210 00.
23. As set out in [Section D2](#), the relevant goods are:

Self-propelled track-laying (i.e. tracked) excavators with a 360° revolving superstructure and with an operating weight of 11,000 kg (i.e., 11 tonnes) or more but less than 80,000 kg (80 tonnes).
24. The TRA has determined that the relevant goods subject to a final affirmative determination have been or are being imported into the UK from the PRC and are subsidised, and that the importation of the subsidised relevant goods has caused injury to UK industry in those goods. The TRA has determined that the application of a countervailing measure that it intends to recommend to the Secretary of State meets the EIT.
25. The TRA intends to make a final negative determination in respect of the goods concerned originating from the PRC that fall under commodity code 8429 5210 00 with an operating weight of 80 tonnes and above.
26. The goods concerned subject to the final negative determination are not manufactured by the UK industry and the TRA has determined that these goods have not or are not causing injury to the UK industry.
27. The TRA intends to recommend that the Secretary of State impose an ad-valorem duty for a period of five years on the relevant goods that are the subject of the final affirmative determination.



28. The rates of duty the TRA intends to recommend are as stated in Table 1:

Table 1: Recommended ad-valorem duty rates

	Duty amount (%)
Sampled exporter/producer	
Liugong Group	0.00%
Sany Group	2.40%
Non-sampled cooperating exporter/producer	
XCMG Group	2.40%
Sunward	2.40%
All other overseas exporters/producers	
Residual countervailing margin	2.93%

Please see [Section C2](#) for a further description of the named parties

29. On 6 March 2024 a [public notice](#) was published by the Secretary of State in accordance with paragraph 29(1) of Schedule 4 to the Act. This notice instructed HM Revenue & Customs (HMRC) to register the importation of the goods concerned.
30. In accordance with regulation 92 of the Regulations, the TRA will duly consider this information to inform its recommendations in its final affirmative determination regarding the application date for the countervailing amounts.



Section C: Background

C1. Initiation

31. On 21 September 2023, the TRA received an [application](#) from JCB Heavy Products Ltd (JCB) alleging that goods concerned imported into the UK from the PRC are subsidised and that the importation of these goods has caused injury to the UK industry in the goods.
32. The TRA was satisfied that the application contained sufficient evidence of the importation of subsidised goods and resulting injury to justify the initiation of the investigation, and that the requirements referred to in paragraph 9 of Schedule 4 to the Act and regulations 50, 51, and 52 of the Regulations had been met.
33. An additional application was received from JCB alleging the same excavators imported into the UK from the PRC were being dumped. Please note these claims are being considered separately under case [AD0047](#).
34. The subsidy investigation was initiated by the TRA on 15 November 2023, and the [Notice of Initiation](#) was published on that date.
35. The Secretary of State, the foreign government of the PRC and other interested parties and contributors were notified accordingly and invited to register on the [Trade Remedies Service](#) to participate in the investigation.

C2. Participation in the investigation

36. A full list of all parties who registered to the investigation, and the links to the information these parties provided, can be seen in Table 37 in [Annex A](#).

C2.1. UK producers

37. One UK producer, JCB, registered an interest in the case following its submission of its application in September 2023. It completed an application, pre-sampling questionnaire and a producer questionnaire. JCB has also provided further documents responding to submissions received from other interested parties and contributors.
38. Please also refer to [Section E1](#) for how the TRA's will consider UK industry.



C2.2. Exporters/producers from the PRC

39. Ten PRC companies registered an interest in the case as exporters of the goods concerned.
40. Due to the number of responses received during the questionnaire period, the TRA limited its examination of overseas exporters. The TRA published a notice of its [sampling approach](#) on 11 June 2024.
41. The sampled PRC exporters were:

Sany Group	Sany Heavy Machinery Co., Ltd.	Overseas Exporter
	Sany Heavy Machinery Limited	Overseas Exporter
Liugong Group	Liugong Changzhou Machinery Co., Ltd.	Overseas Exporter
	Liuzhou Liugong Excavator Co., Ltd.	Overseas Exporter
	Guangxi Liugong Machinery Co., Ltd.	Overseas Exporter
	Liugong Machinery Hongkong Co., Limited	Overseas Exporter

42. The individual companies within both the Liugong Group and the Sany Group completed exporter questionnaires.
43. The Sany Group also provided additional commentary regarding the TRA's proposals on changes to structure of the Product Control Numbers.
44. The following overseas exporters provided pre-sampling questionnaires, with the XCMG Group companies also completing exporter questionnaires. The data provided from these overseas exporters was not verified, and it has not been considered in our assessments. These parties will be considered non-sampled and cooperating:

XCMG Group	XCMG Excavator Machinery Co., Ltd	Overseas Exporter
	XCMG European Sales and Services GmbH	Overseas Exporter
	Xuzhou Construction Machinery Group Imp. & Exp. Co., Ltd.	Overseas Exporter
Sunward	Sunward Intelligent Equipment Co., Ltd	Overseas Exporter



C2.3. Importers

45. Three importers registered their interest in the case. All three importers were associated companies of the PRC exporters that had already registered.
46. The following two importers were sampled as part of the wider consideration of the relevant PRC group of companies:
 - Sany Heavy Machinery (UK) Ltd
 - Liugong Machinery (UK) Limited
47. Due to the number of responses received during the questionnaire period, the TRA limited its examination of UK importers. The TRA published a notice of its [sampling approach](#) on 11 June 2024.
48. The following importer was not sampled:
 - XCMG UKSS

C2.4. Foreign government

49. The Government of the PRC (GoC) registered its interest in the case through its Ministry of Commerce (MOFCOM). MOFCOM submitted a pre-sampling questionnaire and completed a foreign government questionnaire.

C2.5. Contributors

50. One trade body registered an interest in the case. The China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME) represents the PRC industry in the goods concerned. It submitted a pre-sampling questionnaire and subsequently provided commentary regarding the application and the substantiation of alleged injury. It also provided responses to address JCB submissions.
51. One UK based company registered an interest in the case as a downstream user of the goods and provided a pre-sampling questionnaire. This company is a dealer that an excavator producer uses to distribute and market its goods to customers.
52. A further UK based company completed a downstream questionnaire.



C3. Verification of data

53. The TRA undertook verification activities in relation to the information provided by the cooperating sampled interested parties, during which the completeness, relevance, and accuracy of that information was assessed. The TRA has had regard to the information supplied by sampled interested parties and contributors, provided that this information:

- complied with the applicable statutory requirements and the TRA’s public guidance;
- was verifiable;
- could be used without undue difficulty; and
- was supplied within an applicable time limit and in a form that the TRA requested.

54. Details of the in-person and remote verification visits, as well as links to the associated verification reports, are set out below:

Company	Verification visit	Verification report
JCB Heavy Products Ltd	9 July – 12 July 2024	Verification report
Sany Heavy Machinery Co., Ltd.	24 June – 28 June 2024	Verification report
Sany Heavy Machinery Limited	24 June – 28 June 2024	Verification report
Sany Heavy Machinery (UK) Ltd	17 July – 18 July 2024*	Verification report
Liugong Changzhou Machinery Co., Ltd	17 June – 24 June 2024	Verification report
Liuzhou Liugong Excavator Co., Ltd.	17 June – 24 June 2024	Verification report
Liugong Machinery (UK) Limited	13 – 14 June 2024*	Verification report

*Remote verification visit

55. Secondary source information was used in accordance with the Regulations. This secondary information was treated with special circumspection and, where practicable, verified using independent sources. This included, but was not limited to, official import statistics and data pertaining to relevant markets. Where the TRA did not consider the data to be verifiable, the areas have been highlighted and the TRA has drawn conclusions where possible.



Section D: The goods

D1. Goods concerned

56. The goods concerned are defined in regulation 2 of the Regulations as the goods described in the relevant Notice of Initiation of a subsidy investigation under regulation 65(2) of the Regulations.
57. The [Notice of Initiation](#) describes the goods concerned as:
- Self-propelled track-laying (i.e. tracked) excavators with a 360° revolving superstructure and with an operating weight of 11,000 kg (i.e., 11 tonnes) or more.
58. The goods concerned are imported into the UK under the following UK Global Tariff commodity code 8429 5210 00. This code is only given for information and includes 'mini' excavators under 11 tonnes, which are not in scope of this investigation.

D2. Relevant goods

59. In accordance with paragraph 17(2) of Schedule 4 to the Act, the goods to which a final affirmative determination is made are referred to as the 'relevant goods'.
60. The relevant goods are:
- Self-propelled track-laying (i.e. tracked) excavators with a 360° revolving superstructure and with an operating weight of 11,000 kg (i.e., 11 tonnes) or more but less than 80,000 kg (80 tonnes).

D3. Goods concerned not included in the SEF and the recommended measure

61. The TRA has identified that excavators with an operating weight that is equal to or greater than 55 tonnes (PCN categories XXL and XXXL) are not currently being manufactured by the UK industry (see [Section E1](#)). However, the TRA is satisfied that an excavator with an operating weight between ≥ 30 tonnes and < 55 tonnes (XL) produced in the UK and an excavator with an operating weight of ≥ 55 tonnes and < 80 tonnes (XXL) imported to the UK from the PRC share physical and commercial characteristics closely resembling one another. Further detail on this assessment can be found in [Section D6](#).



62. The TRA has also determined there are no goods produced in the UK that are like the excavators with an operating weight of 80 tonnes (XXXL) or above.
63. At this time, the TRA has not received any information to suggest that XXXL excavators should reasonably be considered any further as part of this investigation. There is no evidence to show these excavators are being manufactured by the UK industry or causing injury to the UK industry. It follows the TRA intends to make a final negative determination in respect of the XXXL excavators goods originating from the PRC.

D4. Goods produced by the UK industry

64. JCB's [application](#) stated that the goods it produces are the same as those described in the definition of the goods concerned in the [Notice of Initiation](#). JCB asserted that there are no differences in the physical and technical characteristics of the excavators imported from the PRC and those it produces in the UK or in their end use.
65. JCB also claimed that the basic operating weight is the primary differentiator between in-scope excavators, and this is what determines the key models in the market.
66. During verification, the TRA identified that JCB offer a range of different weighted excavators on the UK market. This information was supported by the TRA's review of the sales transactions during the POI. These specifically included the 131X model (13 tonne) as well the JS370 model (36 tonne), which represented the respective lower and upper tier of weights of the models produced by JCB in that period. More recently it was noted that the JS370 had been superseded by the 370X model (35-40 tonne) and that JCB had previously produced a JS500 model (46 tonne).
67. The TRA's initial assessment was that the goods produced in the UK are similar to the goods concerned and are classified under the same UK Global Tariff commodity code (8429 5210 00).
68. However, the TRA has subsequently received comments from both the [Sany Group](#) and the [Liugong Group](#) suggesting that the larger excavators produced in the PRC constituted a distinct category from those produced in the UK. It was suggested that the larger excavators (i.e. those that exceeded the weight of the JS370 – 36 tonnes) were substantially different to smaller excavators produced in the UK in terms of essential characteristics and intended usage. It was also highlighted that there were also electric-powered excavators being produced in the PRC and these should not be compared



against the UK produced excavators which use an internal combustion engine.

69. JCB [subsequently commented](#) that on the UK market the end use of excavators above 50 tonnes and those between 30 and 50 tonnes is identical. It stated that, “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 $\geq 50T$.”
70. JCB also alleged it was undisputed that electric and internal combustion engine excavators have the same basic physical characteristics and end uses. It explained that this meant these excavators would directly compete. It also noted that it appeared that none of the electric-powered excavators produced by the sampled exporters were available on the relevant EU/UK websites. JCB was therefore of the view that in lieu of any actual sales in the UK, the claims about concerning electric excavators were, “...hypothetical and moot”, making the point that there was little or no practical relevance.

D5. Product control numbers (PCNs)

71. The TRA uses product control numbers (PCNs) to define and group different types of products that fall under the goods description in [Section D1](#) and [Section D2](#).
72. PCNs are created based on the main physical characteristics differentiating the types of products, providing that those characteristics have an impact on price.
73. The TRA completed a further assessment of the PCN structure, which was originally set out in the registration and questionnaire documents. The initial structure had been limited to four weight classes with XL covering all excavators above 30 tonnes. On the [11 July 2024](#), the TRA advised it would revise the PCN structure to allow for better analysis of the goods concerned and domestic sales of excavators in the PRC. The proposed revision to the PCN structure was as follows:



Table 2: PCN structure

Category	Description	Basic Operating Weight
S	Small Excavators	>= 11 tonnes < 15 tonnes
M	Medium Excavators	>=15 tonnes < 20 tonnes
L	Large Excavators	>= 20 tonnes < 30 tonnes
XL	Extra-Large Excavators	>= 30 tonnes < 55 tonnes
XXL	Extra-Extra-Large Excavators	>= 55 tonnes < 80 tonnes
XXXL	Extra-Extra-Extra-Large Excavators	>= 80 tonnes

74. The TRA received comments regarding the change to the PCN structure from the [Sany Group](#) and [JCB](#). The Sany Group welcomed the proposal and elaborated on the previous submission it had made suggesting the TRA limit the scope of the investigation. JCB submitted that it was unnecessary for the PCN structure to be changed.
75. The TRA duly considered the comments it received. However, it was concluded that the proposed changes to the PCN structure were necessary. The need for this change was further highlighted in [Section D6](#).

D6. Like goods assessment

76. As noted above, based on the evidence before it, and in accordance with paragraph 11(2) of Schedule 4 to the Act, the TRA has determined that the importation of the subsidised goods has caused injury to the UK industry in those goods. The TRA has carried out a like goods assessment as part of the injury assessment to determine which of the goods concerned are like goods, and are causing injury to the UK industry, and in turn can be referred to as the relevant goods in relation to which this SEF is made.
77. In accordance with paragraph 7 of Schedule 4 to the Act, the TRA refers to 'like goods' as those which are like the goods concerned in all respects, or if there are no such goods, have characteristics which closely resemble them and are produced by the UK industry.
78. In assessing whether the goods produced by the UK industry are like the goods concerned in all respects or with characteristics closely resembling them, the TRA has considered:
- physical likeness, including physical characteristics; and
 - commercial likeness, including competition and distribution channels.



79. It was identified that during the POI, JCB produced and sold excavators in four PCN categories (S, M, L and XL). All these excavators were powered by internal combustion engines.
80. The TRA has found that when comparing UK produced like goods to the goods concerned, within the same PCN category, there are no fundamental differences in physical or commercial characteristics. The available evidence would suggest the basic components are the same and the manufacturing processes are similar. This includes whether the excavator is electric-powered or powered by internal combustion. It was therefore concluded that the UK produced excavators have characteristics which closely resemble the goods concerned within their respective PCN categories.
81. It was also noted, across the submissions the TRA received, there is some competition in the UK market between excavators in the XL and XXL categories. The Sany Group's questionnaires referenced that excavators around 50 tonnes have similar capacities and specifications. It was also explained there would be varying degrees of efficiency that may be exhibited by different weight classes of excavators, which would suggest some level of direct interchangeability between weight classes.
82. The TRA understands that the efficiency of an excavator is determined by multiple factors including, but not limited to, productivity, fuel consumption and maintenance costs.
83. Based on the submitted evidence, and its own independent review, the TRA is satisfied that a XL excavator produced in the UK and a XXL excavator imported to the UK from the PRC will share physical and commercial characteristics closely resembling one another and could therefore be substitutable or interchangeable for one another.
84. The TRA considered the request to either exclude or further differentiate electric-powered excavators in the investigation. However, it concluded that this was not required. This would be the case irrespective of whether these excavators were sold in the UK (with it being noted that if no sales occurred during the POI, it is unlikely these excavators would have caused any injury to UK industry).
85. It is accepted that an electric-powered excavator may not always be an alternative to an internal combustion excavator in various settings, based on battery life and the need to recharge. For example, where the excavator is operating in an area where the infrastructure to recharge the battery does not exist or is sufficiently distant to make it impractical.
86. The TRA also does not dispute there may be further production and/or manufacturing processes that differ between the two different engine types.



However, the available evidence would indicate that the UK produced goods, with an internal combustion engine, still have characteristics closely resembling those of an electric-powered excavator from the PRC. These excavators are also alike in all other respects including physical characteristics and end use.

87. Further, the TRA considers the circumstances described for an electric-powered excavator not being an alternative option in some settings are sufficiently rare that they are not likely to be a deciding factor in purchasing decisions of downstream users. The available information the TRA obtained about electric-powered excavators still suggests these are intended to be a direct substitute for those powered by internal combustion. It follows such considerations are not dissimilar to a customer making an ordinary purchase of an excavator based on its physical size, intended end use and the level of efficiency required.
88. The TRA therefore considers that electric excavators should not be treated separately. This also means that it will continue to differentiate excavators by weight alone in accordance with the existing PCN structure.
89. The TRA has determined that the goods produced by the UK industry have characteristics closely resembling the relevant goods for PCN's S, M, L, XL and XXL, and therefore constitute "like goods" for the purposes of paragraph 7 of Schedule 4 to the Act.
90. There are no goods produced in the UK that are like the XXXL category of the goods concerned.

D7. PCN analysis

91. The TRA's calculation of the injury margins are performed at a PCN level to ensure an accurate comparison of the sub-categories of goods.
92. For injury margin calculations, PCN-by-PCN calculations were possible for PCNs that were both sold in the UK as domestically produced like goods and exported from PRC to the UK as the relevant goods. This included sales across four PCNs (S, M, L and XL). It was determined that the PCNs included in the calculations were sufficiently representative to proceed with this methodology.



Section E: The UK industry and market

E1. UK industry

93. In accordance with paragraph 6(1) of Schedule 4 of the Act, the UK industry is defined as:
- a) all the producers in the UK of like goods, or
 - b) those of them whose collective output of like goods constitutes a major proportion of the total production of those goods in the UK.
94. Information provided in JCB's [application](#) and its [questionnaire responses](#), alongside the TRA's own independent research, were used to identify all UK producers of excavators to meet the description of the goods in the [Notice of Initiation](#).
95. The TRA identified two UK producers, JCB and Komatsu UK Limited (Komatsu).
96. However, it was concluded that JCB's volume of production was sufficiently representative (in terms of total production share but also PCN coverage) to consider it having a major proportion of the total production in the UK. The TRA therefore initiated the case on 15 November 2023 on this basis.
97. When the case was initiated all known UK producers were invited to register to the investigation. However, only JCB subsequently completed and returned a registration document.
98. The TRA has considered whether it would be practical to attempt to incorporate open-source information about Komatsu's production and potential injury from the relevant goods. However, it was concluded that such an approach would mean the TRA would be reliant on information that could not be fully substantiated or limited to in-scope, UK produced like goods. It was therefore determined that the most transparent methodology would be to solely define JCB as UK industry. This would ensure the TRA's injury assessments in [Section G](#) are based on verifiable data and one where it can still proceed in a timely manner.
99. The TRA has determined JCB to be the 'UK industry' as it meets the required definition under paragraph 6(1)(b) of Schedule 4 of the Act. It will therefore be treated accordingly for the purposes of this investigation.



E2. UK market

100. The UK market for excavators generally consists of companies active in:

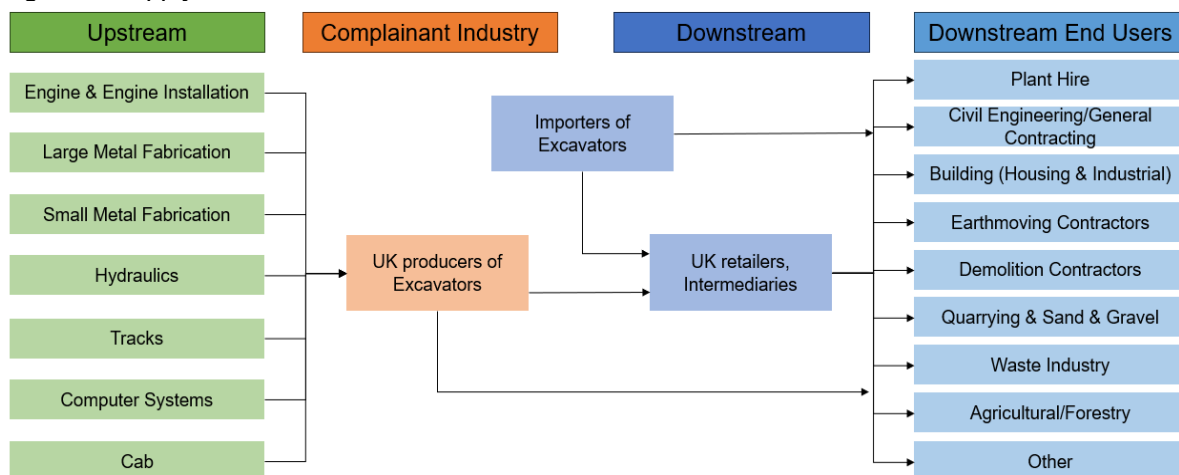
- Housebuilding and groundworks,
- Civil construction and roadbuilding,
- Waste and recycling,
- Demolition,
- Landscaping; or
- Irrigation.

101. Excavator manufacturers typically use a network of dealers to distribute and market their goods to customers.

102. Approximately 180,000 tonnes of excavators were sold in the UK during the POI, with UK industry supplying between 10% to 25% of this volume.

103. The TRA considers the market for excavators to be mature, with an established customer base, which is further segmented based on the individual needs (e.g. housebuilding and groundwork versus civil construction). As a mature industry, the TRA would not expect substantial growth in the customer base or the market. However, there are ongoing trends in demand for high quality and new innovations at competitive prices.

Figure 1: Supply chain for excavators in the UK



104. UK industry has explained historically there has been significant competition in the UK market between domestically produced goods and imported excavators, primarily from the EU, Japan and South Korea. It has been indicated that it was in the mid-2010s that PRC excavators slowly started penetrating the UK market.



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105. [Section G](#) addresses relevant market trends in detail as part of the TRA's injury assessment.
106. [Section I](#) addresses competition, as well as upstream and downstream industries, in detail as part of the TRA's EIT assessment.



Section F: Subsidy

107. In accordance with paragraph 3(3) of Schedule 4 of the Act, a subsidy is deemed to exist if there is either
- a) a financial contribution by a foreign authority which confers a benefit; or
 - b) a form of income or price support within the meaning of Article XVI of the General Agreement on Tariffs and Trade 1994 (part of Annex 1A to the WTO Agreement) received from a foreign authority which confers a benefit on the recipient.
108. In accordance with paragraph 3(2) of Schedule 4 of the Act, a subsidy is countervailable (i.e., capable of being offset through a trade remedy) if it is specific (rather than general) and when it is granted either directly or indirectly for the manufacture, production, export or transport of goods.
109. This section will outline:
- the alleged subsidy schemes that the TRA has considered;
 - the TRA's assessment of the countervailability of those subsidies, including:
 - whether there is a financial contribution by a foreign authority;
 - whether that financial contribution confers a benefit; and
 - where a subsidy has been found to exist, whether it is specific in nature;
 - the methodology for determining the amount of subsidy attributable to the goods concerned in the POI for each subsidy determined to be countervailable; and
 - the individual and non-sampled subsidy amounts applicable to participating overseas exporters and overseas producers, and the residual subsidy amount.
110. The TRA based the countervailing amounts on verifiable data provided by Sany Heavy Machinery Limited (Sany Kunshan), Shanghai Sany Heavy Machinery Co. Ltd. (Sany Shanghai), Liuzhou Liugong Excavator Co. Ltd. (LZLG), and Liugong Changzhou Machinery Co. Ltd. (CZLG).
111. The TRA calculated a single subsidy amount for each of the two groups of sampled overseas exporters – the Sany Group, comprising Sany Kunshan and Sany Shanghai, and the Liugong Group, comprising LZLG and CZLG – owing to the close nature of their business and governance.



F1. Background

112. JCB has alleged that producers of excavators in the PRC receive subsidies in the form of:
- Direct or potential transfers of funds or liabilities, specifically:
 - Grants;
 - Loans, export credit, credit lines and bank acceptance drafts; and
 - Equity infusions.
 - Revenue otherwise due to a foreign authority is foregone or is not collected, specifically:
 - Income tax reductions;
 - Land-use tax exemptions;
 - VAT refunds;
 - VAT exemption on imported equipment and technology; and
 - Tax exemptions for policy-based relocation.
 - Provision of goods or services other than general infrastructure, specifically:
 - Provision of steel at inadequate remuneration;
 - Provision of land use rights for inadequate remuneration;
 - Provision of energy at inadequate remuneration;
 - Provision of export credit insurance at inadequate remuneration; and
 - Provision of shipping and logistic services at inadequate remuneration.
 - Various other subsidies in the form of subsidies provided in relation to special economic zones.
113. Based on the analysis of the submissions received, the TRA has investigated the evidence and identified several subsidies received by the Sany Group and the Liugong Group that are countervailable. Further information on these findings is detailed below.

F2. Grants

114. In its [application](#), JCB cited a number of laws, regulations, and policy documents as evidence of the presence of extensive provision of grants by the GoC. Further, JCB cited the reporting of grants in the financial statements of excavator manufacturers in the PRC as evidence of the provision of grants by the GoC. Additionally, JCB noted that previous TRA investigations and reviews have identified the provision of grants constituting countervailable subsidies in the PRC.



115. Both the Sany Group and the Liugong Group stated that the details of the grants reported for the POI, including the names and grant criteria were confidential owing to commercial sensitivity. In response to further inquiry during the course of the investigation, both the Sany and Liugong Groups reaffirmed the confidentiality of these details. On this basis, the TRA cannot name any individual grants received by either group. Therefore, where a grant has been determined to be a subsidy, as defined in paragraph 3(3) of the Act, and where the TRA has determined a grant is specific, in line with regulation 22 of the Regulations, summarised details have been provided, including links to open-source information where relevant.
116. Submissions from all parties were reviewed to identify laws, regulations, or administrative guidelines that were relevant to the TRA's assessment of whether the grants reported were countervailable subsidies. Where such information is publicly available, full details are given below.

F2.1 Financial contribution by a foreign authority

117. The TRA considered whether the grants constitute a financial contribution by a foreign authority in accordance with regulation 20 of the Regulations.
118. Both of the sampled exporter groups provided details of the grants they received during the POI and those where grant value was attributable to the POI. In response to the TRA's request for evidence of receiving the grants, the Sany and Liugong Groups provided copies of bank receipts related to the receipt of the grants, accounting system extracts, and details of government policies related to the grants reported. The TRA also reviewed the audited financial statements of the sampled exporters.
119. The TRA identified that the grants had taken the form of a direct transfer of funds from the granting authorities to the recipients. The TRA considers this to constitute a financial contribution.
120. Regarding the awarding bodies, the TRA performed open-source research into the bodies that provided the grants, and verified they were made by a range of national, provincial, and municipal government departments. The TRA considers that the awarding bodies were foreign authorities, within the meaning of paragraph 3(4) to Schedule 4 of the Act.
121. Consequently, in line with regulations 20(1)(a) and 20(3)(a) of the Regulations, the TRA has determined the grants reported by the Sany and Liugong Groups constituted a financial contribution by foreign authorities.



F2.2 Benefit conferred

122. The TRA considered whether the financial contribution by a foreign authority conferred a benefit in accordance with regulation 21 of the Regulations.
123. The direct transfers of funds from the foreign authorities identified provided greater resources without creating any specific reciprocal obligation on the part of the recipients, which would not have been available to them under normal market conditions. Therefore, the TRA has concluded that the grants conferred a benefit to the Sany and Liugong Groups in line with regulation 21(2) of the Regulations.
124. The amount of benefit conferred to the Sany and Liugong groups is detailed within the amount of subsidy sub-section below..

F2.3 Specificity

125. The TRA considered whether the grants reported were specific, in accordance with regulation 22 of the Regulations.
126. Based on the evidence available to it, the TRA determined a number of grants reported to be specific. Owing to the confidentiality of the grant data, noted above, it is not possible to provide full details here; consequently, the grounds on which the TRA determined specificity are reported below but it is not possible to identify individual grounds for individual grants.
127. The TRA determined that a series of grants received by the Sany Group were explicitly limited to a specific geographical region within the jurisdiction of the granting authority; consequently, these grants were determined to be specific in accordance with regulation 22(2)(a)(iv) of the Regulations.
128. For a further series of grants received by the Sany Group, only limited information was provided as supporting evidence. Consequently, the TRA requested the following information regarding the grant programme:
 - Information on the grant programme from the awarding body detailing the eligibility criteria for the grant, including any public notices and policy announcements by national or municipal government bodies in relation to the programmes
 - The application submitted.
 - A copy of notification from the awarding body that the grant has been awarded.



129. The Sany Group indicated that it did not have access to any document including this information and could only provide evidence of the receipt of the grants.
130. To examine these grants further, the TRA submitted a supplementary letter to MOFCOM requesting assistance in obtaining information from the grant awarding body. In its response, MOFCOM confirmed that the Sany Group had benefitted from the grants and the amounts of the grants, as reported by the Sany Group, but was unable to provide further information.
131. The TRA performed further research into the grant programme based on the limited details provided to it by the Sany Group and MOFCOM. No further information regarding the grants was obtained.
132. Based on the information available to it, the TRA has determined that these grants are explicitly limited, in terms of access, to certain enterprises, and consequently, are specific in accordance with regulation 22(2)(a)(i) of the Regulations. Based on the evidence available, the only sampled exporter to have benefitted from this grant programme was Sany Kunshan.
133. Regarding grants received by the Liugong Group, the TRA identified grants that were subject to restrictions in access. These restrictions included grants provided to support individual named projects, as specified by municipal authorities, and grants restricted to only enterprises that import particular goods. The restriction for entities completing individual projects explicitly restricts access to certain enterprises, and the inclusion of a limited range of products explicitly limits access to a grant to certain industries (those that use the products in question). Consequently, these subsidies were determined to be specific in accordance with regulation 22(2)(a)(i) of the Regulations.

F2.4 Conclusion on regarding countervailability

134. The TRA has established that a subsidy exists within the meaning of paragraph 3(3) of Schedule 4 to the Act and that the subsidy is specific, within the meaning of regulation 22 of the Regulations. These grants support the daily business operations of excavator producers in the PRC and so are granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, the TRA has concluded these grants constitute countervailable subsidies, within the meaning of paragraph 3(2) of Schedule 4 to the Act.

F2.5 Amount of subsidy

135. In accordance with regulation 23 of the Regulations, the TRA has calculated the amount of subsidy attributable to the subsidised imports.



F2.5.1 Determination of the total amount of the countervailable subsidy

136. As specified in regulation 23(2)(a) of the Regulations, to calculate the amount of subsidy attributable to the subsidised imports the TRA has first determined the total amount of the countervailable subsidy. It has done so in accordance with regulation 24 of the Regulations.
137. The TRA requested evidence of receipt of payment and accounting system extracts for grants from the Sany and Liugong Groups. The questionnaires sent to the sampled exporters also requested details of any fees or expenses necessarily incurred for the purposes of receiving each grant.
138. No deductions, as outlined in regulation 24(3) of the Regulations, were identified for the grants the TRA determined were countervailable subsidies. Consequently, no deductions were included when calculating the total amount of countervailable subsidy for each of the relevant grants. The amount of benefit conferred was determined as the total amount of the grants received that were countervailable subsidies.

F2.5.2 Determination of the amount of the countervailable subsidy that is attributable to the period of investigation

139. In line with regulation 25(1) of the Regulations, the amount of countervailable subsidy that is attributable to the POI is, pursuant to regulations 25(2) to 25(4), the amount received during the POI.
140. The TRA reviewed the dates reported by the sampled exporters for the receipt of grants. These were verified against bank receipts and accounting system extracts.
141. Additionally, the TRA examined the specific nature of each grant based on the supporting evidence and considered whether the entire amount of countervailable subsidy was attributable to the POI or if any of the value was attributable outside of the POI.
142. Where accounting system extracts indicated that a grant had been recognised as income immediately in full, it considered that the amount of countervailable subsidy was attributable entirely to the date it was received.
143. Consequently, where a grant determined to be a countervailable subsidy had been received by an exporter within the POI and was recognised as revenue in full by the exporter at that time, the full amount of the countervailable



subsidy was attributed to the POI, in accordance with regulation 25(1) of the Regulations.

144. Where a grant determined to be a countervailable subsidy had been received before the POI but some of its value was attributable to the POI – by way of example, a grant received prior to the POI where some value was transferred from deferred income to revenue during the POI – the TRA considered whether the grant was a qualifying countervailable subsidy (QCS), as defined in regulation 25(4) of the Regulations.
145. Where such a subsidy was a QCS, in accordance with regulation 25(2) of the Regulations the part that was attributable to POI was included in the subsidy amount for the purpose of regulation 23(4). Where such a subsidy was not a QCS, none of the value was included in the subsidy amount.
146. Where a grant determined to be a countervailable subsidy had been received during the POI but some of its value was attributable outside the POI – by way of example, a grant received during the POI but recognised as deferred income during the POI, where some value was still be recognised as revenue at the end of the POI – the TRA considered whether the grant was a QCS, as defined in regulation 25(4) of the Regulations.
147. Where such a subsidy was a QCS, in accordance with regulation 25(3) of the Regulations the part that was attributable to POI was included in the subsidy amount for the purpose of regulation 23(4). Where such a subsidy was not a QCS, in accordance with regulation 25(1) of the Regulations, the total amount received during the POI was considered the amount of subsidy attributable to the POI.
148. The TRA identified individual subsidies that were treated in accordance with each of methods described above.

F2.5.3 Determination of the goods the subsidy is attributable to during the period of investigation

149. In accordance with regulation 26 of the Regulations, the TRA must determine the goods the subsidy is attributable to during the POI.
150. Of the grants determined to be countervailable subsidies, the sampled exporter groups did not attribute any grants to particular goods and the TRA's review of the supporting documentation submitted did not identify any associations between individual grants and any specific goods, or to the destination of goods (domestic sales or exports). Consequently, the TRA considers the benefit of the grants determined to be countervailable subsidies was attributable to all of the sales of goods, in line with regulation 26(1) of the Regulations.



F2.5.4 Determination of the amount of subsidy

151. The subsidy amount attributable to grants was calculated for the sampled exporters, as per regulation 23(3) of the Regulations, and has been expressed as an ad valorem rate of the value of the subsidised imports, as per regulation 23(4), in Table 3 below.

Table 3: Subsidy amounts attributable to grants

Organisation	Countervailing amount
Sany Group	1.0001%
Liugong Group	0.0590%

F3. Preferential financing

152. In its [application](#), JCB alleged that producers of excavators in the PRC receive subsidies through preferential financing in the form of:

- Loans;
- Export credit;
- Credit lines; and
- Bank acceptance drafts (BADs).

153. Regarding the TRA's assessment of JCB's allegation regarding credit lines, in its review of the data submitted, the only revolving credit facilities that were utilised by the sampled exporter groups during the POI were where BADs had been drawn through a credit line (detailed below). The TRA did not identify any of the sampled exporters making direct drawings from credit lines.

154. Similarly, the TRA did not identify the use of export credit facilities, outside of the use of export credit insurance (which is detailed below in [Section F10](#)).

155. Consequently, the assessment here will address the use of loans and BADs only.

156. The TRA reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged preferential financing, as well as the documentation provided by sampled exporters regarding their debt financing.

157. Both of the sampled exporters reported the loans they had received and with loan terms during the POI, details of the BADs used to make payments during the POI, and details of the banks that had provided both loans and BADs.



158. Both the Sany Group and the Liugong Group stated that the details of the loans and BADs reported for the POI, including the names of the banks providing them were confidential owing to commercial sensitivity. In response to further inquiry during the course of the investigation, the Liugong Group consented to the TRA naming the relevant banks in the SEF whereas the Sany Group reaffirmed the confidentiality of these details.
159. On this basis, the TRA cannot name any of the banks that provided financing to the Sany Group during the POI. Therefore, in its assessment of whether the financing received has been determined to be a subsidy, as defined in paragraph 3(3) of the Act, and where the TRA has determined such a subsidy is specific, in line with regulation 22 of the Regulations, summarised details have been provided, including links to open-source information where this is possible while maintaining the confidentiality.

F3.1 Financial contribution by a foreign authority

F3.1.1 Financial contribution

F3.1.1.1 Loans

160. Regarding the loans used by the sampled exporters, the TRA has established, based on bank receipts and accounting system extracts, that a direct or potential direct transfer of funds from banks occurred for the loans used during the POI; consequently, it was determined that a financial contribution had occurred where loans were provided to exporters of the goods concerned.

F3.1.1.2 BADs

161. Regarding BADs, the TRA examined documents including the contracts related to these financial instruments between the issuing banks and the sampled exporters.
162. The BADs issued to the sampled exporters were used in lieu of payment to companies supplying goods to them. The BADs examined were drawn by the sampled exporters from commercial banks before being “endorsed” and then used to settle accounts payable to the exporters’ suppliers (who becomes the holder of the BAD).
163. At the point the sampled exporters transfer an endorsed BAD to a supplier, its liability to that supplier is discharged. A liability is created for the issuing bank to pay the company supplying goods in this situation. Concurrently, a liability is created for the sampled exporter to make payment to the bank once the BAD has matured.



164. The maturity date of the BADs examined by the TRA ranged from 3 months to 12 months after endorsement and transfer. This has the effect of extending credit to the sampled exporters beyond the payment terms of the transaction with the supplier until the BAD matures.
165. Consequently, the TRA has determined the issuance of a BAD constitutes a direct or potential direct transfer of funds by the financial institution issuing the BAD.

F3.1.2 Foreign authority and allegation of potential direction by a foreign authority

166. In assessing whether a financial contribution has been made by a foreign authority in accordance with regulation 20 of the Regulations, paragraph 3(4) of Schedule 4 to the Act defines a foreign authority as a government or public body within the territory of a foreign country or territory.
167. Sub-paragraphs (a) to (d) of regulation 20(1) of the Regulations outline the forms a financial contribution from a foreign authority can take. Additionally, in line with regulation 20(1)(e) of the Regulations, where a foreign authority makes payments to a funding mechanism or entrusts or directs a private body to undertake one or more of the type of functions in sub-paragraphs (a) to (d), which would normally be vested in the foreign authority, and the practice in no real sense differs from practices normally followed by foreign authorities, a financial contribution has been made by a foreign authority within the meaning of regulation 20 of the Regulations.
168. In its application, JCB alleged that the financial contribution provided by financial institutions to manufacturers of excavators in the PRC occurs under the direction of the GoC such that the practice in no real sense differs from the GoC performing this function itself.
169. The GoC disputed this in its questionnaire response, reporting that all banks in the PRC operate under market forces and make lending decisions based on the liquidity and risks posed by customers. The sampled exporters indicated that, where they had taken loans or used BADs, the decisions informing the selection of particular banks and producers was based on the services offered by the banks and the specific product details, including interest rates available.
170. In its examination of the provision of a financial contribution, the TRA considered loans and BADs separately. In examining the claim regarding government direction of commercial banks, owing to all the loans and BADs examined being provided by commercial banks, the TRA has considered this claim for loans and BADs concurrently.



171. First, the TRA considered the legislative and policy documents available.
172. Regarding the TRA's examination of preferential financing in general terms, it was noted that that Article 14 of the [Company Law of the People's Republic of China](#) indicates that, "A company must, when engaging in business activities, abide by laws... and accept supervision of the government and the public [emphasis added]". Further, Article 13 of the [General Rules on Loans](#) states that, "A lender shall, pursuant to the "ceiling" and "floor" on loan interest rates fixed by the People's Bank of China, determine the interest rate for a loan, and shall specify it in the loan contract".
173. As highlighted above, Article 14 of the Company Law of the People's Republic of China indicates that banks must accept government supervision; the TRA notes the use of the word "must" indicating that, where such supervision is provided, commercial banks should regard adherence as mandatory.
174. Article 13 of the [General Rules on Loans](#) indicates that an upper and lower limit are presented for loan interest rates ("ceiling" and "floor", respectively). Here, the TRA notes the active proscription of loans at interest rates outside of these absolute limits.
175. This legislation demonstrates that the GoC possess authority over commercial banks in the PRC, including with regarding to lending activities specifically.
176. Further to this consideration of whether the GoC possess authority to direct commercial banks in the PRC, the TRA noted, in examining the [Law on Commercial Banks in China](#), that Article 34 states, "Commercial banks shall conduct their business of lending in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State".
177. Viewed in the context of the passages from the [Company Law of the People's Republic of China](#) and the [General Rules on Loans](#) highlighted above, the TRA considers Article 34 of the [Law on Commercial Banks in China](#) indicative that government industrial policies and guidance are used specifically to issue directions to commercial banks regarding lending.
178. Regarding potential directions to banks by the GoC, the TRA considers [Decision No. 40](#) of the State Council on Promulgating and Implementing the Interim Provisions on Promoting Industrial Structure Adjustment and its associated [Catalogue for the Guidance of Industrial Structure Adjustment](#) as being relevant.
179. Decision No. 40 states that "The people's governments of all provinces, autonomous regions, and municipalities directly under the Central Government should regard the promotion of industrial restructuring as an



important task of reform and development at present and for a period of time to come... formulate specific measures in accordance with the requirements of the "Interim Provisions" and in light of the actual industrial development conditions in their own regions, rationally guide the direction of investment, encourage and support the development of advanced production capacity...". It goes on to direct that, "All departments concerned should speed up the formulation and revision of relevant policies on finance and taxation... [and] earnestly strengthen coordination and cooperation with industrial policies, and further improve the policy system for promoting industrial restructuring".

180. Amongst the provision included in Decision No. 40, Article 13 specifies three industry categories included in the catalogue: encouraged, restricted, and eliminated; Article 13 also instructs that any industries not associated with one of these three categories are classified as "permitted".
181. Article 14 of Decision No. 40 provides explanation of the nature of encouraged industries, "The encouraged category is mainly for key technologies, equipment and products...[that] need to be encouraged and supported by policy measures".
182. Articles 17, 18, and 19 of Decision No. 40 provide provisions that reference financing of industries with the encouraged, restricted, and eliminated categories, respectively. Article 17 indicates that, "All financial institutions shall provide credit support in accordance with the principle of credit" to the encouraged category of industries. By contrast, Article 18 stipulates that "The investment management department shall not approve, approve or file the record, the financial institutions shall not issue loans..." to enterprises falling within the restricted category, and Article 19 states, "Financial institutions should cease all forms of credit support and take measures to recover loans that have already been granted..." from the eliminated category.
183. Examining regional policies affecting the exporters that cooperated with the present investigation, the TRA identified further evidence relevant to its assessment of directions issued by the GoC to financial institutions regarding lending activities.
184. Within Jiangsu Province (an area where an exporting company from each of the sampled exporters are located), The [Opinions of the General Office of the Provincial Government on Strengthening and Optimizing the Supply of Science and Technology Innovation Finance Services and the Self-reliance and Self-reliance of Science and Technology](#) (the Opinion), issued by the General Office of Jiangsu Provincial People's Government, makes reference to the role of financing in supporting the development of scientifically and technologically advanced industries. The document's stated "Areas of support" include "Guide financial institutions to focus on key areas of scientific and technological innovation...".



185. Within the heading “Optimize the ecological environment for science and technology innovation finance”, Article 12 states, “Guide financial institutions to implement the national regional development strategy...”.
186. Under the heading of “Strengthen financial policy support for science and technology innovation”, Article 15 “Pay attention to monetary policy incentives” states, “We should... encourage banking institutions to issue medium and long-term loans with preferential interest rates to qualified science and technology enterprises...”. Article 16, “Highlight the guidance of fiscal and taxation policies”, includes “Encourage all localities to support financial institutions to carry out investment-loan linkage, intellectual property pledge financing loans and other businesses through loan interest discounts”. Article 17, “Improve the ability to guarantee science and technology financing” states, “Improve the government financing guarantee system, give full play to the credit enhancement function of government financing guarantee institutions, and establish a credit enhancement mechanism for science and technology enterprises guided by the government and operated by the market”.
187. This Opinion was further supported by a news article from the [Jiangsu provincial government website](#) reporting a press conference linked to the Opinion and specifically referencing it. Notably, comments are included regarding how the Jiangsu Securities Regulatory Bureau will implement the Opinion. Five “strengths” are identified; these include, “Further strengthen cooperation with relevant provincial departments, party committees and governments of cities divided into districts”, “...to strengthen guidance”, and “...to strengthen supervision”.
188. These policy documents include multiple references to both general areas for financial institutions to prioritise (“science and technology enterprises”) as well as specific means of doing so. [Decision No. 40](#) provide explicit direction regarding how different industry groups should be treated; some receive “credit support” whereas others will not be provided with loans or will have loans recalled. The inclusion of an [extensive catalogue](#) further evidences that the content of the notices go beyond mere guidance. The high level of detail included in the catalogue illustrates the areas financial institutions are to support are not – by their nature – general and open to interpretation by individual institutions; they are specific and used to direct the activity of financial institutions.
189. The [regional policy](#) Opinion and accompanying news article further supports this determination. Financial institutions are guided to implement government development strategy, with areas to be supported identified; the nature of the support is elucidated through references to preferential interest rates and interest discounts.



190. Although these policy documents refer to guidance and opinions, viewed in the context of the earlier reference legislation, the guidance appears to give direction to the financial institutions providing financial services and credit. A variety of instructions appear to be issued regarding industries and the methods of support to be applied.

F3.1.3 Use of financing by cooperating exporters

191. As noted above, where a foreign authority makes payments to a funding mechanism or entrusts or directs a private body to undertake to make a financial contribution, this can constitute a financial contribution by a foreign authority, in accordance with regulation 20(1)(e) of the Regulations.
192. To further examine JCB's allegation of government direction in the provision of financing to manufacturers of excavators in the PRC, the TRA sought to examine the financing used by the sampled exporter groups during the POI, specifically.
193. The sampled exporters were asked to provide details of the application made for loans and copies of applications, copies of loan agreements, evidence of receipt and – where relevant – principal and interest loan payments, details of any government programmes linked to loans, copies of credit agreements relating to securing BADs, and supplementary information on each exporter's long-term debt structure.
194. Both Sany Kunshan and Sany Shanghai provided loan agreement contracts for all of the loans reported but were not able to provide applications for all of the loans. Sany Kunshan and Sany Shanghai provided BAD agreement contracts for all of the BADs used during the POI.
195. LZLG provided the contract for the single loan it disclosed but was not able to provide the application for that loan. CZLG did not use any bank loans during the POI so there were no contracts or applications. Both LZLG and CZLG provided BAD agreement contracts for all of the BADs used during the POI.
196. In its examination of the loan applications provided, the TRA identified significant variation in the information required by the lending banks. As noted above, the Sany Group indicated the identity of banks that provided it with financing during the POI was confidential information; consequently, the TRA has referred to banks with identifying numbers to preserve this confidentiality.
197. In its application for a working capital loan from Bank 1, Sany Kunshan provided financial status and economic indicator data regarding itself for October 2022. These included its total current assets, accounts receivable balance, total fixed assets, long-term investments, current liabilities, short-



term borrowing, loans from Bank 1, accounts payable, long-term liabilities, owners' equity, asset–liability ratio, current ratio, sales income, and total profit. The application form also requested Sany Kunshan's quick ratio, turnover of accounts receivable, sales profit margin, and payment recovery rate; however, Sany Kunshan had not provided these data in its application.

198. In application for a working capital loan from Bank 2, Sany Kunshan had provided a letter addressed to the relevant bank branch. This provided a brief description of the company, including when it was founded, its parent company, and a general description of its main products. The letter also stated the amount of the desired loan, the purpose of the loan, that no guarantee would be associated with the loan, and that Sany Kunshan would establish a "Fund Settlement Account" with the bank (or a designated bank), with the related cashflow subject to supervision by the account-holding bank. No financial indicators were included in the application letter.
199. In applying for a working capital loan from Bank 3, Sany Kunshan completed an application form including the company's names, business activities, the loan amount, and the loan term. No financial indicator data were requested or included in the application form. An application to withdraw funds for this loan was also provided; it included details of the amount, withdrawal date, the loan agreement contract number pertaining to the relevant contract, the proposed purpose of the withdrawal, and the account number to receive payment.
200. As evidence of the application process for a working capital loan from Bank 4, Sany Kunshan provided a copy of a loan note stipulating the borrower, lender, account details, loan amount, interest rate, and repayment schedule. No financial indicator data were requested or included in the documentation provided.
201. As evidence for the application made for a working capital loan from Bank 5, Sany Shanghai provided a form entitled "Application for the Use of Bank of Communications Loan Limit". This form included the contract number associated with the loan agreement contract, indicating that the application was to make a drawdown against an existing loan limit and not to establish a line of financing. The form submitted included details of the loan amount, interest rate pricing, interest settlement schedule, and details of the loan term.
202. LZLG reported it received a loan from Guilin Bank. As noted above, LZLG did not provide application documents for the loan it reported for the POI and CZLG disclosed that it did not have any new or outstanding loans during the POI.
203. In its review of the loan agreement contracts provided by the Sany and Liugong Groups, the contracts consistently provided details of loan amounts and terms, including interest rates, whether interest rates were fixed or



- variable, schedules for changes in variable interest rates during loan terms, repayment schedules for loan interest and the loan principal.
204. Of all of the loan agreement contracts, only one referenced a government project as being associated with the loan. This was the working capital loan Sany Kunshan received from the Bank 2. Outlining the interest rate for the loan, the loan agreement states the interest rate is a, "...special re-loan interest rate", referencing the People's Bank of China. Notably, the application letter used to apply for this loan by Sany Kunshan (referenced above) did not give any indication that a People's Bank of China-supported loan was sought in this instance. Through its own research, the TRA [identified reference](#) to "special re-loans for scientific and technological innovation" operated by the People's Bank of China contemporaneous to the working capital loan taken by Sany Kunshan.
205. This special re-loans for scientific and technological innovation programme announcement identifies Bank 2 specifically as among those that provide these loans and refers to a specific interest rate. The announcement also refers to specific restrictions on the loans, including "high-tech enterprises, "specialized, special and new" small and medium-sized enterprises, national technological innovation demonstration enterprises, manufacturing single champion enterprises and other science and technology enterprises".
206. This was considered noteworthy in the context of the loan agreement contract provided by LZLG. As noted above, LZLG disclosed that the loan it had during the POI was a loan with an associated government policy. In response to the TRA's request, LZLG provided details of the government policy linked to this loan. This policy notice references restrictions on the industries these loans are available to and specifies discounted interest rates for these loans.
207. When the TRA reviewed the loan agreement contract for this loan, it identified no references to it being a People's Bank of China-supported loan. This stood in contrast to the working capital loan received by Sany Kunshan from Bank 2, which included no reference to a preferential loan in its application, but the loan contract did identify a People's Bank of China programme was associated with the loan.
208. In its examination of the of the supporting documentation for excavator manufacturers' use of BADs, the TRA did not note any references to GoC policy. Some of the contracts relating to BADs were sub-contracts of comprehensive credit agreements; others appeared to be related to BADs being used as a standalone financial instrument. Contracts were accompanied by lists of the suppliers to be paid using the BADs.



F3.1.4. Examination of financing banks

209. Having assessed the documentation available for the loans and BADs used by the sampled exporter groups, the TRA considers that the application process for these companies receiving the financing reported for the POI was inconsistent. Further, the TRA considers that, where loan and BAD documentation does not explicitly identify a government support programme, a support programme may still be relevant to the loan or BAD. An absence of references to government support programmes in associated documents cannot be considered indicative that financing was not subsidised.
210. Pertinent to the TRA's consideration of whether government direction was involved in the provision of preferential financing, it is notable that, where a loan contract did indicate the involvement of a potential subsidy programme from the People's Bank of China, the application submitted did not request such a loan.
211. To examine how financing was provided to excavator manufacturers and to what extent financial institutions considered GoC policies such as [Decision No. 40 directive](#), the TRA asked both sampled exporter groups to provide contact information for the banks that loans and BADs were obtained from, and for permission to discuss its loans and BADs with each bank that had provided them.
212. Both exporter groups cooperated fully and consented to the TRA contacting the financial institutions that had provided them with loans and BADs; the exporter groups also provided contact information for the TRA's use.
213. The TRA attempted to contact all of the bank branches involved, making multiple phone calls and sending a follow-up email where a specific email address could be identified. None of the banks consented to provide the TRA with any information regarding the financing provided.
214. In the absence of cooperation from the banks, the TRA conducted further research to support its consideration of whether financial institutions view the policy announcements of the central GoC and municipal government bodies to be directions. The TRA attempted to review the Articles of Association of each of the banks identified in the exporters' questionnaires for provisions relevant to the banks' considerations around GoC policies. Where Articles of Associations could not be identified, the TRA examined annual financial statements, including the Directors' reports, and other public statements by banks.
215. As noted above, the Sany Group did not consent to the TRA disclosing the names of the banks that provided it with loans and BADs. Consequently, where specific details are included below this will only be the case for



financing received by the Liugong Group. Similar research was performed for the banks that provided finance to the Sany Group; however, a summary of the information identified is provided to preserve the confidentiality of the names of the banks.

216. The Bank of China provided finance to the Liugong Group during the POI. Within its [Articles of Association](#), identified Article 67, concerning the role of “The Party Committee” of the bank. Within the committee’s role, the following were noted:
- “...ensure and supervise the implementation of the party and state policies in the bank, implement the major strategic decisions of the Party Central Committee and the State Council, and the relevant important work arrangements of the superior party organizations”.
 - “Strengthen the leadership and control over the selection and employment of personnel, do a good job in the construction of the Bank’s leadership team and the cadre and talent teams...”
217. Further, Article 68 of the [Bank of China’s Articles of Association](#) indicates that:
- “Major management and operation matters must be studied and discussed by the Party Committee before being decided by the Board of Directors or senior management in accordance with their authority and prescribed procedures”.
218. The Agricultural Bank of China also provided finance to the Liugong Group during the POI. The TRA considered Article 60 of its [Articles of Association](#) relevant, the following details were identified regarding the bank’s Party Committee’s responsibilities:
- “...ensure and supervise the implementation of the Party and State policies in the Bank, implement the major strategic decisions of the Party Central Committee and the State Council, and the important work arrangements of the superior Party organizations”.
 - “...strengthening the leadership and control over the selection and employment of personnel, do a good job in the construction of the Bank’s leadership team and the cadre and talent teams...”.
219. The Bank of Communications also provided finance to the Liugong Group during the POI. In accordance with Article 64 of its [Articles of Association](#), the following provisions detail some of the responsibilities of the bank’s Party Committee:
- “...ensure and supervise the implementation of the Party and State’s policies and guidelines in the Bank, implement the major strategic



- decisions of the Party Central Committee and the State Council, and the important work arrangements of the superior Party organizations”.
- “Strengthen the leadership and control over the selection and employment of personnel, do a good job in the construction of the Bank's leadership team, cadre team and talent team...”.
 - “Before the shareholders' meeting, the board of directors, the board of supervisors or the senior management make decisions in accordance with their powers and prescribed procedures, the pre-procedure of research and discussion by the Party Committee must be followed”.
 - The “pre-procedure of research and discussion” referred to is not specified.
220. The China Minsheng bank provided finance to the Liugong Group during the POI. The TRA reviewed the bank’s [Articles of Association](#) and noted the following statements describing the role of the bank’s Party Committee in Article 59:
- “...ensure and supervise the implementation of the Party and State policies and guidelines in the Bank, implement the major strategic decisions of the Party Central Committee and the State Council, and the important work arrangements of the superior Party organizations”.
 - “To adapt to the requirements of the modern enterprise system and the needs of market competition, strengthen the leadership and control of personnel selection and employment, do a good job in the construction of the Bank's leadership team and the cadre and talent teams...”.
221. The China Construction Bank provided finance to the Liugong Group during the POI. In reviewing the bank’s [Articles of Association](#), the TRA noted Article 66, which details the role of the bank’s Party Committee:
- “The Party Committee ensures the implementation of the Party and national principles and policies in the bank, implements the Party Central Committee and the State Council’s instructions on promoting major strategic decisions to promote the healthy development of the bank, as well as relevant important work arrangements of superior party organizations”.
222. Article 67 indicates that the Committee also has a role in leadership selection at the bank: “Lead and monitor work, do a good job in building the corporate leadership team, the team of cadres, and the team of talents, and manage standards...”
223. Further, Article 68 states explicitly, “Major business and management matters must be discussed and discussed by the party committee before being approved by the board of directors or senior management”.



224. The China Everbright Bank provided finance to the Liugong Group during the POI. Article 54 of its [Articles of Association](#) reports the responsibilities of the bank's Party Committee:
- "...ensure and supervise the implementation of the Party and State's policies and guidelines in the Bank, implement the major strategic decisions of the Party Central Committee and the State Council, and the important work arrangements of the superior Party organizations".
 - "Strengthen the leadership and control over the selection and employment of personnel, do a good job in the construction of the Bank's leadership team and the cadre and talent team".
225. Article 55 of the bank's Articles of Association specifically states that, "Research and discussion by the Party Committee is a pre-procedure for the Board of Directors and senior management to make decisions on major issues. The Board of Directors and senior management should listen to the opinions of the Party Committee in advance when making decisions on major issues of the Bank."
226. The China Merchants Bank provided finance to the Liugong Group during the POI. The TRA's reviewed its [Articles of Association](#) and identified Article 55, which includes the following details regarding the Party Committee's role in implementing GoC decision and policies, and to controlling the selection of senior management:
- "Ensure and supervise the implementation of the Party and State policies and guidelines in the Bank, implement the major strategic decisions of the Party Central Committee and the State Council and the important work arrangements of the superior Party organizations".
 - "Strengthen the leadership and control over the selection and employment of personnel, manage standards, procedures, inspections, recommendations, and supervision, adhere to the principle of Party management of cadres...".
227. The CITIC Bank provided finance to the Liugong Group during the POI. The following provisions were identified in Article 65 of the bank's [Articles of Association](#) concerning the role of the bank's Party Committee:
- "...supervise and ensure the implementation of major decisions and arrangements of the Party Central Committee and resolutions of superior party organizations in the Bank".
 - "Research and discuss major operational and management matters of the Bank, and support the general meeting of shareholders, the Board of Directors, the Board of Supervisors and the senior management in exercising their powers in accordance with the law".



- “Strengthen the leadership and control of the Bank’s selection and employment work, and do a good job in building the leadership team and the team of cadres and talents”.
228. The Industrial Bank Co. provided finance to the Liugong Group during the POI. The TRA reviewed the bank’s [Articles of Association](#) and examined the responsibilities of the bank’s Party Committee. The following information was included in Article 44:
- “Ensure and supervise the implementation of the Party and State policies and guidelines in the Bank, implement the major strategic decisions of the Party Central Committee and the State Council, and the important work arrangements of the superior Party organizations”.
 - “Strengthen the leadership and control of personnel selection and employment, manage standards, procedures, inspections, recommendations, and supervision, adhere to the principle of party management of cadres...”.
229. During the POI, Ping An Bank provided finance to the Liugong Group. The TRA reviewed its [Articles of Association](#). In contrast to the banks mentioned above, only a single provision referenced the bank’s Party Committee, noting it “...shall be established in the Bank, with a sufficient number of Party staff members to ensure the working funds of the Party organization”. The TRA reviewed the bank’s website further to identify references to its consideration of government policies. A [press release](#) made by the bank outlines the ongoing work to “support the real economy”. This includes reference to “...the leadership team of the Bank coordinates the strategic planning, policy support, resource allocation and business promotion of the Bank to support the work of the real economy...”. Further, the press release indicates that, to achieve the bank’s aim of “...[optimizing] the layout of the industry, focusing on emerging industries. promote emerging industries such as new manufacturing”, the bank will perform a number of measures, including that it will, “...give preferential policies such as preferential interest rates and flexible repayment, so as to reduce customer financing costs and reduce repayment pressure”. The press release also reports existing work by the bank including, “Ping An Bank has thoroughly implemented the national strategic plan to serve technology-based small and medium-sized enterprises, created exclusive products such as science and technology innovation loans”.
230. The Shanghai Pudong Development Bank provided finance to the Liugong Group during the POI. In reviewing information about the bank, the TRA was unable to identify the bank’s Articles of Association. In the absence of Articles of Association, the TRA examined other material available on the [bank’s website](#) and identified a [press release](#) relating to loan programmes for science and technology-related businesses. This press release details the People’s Bank of China guiding commercial banks to launch a particular loan



programme, “Tengfei loans”. The press release indicates that a branch of the Shanghai Pudong Development Bank altered the existing terms of loans to reflect the “Tengfei loan” programme, extending the term, increasing the loan amount, and reducing the interest rate.

231. The Bank of Guilin provided finance to Liugong during the POI. The TRA has been unable to identify the bank’s Articles of Association; consequently, the [bank’s website](#) was reviewed to identify any pertinent information. The bank’s [2023 Annual report](#) was reviewed and a number of statements were identified that refer to the bank’s adherence to GoC policies and guidance:
- “The Bank takes the responsibility of undertaking national and local development strategies, bravely undertakes the mission, takes action upon hearing orders, and takes the initiative to continuously improve political judgment, political understanding, and political execution”.
 - “In 2023, under the strong leadership of the Guilin Municipal Party Committee and the government and the scientific guidance of regulatory authorities at all levels, Guilin Bank will fully implement the spirit of the 20th National Congress of the Communist Party of China and the spirit of the Central Financial Work Conference, and thoroughly implement General Secretary Xi Jinping's requirements for Guangxi's major strategies and important instructions to Guilin”.
 - “Strengthen the Party's overall leadership over financial work, and always put strengthening Party building and comprehensively and strictly governing the Party as the top priority of the Bank's work”.
 - “The Bank adheres to the political and people-oriented nature of financial work. In 2023, we will comprehensively strengthen the ideological and political work "lifeline", systematically promote the deep integration of ideological and political work with corporate governance, business development, corporate culture, team building and other work, and continue to polish the party building brand of "Grateful Hometown Red Guiyin”.
 - “During the reporting period, the Bank promoted the implementation of Guangxi's "10 Measures for Stable Growth of Industrial Economy" and other policy measures... with industry-finance docking, key assistance, and preferential interest rates, to support Guangxi in accelerating the construction of a strong manufacturing zone in the west”.
232. As noted, the Sany Group declined to allow the TRA to identify the banks that provided it with finance during the POI. However, the TRA did conduct an assessment of the banks that had provided it with loans and BADs. The TRA’s findings regarding the banks that provided finance to the Liugong Group are fully representative of the findings for the banks the Sany Group had utilised. Similar content in Articles of Association and annual reports were noted.



233. The specific statements identified differ somewhat between each of the banks examined. However, a number of common themes are present. Party Committees are widespread across the sector. These committees are expressly composed of members of the governing Communist Party of China. Where it has been possible to identify Articles of Association for banks, the roles of these committees are stated in explicit terms. It is apparent that ensuring that state policies and strategic decisions of the GoC are implemented by the bank are a major role of Party Committees.
234. As well as ensuring that GoC decisions are “implemented” by the bank, Party Committees play significant roles in the selection of individuals in leadership positions at the bank. The committees’ stated roles include “...control over the selection and employment of personnel [emphasis added] ...”. Consequently, in addition to being charged with ensuring that GoC policies and guidance are implemented at banks, it is repeatedly stated explicitly that these committees are able to exercise control over the selection of bank management. It can be readily understood that having control over the selection of management and employees can facilitate the committee’s role to implementing government policies at banks.
235. Additionally, for multiple banks, the TRA identified explicit references to Party Committees considering and discussing both management and operational matters prior to bank leadership making decisions in these areas. It is noteworthy that Party Committees work in this regard is not advisory or optional; the TRA identified references that committees “must” consider and discuss these matters, with such considerations also referred to as pre-procedures for operational and business decisions at these banks. The TRA considers this to indicate that the input of Party Committees on significant operational decisions is not advisory but directive, is an essential part of banks’ decision-making processes.
236. Further, in one example, it is clearly stated that bank senior leadership “...should listen to the opinions of the Party Committee in advance when making decisions on major issues of the Bank”. As well as it being mandatory for Party Committees to consider banks’ operational matters, senior management is directed to include this input in its decision making.
237. Where the TRA was not able to identify Articles of Association for banks, or to identify explicit reference to the role of a Party Committee, other evidence was identified in the form of Director’s statements in annual reports and in press releases. The content of these sources echoed the content of the Articles of Association identified for other banks and indicated that consideration of GoC industrial policies was of high significance to banks.
238. In the absence of any cooperation from the banks that provided financing to the sampled exporters during the POI, it has been necessary for the TRA to



conduct its own research into the banks' responses to the policy documents noted above, which the TRA has identified as prescriptive directions issued by the GoC. Within the banks there exist Party Committees, which are composed of members of the governing Communist Party of China. These committees are explicitly tasked with implementing GoC policy within banks. Further, before operational and business decisions are taken by the banks, these committees must consider and discuss potential decisions; prior to making such decisions, the senior leadership of a bank – whose selection the Party Committee has a role in – must give consideration to the views of the Party Committee.

F3.1.5 Conclusion regarding the provision of a financial contribution by a foreign authority

239. From its review of the evidence available to it, the TRA has determined that the provision of loans and BADs by commercial banks to exporters of the goods concerned constitutes a financial contribution by a foreign authority, within the meaning of regulation 20 of the Regulations.
240. As noted above, the TRA has determined that the provision of loans and BADs is a direct or potential direct transfer of funds or liabilities. The TRA has determined the commercial banks providing this financial contribution do so under the direction of the GoC (a foreign authority within the meaning of paragraph 3(4) of Schedule 4 to the Act), in accordance with regulations 20(1)(a) and 20(1)(e) of the Regulations.
241. The TRA considers that Article 14 [of the Company Law of the People's Republic of China](#) and Article 13 of the [General Rules on Loans](#) demonstrate that the GoC possesses the authority to direct bank in their lending activities.
242. Further, Article 34 of the [Law on Commercial Banks in China](#) demonstrates that GoC industrial policies are a mechanism by which the GoC issues directions to commercial banks.
243. The wording of the legislation refers to GoC guidance as being mandatory and that compliance is not at the discretion of commercial banks.
244. As noted above, in response to the questionnaire, the GoC cited Articles 4 and 5 of Law on Commercial Banks in China as demonstrating that, contrary to the JCB's allegations, commercial banks in the PRC operate without interference from any "unit or individual".
245. The TRA takes note of Articles 4 and 5 of the Law on Commercial Banks in China, as highlighted by the GoC; however, the TRA considers that, although read in isolation these articles state that commercial banks in the PRC



conduct lending business free from any outside interference, when read in the context of other articles of the same law and other legislative and policy documents, Articles 4 and 5 would be overridden.

246. The TRA considered that the extensive references to banks acting in accordance with policy aims of the GoC across multiple laws indicates that directions and “accepting the supervision of the government” regarding interest rates, such as the imposition of upper and lower interest rate limits and conducting lending under the guidance of the industrial policies of the State, would not be considered “interference from any unit or individual” within the meaning of Article 4 of the Law on Commercial Banks in China.
247. Having established that the GoC has the authority to issue directions to commercial banks, the TRA has gone on to determine that the policy announcements and opinions identified above are, in fact, explicit directions to commercial banks.
248. [Decision No. 40](#) and its [accompanying catalogue](#) give explicit direction to commercial banks regarding lending activities. “Credit support”, the non-provision of loans, and the recovery of existing loans are stipulated for certain industries. Extensive detail is provided in the accompanying catalogue such that, extremely limited interpretation is available to commercial banks regarding how the provision of loans or BADs to any particular industry should be managed.
249. Similarly, the [Opinion](#) issue directions to commercial banks. Specific measures (“issue medium and long-term loans with preferential interest rates to qualified science and technology enterprises”) are suggested. However, as determined above, such suggestions are not to be considered optional by commercial banks and the Opinion includes explicit reference to strengthening cooperation with relevant provincial departments, party committees and governments, as well as strengthening guidance and supervision.
250. After establishing that the GoC possesses the authority to direct commercial banks and exercises this authority regarding the lending behaviour of commercial banks, the TRA considered how these directions are implemented by commercial banks.
251. The TRA reviewed the applications and contracts related to loans and BADs used by the Sany Group and the Liugong Group during the POI. Several noteworthy observations were made.
252. Financing that was related to policy initiatives were not consistently identified in the relevant contracts, as evidenced through a policy initiative-related loan received by the Liugong Group not specifying as such in the contracts. Consequently, based on the positive evidence identified by the TRA, where a



loan contract does not specify that a loan is related to government policy, this cannot be considered conclusive evidence that government policy has not directed the loan.

253. Further, where financing related to policy initiatives was identified in contracts, this was not necessarily in response to a request made by the recipient in its application. This is evidenced by a loan contract provided by the Sany Group referring to policy-related lending, contrasting the actual application made for the financing, which made no reference to any such programme. From this evidence, the TRA has determined that the provision of policy-related financing may be initiated by commercial banks. Viewed in the context of the laws and policies identified above, the TRA has determined that this policy-related financing is provided on the direction of the GoC.
254. Prior to making the above determinations, the TRA attempted to contact the banks identified by the Sany Group and the Liugong Group to acquire further evidence. However, none of the banks contacted participated in the present investigation. Consequently, it was necessary for the TRA to perform its own research in this area.
255. The TRA identified that the GoC is represented within commercial banks in the form of Party Committees. These committees perform a number of roles that, viewed in the totality of the evidence identified above, the TRA considers facilitate the compliance of commercial banks with directions issued by the GoC.
256. As identified in banks' Articles of Association, one of the primary aims of these committees is to ensure banks comply with government policies and guidance. The other responsibilities of these committees demonstrate some of the means of the committees doing so. The TRA identified that Party Committees exert control over the selection of senior personnel at commercial banks, and that bank senior leadership is expected to consult these committees in their strategic and operation business decisions.

F3.2 Benefit conferred

257. The TRA considered whether the financial contribution by a foreign authority conferred a benefit in accordance with regulation 21 of the Regulations.

F3.2.1 Loans

F3.2.1.1 Legal framework and government policy

258. Article 13 of the [General Rules on Loans](#) indicates that an upper and lower limit are presented for loan interest rates (a “ceiling” and “floor”, respectively).



Similarly, Article 38 of the [Law on Commercial Banks in China](#) states, “Commercial banks shall determine loan interest rate in accordance with the upper and lower limits for loan interest rates prescribed by the People’s Bank of China”.

259. The presence of an upper cap on interest rates reduces interest rates universally in the PRC, ultimately applying a distorting effect to the entire commercial loan market in the PRC.
260. Article 15 of the [General Rules on Loans](#) states, “In accordance with the State’s policy, relevant departments may subsidize interests on loans, with a view to promoting the growth of certain industries and economic development in some areas”.
261. [Decision No. 40](#), identified above in relation to the TRA’s assessment of a financial contribution by a foreign authority, states that “All financial institutions shall provide credit support...” to “encouraged” industries (which are detailed in the [accompanying catalogue](#)).
262. The subsidisation of loan interest as a form of credit support results in a loan recipient paying less for a subsidised loan than it would for a loan it could actually obtain on the market.
263. By contrast, industries classified as permitted do receive “credit support”, for industries classified as “restricted”, “...financial institutions shall not issue loans...” and for industries classified as “eliminated”, “Financial institutions should cease all forms of credit support and take measures to recover loans that have already been granted...”.
264. The financing of the activities of sampled exporters’ within Jiangsu (which is relevant for both exporter groups, as noted above) was also examined. The [Opinion](#) identifies mechanisms whereby a benefit is conferred.
265. The articles in the Opinion include references to, “medium and long-term loans with preferential interest rates”, “loan interest discounts”, and to “the credit enhancement function of government financing guarantee institutions”, and “...a credit enhancement mechanism for science and technology enterprises guided by the government and operated by the market”.

F3.2.1.2 Loans received by excavator manufacturers

266. Preferential interest rates were also observed in the loan documentation provided by the Sany Group and Liugong Group.



267. LZLG reported the use of a single loan during the POI, disclosing that this was a loan with an [associated government policy](#). As noted above, the policy notice specifies discounted interest rates for these loans.
268. The Sany Group reported that it did not have any policy-related loans; however, when the TRA reviewed the documentation associated with the Sany Group's loans, it identified that a loan agreement indicated the associated interest rate was a, "...special re-loan interest rate...". As detailed above, the application letter used to apply for this loan by Sany Kunshan did not give any indication that a People's Bank of China-supported loan had been sought by Sany Kunshan.
269. Through its own research, the TRA [identified references](#) to "special re-loans for scientific and technological innovation" operated by the People's Bank of China contemporaneous to the working capital loan taken by Sany Kunshan. These loans carried a specified interest rate that is significant below the loan prime rate (LPR) in the PRC (LPR is addressed further below).
270. For Sany Kunshan, this loan replaced a loan with the same principal from the same bank, with the re-loan carrying a lower interest rate.

F3.2.1.3 Credit market within the PRC

271. In its application, JCB claimed that the credit rating market in the PRC is distorted and that credit ratings of companies within the PRC are unreliable.
272. In addition to examining the laws and policies governing the provision of loans in the PRC, and the loans received by the sampled exporters, the TRA examined the credit market within the PRC.
273. As noted above, the TRA attempted to contact the banks that provided financing to the Sany and Liugong Groups during the POI to examine the application process for financing, including the banks' assessments of the companies' creditworthiness. None of the banks contacted cooperated with the TRA's requests.
274. Consequently, it was not possible to include information submitted by the relevant banks and the TRA's examination of the wider credit market in the PRC was performed based on the submissions made by interested parties and contributors, and information obtained through independent research.
275. Previously, the TRA has identified independent reports relevant to the operations of banks in the [PRC's assessment of credit risk](#). This included findings by the [IMF](#) that credit ratings agencies in the PRC issue high credit ratings to an extremely high proportion of firms when compared against other



international comparators, suggestive that credit in the PRC is likely based on non-commercial factors.

276. The TRA identified that the financial data submitted by parties applying to commercial banks in the PRC for financing varied significantly. Only some of the loan applications the TRA examined required the provision of financial data by the prospective borrower; further, in some instances loans had been granted without all of the financial data requested in the application form being provided. By contrast, for some loans, only general details of the borrower were provided.
277. The TRA considers that the financial indicator data from the audited financial statements of the Sany Group and Liugong Group companies suggests that factors other than creditworthiness contribute to the lending behaviour of banks.
278. All of the loans examined by the TRA were made at interest rates below the short-term loan prime rate (LPR) in the PRC. The LPR is an interest rate that a commercial bank offers to its prime, or most creditworthy, clients and is used by domestic banks as a reference for the lending rates they offer to those prime clients.
279. Consequently, it would be expected that the companies receiving loans (Sany Kunshan, Sany Shanghai, and LZLG) would present financial data indicative of being highly creditworthy. However, the data for these companies was not consistent with this.
280. Throughout the period of January 2019 to December 2023 (including the full injury period), Sany Kunshan, Sany Shanghai, and LZLG maintain quick ratios of at least 1.00, with current ratios above this. This would suggest that the companies have good liquidity and are able to meet their short-term liabilities. However, other liquidity indicators run counter to this. Across the same period (January 2019 – December 2023), the operating cash flow ratios of the three companies that used loans (Sany Kunshan, Sany Shanghai, and LZLG) are consistently below 0.5, indicating weak positions regarding the ability to pay debts from company's business operations without incurring additional liabilities. CZLG did not utilise any loans during the POI; however, its financial position was also reviewed for completeness, and it was consistent with that of LZLG, with current ratios consistently above 1.0 and quick ratios above 0.5, but operating cash flow ratios below 0.40 and negative during 2021, 2022, and 2023.
281. The assessment performed by the TRA is considerably less comprehensive than those conducted by credit rating agencies; however, the heterogenous picture of the companies' liquidity, where profits appear more than sufficient to meet short-term obligations but cash flows are consistently insufficient to do



so, are indicative that the companies would not be considered among the most creditworthy borrowers.

282. Additionally, that loans have been provided to these companies at below the benchmark LPR rate (corresponding to interest rates applicable to the most creditworthy borrowers) and that only limited financial data – if any – is included in applications for loans demonstrates that factors other than a potential borrower’s creditworthiness are significant in the lending behaviour of banks in the PRC.

F3.2.1.4 Findings regarding loans

283. The TRA has determined that both excavator exporter groups received loans with interest rates conferring a benefit in comparison with the amount that the recipient would pay for comparable commercial loans which could actually be obtained on the market.
284. Further, the TRA has also determined that – for any given loan – the agreement not referencing government support conferring a benefit, and the recipient not having sought such a loan in its application cannot be considered evidence that a benefit has not been conferred by a preferential interest rate. This finding is informed by the loan agreements provided by both the Liugong Group and Sany Group, which were then reviewed by the TRA.
285. When the TRA reviewed the loan agreement contract for the Liugong Group’s policy-related loan, it identified no references to it being a People’s Bank of China-supported loan. This stood in contrast to a working capital loan received by Sany Kunshan that identified a benefit-conferring People’s Bank of China programme associated with the loan, which nevertheless, included no reference to a preferential loan in its application.

F3.2.2 Bank acceptance drafts

286. Both the Sany and Liugong Groups used BADs during the POI as a method of payment to settle invoices with suppliers. As noted above, the TRA requested copies of the documentation relevant to the BADs used by the Sany and Liugong groups during the POI.
287. The BADs examined were drawn by the sampled exporters from commercial banks before being “endorsed” and then used to settle accounts payable to the exporters’ suppliers (who becomes the holder of the BAD). The BADs were recorded under “notes payable” in the audited financial statements of the exporters.
288. The endorsed BADs, once received by the excavator manufacturers’ supplier, can be redeemed at maturity, whereby the bank that issued the BAD makes



payment to the holder, can be endorsed by the holder and used to make payment on its own liabilities, or can be redeemed immediately at a discounted rate.

289. From the TRA's assessment of the evidence provided, it noted that BADs were drawn subject to contractual agreements between the drawer and the issuing bank, specifying the drawing party (the exporter), the issuing bank, the supplier that would receive the BAD (and ultimately payment from the bank), the amount of the BADs covered by the agreement, the maturity date of the BADs, and the associated fees for the service.
290. The TRA examined the BAD contracts for Sany Kunshan, Sany Shanghai, LZLG, and CZLG. Some of the BADs examined were drawn under comprehensive credit lines the drawer held with the bank, others were subject to standalone BAD agreements.
291. All of the BAD agreements examined specified that the liability incurred by the drawing exporter was not subject to any interest accrual. The overwhelming majority of BADs carried fees of 0.05% of the value of the BAD (accounting for more than 90% of the total value of all BADs used by the sampled exporters).
292. Where the necessary information was available, the TRA noted that the duration of the BAD drawn frequently exceeded the credit terms of the transaction it was used to settle. In effect, this improves the credit terms of the drawer beyond those offered by the supplier it pays with the draft, given the cost of credit extended by any supplier will likely factor into commercial negotiations for goods and services. This improves the working capital position of the drawer. In the absence of a BAD, an invoice would need to be settled at maturity (carrying its own cost relative to the extended terms offered by the BAD) or the drawer would need to use its available credit to settle the invoice, such as a short-term working capital loan, carrying interest.
293. Additionally, when viewed in the context of BADs being drawn as part of a comprehensive credit agreement, the use of a BAD rather than a cash drawdown against a credit line is also notable. Making a cash drawdown against a comprehensive credit line results in the accrual of interest; by comparison, the interest-free credit offered by a BAD (which incurs only a very modest fee) is highly beneficial to the drawer of the BAD.
294. Further, in reviewing the financial statements of the exporters from the Sany and Liugong groups, the TRA noted that BADs, included under notes payable in the financial statements, constitute a large proportion of the current liabilities of the exporters. In 2023 the value of liabilities related to BADs constituted up to 39% of an excavator manufacturer's current liabilities.



295. The presence of large liabilities not requiring interest payments was one of the driving factors for the highly variable financial indicators identified by the TRA as part of its consideration of the creditworthiness of excavator manufacturers. The absence of interest expenses for these credit instruments contributed to low current and quick ratios; however, the significant liabilities were observable in the operating cash flow ratios of the participating Sany and Liugong Group of companies.
296. As noted above, the TRA has identified that commercial banks are directed to provide “credit support” to borrowers. The TRA considers that the availability of BADs constitutes a form of credit support in the form of access to capital without the costs that would normally be associated with this, such as interest paid for short-term loans.
297. The TRA considers that its assessment of creditworthiness detailed above for loans also applies to BADs. The TRA considers that the lending behaviour of banks in issuing BADs to excavator manufacturers is based on considerations other than the creditworthiness of the companies drawing BADs.
298. Given the mixed creditworthiness of the BAD drawers, including operating cash flows that appear to be insufficient to meet short-term debts without resorting to further financing, the provision of interest-free credit in the form of BADs would appear to be driven by non-commercial factors.

F3.2.2.1 Findings regarding bank acceptance drafts

299. The TRA has determined that the issuing of BADs to the Sany and Liugong exporter groups conferred a benefit. The TRA considers that BADs act as interest-free short-term loans and are used to finance day-to-day operations in the place of working capital loans or other similar short-term financing instruments.
300. The TRA considers that BADs, being used in effect as short-term loans, should carry an equivalent cost in the form of interest calculated from the principal borrowed.

F3.2.3 Conclusion on benefit conferred

301. In accordance with regulation 21(1) of the Regulations, the TRA has determined that the provision of loans and BADS confers a benefit.
302. Regarding loans (provided at the direction of the GoC, as detailed above), the TRA has determined that the benefit is conferred in the form of the interest paid for these loans being lower than the recipient would pay for a comparable commercial loan which the recipient could actually obtain on the market, in accordance with regulation 21(4) of the Regulations.



303. As detailed above, the laws in the PRC expressly permit subsidised interest on loans and policy announcements direct commercial banks to provide “credit support” (as opposed to not providing support, not providing loans, or actively recalling loans), and identify “loan interest discounts” as a form of credit support.
304. Further, based on an assessment of loan data submitted by the Sany Group and Liugong Group, low-interest loans associated with government programmes were used by both groups during the POI. Notably, the documentation associated with the loans did not consistently identify that the loans and interest rates were linked to government programmes.
305. Finally with regard to loans, low-interest loans were obtained from commercial banks in the PRC following applications that contained only limited financial information, indicating that the creditworthiness of the applicants was only a partial factor in the lending decisions made. This was supported by further research that identified a report from the IMF indicting that an unusually high proportion of companies in the PRC receive the highest possible credit ratings.
306. In the TRA’s assessment of BADs, it has considered how these instruments are used by excavator manufacturers in the PRC. As detailed above, the TRA has determined that BADs are, in effect, short-term interest-free loans, carrying only minimal fees (most commonly 0.05% of the BAD’s value).
307. BADs can be drawn against the credit limit of companies’ existing credit lines with banks, carrying zero interest (as opposed to a cash drawdown); these BADs can then be used to settle the drawer’s accounts payable with its suppliers, with repayment terms that are frequently longer than those granted by the supplier.
308. Consequently, rather than being used as simply a payment tool, the BADs are used by drawers in the same manner short-term loans, to meet working capital requirements. The TRA has determined that the benefit is conferred in the form of the interest paid for these BADs (which are effectively short-term loans) being lower than the recipient would pay for a comparable commercial loan which the recipient could actually obtain on the market, in accordance with regulation 21(4) of the Regulations.
309. Further, based on its assessment of the benefit conferred by the use of loans and BADs, the TRA considers that the prevailing market terms and conditions for loans and BADs in the PRC are not an appropriate benchmark to use in determining the amount of benefit conferred, in accordance with regulation 21(11) of the Regulations.



310. [Decision No. 40](#) of the State Council on Promulgating and Implementing the Interim Provisions on Promoting Industrial Structure Adjustment allocates industries in the PRC into four categories (encouraged, permitted, restricted, and eliminated). This policy notice instructs commercial banks to not provide financing to restricted enterprises and to recall finance from eliminated enterprises. The TRA considers that the comprehensive removal of a significant number of industries from the credit market in the PRC would skew any interest rate data obtained, contributing to the lack of suitability as a benchmark.
311. The TRA sought to contact banks that provided financing to the Sany Group and Liugong Group; however, no banks consented to participate in the investigation. This prevented the TRA from including first-hand evidence from the banks relating to the credit assessments performed when making lending decisions, or to consider the interest rates granted on loans in the PRC to industries not “encouraged” by the GoC.
312. Additionally, the TRA identified that loans supported by the People’s Bank of China could not be reliably identified from loan agreements. The loan reported by LZLG was not identified as such in the loan agreement and no indication was given in the agreement that the interest rate was related to the People’s Bank of China. Similarly, the TRA determined that loans supported by the People’s Bank of China could be issued without having been specifically applied for; Sany Kunshan received a loan that was identified as receiving government support in the loan agreement. Further, the application associated with this loan did not make a request for this type of loan. The application requested a working capital loan and did not refer to any form of government support for the loan principal or interest rate.
313. The TRA has determined, based on positive evidence, that the applications and loan agreements of the type used by the Sany Group and Liugong Group do not – consistently – disclose the presence or terms of government support. This could prevent the TRA from being able to determine whether any benchmark interest rate data from the PRC was free from government support itself. This further supports the conclusion that prevailing market terms and conditions for loans and BADs in the PRC are not an appropriate benchmark to use in determining the amount of benefit conferred.
314. Further supporting this conclusion was the limited financial data included in financing applications made by the Sany Group and Liugong Group, and the unusually high proportion of companies in the PRC with AAA credit ratings. The presence of a disproportionately high number of companies with top credit ratings in the marketplace contributes to the prevailing market terms and conditions for loans and BADs in the PRC being unsuitable for use as a benchmark.



315. Owing to this finding, the TRA determined it would use the terms and conditions prevailing in the market of another foreign country, which would be available to the recipients to calculate the benefit conferred by the preferential loans and BADs, in accordance with regulation 21(11)(b) of the Regulations.
316. The amount of benefit conferred to the Sany and Liugong Groups, including the TRA's application of the terms and conditions prevailing in the market of another foreign country, is detailed within the amount of subsidy sub-section below.

F3.3 Specificity

317. The TRA determined that the provision of financing in the form of loans and BADs (which, as outlined above the TRA considers to be – in fact – loans) at interest rates lower than recipients would pay for comparable commercial loans obtainable on the market, was a subsidy within the meaning of paragraph 3(3)(a) of Schedule 4 to the Act. Consequently, the TRA considered whether the subsidy was specific in accordance with regulation 22 of the Regulations.
318. Supporting its allegation that this subsidy is specific, JCB noted that excavator manufacturers in the PRC hold high- and new-technology enterprise (HNTE) status, which grants preferential treatment including access to preferential tax programmes, and cited the TRA's previous investigation of Optical Fibre Cables (OFC) (AS0022), which determined that preferential interest rates provided to encouraged industries were specific.
319. In its questionnaire response, the GoC states that the industrial policies noted by JCB have been misunderstood and misinterpreted as directing the banks to provide loans to the excavators industry, and that banks' decision making is not based on or linked to the implementation of such GoC policies.
320. In its assessment of potential specificity in financing through loans and BADs, the TRA further considered the legislation and policy documents detailed above for its determination there is a financial contribution directed by a foreign authority that confers a benefit.
321. [Article 15](#) of the General Rules on Loans states, "In accordance with the State's policy, relevant departments may subsidize interests on loans, with a view to promoting the growth of certain industries and economic development in some areas".
322. [Article 34](#) of the Law on Commercial Banks in China, states, "Commercial banks shall conduct their business of lending in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State".



323. Viewed together, these two articles indicate that subsidised interest may be applied when lending to industries for the purpose of supporting the growth of these industries, and that the lending business of banks should support GoC industrial policies.
324. Article 17 of [Decision No. 40](#) of the State Council on Promulgating and Implementing the Interim Provisions on Promoting Industrial Structure Adjustment directs financial institutions to, "...provide credit support..." to industries classified as "encouraged" by an [accompanying catalogue of industries](#)
325. In the context of the laws noted above, this policy document indicates that credit support, in the form of subsidised interest rates, should be provided to a limited number of industries, which are then specified in the relevant catalogue.
326. The [Opinion](#), issued by the General Office of Jiangsu Provincial People's Government, also makes reference to access to subsidised interest rates being restricted to particular industries. Article 12 indicates that an aim of the Opinion is to, "Guide financial institutions to implement the national regional development strategy...".
327. Article 15 outlines the mechanism of strengthening financial policy support including, "...encourage banking institutions to issue medium and long-term loans with preferential interest rates to qualified science and technology enterprises...".
328. The Opinion's reference to the provision of preferential interest rates to only "qualified science and technology enterprises" indicates that access to these interest rates is explicitly limited to certain industries.
329. Further, as noted above both the Sany Group and Liugong Group benefitted from loans with preferential interest rates during the POI.
330. LZLG benefitted from a policy-related loan; the TRA reviewed the [associated policy notice](#) for this loan. A number of sub-types of loan were included in this policy. One of these was a "Loan for Three-type Enterprises Entering Guangxi"; the policy document noted that these loans were intended to "...[support] key enterprises..." and that a list of enterprises was, "...provided by the Investment Promotion Agency and the Department of Industry and Information Technology of Guangxi Zhuang Autonomous Region...". Another sub-type of loan under this programme was "Science and technology innovation loan", which was identified as "...mainly [supporting] high-tech enterprises, gazelle enterprises, digital economy enterprises and other scientific and technological innovation entities in the region". For these



loans, the policy notice similarly states, “The list of enterprises is provided by the Science and Technology Department and the Big Data Development Bureau of Guangxi Zhuang Autonomous Region”.

331. There were four other loan types included in the policy notice and each was accompanied by details of the government body that would provide a list of the eligible enterprises. This clearly indicates that these loans were explicitly restricted such that they were only available to certain enterprises.
332. Among the loans used by Sany Kunshan during the POI, the TRA identified a policy-related loan. In the [contemporaneous policy announcement](#) made by the People’s Bank of China, a list of eligible types of enterprises is given that includes, “high-tech enterprises”, “specialized, special and new” small and medium-sized enterprises, national technological innovation demonstration enterprises, manufacturing single champion enterprises and other science and technology enterprises”. This provides a clear indication that these loans were explicitly restricted such that they were only available to certain enterprises.
333. Regarding BADs more specifically, as noted above, the TRA has determined that BADs are used as interest-free finance, in place of short-term loans, by the drawer of the BAD.
334. The TRA has determined that the provision of interest-free financing of this type is a form of “credit support”; [Decision No. 40](#) of the State Council on Promulgating and Implementing the Interim Provisions on Promoting Industrial Structure Adjustment reserves credit support for only industries designated as “encouraged”.
335. In assessing the use of BADs in the PRC, the TRA attempted to contact the banks that had provided BADs to the Sany Group and Liugong Group during the POI. However, none of the banks concerned agreed to assist the investigation. Consequently, the TRA must base its determination on the information and facts available to it.
336. The TRA attempted to identify publicly available information on the lending criteria for banks issuing BADs; however, no information was identified. References to applications are included but without sufficient detail (such as for the [Bank of China](#)) that would permit evaluation.
337. The TRA identified that some of the BADs used by both the Sany Group and Liugong Group were part of lines of credit with commercial banks. Credit lines are flexible revolving loans; consequently, factors relevant to the specificity of loans also apply to BADs. Enterprises classified as “encouraged” in line with Decision No. 40, receive “credit support” and the TRA has determined that this includes preferential interest rates. Additionally, new loans are not issued to “restricted” enterprises and loans are recalled from “eliminated” enterprises.



As a form of loan, credit lines – which are also a significant source of BADs – are either not available or are recalled from these enterprises, specifically. This will fundamentally limit the ability of these enterprises to access BADs.

338. It may still be possible for such enterprises to access BADs through standalone agreements; however, in the absence of cooperation from the banks contacted, the TRA has not identified evidence of this, or of the terms under which BADs may be granted to industries other than those that are “encouraged”.

F3.3.1 Conclusion regarding specificity

339. From its review of the evidence available to it, the TRA has determined that the provision of loans and BADs at preferential interest rates is specific through being explicitly restricted to only certain enterprises or industries, in accordance with regulation 22(2)(a)(i) of the Regulations.
340. The TRA identified that multiple GoC documents clearly indicate that loans with preferential interest rates are reserved exclusively for particular industries. Further, such preferential loans were used by the Sany Group and Liugong Group during the POI.
341. The TRA also determined that both the Sany Group and Liugong Group used BADs as part of credit lines with commercial banks. As a form of loan, the restrictions in terms of access to preferential interest rates identified above in government policies relating to loans also apply to BADs.

F3.4 Conclusion on countervailability

342. The TRA has established that a subsidy exists within the meaning of paragraph 3(3) of Schedule 4 to the Act and that the subsidy is specific, within the meaning of regulation 22 of the Regulations. These loans and BADs support the daily business operations of excavator producers and so are granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, the TRA has concluded these loans and BADs constitute countervailable subsidies, within the meaning of paragraph 3(2) of Schedule 4 to the Act.

F3.5 Amount of subsidy

343. In accordance with regulation 23 of the Regulations, the TRA has calculated the amount of subsidy attributable to the subsidised imports.



F3.5.1 Benchmark country

344. As noted above, the TRA has determined that the prevailing market terms for loans and bank acceptance drafts (BADs) in the PRC are not an appropriate benchmark and that it would use the terms and conditions prevailing in the market of another foreign country, which would be available to the recipients to calculate the benefit conferred by the preferential loans and BADs, in accordance with regulation 21(11)(b) of the Regulations.
345. The Republic of Indonesia was selected as a suitable benchmark country. This was based on an assessment that considered country credit ratings, urban development as an approximation for construction sector prevalence, gross domestic product growth as an approximation of economy strength, and infrastructure indicators. Based on this assessment, the TRA considers the Republic of Indonesia to be a suitable benchmark country for the purpose of calculating the amount of subsidy arising from the provision of loans and BADs at preferential interest rates.
346. The Lending Interest Rate, obtained from the [World Bank](#), was used as the benchmark; this rate is the bank rate that usually meets the short- and medium-term financing needs of the private sector. The difference between the World Bank Lending Interest Rates for Indonesia and the PRC was used as an uplift to be applied individually to the interest rate for each loan and BAD reported by an exporter.

F3.5.2 Determination of the total amount of the countervailable subsidy

F3.5.2.1 Loans

347. As specified in regulation 23(2)(a) of the Regulations, to calculate the amount of subsidy attributable to the subsidised imports the TRA has first determined the total amount of the countervailable subsidy. It has done so in accordance with regulation 24 of the Regulations.
348. The TRA calculated the total amount of countervailable subsidy based on the benefit conferred on the recipients during the POI.
349. The TRA examined the date each loan was drawn, the dates for any principal repayments, the daily interest accrual specified in the loan agreement contract, and the schedule for any changes in variable interest rate loans detailed in loan contract agreements.



350. The TRA calculated the number of days that interest would accrue for each loan, as well as the interest rate applicable to each period and the principal the interest would accrue against.
351. Where a principal repayment had been made by an exporter, a new accrual period was calculated using the reduced outstanding principal, and where a loan with a variable interest rate was subject to re-pricing, a new accrual period was calculated using the appropriate updated interest rate.
352. All of the loans examined by the TRA were benchmarked against the People's Bank of China Loan Prime Rate (LPR). The TRA retrieved LPR data from the [People's Bank of China](#) and calculated the loan interest rates from the LPR rates and the terms specified in the loan agreement contracts.
353. Having calculated the interest accrual period across the entire POI for each loan, as well as the principal each interest accrual period was applicable to, the TRA first calculated the interest accrual incurred for each loan by the exporter that drew the loan.
354. Subsequently, the TRA repeated this calculation but with the application of the interest rate benchmark uplift applied to determine the benchmark interest accrual. The interest each loan accrued during the POI was then subtracted from this figure to determine the amount of benefit conferred.

F3.5.2.2 Bank acceptance drafts

355. As noted above, the TRA determined that BADs were effectively short-term loans used to meet exporters' working capital requirements in the PRC. Consequently, in a market where pricing reflected normal market terms and conditions, BADs would have an associated interest accrual in place of the minimal fees paid by exporters for the issuance of BADs.
356. The TRA determined the amount of benefit conferred by BADs based on the number of days between each BAD being drawn and the payment date of the BAD that fell within the POI.
357. The benchmark interest uplift and the value of each BAD was used to calculate the total benchmark interest. The fees paid by the exporter for each BAD during the POI were then subtracted from this figure to determine the amount of benefit conferred.



F3.5.3 Determination of the amount of the countervailable subsidy that is attributable to the period of investigation

358. In line with regulation 25(1) of the Regulations, the amount of countervailable subsidy that is attributable to the POI is, pursuant to regulations 25(2) to 25(4), the amount received during the POI.
359. As identified above, the TRA determined the benefit conferred for both loans and BADs based on interest accrual during the POI. Further the TRA considers that the benefit from preferential interest rates, such as those applied to the loans and BADs examined in the present investigation, is received by the recipient as interest accrues (or would accrue in the case of BADs not carrying interest rates). Similarly, the TRA considers that the benefit conferred by the interest rate is attributable to the point it is received.
360. Consequently, the TRA has determined that the full amount of countervailable subsidy determined above for both loans and BADs was received during the POI and is attributable to the POI in full.

F3.5.4 Determination of the goods the subsidy is attributable to during the period of investigation

361. In accordance with regulation 26 of the Regulations, the TRA must determine the goods the subsidy is attributable to during the POI.
362. The exporter questionnaires did not identify any loans or BADs as having been associated with specific goods. In reviewing the loan and BAD documentation submitted, the TRA did not identify any evidence the loans or BADs were linked to any specific category of goods, the export of particular goods, the sale of particular goods, or sales to any particular market.
363. Consequently, the TRA determined that the subsidy was attributable to all of the exporter's sales of goods during the POI.

F3.5.5 Determination of the amount of subsidy

364. The subsidy amount attributable to loans and BADs was calculated for the sampled exporters, as per regulation 23(3) of the Regulations, and has been expressed as an ad valorem rate of the value of the subsidised imports, as per regulation 23(4), in Table 4 and Table 5 below.



Table 4: Countervailing amount for loans

Organisation	Countervailing amount
Sany Group	0.7175%
Liugong Group	0.0197%

Table 5: Countervailing amount for BADs

Organisation	Countervailing amount
Sany Group	0.4561%
Liugong Group	0.5865%

F4. Equity infusions

365. In its application, JCB alleged that producers of excavators in the PRC receive subsidies through equity infusions in the form of:

- Corporate bonds;
- Debt-for-equity swaps; and
- Potential other forms of equity infusion.

366. In support of the allegations, JCB cited a number of laws and regulations, findings from other investigating authorities, and a news article referencing plans to expand market-based reforms to debt-for-equity swaps in the PRC, which reported that 900 billion CNY in debt-for-equity swaps had been completed between 2018 and March 2019 (when the article was published).

367. In its questionnaire response, the GoC refuted this allegation, contending that equity instruments are issued by companies independently of the GoC and investment decisions made by private bodies are not influenced by the GoC. Similarly, the GoC contended that any debt-for-equity swaps completed in the PRC are performed independently of the government and the parties entering into any such swaps make do so based on their own commercial decisions.

F4.1 Corporate bonds

368. JCB has alleged that the GoC provides equity infusions to excavator manufacturers through the purchase of standard and convertible corporate bonds, primarily by state-owned banks, at artificially low interest rates that are below the market value interest that should be paid in respect of such bonds.

369. The TRA examined the submissions received from interested parties and contributors throughout the investigation; in doing so, the TRA did not identify the sampled exporters as having received any equity infusion through corporate bonds, whether purchased by state-owned banks or other entities, during the POI. Consequently, the TRA has not considered the countervailability of the alleged subsidy programme further.



F4.2 Debt-for-equity swaps

370. JCB has alleged the GoC provides equity infusions to companies in the PRC through banks purchasing equity in a company to reduce the company's debt. JCB cites a People's Bank of China annual report noting debt-for-equity swaps as a key feature of supportive financing for the manufacturing section through the mitigation of debt risks, with equity being a riskier investment than debt for a creditor.
371. The TRA examined the submissions received from interested parties and contributors throughout the investigation. The TRA did not identify sampled exporters completing any direct conversion of debt into equity. Consequently, the TRA has not considered the countervailability of the alleged subsidy programme further.

F4.3 Potential other forms of equity infusion

372. JCB alleged that other forms of equity infusions may be present, citing a USDOC investigation that identified capital injections and other payments from the GoC capital operating budget, made by state-owned banks to manufacturers of certain mobile access equipment and subassemblies thereof.
373. The TRA examined the submissions received from interested parties and contributors throughout the investigation but did not identify that the sampled exporters had received any equity infusion through other means during the POI that would fit within JCB's allegation. Consequently, the TRA has not considered the countervailability of the alleged subsidy programme further.

F5. Income tax reductions

374. In its application, JCB alleged that producers of excavators in the PRC receive subsidies through revenue that would otherwise be due to the GoC being foregone or not collected.
375. JCB cited a number of laws and notices from the GoC it claimed demonstrate that revenue otherwise due to a foreign authority is foregone or is not collected, that this increases resources available to excavator exporters, thereby conferring a benefit, and that this tax reduction is limited in the industries it is available to.
376. JCB cited a number of alleged programmes to reduce the income tax paid by excavator manufacturers in the PRC. These included:



- A preferential enterprise income tax rate of 15%;
 - The use of accelerated depreciation to reduce enterprise income tax paid;
 - The offsetting of expenses related to research and development (R&D) to reduce enterprise income tax paid;
 - The use of “Synergistic Utilisation Reduction” to reduce enterprise income tax paid; and
 - The use of “Dividend exemptions” to reduce enterprise income tax paid.
377. JCB cited a number of laws and regulations, previous investigations and transition reviews by the TRA, and proceedings by other investigating authorities.
378. The GoC indicated that it did not consider any of the alleged subsidies in the application to be countervailable subsidies, providing citations to laws and regulations, and accompanying commentary.
379. The Sany Group cited a number of laws and regulations pertaining to enterprise income tax in the PRC; both the Sany and Liugong Groups reported information on enterprise income tax paid during the POI and provided copies of income tax statements.
380. In reviewing the questionnaire responses and income tax statements provided by the Sany and Liugong Groups, the TRA identified that both groups did not reduce their enterprise income tax through the application of accelerated depreciation, “Synergistic Utilisation Reduction”, or “Dividend exemptions” during the POI. Consequently, the TRA has not considered the countervailability of these alleged subsidy programmes further here.
381. The TRA’s assessment of the remaining alleged subsidy programmes (a reduced enterprise income tax rate of 15% and R&D offsetting follows below.
382. JCB reported that both the enterprise income tax rate of 15% and the R&D offsetting act to reduce the revenue that would be paid to the GoC through enterprise income tax.
383. Regarding the specificity of the preferential 15% rate of enterprise income tax, JCB reported that there are three enterprise income tax reduction programmes. The first is limited to particular industries, with excavator manufacturers eligible by virtue of being HNTEs; the second is limited to companies active in encouraged industries in the western region of the PRC; the third is limited to HNTEs located in specific special economic zones.
384. In its questionnaire response, the GoC indicated that companies qualifying as HNTEs, as prescribed in Article 28 of the [Enterprise Income Tax Law](#), pay enterprise income tax at a reduced rate of 15%.



385. However, the GoC indicated that this reduced rate of corporate income tax is applicable to all enterprises in the PRC that meet the qualifying conditions.
386. The GoC reported that the reduced enterprise income tax rate of 15% for HNTes is not contingent upon any restrictions and is not subject to any limitations or geographical restrictions. The GoC indicated that, consequently, the qualifying criteria are objective and that this tax rate does not meet the criterion of specificity in the [Agreement on Subsidies and Countervailing Measures](#) (SCM Agreement).
387. Regarding the specificity of the R&D offsetting, JCB noted the TRA's previous transition review into hot-rolled flat and coil products from the PRC, which identified the continuation of this programme at the time of the transition review, and an investigation by the US Department of Commerce into "Certain Mobile Access Equipment and Subassemblies Thereof" from the PRC, which concluded that the programme was limited to firms engaged in R&D activities in high and new technology fields.
388. In its questionnaire response, the GoC contended that tax deductions through R&D offsetting were not specific and are available to all companies in the PRC.
389. In the questionnaire responses submitted by the Sany Group, a number of laws relating to enterprise income tax rates were cited.
390. Similarly, the Liugong Group provided references to legislation it considered relevant to the TRA's examination of the alleged subsidy.
391. In the questionnaire response submitted by the Sany Group and the Liugong Group, both groups reported receiving no benefit as a result of a reduced enterprise income tax rate during the POI.
392. The TRA reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged subsidy, as well as the documentation provided by sampled exporters regarding their enterprise income tax.

F5.1 Financial contribution by a foreign authority

F5.1.1 Enterprise income tax rate of 15%

393. The TRA reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged countervailable subsidy.



394. Article 4 of the [Law of the People's Republic of China on Enterprise Income Tax](#) indicates that, "The rate of enterprise income tax shall be 25 per cent". Article 28 states that, "With respect to a high and new technology enterprise that needs key support by the State, the tax levied on its income shall be reduced at a rate of 15 per cent".
395. This programme, if utilised represents tax revenue forgone that would normally have been paid to the GoC. As the central government of the PRC, the GoC constitutes a foreign authority, within the meaning of paragraph 3(4) of Schedule 4 to the Act.
396. Consequently, the reduction of tax revenue due to the GoC owing to the utilisation of this programme is a financial contribution by a foreign authority, in accordance with regulation 20(1)(b) of the Regulations.

F5.1.2 R&D offsetting

397. The TRA reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged countervailable subsidy.
398. Article 30 of the [Law of the People's Republic of China on Enterprise Income Tax](#) allows R&D expenditure to be deducted from a qualifying company's charge to its enterprise income tax. The tax offset for R&D expenditure results in a reduction of the profit figure that is used when an enterprise calculates its enterprise income tax payment for the financial year. This has the effect of reducing the total enterprise income tax paid by a company directly to the GoC.
399. Owing to the tax revenue due to the GoC being reduced by the application of this programme, the TRA considers it represents a financial contribution by a foreign authority, in accordance with regulation 20(1)(b) of the Regulations.

F5.2 Benefit conferred

400. The TRA considered whether the financial contribution by a foreign authority identified for each programme conferred a benefit in accordance with regulation 21 of the Regulations.

F5.2.1 Enterprise income tax rate of 15%

401. As noted above, Article 4 of the Law of the People's Republic of China on Enterprise Income Tax indicates that the common rate of EIT in the PRC is 25%.



402. The TRA considers that the 15% EIT rate reduces the tax paid by a company, increasing the resources available to it; the difference between the tax that would be paid at the 25% EIT rate and that actually paid by companies utilising the 15% EIT rate constitutes the benefit conferred by the programme, in accordance with regulation 21(1) of the Regulations.
403. The amount of benefit conferred to the Sany and Liugong groups is detailed within the amount of subsidy sub-section below.

F5.2.2 R&D offsetting

404. Article 30 of the enterprise income tax law indicates that where companies incur expenses on R&D to develop new technologies, products or techniques, these expenses can be deducted when the total taxable income is calculated. Making this deduction when calculating taxable income has the effect of reducing the tax payable by a company.
405. The TRA considers that the offsetting of R&D expenditure results in a reduction of the profit figure that is used when an enterprise calculates its enterprise income tax payment for the financial year. The difference between the tax that would be paid (at the normal taxable rate for that enterprise) in the absence of the R&D offsetting and that actually paid by companies applying this deduction constitutes the benefit conferred by the programme, in accordance with regulation 21(1) of the Regulations.

F5.3 Specificity

406. Having determined the programmes identified above are subsidies, within the meaning of paragraph 3(3) of Schedule 4 to the Act, the TRA has considered whether each is specific, in accordance with regulation 22 of the Regulations.

F5.3.1 Enterprise income tax rate of 15%

407. As noted above, Article 28 of the [Law of the People's Republic of China on Enterprise Income Tax](#) states, "With respect to a high and new technology enterprise that needs key support by the State, the tax levied on its income shall be reduced at a rate of 15 per cent".
408. The TRA has considered whether being restricted to HNTE constitutes specificity. The criteria allowing enterprises to qualify as HNTEs are detailed in the [Circular of the Ministry of Science and Technology, the Ministry of Finance and the State Administration of Taxation on Amending and Issuing the Administrative Measures for the Identification of High-tech Enterprises](#).



409. Article 11 of this Circular outlines the criteria to be recognised as a HNTE, and consequently eligible for the reduced EIT rate described above. Paragraph 3 of Article 11 states, “The technologies that play a core supporting role in the main products (services) of the enterprise fall within the scope of the provisions of the “High-tech Fields Supported by the State””.
410. Examining whether this renders the subsidy specific, the TRA has examined the [supplementary document](#) to this Circular, High-tech Fields Supported by the State. This notice includes eight general categories of industries: (1) Electronic information technology; (2) Biology and new medical technology; (3) Aerospace technology; (4) New material technology; (5) High-tech service industry; (6) New energy and energy-saving technologies; (7) Resources and environmental technology; (8) High-tech transformation of traditional industries. These categories are then further stratified into sub-categories.
411. The TRA has considered the comments of the GoC that the subsidy is based on objective criteria; the TRA considers the subsidy being restricted to industries is not an objective criterion. In accordance with regulation 22(5)(b) of the Regulations, objective conditions, “do not favour certain industries or enterprises over others”. The TRA considers the industry-based restrictions outlined above do favour certain industries; consequently, it disagrees with the GoC’s assertion that the subsidy criteria are objective.
412. Based on the considerations outlined above, the TRA has determined that this subsidy is specific in accordance with regulation 22(2)(a)(i) of the Regulations.
413. The audited financial statements of [Sany Kunshan](#), [Sany Shanghai](#), [LZLG](#), and [CZLG](#) from 2022 were reviewed and the TRA identified that the financial statements of all of the exporters explicitly stated that the companies had been designated as HNTEs. Consequently, all of the sampled exporters parties were eligible for this subsidy owing to being HNTEs.
414. Having identified that, for the purposes of the sampled exporters, specificity has been established for the reduced EIT rate of 15%, the TRA has not considered the other specificity criteria reported by JCB for this subsidy programme further.

F5.3.2 R&D offsetting

415. In reviewing the relevant laws and information submitted, the TRA noted that Article 30 of the enterprise income tax law does not place specific restrictions on the industries that are eligible for this particular tax offsetting programme.
416. Reviewing further policy documents relating to this [tax deduction policy](#), the TRA did not identify evidence demonstrating the programme to be explicitly



specific or applied in a specific manner. During the POI, [an announcement](#) by the Ministry of Science and Technology of the PRC specified the level of deduction that enterprises may claim from this programme; no variation in the deduction rate is included in the announcement.

417. Consequently, the TRA considered that the present investigation had not identified sufficient evidence to meet the criteria for specificity, in accordance with regulation 22 of the Regulations.

F5.4 Conclusion regarding countervailability

F5.4.1 Enterprise income tax rate of 15%

418. The TRA has established that a subsidy exists within the meaning of paragraph 3(3) to Schedule 4 to the Act, and that the subsidy is specific, within the meaning of regulation 22 of the Regulations. This preferential tax programme supports the daily business operations of excavator producers and so is granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, the TRA has concluded that the preferential enterprise income tax rate of 15%, identified above, is a countervailable subsidy, within the meaning of paragraph 3(2) of Schedule 4 to the Act.

F5.3.2 R&D offsetting

419. As noted above, the TRA did not identify evidence that this programme was specific, as defined by regulation 22 of the Regulations. Consequently, for the purpose of the present investigation, the TRA has not determined that this subsidy is a countervailable subsidy, within the meaning of paragraph 3(2) of Schedule 4 to the Act.

F5.5 Amount of subsidy

420. In accordance with regulation 23 of the Regulations, the TRA has calculated the amount of subsidy attributable to the subsidised imports.

F5.5.1 Determination of the total amount of the countervailable subsidy

421. As specified in regulation 23(2)(a) of the Regulations, to calculate the amount of subsidy attributable to the subsidised imports the TRA has first determined the total amount of the countervailable subsidy. It has done so in accordance with regulation 24 of the Regulations.



422. To determine the total amount of countervailable subsidy for each sampled exporter, the annual income tax statements were reviewed, including the enterprise income tax deductions reported by each exporter.
423. The POI includes 6 months from each of the tax years 2022 (1 July – 31 December) and 2023 (1 January – 30 June). To determine the amount of benefit, the TRA calculated the proportion of each companies' total revenue that fell within the POI for each calendar year. Equivalent proportions of the total tax deduction received for each tax year were considered to be the benefit conferred.
424. Enterprise income tax is paid by companies based on taxable income and not total sales revenue; however, to arrive at the taxable profit figure for each year, will make a number of additions and deduction to total annual profits to arrive at the taxable profit (from which a company's tax payable is calculated, when the enterprise income tax deduction is made).
425. Calculating the proportion of a company's taxable profit for the 6-month period of each tax year within the POI would have required multiple assumptions relating to the accrual of tax adjustments. Consequently, the TRA considered it reasonable and appropriate to determine the tax deduction received during the POI based on the proportion of a company's revenue that fell within the POI for 2022 and 2023, rather than attempting to calculate an approximated accrual of profit.

F5.5.2 Determination of the amount of the countervailable subsidy that is attributable to the period of investigation

426. In line with regulation 25(1) of the Regulations, the amount of countervailable subsidy that is attributable to the POI is, pursuant to regulations 25(2) to 25(4), the amount received during the POI.
427. The TRA considers that the benefit conferred by the enterprise income tax reduction is received throughout each tax year as the recipient company performs its normal business, accruing revenue and expenditure resulting in the profit the enterprise income tax is paid in relation to (or not paid in the event of a loss). As noted above, the benefit conferred was determined using the accrual of revenue during the POI (as an approximation for profit accrual); consequently, the benefit conferred, as determined above, was received entirely during the POI.
428. Similarly, the TRA considers that, owing to enterprise income tax being paid in relation to profit, the benefit is attributable to the activity generating those profits; in the case of profits, the accrual of revenue and expenditure. None of the benefit conferred, which was received during the POI (as noted above), is attributable outside of the POI.



429. Having been received during the POI and with no benefit attributable outside the POI, the TRA has determined that the full amount of countervailable subsidy determined above for the enterprise income tax reduction was received during the POI and is attributable to the POI in full, in accordance with regulation 25(1) of the Regulations.

F5.5.3 Determination of the goods the subsidy is attributable to during the period of investigation

430. In accordance with regulation 26 of the Regulations, the TRA must determine the goods the subsidy is attributable to during the POI.

431. The reduced enterprise income tax rate is applied to a company's entire taxable profit; consequently, the TRA has determined that the subsidy received by each exporter is attributable to all of the sales of goods made by each sampled exporter during the POI.

F5.5.4 Determination of the amount of subsidy

432. The subsidy amounts attributable to the reduced enterprise income tax rate of 15% was calculated for the sampled exporters, as per regulation 23(3) of the Regulations, and has been expressed as an ad valorem rate of the value of the subsidised imports, as per regulation 23(4), in Table 6 below.

Table 6: Countervailing amount for enterprise income tax

Organisation	Countervailing amount
Sany Group	0.1401%
Liugong Group	0.0731%

F6. Other tax exemptions and deductions

433. In its application, JCB alleged that producers of excavators in the PRC receive subsidies through other tax exemptions and deductions in the form of:

- Land use tax exemption;
- VAT refunds for industries that sell software products or embed these in equipment;
- VAT refunds for companies active in the production and living services industries;
- VAT exemption on imported equipment and technology; and
- Tax exemption for policy-based relocation.

434. Regarding land use tax exemptions, the TRA examined the submissions received from interested parties and contributors throughout the investigation;



- in doing so, the TRA did identify the use of some land use tax exemptions by the sampled exporters during the POI. However, the only land use tax exemptions used by any of the sampled exporters were short-term programmes that had ceased to operate. Consequently, the TRA has not considered the countervailability of this alleged subsidy programme further.
435. Regarding VAT refunds for industries that sell software products or embed these in equipment, JCB cited several laws and policy notices regarding GoC policy of providing a refund of 3% points to industries selling software products or products with such software embedded.
436. The TRA reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged revenue forgone or not collected, as well as the documentation provided by sampled exporters regarding their debt financing.
437. The Sany Group reported having not received any VAT refunds relating to the policies outlined in the application and the TRA did not identify exporters from the Sany Group as having received any such refunds during the POI.
438. Regarding VAT refunds for industries that sell software products or embed these in equipment, the Liugong Group provided information regarding VAT refunds related to the GoC policy noted in the [application](#) and evidence relating to the receipt of these refunds.
439. The TRA examined the submissions received from interested parties and contributors throughout the investigation regarding VAT refunds for companies active in the production and living services industries; in doing so, the TRA did not identify the receipt of such refunds by the sampled exporters during the POI. Consequently, the TRA has not considered the countervailability of this alleged subsidy programme further.
440. The TRA examined the submissions received from interested parties and contributors throughout the investigation regarding VAT exemptions on imported equipment and technology; in doing so, the TRA did not identify the use of VAT exemptions related to imported equipment and technology by the sampled exporters during the POI. Consequently, the TRA has not considered the countervailability of this alleged subsidy programme further.
441. Regarding policy-based relocation tax exemptions, the TRA examined the submissions received from interested parties and contributors throughout the investigation; in doing so, the TRA did not identify the use of relocation-based tax exemptions by the sampled exporters. Consequently, the TRA has not considered the countervailability of this alleged subsidy programme further.



F6.1 Financial contribution by a foreign authority

442. The TRA considered whether VAT refunds for industries that sell software products or embed these in equipment constitute a financial contribution by a foreign authority in accordance with regulation 20 of the Regulations.
443. The TRA reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged countervailable subsidy.
444. The [Notice of the Ministry of Finance and the State Administration of Taxation on Value-added Tax Policies for Software Products](#) was submitted by both JCB and the Liugong Group as being related to this programme.
445. The notice specifies that enterprises selling particular products may apply to the relevant tax authorities and receive a proportion of the VAT charged on the goods as a refund.
446. As government tax authorities, the TRA considers the bodies providing the refunds to be foreign authorities, within the meaning of paragraph 3(4) of Schedule 4 to the Act.
447. Having reviewed the evidence provided by the Liugong Group, the TRA has determined that, in response to successful applications for refunds, the relevant tax authorities supply the appropriate funds. The TRA considers that this constitutes a direct transfer of funds.
448. Consequently, in line with regulations 20(1)(b) of the Regulations, the TRA has determined the VAT refund for industries that sell software products or embed these in equipment constitutes a financial contribution by foreign authorities.

F6.2 Benefit conferred

449. The TRA considered whether the financial contribution by a foreign authority conferred a benefit in accordance with regulation 21 of the Regulations.
450. The revenue foregone or not collected by the foreign authorities identified provided greater resources to the recipients than would be available in the absence of the VAT refund programme. Therefore, the TRA has concluded that programme confers a benefit to the recipients in line with regulation 21(2) of the Regulations.
451. The amount of benefit conferred to the Sany and Liugong groups is detailed within the amount of subsidy sub-section below.



F6.3 Specificity

452. The TRA considered whether the VAT refund programme is specific, in accordance with regulation 22 of the Regulations.
453. In the [relevant notice](#), the TRA identified that the VAT refund programme is restricted to software products. Through being limited to only enterprises that produce specific products, the TRA considers that access to the subsidy is limited to certain industries.
454. From its review of the evidence available to it, the TRA has determined that the refund of VAT for industries that sell software products or embed software in equipment is specific through being explicitly restricted to only certain enterprises or industries, in accordance with regulation 22(2)(a)(i) of the Regulations.

F6.4 Conclusion on countervailability

455. The TRA has established that a subsidy exists within the meaning of paragraph 3(3) of Schedule 4 to the Act and that the subsidy is specific, within the meaning of regulation 22 of the Regulations. VAT refunds for industries that sell software products or embed software in equipment support the daily business operations of excavator producers and so are granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, the TRA has concluded these VAT refunds constitute countervailable subsidies, within the meaning of paragraph 3(2) of Schedule 4 to the Act.

F6.5 Amount of subsidy

456. In accordance with regulation 23 of the Regulations, the TRA has calculated the amount of subsidy attributable to the subsidised imports.

F6.5.1 Determination of the total amount of the countervailable subsidy

457. As specified in regulation 23(2)(a) of the Regulations, to calculate the amount of subsidy attributable to the subsidised imports the TRA has first determined the total amount of the countervailable subsidy. It has done so in accordance with regulation 24 of the Regulations.
458. The Sany Group reported that it had not received any of the VAT refunds concerned. The TRA's review of the data submitted by the exporters from the Sany Group did not identify any such VAT refunds having been received.



459. The Liugong Group reported receiving VAT refunds related to this programme and provided evidence of the amounts received.
460. No deductions, as outlined in regulation 24(3) of the Regulations, were identified for the VAT refund. Consequently, no deductions were included when calculating the total amount of countervailable subsidy. The amount of benefit conferred was determined as the total amount of the refunds received that were countervailable subsidies.

F6.5.2 Determination of the amount of the countervailable subsidy that is attributable to the period of investigation

461. In line with regulation 25(1) of the Regulations, the amount of countervailable subsidy that is attributable to the POI is, pursuant to regulations 25(2) to 25(4), the amount received during the POI.
462. The TRA reviewed the dates reported by the Liugong Group for the receipt of VAT refunds. Where VAT refunds had been recognised as income immediately in full, the TRA considered that the amount of countervailable subsidy was attributable entirely to the date it was received.
463. Consequently, VAT refunds had been within the POI and recognised as revenue in full at that time, the full amount of the countervailable subsidy was attributed to the POI, in accordance with regulation 25(1) of the Regulations.

F6.5.3 Determination of the goods the subsidy is attributable to during the period of investigation

464. In accordance with regulation 26 of the Regulations, the TRA must determine the goods the subsidy is attributable to during the POI.
465. The Liugong Group did not identify the refund as being related to any particular goods. The TRA's review of the evidence did not identify any associations with specific goods, or to the destination of goods (domestic sales or exports). Consequently, the TRA considers the benefit of the VAT refund was attributable to all of the sales of goods, in line with regulation 26(1) of the Regulations.

F6.5.4 Determination of the amount of subsidy

466. The subsidy amount attributable to other tax exemptions and deductions was calculated for the sampled exporters, as per regulation 23(3) of the Regulations, and has been expressed as an ad valorem rate of the value of the subsidised imports, as per regulation 23(4), in Table 7 below.



Table 7: Countervailing amount for other tax exemptions and deductions

Organisation	Countervailing amount
Sany Group	0.0000%
Liugong Group	0.1017%

F7. Provision of steel for inadequate remuneration

467. JCB has alleged that excavator manufacturers in the PRC are provided with steel for inadequate remuneration. JCB has alleged that state-owned steel producers in the PRC are entrusted to provide steel to excavator manufacturers for inadequate remuneration, that private steel producers do so under the direction of the GoC and that, notwithstanding this allegation, subsidies provided by the GoC to steel producers in the PRC are passed through to excavator manufacturers.

F7.1 Provision of steel for inadequate remuneration through entrustment and direction of steel producers

468. TRA first considered the allegation concerning the provision of steel for inadequate remuneration through the entrustment and direction of steel producers in the PRC. Although JCB provides evidence of extensive involvement of the GoC in the steel industry, citing multiple EU investigations that reference GoC plans followed by steel producers that resulted in the EU determining that steel producers act under entrustment/direction, the evidence provided is general in nature. Citations are provided to overall plans for the steel industry; however, clear evidence concerning state-owned steel companies being vested with government authority, or that the GoC has authority to direct the actions of private steel companies, and that it issues clear instructions to steel producers regarding the provision of steel has not been provided.

469. The TRA included the allegation in the questionnaires issued to interested parties and contributors; however, it has not obtained sufficient evidence concerning the provision of steel for inadequate remuneration to investigate the provision of steel by state-owned companies potentially acting as public bodies, or the entrustment and direction of private steel producers further. Consequently, this allegation has not been investigated further.

F7.2 Pass-through of subsidy

470. In assessing the allegation of pass-through of subsidy, the TRA has noted that it has [previously determined](#) the production of hot-rolled flat and coil steel products (an early-stage input in more complex steels) to be receiving



continuing subsidy from the GoC. Although the TRA has previously determined that the steel sector in the PRC is in receipt of significant subsidy, no evidence has been submitted in the present investigation to demonstrate the pass-through of subsidy has occurred. In the absence of evidence of a subsidy being passed through to purchases of the subsidised goods, the TRA has not investigated the pass through of subsidies received by steel producers in the PRC further.

F8. Provision of land use rights for inadequate remuneration

471. JCB alleged that land use rights are provided to excavator manufacturers in the PRC for inadequate remuneration. JCB cited a number of laws, regulations, and policy documents as evidence the GoC has full discretion regarding how and at what price land use rights are provided in the PRC, and that this discretion is used to provide land use rights to certain industries on preferential terms.
472. The Sany Group reported that it had acquired land use rights through a competitive auction process, with land use rights awarded to the highest bidder, and the only eligibility criteria for participating in auctions is that an entity is a legitimate law-abiding party. Both the Sany and Liugong groups reported details of the land use right transactions they had participated in to acquire the land use rights used in their operations.
473. In its response, the GoC cited a number of legislative documents that regulate the sale of land use rights in the PRC, as well as stating that reserve price of land use right transactions are determined on the basis of a professional appraisal, and that transaction prices are dictated through competition.
474. The TRA reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged subsidy, as well as the documentation provided by sampled exporters regarding the acquisition of their land use rights.

F8.1 Financial contribution by a foreign authority

475. The TRA considered whether the provision of land use rights in the PRC constitutes a financial contribution by a foreign authority in accordance with regulation 20 of the Regulations.
476. Reviewing the [Land Administration Law of the People's Republic of China](#), the TRA noted Article 2 indicates that all land in the PRC is owned by the state. Further, reviewing [Decree of the Ministry of Land and Resources of the People's Republic of China Number 39](#) (Decree number 39), the TRA noted



that the decree does not distinguish between land use rights purchased from the state directly and those transferred between parties, stating that the auction and listing rules set out in the Decree apply to “the right to use the state-owned construction land”. With all land in the PRC being owned by the state, such rules would apply to all land use right transfers. Further, Article 2 indicates that the process of issuing bidding announcements, inviting bids, and determining the holder of land use rights following bidding is conducted by “...competent administrative departments for land and resources of the people's governments of cities and counties”. Article 10 of Decree number 39 demonstrates that this extends to the determination of bid starting prices and reserve prices.

477. As detailed in Article 2 of Decree number 39, the entity providing land use rights is the relevant department of a local government body. As a government body, these constitute foreign authorities, within the meaning of paragraph 3(4) of Schedule 4 to the Act.
478. The TRA considers that the transfer of land use rights in the PRC constitutes the provision of goods or services other than general infrastructure; consequently, the TRA has determined that it is a financial contribution in accordance with regulation 20(1)(c) of the Regulations.

F8.2 Benefit conferred

479. The TRA considered whether the financial contribution by a foreign authority conferred a benefit in accordance with regulation 21 of the Regulations.
480. To determine whether a benefit has been conferred through the provision of goods or services, the TRA must determine whether the remuneration for the goods or services is inadequate, as determined by reference to the prevailing market terms and conditions for the goods or service in the foreign country or territory where the financial contribution was made, in accordance with regulation 21(8) of the Regulations.
481. Article 10 of Decree number 39 indicates that the government department conducting the sale of land use rights will determine reserve prices with reference to both the “results of land valuation” and “government industrial policy”.
482. Article 12 of [Decision No. 40](#) of the State Council on Promulgating and Implementing the Interim Provisions on Promoting Industrial Structure Adjustment indicates that the [associated catalogue](#) for the guidance of industrial structure adjustment is an important basis for formulating and implementing policies related to land.



483. Notably, Articles 18 and 19 indicate that enterprises categorised as restricted or eliminated by Decision No. 40 (described in more detail above regarding preferential financing through loans and BADs) are unable to access land use rights. Departments of land management are expressly prohibited from performing normal formalities for these industries. Owing to land use rights being provided by government departments, this applies an absolute prohibition on these industries purchasing land use rights.
484. Article 6 of the [Notice of the General Office of the Ministry of Land and Resources on Printing and Distributing the Guidelines](#) for the Implementation of Industrial Land Use Policies indicates that there should be priority arrangements for the supply of industrial land to “key industries” as specified in industrial development plans and industrial promotion policies, and that all localities should actively protect the supply of land to science and technology enterprises.
485. The TRA considered provincial legislation relevant to its consideration of whether a benefit is conferred. Within Jiangsu Province (an area where an exporting company from each of the sampled exporter groups are located), Article 7 of the [Notice on the issuance of the detailed implementation rules for further promoting the improvement of the quality and efficiency of industrial land](#) indicates that policy support is to be increased, including the implementation of differentiated land price policies. This Notice indicates that, for strategic emerging industries, when determining the reserve price of land, “when determining the reserve price of land transfer, it can be implemented at no less than 70% of the minimum price standard for industrial land corresponding to the land in which it is located”. Although this establishes a minimum price (rather than a maximum), it is noteworthy that it does so with reference to being below the “minimum price standard for industrial land”, indicating that auction prices for strategic industries are set below market value.
486. Further regulations from Jiangsu are also indicative that government policy is a critical factor in the reserve prices established for industrial land. Article 6 of the [Notice of the General Office of the Jiangsu Provincial Government on the Issuance of the Jiangsu Provincial Industrial Land Tendering, Auctioning and Listing Transfer Method \(Trial\)](#) indicates “The reserve price for the public transfer of industrial land... shall be determined... based on the assessment results and industrial development policies [emphasis added]”.
487. A [policy interpretation document](#) associated with this Notice provides further context to provincial policy. It notes that the Notice, which was published in 2007, clarified, “... for the first time that in the future, the use of state-owned land for industrial projects in the province must be in accordance with the principles of openness, fairness and justice, and all land use rights must be obtained through bidding, auction and listing in the tangible land market”.



Further, reference is made to "...many regions [having previously] attracted industrial projects at ultra-low prices or even "zero land prices"".

488. This policy interpretation is indicative that, prior to 2007, the acquisition of land use rights was not in accordance with the principles of openness or fairness, with references to "ultra-low" and "zero" land prices. This is noteworthy for the present investigation; many land use rights purchased by the sampled exporter groups that are located in Jiangsu were purchased prior to 2007. However, the reference to "many regions" suggests that these low land prices were widespread and not restricted to Jiangsu, suggesting that all pre-2007 land use rights would also be affected by market distortions.
489. Regarding land use rights purchased after 2007, despite the statement that the transfer of land would henceforth be fair, the interpretation suggests that this would not disadvantage industry in the province. On the subject of whether the adoption of the Notice would affect investment in Jiangsu, owing to "...many regions [having previously] attracted industrial projects at ultra-low prices or even "zero land prices"", the interpretation indicates that investment in Jiangsu will not be affected because the adoption of market forces in land use rights purchases, "...is a clear requirement of the CPC Central Committee and the State Council... which will be strictly implemented throughout the country".
490. Taken in isolation, this could suggest that land use rights purchased across the PRC post-2007 would be subject to market forces; however, examining further notices relating to land use rights in the PRC suggests that this is not the case.
491. The TRA identified the [Notice of the Suzhou Municipal People's Government on Printing and Distributing the Interim Measures for the Public Trading of Land for Industrial Projects in Suzhou](#) (Su Fu [2007] No. 84), which is contemporary to the 2007 Jiangsu notice identified above. Suzhou is a major city within Jiangsu province; consequently, it would be subject to the notice identified above. Of further relevance to the present investigation, Kunshan (where Sany Kunshan is located) is within the jurisdiction of Suzhou city. In Article 7, the Suzhou government's notice regarding land identifies, "...principles [that] must be adhered to in the public transaction of land for industrial projects". One of the four principles is, "Adhere to the principles of openness, fairness, and justice. Except for the implementation of urban planning and government industrial policies, there are no preconditions that may affect fair competition".
492. Here it is explicitly identified that "government industrial policies" may affect fair competition. Although this Notice only applies to Suzhou, Article 1 of the Notice clearly states, "These Measures are formulated in accordance with the "Land Management Law of the People's Republic of China," the "Interim



Regulations of the People's Republic of China on the Assignment and Transfer of State-Owned Land Use Rights," the "Provisions on the Transfer of State-owned Land Use Rights by Bidding, Auction, and Listing," and other relevant laws and regulations”.

493. The TRA has also previously identified a [regional government policy](#) and [policy interpretation](#) that are designed to reduce the cost of industrial land to certain industries through the application of a “correction coefficient” used in determining auction start and reserve prices. The regional policies identified in that investigation indicated the use of the correction coefficient was consistent with national standards and the interpretation clearly stated that the aim of the policy was to, “...appropriately reduce the land price level of non-transferable industrial land, which fully reflects the policy support for the real economy”.
494. In addition to reviewing the legislation relevant to the purchase of land use rights, the TRA examined the purchase of land use rights purchased by the Sany and Liugong groups. To do so, the TRA requested details of the auctions the land use rights were purchased in.
495. Both exporter groups were unable to provide auction listing details for all of their land use rights. Where auction listings were provided, the prices paid by the exporters in relation to the auction starting bids were examined to assess JCB’s allegation the prices of land use rights were set based on non-market forces.
496. For the land use rights, one of the sampled exporter groups could provide auction listing details for, the TRA noted that the auction winning was the same amount as the starting price for the auction.
497. Of the land use rights the other sampled exporter could provide auction listing details for, the TRA noted that all the winning bids were between 103.28% and 103.65% of the starting price.
498. The prices paid by the Sany and Liugong Groups in relation to the auction starting prices demonstrates that there was either very little or no competition in these auctions.
499. Based on the evidence submitted by interested parties and contributors, and that identified by the TRA, the TRA has determined that the land use rights purchased by excavator manufacturers in the PRC are purchased for inadequate remuneration, and therefore constitute a benefit under regulation 21(8) of the Regulations.
500. Following this determination, the TRA considered whether the prevailing market terms and conditions for land use rights in the PRC are an appropriate benchmark for determining the benefit conferred.



501. As noted above, the GoC is the sole party that can own land in the PRC, with local government bodies responsible for the allocation of land use rights. In addition to controlling the supply of land use rights, the TRA has determined the GoC, through a number of policy measures, acts to distort land use right prices.
502. Although many laws note that auctions and land use right prices should be based on fair competition, the TRA has identified evidence that regional bodies consider government industrial policies to be exceptions to this, that correction coefficients are used to artificially decrease auction starting and reserve prices, and that – for older land use rights – these were purchased prior to fair competition being mandated (notwithstanding whether exceptions to fair competition are included). These Notices and Policies state that they have been drafted in full consideration of the national level laws that prescribe fair competition, indicating that “exceptions” to rules of fair competition are prevalent throughout the industrial land use rights market in the PRC.
503. Further, the GoC’s own industrial policies act explicitly to restrict competition in land use right purchases. Decision No. 40 (noted above), explicitly restricts industries categorised as restricted or eliminated from participating in land use right purchases. This reduces competition for industrial land, diminishing market forces and reducing land use right prices.
504. The extensive involvement of government policies in the land use right market in the PRC has a distorting effect on prices, rendering them inappropriate to use as a benchmark.
505. Consequently, the TRA will use the terms and conditions prevailing in the market of another foreign country or territory or on the world market, which would be available to the recipients, in accordance with regulation 21(11)(b) of the Regulations.
506. The amount of benefit conferred to the Sany and Liugong Groups, including the TRA’s application of the terms and conditions prevailing in the market of another foreign country, is detailed within the amount of subsidy sub-section below.

F8.3 Specificity

507. Having determined the provision of land use rights for inadequate remuneration is a subsidy, within the meaning of paragraph 3(3) of Schedule 4 to the Act, the TRA has considered whether it is specific, in accordance with regulation 22 of the Regulations.



508. As noted above, the TRA has determined that the GoC has enacted numerous policies that directly affect the prices paid for land use rights by industrial users.
509. Decision No. 40 explicitly restricts government bodies from performing the functions necessary for certain industries to purchase land use rights. By contrast, “Other preferential policies for encouraged industrial projects shall be implemented in accordance with the relevant provisions of the state” for industries within the encouraged category. The TRA has noted that there are multiple entries within the “encouraged” category of the associated catalogue under which excavator manufacturers would be included, such as “construction machinery”.
510. Reviewing auction listing announcements submitted by excavator manufacturers in the present investigation, the TRA noted that, as well as including general land categories, such as “industrial”, the listings frequently include more specific industrial categories that restrict auction participation further, such as “Special equipment manufacturing”.
511. This, combined with the extremely limited competition observed in the participating exporters’ land use right purchases, demonstrates that excavator manufacturers are a group that is in receipt of preferential treatment as a result of these policies.
512. From its review of the evidence, the TRA has determined that the provision of land use rights for inadequate remuneration is specific through being explicitly restricted to only certain enterprises or industries, in accordance with regulation 22(2)(a)(i) of the Regulations.

F8.4 Conclusion on countervailability

513. The TRA has established that a subsidy exists within the meaning of paragraph 3(3) of Schedule 4 to the Act and that the subsidy is specific, within the meaning of regulation 22 of the Regulations. The provision of land use rights for inadequate remuneration supports the daily business operations of the sampled exporters and so this subsidy is granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, the TRA has concluded the provision of land use rights for inadequate remuneration constitutes a countervailable subsidy, within the meaning of paragraph 3(2) of Schedule 4 to the Act.

F8.5 Amount of subsidy

514. In accordance with regulation 23 of the Regulations, the TRA has calculated the amount of subsidy attributable to the subsidised imports.



F8.5.1 Benchmark country

515. As noted above, the TRA has determined that the prevailing market terms for land in the PRC is not an appropriate benchmark and that it would use the terms and conditions prevailing in the market of another foreign country, which would be available to exporters to calculate the benefit conferred by the provision of land use rights for inadequate remuneration, in accordance with regulation 21(11)(b) of the Regulations.
516. The TRA considered the application of both micro and macro data-focused analyses focused on land markets specifically to the selection of a benchmark country. However, following consideration of the practicality of employing either method, the TRA considered both methods to be insufficiently practicable to be used.
517. The Republic of Indonesia (Indonesia) was selected as a suitable benchmark country for calculating subsidy amounts relating to loans and bank acceptance drafts; this was based on an assessment of country credit ratings, urban development as an approximation for construction sector prevalence, gross domestic product growth as an approximation of economy strength, and infrastructure indicators.
518. The TRA considers that Indonesia is also an appropriate benchmark country in determining the amount of subsidy arising from the provision of land use rights for inadequate remuneration. The inclusion of urban development, economic strength and infrastructure indicators in the assessment performed render it suitable for identifying a benchmark country that is appropriate for land prices as well as financing.
519. The TRA sought to identify information on land prices in Indonesia. It was not possible to identify a benchmark price for a 50-year land use right, the most common industrial land type in the PRC. Consequently, the TRA considered other land prices as potentially appropriate.
520. The TRA identified publicly available [industrial land price data](#) for the Greater Jakarta area. The TRA retrieved all such market reports available from the injury period for the present investigation.

F8.5.2 Determination of the total amount of the countervailable subsidy

521. As specified in regulation 23(2)(a) of the Regulations, to calculate the amount of subsidy attributable to the subsidised imports the TRA has first determined



the total amount of the countervailable subsidy. It has done so in accordance with regulation 24 of the Regulations.

522. The TRA calculated the total amount of countervailable subsidy with reference to an average price per square metre calculated from the benchmark data relating to industrial land prices in the Greater Jakarta area and sought to calculate a benefit-per-square-metre figure for the exporters.
523. The purchase of a number of the land use rights by the Sany Group and the Liugong Group predated the POI and injury period considerably. Consequently, to avoid inappropriate comparisons in the calculation of the amount of countervailable subsidy, only land use rights with contemporaneous benchmark data available were included in the comparison.
524. Benchmark data were retrieved where possible for the injury period (1 July 2019 – 30 June 2023). The data retrieved were presented in price (IDR)-per-square metre of land. For the purpose of comparison, these figures were converted to price (CNY)-per-square-metre of land. No source of currency conversion values between IDR and CNY for the entire injury period was identified; consequently, the conversion was performed using USD as an intermediary.
525. IDR values were converted to USD using the Jakarta Interbank Spot Dollar Rate (JISDOR) data obtained from the [Bank of Indonesia](#). The benchmark prices were given as quarterly averages. All spot values available for the injury period were retrieved and these were used to calculate average quarterly exchange rates for each quarter where benchmark data were available. These figures were used to convert the IDR values into USD.
526. These USD values were then converted into CNY using spot USD–CNY exchange rate data obtained from the [Bank of England](#). Data were retrieved for the injury period and average quarterly values for the periods where benchmark data were available were used to calculate benchmark prices in CNY-per-square-metre.
527. Quarterly benchmark data were not available covering the entire injury period; consequently, an average benchmark land price figure was calculated from the quarterly prices available.
528. Where land use rights had been purchased during the injury period, the prices were combined, as were the land use right areas. These were used to calculate an average price-per-square metre for land use rights purchased during the injury period. This value was compared against the average benchmark price-per-square metre (calculated and expressed in CNY as above) and the difference was considered to be the average benefit-conferred-per-square-metre. This process was performed for each sampled



exporter group individually, resulting in a benefit-per-square-metre of land parcel for each.

529. The benefit conferred by the purchase of each land use right was then calculated by multiplying the area of each land use right by the benefit-per-square-metre figure determined for that exporter group. This figure was the total benefit conferred for the full life of each land use right for each exporter group.

F8.5.3 Determination of the amount of the countervailable subsidy that is attributable to the period of investigation

530. In line with regulation 25(1) of the Regulations, the amount of countervailable subsidy that is attributable to the POI is, pursuant to regulations 25(2) to 25(4), the amount received during the POI.
531. The TRA determined that the countervailable subsidy provided through the purchase of land use rights for inadequate remuneration was received by the sampled exporter groups at the point each land use right was purchased. The TRA determined that the countervailable subsidy arising from each land use right was attributable evenly across the amortizable life of the assets, namely 50 years for industrial land.
532. For the purposes of regulation 25 of the Regulations, where a subsidy was received prior to the POI – such as a land use right purchased before 1 July 2022 – but was attributable in part to the POI – where a land use right had not been fully amortized – the TRA considered whether the subsidy was a qualifying countervailable subsidy, as defined in regulation 25(4) of the Regulations.
533. Where such a subsidy was a qualifying countervailable subsidy, an amount of the subsidy was attributed to the POI, in accordance with regulation 25(2) of the Regulations; this was calculated as 2% of the total amount of subsidy from the provision of the land use right for inadequate remuneration.
534. Where such a subsidy was not a qualifying countervailable subsidy, none of the subsidy amount was attributed to the POI.
535. For the purposes of regulation 25 of the Regulations, where a subsidy was received during the POI – such as a land use right purchased between 1 July 2022 and 30 June 2023 – but was attributable in part to the POI – where a land use right would be amortized beyond the end of the POI – the TRA considered whether the subsidy was a qualifying countervailable subsidy, as defined in regulation 25(4) of the Regulations.



536. Where such a subsidy was a qualifying countervailable subsidy, only some of the subsidy was attributed to the POI, in accordance with regulation 25(3) of the Regulations; this was calculated as 2% of the total amount of subsidy from the provision of the land use right for inadequate remuneration.
537. Where such a subsidy was not a qualifying countervailable subsidy, all of the subsidy amount was attributed to the POI, in accordance with the default position set out in regulation 25(1) of the Regulations.

F8.5.4 Determination of the goods the subsidy is attributable to during the period of investigation

538. In accordance with regulation 26 of the Regulations, the TRA must determine the goods the subsidy is attributable to during the POI.
539. The exporter questionnaires did not identify any land use rights as having been associated with specific goods. In reviewing the documentation submitted, the TRA did not identify any evidence indicating land use rights were linked to any specific category of goods, the export of particular goods, the sale of particular goods, or sales to any particular market.
540. Consequently, the TRA determined that the subsidy was attributable to all of the exporter's sales of goods during the POI.

F8.5.5 Determination of the amount of subsidy

541. The subsidy amount attributable to the provision of land use rights for inadequate remuneration was calculated for the sampled exporters, as per regulation 23(3) of the Regulations, and has been expressed as an ad valorem rate of the value of the subsidised imports, as per regulation 23(4), in Table 8 below:

Table 8: Countervailing amount for land use rights at inadequate remuneration

Organisation	Countervailing amount
Sany Group	0.0862%
Liugong Group	0.3936%

F9. Provision of energy for inadequate remuneration

542. JCB alleged that the GoC provide energy for inadequate remuneration in the form of discounts on energy tariffs for encouraged industries, such as the Excavator industry.
543. The sampled exporters submitted information on their energy usage in kilowatt-hours (KWH) and the price paid, with invoices to verify energy prices



and payment. However, all sampled exporting parties submitted that no subsidy exists as electricity rates are determined by market mechanisms.

544. The GoC stated that JCB relied excessively on the TRA's previous findings in its application, that there is insufficient evidence of countervailability owing the energy market in the PRC having been marketized, and that the allegations lack evidence the alleged programme is specific.
545. The TRA reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged subsidy, as well as the documentation provided by sampled exporters regarding the purchase of energy.

F9.1 Financial contribution by a foreign authority

546. The TRA considered whether the provision of energy in the PRC constitutes a financial contribution by a foreign authority in accordance with regulation 20 of the Regulations.
547. The TRA noted that all of the sampled exporters purchased a proportion of their energy from majority state-owned organisations, namely the following:
- Jiangsu Huadian Energy Sales Co., Ltd (96.49% state owned)
 - Guangxi Power Grid Limited (100% state owned)
 - State Grid Jiangsu Electric Power Co., Ltd (100% state owned)
 - Changzhou Puhui New Energy Technology Co., Ltd (100% state owned)
548. These state-owned organisations are supervised by the State-owned Assets Supervision and Administration Commission (SASAC) of the State Council, a governmental commission that ensures that each state-owned asset operates in accordance with the State Council of the PRC via [several mechanisms such as executive appointments and budgeting](#).
549. Some state-owned energy companies have also publicly stated that their organisational goals include supporting GoC state policy. By way of example, the State Grid Corporation includes in its [stated purpose](#), "fully fulfil economic, political and social responsibilities". SASAC has also [stated publicly in 2024](#) that it continues to promote consumption and ensure supply of electricity, demonstrating the government of the PRC's role both in the use and provision of energy.
550. Other energy providers identified by the sampled exporters are publicly traded companies on the Shanghai stock exchange; however, these companies were founded under the direction of the state council of the PRC. By way of



example, the Shanghai Zurun Electricity Sales Co., Ltd. has 0% state ownership; however, its [website](#) states that it was founded to implement the CPC Central Committee's guiding opinions laid out in "[Several Opinions on Further Deepening the Reform of the Electricity System](#)" (Document No. 9 [2015] of the CPC Central Committee). This indicates that the purchase of electricity from companies that are not state owned is still significantly influenced by industrial policy set out by the GoC.

551. The TRA noted and considered the comments from the GoC stating that the energy market had been fully marketized during the POI; however, the TRA has also identified policy document contemporary to the POI that suggest the marketisation of the energy market was at least incomplete during the POI. The [Guiding Opinions of the National Development and Reform Commission and the National Energy Administration on Accelerating the Construction of a National Unified Electricity Market System](#), published shortly prior to the beginning of the POI states that although, "...the role of the market in the optimal allocation of resources has been significantly enhanced, and the proportion of market-oriented electricity transactions has increased significantly. At the same time, there are still problems in the electricity market, such as incomplete system, imperfect functions, inconsistent trading rules..."
552. Based on the evidence outlined above, the TRA has determined that the state-owned energy companies providing electricity to the sampled exporters are public bodies, and consequently, foreign authorities, as defined in paragraph 3(4) of Scheduled 4 to the Act. These companies are majority state owned, have their leadership and budgets determined by the SASAC, and have made public statements acknowledging political responsibilities.
553. Electricity is a good other than general infrastructure; consequently, the provision of electricity by a public body constitutes a financial contribution by a foreign authority, in accordance with regulation 20(1)(c) of the Regulations.

F9.2 Benefit conferred

554. The TRA considered whether the financial contribution by a foreign authority conferred a benefit in accordance with regulation 21 of the Regulations.
555. Article 14 of [Decision No. 40](#) of the State Council on Promulgating and Implementing the Interim Provisions on Promoting Industrial Structure Adjustment indicates that the industries classified as "encouraged" in the [Industrial Structure Adjustment Guidance Catalogue](#) shall be determined in accordance with the principal of continued development of the energy industry and that the PRC has comparative advantages in the energy market.
556. Further, Article 19 of Decision No. 40 specifies that the "national price authority" may increase the cost of electricity for industries classified as



- “eliminated”. Additionally, Article 19 states, “Electricity supply enterprises shall stop supplying electricity in accordance with the law...”.
557. Since its initial introduction, the Industrial Structure Adjustment Guidance Catalogue was updated in [2011](#), [2013](#), [2019](#), and [2024](#). This indicates that the catalogue remains an active part of PRC industrial policy, including with regard to the conditions under which industries purchase electricity.
558. In its questionnaire response, the GoC highlighted the [Notice on Further Deepening the Market-Oriented Reform of On-Grid Electricity Prices for Coal-Fired Power Generation](#). This notice states that the previously used commercial and industrial electricity catalogue sales price was abolished, and that no price lists exist for industrial electricity supplies. The GoC reported that this resulted in the GoC having no further control over electricity pricing.
559. The TRA considered this notice; however, it was also noted that the notice also states that local government authorities are encouraged to, “...implement phased preferential policies for small and micro enterprises and individual industrial and commercial households”. Additionally, local government authorities are instructed to “...give priority to low-cost power supply to ensure the use of electricity for residents and agriculture” and to ensure that electricity generated from coal is bound to within 20% of market prices for all electricity users except for “high-energy-consuming entities.”
560. This suggests that, despite the removal of explicit price catalogues, the GOC continues to grant preferential energy policies to specific users based on industrial strategy and other policy considerations.
561. Additionally, the TRA identified a [notice published](#) during the POI stating that electricity prices continue to be split into tiers, depending on the organisation that is using it such as total electricity usage and end uses. This further indicates that, contrary to the GoC’s statements, the marketization of energy markets is incomplete and the GoC continues to direct the pricing of energy in the PRC based on industrial policy.
562. From the evidence submitted by interested parties and contributors, and that identified by the TRA, the TRA has determined that energy purchased by excavator manufacturers is purchased for inadequate remuneration in accordance with regulation 21(8) of the Regulations.
563. Further, the TRA considers that the prevailing market terms and conditions for energy in the PRC are not an appropriate benchmark.
564. As noted above, the GoC continues to be involved in the energy market though its ability to influence prices, to direct the priority of certain customers,



and restricting access to electricity for organisations that do not follow industrial planning.

565. Policies such as those stated in Decision No. 40 that restrict access or inflate prices to certain enterprises categorised as eliminated effectively remove a significant number of industries from the electricity market in the PRC, skewing any benchmark price data obtained, contributing to the lack of suitability as a benchmark.
566. The continued involvement of government policies in the energy market in the PRC has a distorting effect on prices, rendering them inappropriate to use as a benchmark.
567. Consequently, the TRA will use the terms and conditions prevailing in the market of another foreign country or territory or on the world market, which would be available to the recipients, in accordance with regulation 21(11)(b) of the Regulations.
568. The amount of benefit conferred to the Sany and Liugong groups, including the TRA's application of the terms and conditions prevailing in the market of another foreign country, is detailed within the amount of subsidy sub-section below.

F9.3 Specificity

569. The TRA determined that the provision of electricity for inadequate remuneration, was a subsidy within the meaning of paragraph 3(3)(a) of Schedule 4 to the Act. Consequently, the TRA considered whether the subsidy was specific in accordance with regulation 22 of the Regulations.
570. Decision No. 40 explicitly states that electricity prices may be increased for “eliminated” industries during a “phase-out period” and that power supply companies shall stop supplying electricity in accordance with the law if enterprises fail to phase out production technology. By contrast, “Other preferential policies for encouraged industrial projects shall be implemented in accordance with the relevant provisions of the state” for industries within the encouraged category.
571. As noted elsewhere in this SEF, there are multiple entries within the “encouraged” category of the [associated catalogue](#) under which excavator manufacturers would be included, such as “construction machinery” and “hydraulic excavators of 30 tons or more”.
572. [Decision No. 40](#) also states that relevant departments including those overseeing electricity supervision should effectively enhance the effectiveness of industrial policy implementation and correctly handle the relationship



between government guidance and market regulation. This indicates that the guidance in the respective catalogues that place excavators in the “encouraged” category must be implemented by institutions that oversee electricity supervision to ensure the development of the excavator market.

573. Based on the evidence examined, the TRA has concluded that the provision of electricity for inadequate remuneration is specific through being explicitly restricted to only certain enterprises or industries, in accordance with regulation 22(2)(a)(i) of the Regulations.

F9.4 Conclusion on countervailability

574. The TRA has established that a subsidy exists within the meaning of paragraph 3(3) of Schedule 4 to the Act and that the subsidy is specific, within the meaning of regulation 22 of the Regulations. The provision of electricity for inadequate remuneration supports the daily business operations of excavator producers and so this subsidy is granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, the TRA has concluded the provision of electricity for inadequate remuneration constitutes a countervailable subsidy, within the meaning of paragraph 3(2) of Schedule 4 to the Act.

F9.5 Amount of subsidy

575. In accordance with regulation 23 of the Regulations, the TRA has calculated the amount of subsidy attributable to the subsidised imports.

F9.5.1 Benchmark country

576. As noted above, the TRA has determined that the prevailing market terms for electricity in the PRC is not an appropriate benchmark and that it would use the terms and conditions prevailing in the market of another foreign country, which would be available to exporters to calculate the benefit conferred by the provision of electricity for inadequate remuneration, in accordance with regulation 21(11)(b) of the Regulations.
577. The USA was selected as the benchmark country for electricity prices; the USA and the PRC were scored similarly by the World Bank in an [assessment of the reliability of supply and transparency of tariffs for electricity](#), and electricity tariff information for the POI was accessible to the TRA.



F9.5.2 Determination of the total amount of the countervailable subsidy

578. As specified in regulation 23(2)(a) of the Regulations, to calculate the amount of subsidy attributable to the subsidised imports the TRA has first determined the total amount of the countervailable subsidy. It has done so in accordance with regulation 24 of the Regulations.
579. The TRA compared average electricity tariff prices for industrial users from the [benchmark data](#) it obtained against the actual prices paid for electricity during the POI by the sampled exporters. This comparison indicated that no benefit had been received by either the Sany or Liugong Groups from electricity purchases during the POI. Therefore, no further calculations were undertaken regarding this countervailable subsidy.

F10. Provision of export credit insurance for inadequate remuneration

580. JCB alleged that China Export & Credit Insurance Corporation ("Sinasure") is a GoC body and that it provides exporter credit insurance to encouraged industries in the PRC for inadequate remuneration, and that excavator manufacturers use these preferential insurance products. JCB cited a number of laws, regulations, and policy documents, as well as an OECD report on export credit policies in the PRC. Additionally, JCB cites a previous TRA investigation that determined export credit insurance provided by Sinasure to be a countervailable subsidy,
581. In its questionnaire response, the GoC asserted that the TRA's findings from a previous investigation cannot be assumed to apply to a different industry, and that the terms export credit insurance is provided on will be highly dependent on the products the insured transactions concern.
582. Further, the GoC contended that JCB's allegations are insufficiently evidenced and that no such subsidy exists; the GoC cites data from Sinasure as demonstrating that the premiums charged are sufficient to meet its operating costs and previous WTO proceedings.
583. Of the sampled exporters, only Sany Kunshan reported having used export credit insurance from Sinasure during the POI. Sany Kunshan cited laws related to the operation of Sinasure.
584. The TRA reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged subsidy, as well as the documentation provided by sampled exporters regarding the purchase of export credit insurance.



F10.1 Financial contribution by a foreign authority

585. Concerning Sinasure, the TRA reviewed the [company's website](#). Sinasure clearly states that it is a state-owned institution; however, the company's website also suggests that it is vested with authority to exercise governmental functions.
586. Regarding Sinasure's leadership, the TRA identified that all but one of the individuals were members of the [Party Committee of Sinasure](#). Further, Sinasure's [public statements](#) regarding the Party Committee of Sinasure indicate that the Committee aligns itself fully with GoC policies.
587. Additionally, the TRA has noted a recent [jointly issued notice from MOFCOM and Sinasure](#) that directly refers to the Export-Import Bank of China, stating actions it should take. The notice refers to six aspects comprising 30 measures to "support the high-quality development of trade". One of the aspects indicates, "...we will appropriately tilt resources to small, medium and micro foreign trade enterprises, improve the convenience of insurance and the sense of policy access for enterprises, actively expand online policy financing business, and provide more inclusive risk management services".
588. Among the notable items in this notice are the references to "...we will..." and improving "...the sense of policy access for enterprises...". This highlights that Sinasure is not responding to GoC policy in this area but is an active participant in the setting and implementation of GoC policy in this area.
589. Owing to its state ownership, integration of the relevant Party Committee in the leadership of the company, and being vested with government authority, as demonstrated through its role in the setting of GoC policy regarding export credit insurance, the TRA has determined that Sinasure is a public body and, consequently, a foreign authority within the meaning of paragraph 3(4) of Schedule 4 to the Act.
590. The TRA considers that the provision of export credit insurance by Sinasure constitutes the provision of goods or services other than general infrastructure; consequently, the TRA has determined that it is a financial contribution in accordance with regulation 20(1)(c) of the Regulations.

F10.2 Benefit conferred

591. The TRA considered whether the financial contribution by a foreign authority conferred a benefit in accordance with regulation 21 of the Regulations.



592. The TRA considers that a number of the policy documents are relevant to this consideration. One such policy document is the [Guiding Opinions on Promoting the International Development of Strategic Emerging Industries](#), published by multiple GoC departments. It refers to export credit insurance in Article 27 and indicates, “We will make use of export credit and export credit insurance to actively support key products, technologies and services in strategic emerging industries to open up the international market, and give key support in export credit and export credit insurance to products in strategic emerging industries such as aerospace and high-end equipment manufacturing”.
593. Similarly, in an [opinion jointly published by Sinosure and MOFCOM](#), it is stated, “SINOSURE implements an active special underwriting policy for high-tech enterprises in international and domestic trade, and gives preferential underwriting conditions to high-tech enterprises according to factors such as the market development status of enterprises.”
594. More recently, in another [jointly issued notice](#) explicitly related to export credit insurance, under the heading of increasing support for foreign trade enterprises, the notice indicates an, “Increase [in] support for green and low-carbon products, strategic emerging industries, and high-tech products”.
595. As noted above regarding excavator manufacturers receiving preferential enterprise income tax rates as a result of being HNTEs, the TRA considers that excavator manufacturers are high-tech enterprises that produce high-tech products. Consequently, they would be in receipt of the preferential treatment outlined above, reducing the insurance premiums they pay in comparison with other companies.
596. Further, as a financial institution, the TRA considers that Sinosure would be subject to the same policy directions as banks, as identified above for loans and BADs. Notably, [Decision No. 40](#), indicates that financial institutions “...should cease all forms of credit support...” to “eliminated” industries. Consequently, the TRA considers that numerous other industries are prevented from participating in the market for export credit insurance in the PRC.
597. The TRA has determined that Sinosure provides export credit insurance to excavator manufacturers in the PRC at premiums that are inadequate, in accordance with regulation 21(8) of the Regulations.
598. Further, based on its assessment of the benefit conferred by preferential export credit insurance, the TRA considers that the prevailing market terms and conditions for export credit insurance in the PRC are not an appropriate benchmark to use in determining the amount of benefit conferred, in accordance with regulation 21(11) of the Regulations.



599. Sinasure occupies a preeminent position in the export credit market in the PRC. Further, as noted above, numerous “eliminated” industries are prevented from participating in the export credit insurance market. The TRA considers that the provision of preferential terms to high-tech industries, coupled with the comprehensive removal of a significant number of industries from the export credit insurance market in the PRC would skew any premium data obtained, rendering a benchmark obtained from the PRC market unsuitable for use.
600. The amount of benefit conferred to the Sany and Liugong groups, including the TRA’s application of the terms and conditions prevailing in the market of another foreign country, is detailed within the amount of subsidy sub-section below.

F10.3 Specificity

601. The TRA determined that the provision of export credit insurance at premiums that are inadequate was a subsidy within the meaning of paragraph 3(3)(a) of Schedule 4 to the Act. Consequently, the TRA considered whether the subsidy was specific in accordance with regulation 22 of the Regulations.
602. As noted elsewhere in the present SEF, excavators are considered to be high-tech products and are manufactured by companies that are HNTEs. The policy documents identified during the TRA’s consideration of whether the provision of export credit insurance by Sinasure conferred a benefit make numerous references to the provision of preferential terms to strategic and high-tech enterprises.
603. As an industry that receives preferential policy support in the PRC, excavator manufacturers are among the industries that receive preferential treatment as a result of these export credit insurance-related policy measures. These sources demonstrate that it is a GoC policy decision to use export credit insurance as a means of promoting the excavator industry.
604. The TRA considers that the combination of these policy documents provides clear positive evidence that the provision of export credit insurance at premiums that are inadequate is explicitly specific in nature, in terms of being explicitly restricted in terms of access to certain industries, which include excavator manufacturers in the PRC, in accordance with regulation 22(2)(a)(i) of the Regulations.



F10.4 Conclusion on countervailability

605. The TRA has established that a subsidy exists within the meaning of paragraph 3(3) of Schedule 4 to the Act and that the subsidy is specific, within the meaning of regulation 22 of the Regulations. The provision of export credit insurance for inadequate remuneration supports the daily business operations of excavator producers and so are granted directly or indirectly for the manufacture, production, export or transport of goods. Consequently, the TRA has concluded the export credit insurance provided by Sinasure constitutes a countervailable subsidy, within the meaning of paragraph 3(2) of Schedule 4 to the Act.

F10.5 Amount of subsidy

606. In accordance with regulation 23 of the Regulations, the TRA has calculated the amount of subsidy attributable to the subsidised imports.

F10.5.1 Benchmark country

607. As noted above, the TRA has determined that the prevailing market terms for export credit insurance in the PRC are not an appropriate benchmark and that it would use the terms and conditions prevailing in the market of another foreign country, which would be available to the recipients to calculate the benefit conferred by the provision of export credit insurance for inadequate remuneration, in accordance with regulation 21(11)(b) of the Regulations.

608. Indonesia was selected initially as a suitable benchmark country. As a financial service, the analysis performed for loans and BADs was considered applicable to export credit insurance. Based on this assessment, the TRA considers Indonesia to be a suitable benchmark country for the purpose of calculating the amount of subsidy arising from the provision of export credit insurance at preferential premiums.

609. However, following this analysis, the TRA was unable to obtain benchmark data from Indonesia. Consequently, it was necessary for the TRA to source an appropriate benchmark from another source.

610. The [Export–Import Bank of the United States](#) was identified as an appropriate source to use. This was based on data availability and the bank being a government backed export credit agency occupying a preeminent position in its domestic market.

611. The TRA identified premium estimates of 0.55%–1.15% for Export–Import Bank of the United States. The TRA calculated an average premium of 0.85%



from this, which was applied as a benchmark premium rate in the determination of the total amount of countervailable subsidy.

F10.5.2 Determination of the total amount of the countervailable subsidy

612. As specified in regulation 23(2)(a) of the Regulations, to calculate the amount of subsidy attributable to the subsidised imports the TRA has first determined the total amount of the countervailable subsidy. It has done so in accordance with regulation 24 of the Regulations.
613. The TRA calculated a benchmark export credit insurance premium for each insured transaction reported by the sampled exporter that had used export credit insurance from Sinasure during the POI. This calculation was performed by multiplying the benchmark premium rate determined above by the amount insured for each transaction.
614. The premium paid by the exporter was then deducted from this benchmark premium figure to arrive at the total amount of countervailable subsidy for each transaction; these figures were then aggregated to produce the total amount of countervailable subsidy.
615. This comparison indicated that no benefit had been received by the sampled exporter from the export credit insurance used during the POI. Therefore, no further calculations were undertaken regarding this countervailable subsidy.

F11. Provision of shipping and logistics services for inadequate remuneration

616. JCB alleged that excavator manufacturers in the PRC receive shipping and logistics services from state-owned enterprises at remuneration that is inadequate. JCB cites legislation and policy documents in support of this.
617. In its questionnaire response, the GoC contended that JCB had provided insufficient evidence to demonstrate the presence of a financial contribution by a foreign authority, that a benefit is conferred, and that any such benefit is specific.
618. The sampled exporter groups reported transaction-level data relating to shipping and logistics.
619. The TRA included the allegation in the questionnaires issued to interested parties and contributors, and reviewed the laws, notices and policy documents submitted by interested parties and contributors in relation to the alleged



subsidy, as well as the documentation provided by sampled exporters regarding the use of shipping services during the POI.

620. Although there is evidence that state-owned enterprises are active in the provision of shipping and logistic service, the TRA has not obtained sufficient evidence concerning these entities acting as public bodies, or the operations of state-owned enterprises in the provision of shipping and logistic services for inadequate remuneration, as alleged by JCB, to investigate whether this constitutes a countervailable subsidy. Consequently, this allegation has not been investigated further.

F12. Other subsidies provided in special economic zones

621. JCB alleged that excavator manufacturers in the PRC receive subsidies owing to being located in special economic zones.
622. In its questionnaire response, the GoC contended that JCB had provided insufficient evidence to demonstrate the presence of subsidies related to special economic zones.
623. Of the sampled exporter groups, the Sany Group reported that it had received grants connected to its operations in special economic zones.
624. The TRA included these grants in its assessment of grants received by excavator manufacturers (described above). Other than these grants the TRA did not identify evidence of any individual subsidy measures related to the special economic zones. Consequently, policies associated with special economic zones have not been investigated further in the present investigation.

F13. Aggregate subsidy amounts

625. Having assessed each subsidy scheme in scope of the investigation and calculated the amounts of subsidy for those deemed countervailable, the TRA has calculated individual countervailing amounts and determined the amounts for non-sampled cooperating exporters and non-cooperating exporters as detailed below.

F13.1 Individual subsidy amount

626. The TRA has aggregated the amounts of subsidy calculated above for each sampled exporter group:



Table 9: Individual aggregate amounts of subsidy

Exporter group	Sany Group	Liugong Group
Grants	1.0001%	0.0590%
Preferential financing – loans	0.7175%	0.0197%
Preferential financing – BADs	0.4561%	0.5865%
Income tax reductions	0.1401%	0.0731%
Other tax exemption and deductions	0.0000%	0.1017%
Provision of land use rights for inadequate remuneration	0.0862%	0.3936%
Total	2.40%	1.23%

F13.2 Subsidy amount of non-sampled cooperating exporters

627. In line with regulation 37(2) of the Regulations, owing to having limited its examination through sampling, the TRA must determine the countervailing amount for non-sampled overseas exporters. In line with regulation 37(3) of the Regulations, this should be the weighted average of the amounts determined for the overseas exporters in the sample.
628. Owing to the subsidy amount determined for the Liugong Group being below 2.00%, the subsidy amount of non-sampled cooperating exporters, the non-sampled subsidy amount cannot be a weighted average amount and is therefore 2.40%, the same as that calculated for the Sany Group.

F13.3 Residual amount

629. In line with regulation 38(1) and 38(2) of the Regulations, the TRA must determine a subsidy amount for overseas exporters where it has not determined an individual subsidy amount and the exporter is not a non-sampled overseas exporter within the meaning of regulation 37. This is termed the residual amount.
630. The residual amount was determined by taking the higher of the two subsidy amounts determined for each countervailable subsidy that was identified in the present investigation.
631. The TRA has determined the following residual amount:



Table 10: Residual subsidy amount

Subsidy	Residual amount
Grants	1.0001%
Preferential financing – loans	0.7175%
Preferential financing – BADs	0.5865%
Income tax reductions	0.1401%
Other tax exemption and deductions	0.1017%
Provision of land use rights for inadequate remuneration	0.3936%
Total	2.93%

F14. Volume of subsidised goods

632. Under regulation 5(2) of the Regulations, the volume of subsidised imports is “negligible” where the exporting country is not a developing country, and the exports account for less than 3% of imports of the like goods imported into the UK. Under regulation 5(3) of the Regulations, the volume of subsidised imports is “negligible” where the exporting country is a developing country, and the exports account for less than 4% of imports of the like goods imported into the UK.
633. HMRC import statistics indicates that the goods concerned accounted for 9.7% of all imports of like goods into the UK in the POI, so the volume of imports is more than negligible (4%).



Section G: Injury

634. Injury is the term used when there is evidence of a UK industry being harmed by subsidised imports of the goods concerned. Paragraph 5 of Schedule 4 to the Act defines ‘injury’ to a UK industry in particular goods as:
- material injury, or the threat of material injury, to the industry, or
 - material retardation of the establishment of the industry.
635. In accordance with regulation 27(2) of the Regulations, as the TRA has determined that goods that have been or are being imported into the UK benefit from countervailable subsidies, it must determine whether:
- UK industry has suffered or is suffering injury in accordance with regulation 30 of the Regulations (determination of injury); and
 - the subsidised imports have caused or are causing that injury to that UK industry.
636. To determine whether a UK industry is suffering or has suffered injury from imports of the goods concerned, in line with regulation 30 of the Regulations, the TRA has examined four factors:
- a) the volume of the subsidised imports during the injury period;
 - b) the effect of the imports on prices in the UK market for like goods during the injury period;
 - c) the consequent impact of the subsidised imports on UK industry during the injury period;
 - d) any other factors it considers relevant.
637. To determine whether the subsidised imports have caused or are causing injury to UK industry, in line with regulation 35 of the Regulations, the TRA has also examined whether any known factors other than the subsidised imports (other known factors) have caused or are causing injury to a UK industry. The TRA considered the following factors:
- the economic impact of the COVID-19 pandemic;
 - demand reduction;
 - inflation of raw material costs; and
 - third country imports and prices.



G1. Injury Analysis

638. To conduct the injury analysis, the TRA has used the information relating to the UK industry that was provided in the questionnaire responses. Due regard was given to all the further information provided, including the commentary from [CCCME](#) that included the allegation that, "...the evidence and indicators of injury submitted by the Applicant [are] unsubstantiated and speculative..."
639. As a result of the TRA findings in [Section F](#), the injury assessment and margin calculations have excluded the imports of the goods concerned into the UK from the Liugong Group.
640. Secondary sources of information were also used in accordance with the Regulations, treated with special circumspection and, where practicable, verified using other independent sources. Secondary sources include, but are not limited to, official import statistics published by HMRC and data pertaining to relevant markets.
641. A full list of the information provided by interested parties is set out in Table 37 in [Annex A](#). The TRA has determined that the published non-confidential versions of the information are adequately redacted and provide external readers with appropriate context.
642. The import data used in the injury analysis was extracted in October 2023 from the [HMRC website](#). This Overseas Trade in Goods Statistics (OTS) data is based on the country of dispatch, which refers to the country where the last commercial transaction took place. This is not necessarily the country of origin/manufacture or the last country from which the goods were shipped to the UK.
643. As part of this investigation, the TRA assessed whether further information from HMRC could be obtained which would allow further analysis of imports based on country of origin. In September 2024 the TRA received HMRC raw customs declarations data for this purpose.
644. The HMRC OTS data is at an eight-digit commodity code level (8429 5210) and has been considered by value (£) and by volume (kgs). The TRA recognise some limitations in using volume by kgs as the weights of excavators can differ significantly between different PCN categories. In addition, this also means the TRA is unable to restrict its injury analysis solely to the relevant goods because this data does include imports of smaller excavators with an operating weight of less than 11,000 kg (i.e., 11 tonnes) and those of 80,000 kg (80 tonnes) and above.



645. The additional HMRC raw customs declarations data is at the ten-digit commodity code level (8429 5210 00) and is subject to the same value and volume limitations already referenced. However, while the HMRC OTS data is an accredited official statistic, the HMRC raw customs declaration data is not. This data reflects the information that was declared at the time of importation. As a result, this will naturally include errors as well as incorporate non-trade items.
646. The HMRC raw customs declaration data also does not cover the full injury period. This does mean the TRA is unable to completely reassess the injury factors referenced in [Section G](#) using this new data. Instead, the TRA has used the HMRC raw customs declaration to test its initial analysis where possible, in particular where the country-of-origin information has been referenced.
647. The TRA does appreciate the use of kgs in its volume assessment could result in some distortions with the incorporation of out-of-scope excavators under 11 tonnes. It should be noted it is likely that similar issues would still be encountered if the HMRC import data was to differentiate the goods into individual units.
648. It is also expected that the HMRC data will include excavators in the XXXL category for which the TRA has determined there are no like goods produced in the UK. However, based on the available evidence, it is considered this is unlikely to greatly impact the TRA's ability to obtain generalised trends from this information. This is because the available evidence indicates the import share of XXXL excavators is very low and therefore these are unlikely to over inflate any import volume and value analysis.
649. Further, the HMRC OTS data is the only source for import data that the TRA has been able to identify that provides it with a full and complete dataset for the injury period. More importantly, it is the only source for data that includes imports from third countries (imports from countries other than the PRC) and the use of it means a level of consistency when analysing import trends and market shares from different countries. Therefore, and despite its limitations, the TRA has determined that the HMRC OTS data is still the most appropriate source of import data to estimate import volume trends and market share. In the full circumstances, the TRA treat the analysis using the HMRC OTS data with the appropriate level of caution.
650. In contrast, for the price analysis, the TRA does have the ability to use data obtained from the Sany Group. This allows for a direct comparison between the goods concerned and the like goods produced in the UK, using an average price. The TRA converted the information provided in CYN based on a five-year [average exchange rate](#). The TRA can still reasonably compare the two data sets when using the average prices, even when considering the



completeness of available data and the variances identified between the volumes of goods.

G1.1 Volume of subsidised imports

651. In accordance with regulation 31 of the Regulations, when determining whether the UK industry is suffering injury, the TRA has considered whether there has been a significant increase in the subsidised goods in the UK either in absolute terms (the volume of subsidised goods being imported into the UK market) or relative to domestic production or consumption.

G1.1.1 Volume of subsidised imports in absolute terms

652. Information on absolute volume of the relevant goods gives an indication of the rate at which imports of these goods increased or decreased during the injury period.

653. The following table provides the import volumes (kgs) of all excavators from the PRC throughout the injury period. These import volumes are compared with the total import volumes of excavators into the UK:

Table 11: Import volume ('000 kg) of all excavators from the PRC and total import volumes (based on HMRC OTS data for 8429 5210), July 2019 to June 2023

Imports	2019/2020	2020/2021	2021/2022	POI
Total imports into the UK ('000s kgs)	100,963	111,775	134,709	163,727
Total imports into the UK (indexed)	100	111	133	162
Imports into the UK from PRC ('000 kgs)	4,537	2,587	7,716	15,958
Imports into the UK from PRC (indexed)	100	57	170	352
Imports from PRC as a percentage of total imports	4.5%	2.3%	5.7%	9.7%
Imports from PRC as a percentage of total imports (indexed)	100	52	127	217

Source: HMRC OTS data (extracted from uktradeinfo.com in October 2023)

654. Table 11 shows that total import volumes of excavators into the UK increased year on year during the injury period. Total imports were 62% higher in the POI than at the beginning of the injury period.



655. Imports from the PRC initially decreased by 43% from 2019/2020 to 2020/2021. Thereafter, the volume of imports recovered and were 252% higher in the POI when compared to the beginning of the injury period.
656. The TRA’s analysis of the HMRC raw customs declaration data suggests this supports the identified trends in Table 11 for the period that this data covered.
657. UK industry’s [application](#) noted that due to the COVID-19 pandemic, the figures for 2020 are unrepresentative of the normal UK market. The timing of the COVID-19 pandemic would directly correspond with the decrease identified in the import of the PRC imports of excavators between 2019/2020 to 2020/2021. To further assess the potential disruptive effects of the COVID-19 pandemic in the volume of imports to the UK during 2020 and 2021, the TRA looked at the changes to import levels each calendar year between 2019 and 2022:

Table 12: Import volume ('000 kg) of excavators from the PRC and total import volumes (based on HMRC OTS data for 8429 5210), Jan 2019 to December 2022

Imports	2019	2020	2021	2022
Total imports into the UK ('000s kgs)	144,874	88,414	128,664	159,970
Total imports into the UK (indexed)	100	58	89	110
Imports into the UK from PRC ('000 kgs)	6,203	2,117	4,252	10,058
Imports into the UK from PRC (indexed)	100	34	69	162
Imports from PRC as a percentage of total imports	4.3%	2.5%	3.3%	6.3%
Imports from PRC as a percentage of total imports (indexed)	100	59	77	147

Source: HMRC OTS data (extracted from [uktradeinfo.com](#) in October 2023)

658. Secondary sources of data also suggest that [global trade was negatively impacted](#) due to disruptions affecting transport, increased shipping costs and the fact parties experienced [temporary difficulties in producing goods due to pandemic restrictions](#). The TRA identified transport was disrupted during the COVID-19 pandemic as there were fewer available containers and ships. [Transportation costs subsequently increased, particularly in 2020](#).
659. It is worth noting that the decrease in imports of all PRC excavators during the calendar years 2020 and 2021 is generally in line with the import trends observed for excavators from all third countries during the same period. That



said the reductions in year-on-year imports and the level of recovery in 2022 were much greater for PRC excavators.

660. UK industry suggested that due to the impact of the COVID-19 pandemic the TRA should add an additional year to the injury period. On review there is no evidence to suggest the current injury period is not representative. It is appreciated that the use of an index with a starting point in a period impacted by the COVID-19 pandemic could superfluously inflate subsequent increases in the remaining years of the injury period. However, it remains the overall trends stayed the same even if import data before July 2019 is incorporated.
661. Table 11 also shows that imports from PRC made up 9.7% of total imports of excavators in the POI, which is an increase from 4.5% at the beginning of the injury period (this upwards trend is also seen in Table 13). It is noted that PRC imports increased 252% over the injury period while total imports into the UK increased by 62%. Imports of excavators from the PRC therefore retained an increased share of imports across the injury period following the initial decrease in 2020/2021.
662. Given the known effects of the COVID-19 pandemic in 2020 and 2021, it is noted there was still an increase of PRC imports from the beginning of the injury period to the POI.
663. The TRA has determined that during the injury period there has been a significant increase in imports of excavators from the PRC in absolute terms (an increase of 252%).

G1.1.2 Volume of subsidised imports relative to domestic production

664. Information on import volumes of the relevant goods in relative terms gives an indication of the rate at which imports of these goods increased or decreased during the injury period when compared to the UK domestic production of the like goods.
665. The following table provides the import volumes (kgs) of excavators from the PRC throughout the injury period in comparison to total UK domestic production of the like goods:



Table 13: Relative change in the total import volume ('000 kg) of excavators from PRC (based on HMRC OTS data for 8429 5210) in relation to UK production, July 2019 to June 2023

Imports and UK domestic production	2019/2020	2020/2021	2021/2022	POI
Imports into the UK from PRC ('000 kgs)	4,537	2,587	7,716	15,958
Imports into the UK from PRC (indexed)	100	57	170	352
UK domestic production (kgs) (indexed)	100	99	118	143
PRC imports relative to UK domestic production (indexed)	100	57	144	246

Source: Questionnaire response and HMRC OTS data (extracted from uktradeinfo.com in October 2023)

666. Total imports from the PRC relative to UK domestic production significantly increased by 146% during the injury period. Although the earlier effects of the COVID-19 pandemic in 2020 and 2021 disrupted the upward trends at this time, PRC imports quickly recovered. This includes an increase of 102 percentage points relative to UK production between 2021/2022 and the POI.
667. UK domestic production did increase by 43% over the injury period. However, this increase was at a lower level than the 252% increase in PRC imports over the same period indicating that PRC imports to the UK increased by 146% relative to UK production.
668. The further HMRC raw customers declaration data did not allow the TRA to complete the same analysis in Table 13, as it does not cover the full injury period. The import data did show that the level of PRC imports did increase over the available time period. This import data also indicated there was a limited year-on-year decrease of the level of PRC imports relative to UK domestic production. However, without the full dataset for the entirety of the injury period, it is unclear whether this represents any type of departure from the overall trends for the injury period as identified in Table 13 (based on a full and complete data set for the injury period).
669. In conclusion, based on the available evidence, the TRA still considers that the increase in import volumes from the PRC in the injury period was significant. UK domestic production has also increased over the injury period. When considering this change against the HMRC OTS data (which incorporates data for the full injury period) this does establish that there was a significant increase in imports of the relevant goods relative to UK production.



G1.1.3 Volume of subsidised imports relative to domestic consumption

670. To assess the imports relative to UK consumption, the TRA calculated the overall UK consumption of the relevant goods. UK consumption was established on the basis of import volumes of excavators from all countries (using HMRC OTS data) and domestic sales volumes of the UK industry. The TRA then calculated the market share of PRC imports by dividing total imports of the relevant goods by the total UK consumption figure. The UK's market share was calculated by dividing its domestic sales volumes by the total UK consumption figure:

Table 14: Relative change in the total import volume ('000 kg) of excavators from PRC (based on HMRC OTS data for 8429 5210) in relation to UK consumption, July 2019 to June 2023

Imports and UK consumption	2019/2020	2020/2021	2021/2022	POI
Imports into the UK from PRC ('000 kgs)	4,537	2,587	7,716	15,958
Imports into the UK from PRC (indexed)	100	57	170	352
UK consumption (kgs) (indexed)	100	109	132	160
Imports from PRC relative to UK consumption/ PRC market share (indexed)	100	52	129	220
UK producer's market share (indexed)	100	91	90	89

Source: Questionnaire response and HMRC OTS data (extracted from uktradeinfo.com in October 2023)

671. UK consumption of excavators has increased over the injury period. After analysing the evidence provided by parties and secondary sources of data, the TRA is satisfied the COVID-19 pandemic restrictions placed by the UK government did impact demand for excavators in 2020 and to a lesser extent in 2021. However, it remains that these do not materially alter the identified trends across the injury period.

672. It is explained in [Section G1.1.1](#) that it is considered that the COVID-19 pandemic had the effect of limiting imports into the UK during 2020 and 2021. It follows that the decrease in relative imports during those years, when compared to other years of the injury period, can be attributed to the effects of the COVID-19 pandemic.



673. UK industry's market share has decreased by 11% over the injury period. This decrease occurred while PRC import volumes increased by 252% in the same period and overall, UK consumption increased by 60%. Therefore, imports of the relevant goods were increasing at a significantly higher rate than UK consumption during the injury period.
674. However, as already noted in [Section G1](#), the HMRC OTS data used incorporates imports of goods out of scope of this investigation. This is likely to suppress the market share figures for the UK industry (as actual sales of like goods in scope are being considered) as well as inflating the figure of the total PRC imports. While the TRA is satisfied that the overall trends are unlikely to be affected, it cannot currently determine to what extent the individual figures were impacted.
675. The HMRC raw customs declaration data is still subject to the same issues the TRA identified within the OTS data, with the information not being limited to the relevant goods. However, the TRA's ability to complete substantive analysis of PRC imports relative to UK consumption was impacted more by the fact this information did not cover the full injury period.
676. In conclusion, based on the best available evidence, the TRA still considers that the increase in import volumes from PRC in the injury period was significant. This can be seen in the relevant periods in both sets of HMRC import data that was extracted. When reviewing this increase based on the HMRC OTS data (which incorporates data for the full injury period) the TRA identified a decrease in market share for UK industry. This occurred alongside an increase in both UK consumption and the market share of imports from the PRC. These changes would evidence a significant increase in imports of the relevant goods relative to UK consumption.

G1.2 Effect of subsidised imports on prices

677. In accordance with regulation 32 of the Regulations, to assess the effect of the subsidised goods on prices of the like goods in the UK during the injury period, the TRA has considered whether:
- there has been significant price undercutting by the subsidised goods as compared with the price of the like goods produced in the UK; or
 - the subsidised goods have depressed or suppressed domestic prices of the like goods produced in the UK to a significant degree.

G1.2.1 Price undercutting

678. Price undercutting is where the imported goods are consistently sold at a price below that of the like goods in the UK.



679. An undercutting margin is calculated by comparing the UK sales price (ex-factory) with the import price (the landed price) for similar products during the POI. The landed price is the price of the goods concerned when they arrive at a UK port. It equates to the CIF (Cost, Insurance, Freight) import price plus any relevant import duties and other costs associated with importing.
680. An undercutting margin (%) reflects the extent to which landed prices of the imported goods concerned are lower than the UK sales prices of the like goods.
681. The TRA determined that it would not be appropriate to calculate the landed price using the CIF import prices for the relevant goods provided by the Sany Group. This was because of the direct association between the Sany Group and its associated importers of the relevant goods in the UK. Therefore, for the sampled exporter, the landed price was constructed by recalculating the CIF import price with the relevant adjustments for post-importation costs being applied.
682. The recalculation of the CIF import price was done on the basis of the actual price and profits at which the relevant goods were first sold to an independent buyer in the UK. This action is in accordance with regulations 15(2) and 15(4)(a) of the Regulations.
683. Under regulation 15(6)(f) of the Regulations, the adjustments that the TRA may make in accordance with regulation 15(5) include adjustments in relation to a reasonable margin for profit as determined by the TRA. The TRA made an adjustment for a reasonable level of importer profit to reflect the price the goods would need to be sold at for an independent importer to be able to resell the goods and still make a profit.
684. The TRA also determined that adjustments to the export price were necessary to bring the export prices to an Ex-Works (EXW) level. Fair comparison adjustments were also made.
685. The TRA found significant evidence of price undercutting, calculating an average undercutting margin of 22.51% in the POI.
686. The TRA also assessed price undercutting for the entirety of the injury period based on the available information. This involved considering the non-adjusted import values of the goods concerned obtained from the Sany Group at a per tonne level. This assessment is set out in the table below:



Table 15: Undercutting analysis per tonne for UK industry and the Sany Group July 2019 to June 2023

	2019/2020	2020/2021	2021/2022	POI
Undercutting margin (%)		6.46%	17.49%	22.27%
Undercutting margin (%) (indexed)		100	270	345

Source: Questionnaire responses

687. Table 15 illustrates that PRC imports undercut the UK industry’s sales price throughout the period the TRA has data for. No imports of the goods concerned were recorded in 2019/2022. The level of undercutting increased over the injury period and the margin was 15.81 percentage points higher in the POI when compared to 2020/2021. Based on the available information, the TRA would therefore conclude the price of PRC imports have significantly undercut UK industry’s sales price during the injury period.

688. The TRA subsequently considered the price impacts of the relevant goods from the PRC on the UK like goods during the course of the injury period and whether these has led to either price depression or price suppression.

G1.2.2 Price depression

689. Price depression occurs when the UK industry is forced to reduce its prices to compete against lower priced subsidised goods.

690. The TRA would ordinarily consider price depression by directly comparing the average domestic sales prices of UK industry’s like goods to the average import prices of the relevant goods during the injury period. However, the TRA did not consider this approach can be strictly applied given the limitations of the HMRC import data noted in [Section G1](#).

691. The TRA has therefore assessed the changes during the injury period between UK industry’s domestic sales prices for its like goods and the sales prices of the goods concerned (as provided by the Sany Group).

692. The average domestic sale prices of the like goods were calculated by both unit price and by kgs. The average unit price was calculated by dividing total domestic sales values by number of units sold. The per kg value was calculated by dividing total domestic sales values by total domestic sales volumes (kgs). This information was obtained from UK industry’s questionnaire responses.

693. For comparison purposes, the TRA calculated a per kg value for the goods concerned based on the collated turnover data for sales to the UK submitted



by the Sany Group. This was also calculated by dividing total sales values by total sales volumes (and subsequently converted in line with [Section G1](#)). An average unit price was not calculated as the TRA did not obtain sales information at this level beyond the POI.

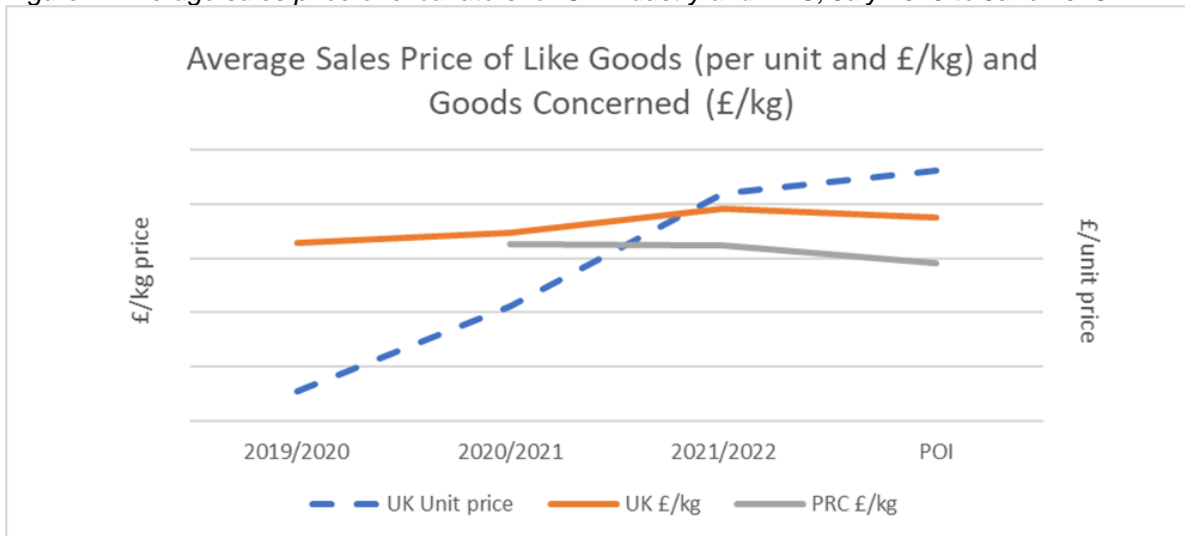
694. The following table and graph show how average prices of the like goods produced by UK industry and the goods concerned developed throughout the injury period:

Table 16: Average sales price of excavators per kg for UK industry and PRC, July 2019 to June 2023

Average sales price per kg	2019/2020	2020/2021	2021/2022	POI
Average domestic sales price of the like goods per kg (indexed)	100	106	119	114
Calculated average sales price of the goods concerned per kg (indexed)		100	99	90

Source: Questionnaire responses

Figure 2: Average sales price of excavators for UK industry and PRC, July 2019 to June 2023



Source: Questionnaire responses

695. Figure 2 and Table 16 shows during the injury period the UK industry's sales price initially increased and subsequently reduced in the POI. The indicative price of the goods concerned was lower in the POI than compared to 2020/2021 (the time frame for which we have data for as no imports of the goods concerned were recorded in 2019/2022.).

696. The unit price for the UK industry's sales of the like goods increased year-to-year during the entirety of the injury period.



697. It has been noted that UK industry did increase its sales prices over the injury period. However, there is no requirement for the price depression assessment to be considered against the entirety of the injury period.
698. Table 16 shows a reduction in the UK industry’s sales price (per kg) during the POI. This coincided with the significant increase of PRC imports as seen in Table 11 in [Section G1.1.1](#). This change to the UK sales price would be suggestive of price depression. However, given the level of the decrease to the sales price, as well the applicable changes in unit prices in the same period (see Figure 2 as well as Table 17 below), the TRA would conclude this is not representative of significant price depression.

G1.2.3 Price suppression

699. Price suppression occurs where price increases for the like goods, which otherwise would have occurred, have been prevented to a significant degree due to the price of the goods concerned.
700. To assess whether there was any evidence of price suppression, the TRA examined changes to domestic sales prices and changes to the cost of production for the like goods produced in the UK during the injury period.

Table 17: UK industry’s average domestic sales unit price and unit cost of production, July 2019 to June 2023

Sales price and cost of production per unit	2019/2020	2020/2021	2021/2022	POI
Average domestic sales price per unit (indexed)	100	104	110	112
Average cost of production per unit (indexed)	100	100	106	113

Source: Questionnaire responses

701. Table 17 shows both the cost of production and domestic sales prices increased throughout the injury period. Only between 2021/2022 and the POI did the cost of production of the like goods increase at a faster rate than the domestic sales price.
702. In isolation, Table 17 suggests that UK industry was able to effectively increase its prices at the same rate as the increases to its costs of production during the injury period. However, the TRA has now established its consideration of the changes to UK industry’s domestic sales price and costs of production does require further context.



703. UK industry stated in its [questionnaire responses](#) its current sales prices are below its target sales prices due to price pressure from the goods concerned, and alleged that it is, "...left with no choice but to sell its Excavators on the UK market below its costs of production..."
704. On review it has been identified that throughout the injury period UK industry was in fact selling its like goods at a loss. Further, the increases to the domestic sales price during the injury period were not sufficient to allow UK industry to meet its costs of production, also see [Section G1.3.2](#). As set out in [Section G1.2.2](#) this occurred while the average PRC import prices continued to be significantly below that of the UK industry's domestic sales prices.
705. The TRA has assessed that this evidence would suggest significant price suppression. It has been determined that the considerably lower priced subsidised imports of the relative goods have prevented the UK industry from further price increases in order to remain competitive.

G1.3 Impact of subsidised imports of the goods concerned on UK industry during the injury period

706. In considering, for the purpose of regulation 30(2)(c), the impact of the subsidised goods on the UK industry, the TRA must take into account all relevant economic factors and indices having a bearing on the UK industry. Regulation 33 of the Regulations notes that these include:
- actual and potential decline in sales, profits, market share, output, productivity, return on investment or production capacity utilisation;
 - actual and potential negative effects on employment and wages, ability to raise capital or investments and cash flows, stock levels and growth; and,
 - factors affecting domestic prices.
707. The following sections will address each of these factors in turn before undertaking a holistic assessment of the impact on UK industry.

G1.3.1 Sales

708. The TRA assessed the changes in the volume and the value of the UK industry's sales during the injury period. This includes both domestic and export sales.
709. The following table shows how the UK industry's domestic sales of excavators, as well as the average domestic sales prices, developed throughout the injury period:



Table 18: UK industry's domestic sales (per unit), July 2019 to June 2023

Domestic sales	2019/2020	2020/2021	2021/2022	POI
Domestic sales volumes (unit) (indexed)	100	101	128	147
Domestic sales values (indexed)	100	105	141	163
Average domestic sales price (indexed)	100	104	110	112

Source: Questionnaire responses

710. As can be observed in Table 18, the volume of domestic sales increased year-on-year throughout the injury period and was 47% higher in the POI than its initial level. The value of the domestic sales increased 63% during the injury period.
711. In 2020/2021, the level of sales remained static when compared to the first year of the injury period. It was assessed that this lack of movement, alongside the subsequent year-on-year increase, is associated with the impact of the COVID-19 pandemic. This is further demonstrated by the changes in the level of imports, as illustrated in Table 11 in Section G1.1.1. The TRA remains satisfied that the COVID-19 pandemic by itself would not account for the overall changes in domestic sales across the injury period, with these increasing year-on-year after 2020/2021.
712. The TRA assessed the significance of export sales of excavators to the UK industry by analysing the trends in the volumes and values of export sales of excavators throughout the injury period. The following table also sets the percentage of the exports against total sales volume:



Table 19: UK industry's export sales (per unit), July 2019 to June 2023

Export sales	2019/2020	2020/2021	2021/2022	POI
Export sales volumes (unit) (indexed)	100	125	153	212
Export sales values (indexed)	100	126	162	259
Average export sales price (indexed)	100	101	106	122
Exports as % of total sales volume (units)	47%	52%	51%	56%

Source: Questionnaire responses

713. Export sales increased by both volume and value during the injury period, increasing by 159% in terms of value and 112% in terms of volume at the end of the injury period. Exports as a percentage of total sales increased by 9 percentage points throughout the injury period.
714. As already identified in [Section G1.1.1](#), it is reasonable to suggest the scale of the identified increases are likely to be inflated due to indexing in a period impacted by the COVID-19 pandemic.
715. Average sales prices for both export sales and domestic sales increased during the injury period. Export sales prices increased by 159% and domestic sales prices increased by 63%. While the unit prices for export sales were higher than domestic sales to the UK industry, there is no evidence to suggest that the changes to the level of UK industry's domestic sales was due to a focus on sales to overseas markets.
716. This takes into consideration that while there were increases in the proportion of exports sales against total sales for the UK industry over the injury period, this remained around 50%. Further, the slower increases in domestic sales across the injury period appear to be aligned to UK industry's inability to capture market share as illustrated in [Section G1.1.3](#).
717. Further, UK industry argued in its [application](#) that the price of the goods concerned meant it had to maintain unsustainably low prices domestically. However, the price pressures of PRC imports did not have the same effect on its pricing in its export markets.
718. UK industry also suggested that the higher prices of its exports sales was also suggestive of injury. However, the TRA has concluded it could not use the



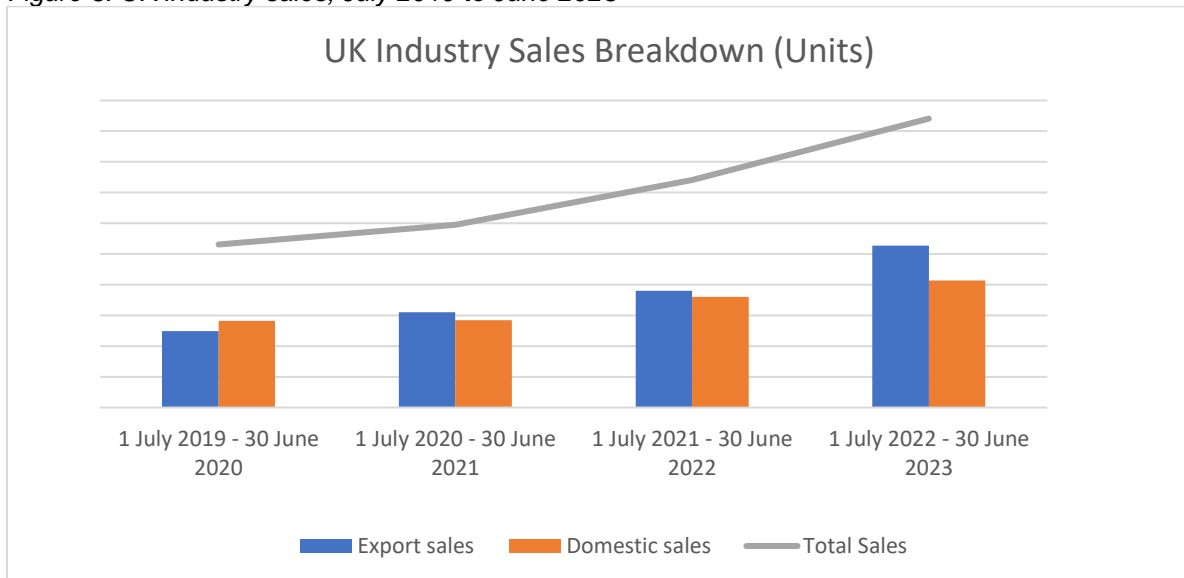
identified gap in pricing for the injury analysis without full consideration of the associated forces and conditions in the individual export markets:

Table 20: UK industry's total sales volume and value, July 2019 to June 2023

Total sales	2019/2020	2020/2021	2021/2022	POI
Total sales volumes (unit) (indexed)	100	112	139	177
Total sales values (indexed)	100	116	151	212

Source: Questionnaire responses

Figure 3: UK industry sales, July 2019 to June 2023



Source: Questionnaire responses

719. While increases can be observed both for domestic and export sales of excavators, it was found that domestic sales have not increased at the same rate as UK consumption (as seen in [Section G1.1.3](#)). This has subsequently led to a decrease in market share. Export sales have increased at a higher rate than domestic sales. However, there is no evidence to suggest that this increase was at the expense of domestic sales due to an increased focus on export markets. The increase of exports as a percentage of total sales or the production capacity utilisation for excavators (as seen in [Section G1.3.4](#)) have not increased significantly. Instead, it would appear domestic sales were impacted by price pressure from the relevant goods as described in [Section G1.2.3](#).



G1.3.2 Profits

720. The TRA assessed the changes in profitability of the UK industry during the injury period.

721. The following table shows how the UK industry's profits and profit margins, solely for the domestically sold like goods, developed throughout the injury period. These figures represent net operating profit/loss after tax (NOPAT) for these sales:

Table 21: Profitability of sales of the domestically sold like goods, July 2019 to June 2023

Profits	2019/2020	2020/2021	2021/2022	POI
Average NOPAT margin of domestically sold like goods (% of sales turnover) (indexed)	(100)	(85)	(77)	(71)
NOPAT from like goods (£) (indexed)	(100)	(90)	(109)	(116)

Source: Questionnaire responses – () brackets denote negative amounts

722. The available data indicates UK industry has made losses on its sales of all like goods in every year of the injury period. The operating profit level in the POI is lower than at the beginning of the injury period

723. The average NOPAT margin of the like goods has also remained negative across the injury period. However, the margin levels have gradually improved and in the POI this was 5.9 percentage points lower when compared to the start of the injury period.

724. The identified trends are in line with what the TRA would expect to see based on its findings in [Section G1.2.3](#). UK industry had advised it was selling its like goods on the UK market below its costs of production, due to price suppression from imports of the relevant goods from the PRC. The TRA is satisfied that this would represent a challenge to the financial and operational health of the UK industry, as demonstrated by the available information.

G1.3.3 Market share

725. The TRA assessed the changes in the market share by volume (kgs) of the UK industry during the injury period.

726. Market share has been calculated as per the methodology described under [Section G1.1.3](#).



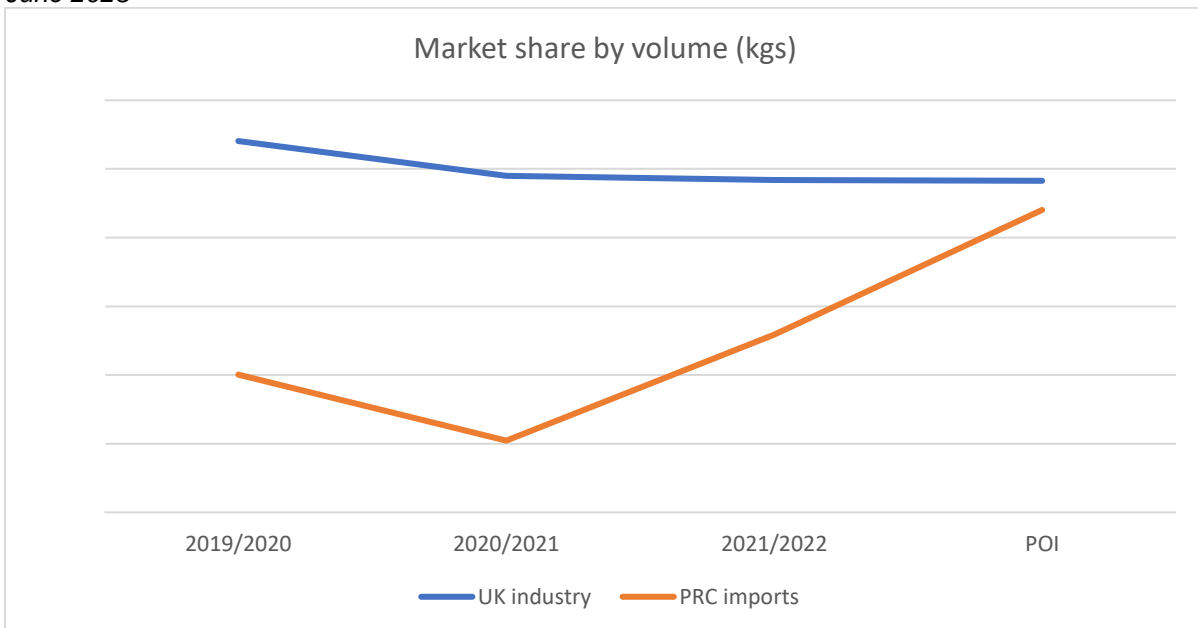
727. The following table and figure show how the UK industry’s and the PRC’s market share developed throughout the injury period:

Table 22: Evolution of UK industry’s market share, (based on HMRC OTS data for 8429 5210) July 2019 to June 2023

Market share	2019/2020	2020/2021	2021/2022	POI
UK industry domestic market share (kg) (indexed)	100	91	90	89
Imports from PRC market share in UK (indexed)	100	52	129	220

Source: Questionnaire response and HMRC OTS data (extracted from uktradeinfo.com in October 2023)

Figure 4: Market share (%) by volume (kgs) (based on HMRC OTS data for 8429 5210), July 2019 to June 2023



Source: Questionnaire response and HMRC OTS data (extracted from uktradeinfo.com in October 2023)

728. During the injury period UK industry has lost market share overall. Imports from the PRC initially decreased in 2020/2021 but have continued to increase thereafter, peaking in the POI.
729. The UK industry’s market share decreased in the injury period despite increasing sales volumes. However, while the reduced volume of imports from the PRC in 2020/2021 caused a reduction in its market share, the increased import volumes since then have continued to capture market share.



730. It should be noted the analysis of market share does need to be considered with a level of caution. The TRA has been unable to accurately identify to what level the HMRC OTS data used to calculate UK consumption is impacted by incorporating data that is not restricted to the relevant goods. However, the TRA remains satisfied that this data represents the best facts available and would generally return a similar trend to that which would be expected given the totality of the information reviewed.

G1.3.4 Outputs (production) and production capacity utilisation

731. The TRA assessed the changes in the output and production capacity utilisation of the UK industry during the injury period.
732. Output is measured by the volume of like goods (per unit rather than by kgs) produced by the UK industry during the injury period. Production capacity is a measure of the maximum of excavators that can be produced over a respective period. Production capacity utilisation contrasts these two figures to illustrate how much of the industry's capacity is being used over a set period to produce excavators.
733. The TRA assessed total output by analysing the volumes of all excavators, including those destined for export markets, produced by the UK industry during the injury period based on figures it provided. The production of the domestic sold like goods was also considered separately. The TRA has also observed the volume trends relative to production capacity for both sets of figures.
734. The following table shows how the UK industry's total output and production capacity for excavators developed during the injury period based on the questionnaire responses:



Table 23: UK industry's production (per unit) and production utilisation during injury period

Output and production capacity utilisation	2019/2020	2020/2021	2021/2022	POI
Total production capacity (unit) (indexed)	100	100	100	100
Total production (unit) (indexed)	100	112	139	177
Total production capacity utilisation (%)	15%	17%	21%	26%
Production of domestically sold like goods (indexed)	100	101	128	147
Capacity utilisation for domestically sold like goods(%)	8%	8%	10%	12%

Source: Questionnaire responses

735. Total production capacity has remained stable during the injury period.
736. Both total production and production of the domestically sold like goods have increased year-on-year and in the POI were 77% and 47% above their initial levels.
737. Production capacity utilisation followed the same upwards pattern as production. However, it has been observed there is a significant difference between how much UK industry can produce (production capacity) and how much it actually produces (production).
738. The increases in the production and production capacity utilisation factors can be directly linked to total sales during the injury period, as outlined in [Section G1.3.1](#). This takes into consideration UK industry's [application](#) where it explains that the like goods are generally built to order.
739. While the trends in output and production capacity utilisation were positive over the injury period it was found that UK production did not increase at the same rate as the relative increases to the level of PRC imports. Therefore, despite the increases in production UK industry has still failed to gain market share when UK consumption has also increased.

G1.3.5 Growth

740. The TRA has assessed the changes in the growth of the UK industry during the injury period.



741. Growth has been measured by comparing trends in total UK consumption of excavators with the UK industry’s domestic sales volumes, UK industry’s market share, and production.
742. The following table shows how these trends developed throughout the injury period:

Table 24: Growth indicators, July 2019 to June 2023

UK consumption, sales, market share and employment	2019/2020	2020/2021	2021/2022	POI
UK consumption (kgs) (indexed)	100	109	132	160
UK domestic sales volumes (kgs) (indexed)	100	99	118	143
UK market share (indexed)	100	91	90	89
UK domestic production (kgs) (indexed)	100	99	118	143
Employment for domestically sold like goods (indexed)	100	75	75	73

Source: Questionnaire responses and HMRC OTS data (extracted October 2023)

743. UK consumption of excavators increased by 60% in the injury period. However, over the same period UK industry’s relative market share reduced.
744. The UK industry’s sales volumes increased by 43% over the injury period. It was established in [Section G1.3.4](#) that the increase in sales volume is mirrored by the UK industry’s production output, as the industry produces its goods to order. It is to be expected that the use of production model would itself restrict growth beyond its sales, particularly in a period when prices of goods are suppressed. This model reacts to changes in market conditions and therefore changes to the level of sales would also dictate employment numbers.
745. UK industry’s employment figures show that despite increases in sales the number of employees engaged in the production of the domestically sold like goods decreased by 27% over the injury period (also see [Section G1.3.6](#))
746. In relative terms, UK industry’s increased sales volume did not translate into an increase to its market share or employee numbers, even with increased UK consumption. Therefore, the TRA does not consider this be reflective of any industry growth.



G1.3.6 Employment and productivity

747. The TRA assessed the changes in the employment and productivity of the UK industry during the injury period.
748. Employment trends were assessed by analysing how the number of employees in the production for the domestically sold like goods have changed throughout the injury period in absolute terms and relative to the UK industry's total number of employees. Productivity is measured by establishing the output (number of like goods produced) per employee during the injury period.
749. The following table provides figures of the UK industry's employment and productivity throughout the injury period based on information it provided:

Table 25: UK industry employment and productivity, July 2019 to June 2023

Employment and productivity	2019/2020	2020/2021	2021/2022	POI
Total number of employees (indexed)	100	90	82	88
Number of employees for all like goods (indexed)	100	87	83	97
Number of employees for domestically sold like goods (indexed)	100	75	72	73
Proportion of employment in domestically sold like goods	40%	33%	35%	33%
Average productivity (indexed)	100	135	178	201

Source: Questionnaire responses

750. The employment figures for domestically sold excavators provided by UK industry have been apportioned based on production volume of the like goods. For the purposes of this assessment, the TRA consider this to be a reasonable approach.
751. The average productivity of the UK industry has increased over the injury period. However, there is a noticeable change in the number of employees when solely considering the production of the domestically sold like goods. There was a reduction of 3% in employee numbers when considering all like goods, but this increases to 27% when apportioned to the domestically sold like goods.



752. Productivity increased throughout the injury period, with the POI figure being 101% higher than at the start of the injury period. This indicates a positive trend. However, the overall increase in productivity is to be expected when this has run concurrently with the increase in UK industry’s domestic sales and a reduction in employee numbers. The increasing demand has resulted in more production being required as more orders are made.

G1.3.7 Wages

753. The TRA assessed the changes in the level of wages paid by the UK industry during the injury period.

754. Wages were assessed by analysing the trends in the wage levels of employees engaged in the production of the like goods over the injury period. The TRA considered whether this indicator has been trending positively or negatively, which may contribute to its determination of the current state of the UK industry.

755. The following table provides the mean wage of the UK industry based on information provided by UK industry and the minimum wage in the UK:

Table 26: UK industry wages for employees involved in the like goods, July 2019 to June 2023

Wages	2019/2020	2020/2021	2021/2022	POI
Hourly mean wage for FTE engaged in activities related to the like goods (indexed)	100	90	120	130
Hourly minimum wage in the UK (indexed)	100	106	109	116

Source: Questionnaire responses and www.gov.uk (minimum wage)

756. The average mean wage paid by the UK industry has increased by 30% over the injury period. Outside of 2020/2021, the year-on-year increases to the mean wage were above the increases to the minimum wage in the UK, which itself increased 16% over the injury period.

757. The mean wages by UK industry remained above what the UK industry was legally required to provide when compared to the minimum wage. While the mean wage did decrease in 2020/2021 this corresponds with the reduction in the number of staff as identified in [Section G1.3.6](#).



G1.3.8 Investments and cash flow

758. The TRA assessed the changes in the level of investments, the return on these investments (ROI) and UK industry’s cash flow for the domestically sold like goods during the injury period.

759. The following table shows how these factors developed throughout the injury period:

Table 27: UK industry’s ROI, Cash flow and investments in relation to the like goods, July 2019 to June 2023

Investment, ROI and cash flow	2019/2020	2020/2021	2021/2022	POI
ROI (% of net assets) (indexed)	(100)	(103)	(90)	(8)
Cash flow for the domestically sold like goods (£) (indexed)	(100)	(90)	(111)	(119)
Investments in relation to like goods (£) (indexed)	100	103	111	225

Source: Questionnaire responses – () brackets denote negative amounts

760. The level of investments increased during the injury period.

761. During the injury period, the ROI, defined as the profit in percentage of the net book value of investments, remained negative in line with UK industry’s profitability as set in [Section G1.3.2](#). However, there was a significant improvement to the ROI during the POI.

762. The net cash flow information shows this was negative throughout the whole injury period. This negative amount continued to grow in the POI.

G1.3.9 Stock levels

763. The TRA assessed the changes to the UK industry’s inventories of the like goods during the injury period.

764. Inventories would normally be assessed by analysing the volumes of excavators in stock throughout the injury period in absolute terms and relative to production.

765. However, as referenced in [Section G1.3.4](#), UK industry has advised that its products are made to order and therefore it does not hold stock. This does mean there is no data for the TRA to analyse in relation to this factor.



G1.3.10 Factors affecting domestic prices

766. The TRA has assessed factors affecting domestic prices in [Section G1.2](#) above.

G1.4 Other factors considered relevant

767. In accordance with regulation 30(2)(d) of the Regulations, in order to determine whether a UK industry has suffered injury the TRA must consider other factors if deemed relevant.

768. Having regard to the information provided in the application, in questionnaire responses and other submissions, and from verification activity, the TRA has not identified any additional factors that it deems relevant for this injury analysis.

G1.5 Conclusion on injury

769. Having fully considered the available information the TRA has determined, in accordance with regulation 27(2)(a) of the Regulations, that:

- UK industry has suffered or is suffering injury in accordance with regulation 30 of the Regulations (determination of injury);

770. The TRA is satisfied that the majority of the economic factors indicate that UK industry has suffered injury by showing negative developments during the injury period.

771. The TRA will now consider whether the subsidised goods have caused or are causing that injury to that UK industry in line with regulation 27(2)(b) of the Regulations.

G2. Causation and non-attribution

772. In accordance with regulation 35 of the Regulations, injury caused by other known factors must not be attributed to subsidised imports of the relevant goods. The TRA considered whether any other known factors, other than the subsidised goods, caused or are causing injury to the UK industry. The TRA has assessed the following factors:

- economic impact of the COVID-19 pandemic;
- demand reduction;
- inflation of raw material costs; and



- third country imports and prices.

773. These factors were identified on review of the submissions from all parties. The TRA also considered the other known factors specifically identified within regulation 35(3) of the Regulations.

G2.1 Economic impact of the COVID-19 pandemic

774. As set out in [Section G1.1.3](#), UK consumption was established on the basis of import volumes of excavators from all countries (based on HMRC OTS data) and domestic sales volumes of the UK industry. During the injury period UK consumption developed as follows:

Table 28: Total excavators consumption in volume (kgs) (based on HMRC OTS data for 8429 5210), July 2019 to June 2023

UK consumption	2019/2020	2020/2021	2021/2022	POI
UK consumption (kgs) (indexed)	100	109	132	160

Source: Questionnaire response and HMRC OTS data (extracted from uktradeinfo.com in October 2023)

775. It was established in [Section G1.1.1](#) and [Section G1.3.1](#) that the volume of imports and the volume of domestic sales increased over the injury period.
776. It was concluded in the relevant sections that there were disruptions to both PRC imports of excavators and domestic sales/production of the like goods due to the COVID-19 pandemic. This is supported by the submissions received and in the open sources the TRA has reviewed.
777. However, the COVID-19 pandemic by itself would not account for the overall trends in domestic sales of the like goods across the entirety of the injury period. It remains that the analysis of non-attribution and the effects of the COVID-19 pandemic would always be focussed on 2020 and 2021. This is based on the time frame during which it was actually having an impact due to governmental restrictions. It follows it cannot be used to explain any identified injury after 2021 (i.e. after any COVID-19 pandemic related restrictions were removed).
778. The TRA has determined the COVID-19 pandemic did not break the link between the relevant goods and the indicative injury suffered by UK industry. This is due to material injury being evident before and after the COVID-19 pandemic restrictions.



G2.2 Demand reduction

779. The TRA also assessed potential demand reduction. However, it was determined in [Section G1.1.3](#), that during the injury period UK consumption of certain excavators did in fact increase. It follows that there is no evidence to suggest demand has reduced.
780. The TRA has determined that demand reduction was not present and therefore did not break the link between the relevant goods and the injury suffered by UK industry.

G2.3 Inflation in raw material costs

781. During the injury period, the overall cost of production for UK industry increased, as seen in [Section G1.2.3](#). Steel is the main raw material used in the many of the component parts of the like goods. The TRA therefore assessed how the development of steel prices may have affected the overall cost of production.
782. Information from [S&P Global](#) confirm steep increase in the steel prices particularly during the middle part of the injury period (2020-2021). Reasons for the increase in the price of steel include the increase in costs of raw materials (iron ore and scrap), delays of imports from Europe [due to adjustments from the EU exit](#) and low supply due to strict lockdowns in the PRC. Prices of steel started to decline in 2022, [due partly to weaker demand](#), but were still above their long-term average.
783. However, the negative trends observed in UK industry's profitability pre-date the steep increases in steel prices. It follows that the TRA cannot directly link the identified injury to UK industry to these steel price developments. It can be seen in [Section G1.3.2](#) there was an upward movement in UK industry's profit margins over the course of the injury period (albeit these remained negative throughout). This increase occurred at the same time there were steady increases to the costs of production which were effectively mirrored by increases in the domestic sales price, as illustrated in Table 17 in [Section G1.2.3](#). These changes would suggest the increases in raw-material prices did not have a significant impact on UK industry.
784. That is not to say the rising costs of raw materials during the injury period would not have had any negative impact on UK industry's profits whatsoever. However, it has been established that the effect of rising material costs is less significant than the impact of the imports of the relevant goods.
785. The TRA has determined that the increase in raw material costs did not break the link between the relevant goods and the indicative injury suffered by UK industry.



G2.4 Third country imports and prices

786. Imports from third countries, that is imports from countries other than the PRC, were examined to ascertain whether these had caused injury to the UK industry.
787. As previously noted, HMRC OTS data is only available at the eight-digit commodity code level and the TRA has considered this by value (£) and by volume (kgs). This does mean there remains some limitations when trying to differentiate between different models of excavators. This is especially relevant as this means the TRA is unable to restrict its analysis solely to the relevant goods because this data does include imports of smaller excavators with an operating weight of less than 11,000 kg (i.e., 11 tonnes) and those of 80,000 kg (80 tonnes) and above.
788. A level of circumspection also has to be applied on the basis that HMRC OTS data is based on the country of dispatch. This is of particular importance as excavators from Japan, the Netherlands and Belgium represent 49% of the total imports of excavators into the UK in the POI (and historically are the main exporters of excavators into the UK).
789. UK industry's [application](#) also highlighted this issue and went on to state, "This explains why these statistics report significant import values from Belgium, in which there is no Excavator production. Further, there are Excavator manufacturers who finish Excavators manufactured outside the EU in the EU (e.g., assembling imported sub-assemblies) before exporting them to the UK." TRA's own independent research identified that PRC exporters have European subsidiaries and operate dealer networks in Europe.
790. As previously referenced in [Section G1](#), the HMRC raw customs declaration data is based on the country of origin at the ten-digit commodity code level. The TRA's analysis of this data does suggest the commentary provided by UK industry regarding imports from Belgium is likely to be correct.
791. The TRA compared the HMRC OTS data against that the HMRC raw customs declaration data. The TRA's analysis of the overlap of the data sets did suggest it is more likely than not there are higher levels of imports originating from both Japan and the PRC than what was initially identified. It appears these higher import levels were offset by reductions in imports from other third countries, including Belgium.
792. The following table shows how the imports of excavators have developed throughout the injury period. The TRA has compared the imports from all other countries excluding the PRC:



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Table 29: Imports from third countries (excluding PRC) (based on HMRC OTS data for 8429 5210), July 2019 to June 2023

	2019/2020	2020/2021	2021/2022	POI
Imports from all third countries ('000 kg)	96,427	109,188	126,993	147,770
Imports from all third countries (indexed)	100	113	132	153
Market share of imports from all third countries	85.2%	88.1%	85.1%	81.5%
Market share of imports from all third countries (indexed)	100	103	100	96
Price of imports from all third countries (£/kg)	£4.49	£4.74	£5.25	£5.83
Price of imports from all third countries (indexed)	100	106	117	130
Imports from Japan ('000 kg)	41,112	46,430	41,465	40,365
Imports from Japan (indexed)	100	113	101	98
Market share of imports from Japan	36.3%	37.5%	27.8%	22.3%
Market share of imports from Japan (indexed)	100	103	77	61
Price of imports from Japan (£/kg)	£4.91	£5.09	£5.26	£6.06
Price of imports from Japan (indexed)	100	104	107	124
Imports from Belgium ('000 kg)	6,498	11,558	13,579	15,082
Imports from Belgium (indexed)	100	178	209	232
Market share of imports from Belgium	5.7%	9.3%	9.1%	8.3%
Market share of imports from Belgium (indexed)	100	163	159	145
Price of imports from Belgium (£/kg)	£5.15	£5.17	£5.60	£6.31
Price of imports from Belgium (indexed)	100	100	109	113



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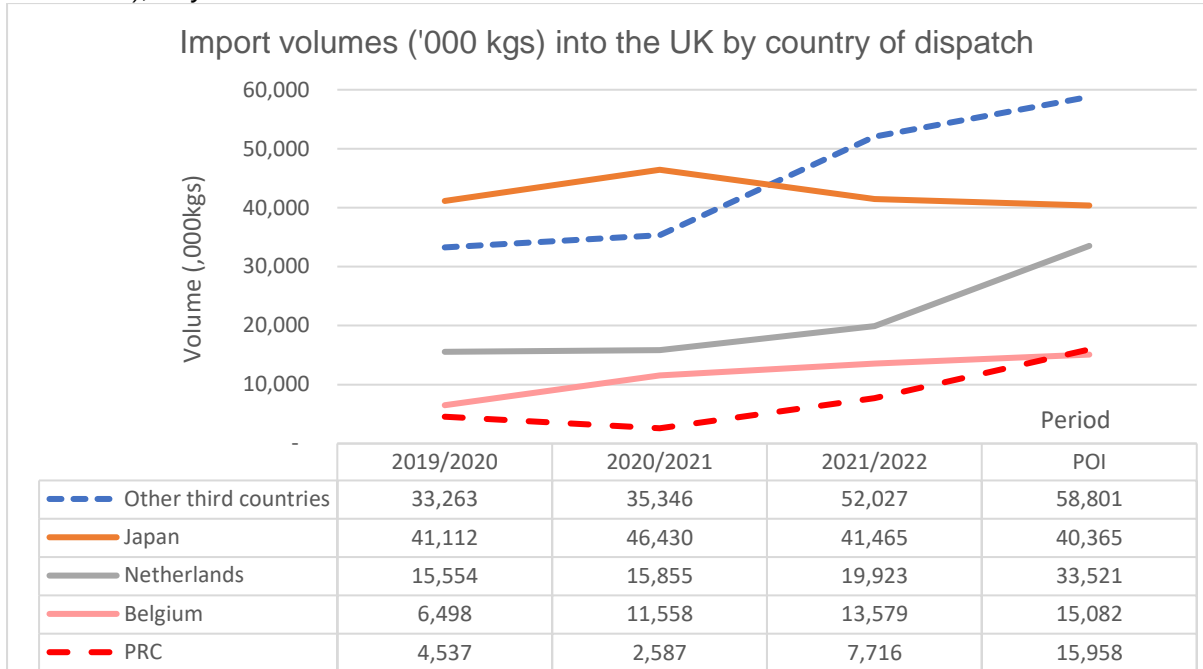
Imports from the Netherlands ('000 kg)	15,554	15,855	19,923	33,521
Imports from the Netherlands (indexed)	100	102	128	216
Market share of imports from the Netherlands	13.7%	12.8%	13.4%	18.5%
Market share of imports from the Netherlands (indexed)	100	93	97	135
Price of imports from the Netherlands (£/kg)	£4.66	£4.67	£5.07	£5.92
Price of imports from the Netherlands (indexed)	100	100	109	117
Imports from other third countries excluding Japan, Belgium and the Netherlands ('000 kg)	33,263	35,346	52,057	58,801
Imports from other third countries excluding Japan, Belgium and the Netherlands (indexed)	100	106	156	177
Market share of imports from other third countries excluding Japan, Belgium and the Netherlands	29.4%	28.5%	34.9%	32.4%
Market share of imports from other third countries excluding Japan, Belgium and the Netherlands (indexed)	100	97	119	110
Price of imports from all other third countries excluding Japan, Belgium and the Netherlands (£/kg)	£3.77	£4.17	£5.21	£5.51
Price of imports from all other third countries excluding Japan, Belgium and the Netherlands (indexed)	100	111	138	146

Source: HMRC OTS data (extracted from uktradeinfo.com in October 2023)

Notes: The TRA reports UK imports from Japan, Belgium and the Netherlands, which are the three main source countries of UK imports of excavators



Figure 5: Changes in the import volumes based on country of dispatch (based on HMRC OTS data for 8429 5210), July 2019 to June 2023



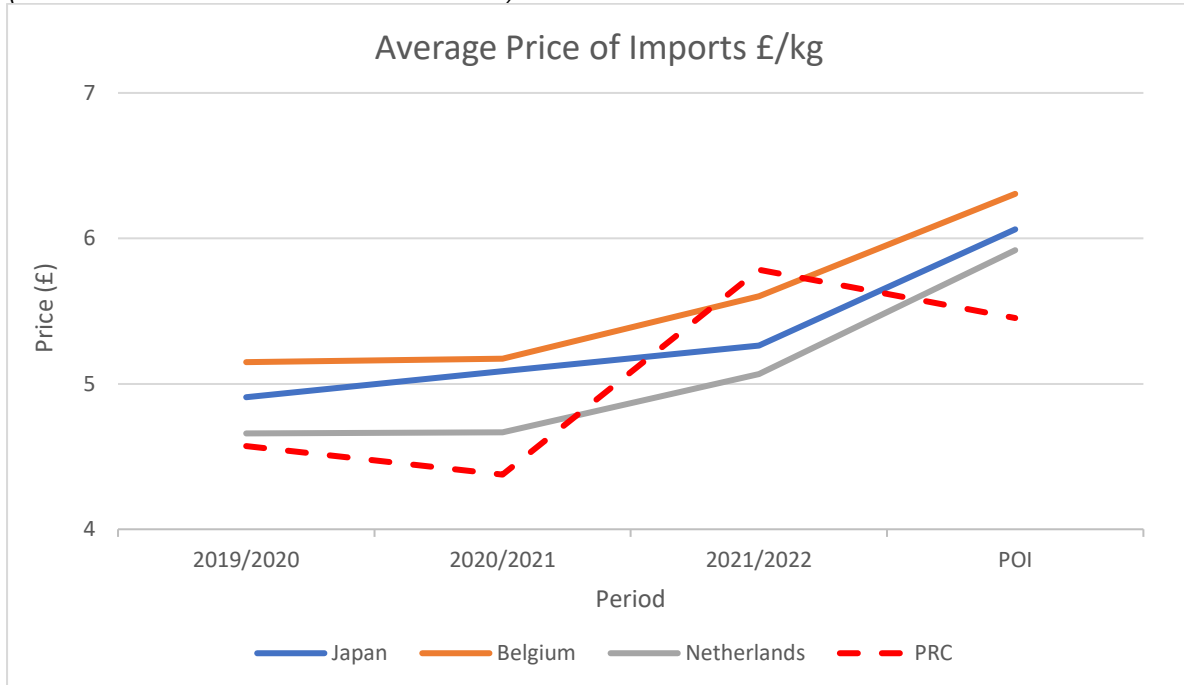
Source: HMRC OTS data (extracted from uktradeinfo.com in October 2023)

793. The volume of imports from all third countries other than the PRC increased 53% during the injury period. The volume of imports from all third countries other than the PRC, taken as a whole, was approximately 147,770 tonnes during the POI, which equated to a market share of 81.5%.

794. As noted above, the majority of third country imports were dispatched from Japan, the Netherlands and Belgium. The volume of imports from Japan declined 2% over the injury period, which significantly reduced its overall market share. In comparison import volumes from both the Netherlands and Belgium increased over the injury period, which translated to respective indexed increases to market share of 35% and 45%. The volume of imports from other third countries also increased significantly in the final two years of the injury period. In the POI, the imports of other third countries were 58,801 tonnes, which was a 77% increase when compared to the beginning of the injury period:



Figure 6: Average import price of excavators from Japan, Belgium, the Netherlands and the PRC (based on HMRC OTS data for 8429 5210)



Source: HMRC OTS data (extracted from uktradeinfo.com in October 2023)

795. The average prices of imports also increased across the injury period within a range of 13% to 30%. The PRC import price was below that of imports from Japan, Netherlands and Belgium's throughout most of the injury period. This is particularly evident in the POI. This remains the case when the TRA compared imports from the PRC to all other third countries.
796. It follows that the impact of imports from third countries are clearly less significant than those of imports from the PRC. While imports from the other third countries (excluding Japan, Belgium and the Netherlands) increased during the injury period, this was not at the same rate as imports of the relevant goods. Importantly, the market share of imports from all third countries decreased over the injury period, and this share was captured by imports of the goods concerned.
797. The TRA has been unable to complete a further assessment of the potential effects of the third country imports and prices using the HMRC import data extracted in September 2024. The TRA does not have information for the full injury period in which to complete a full trend analysis or allow us to compare its existing findings.
798. The TRA determined that the impact of third country imports was not sufficient to break the causal link between the relevant goods and the indicative injury suffered by the UK industry.



G3. Conclusion

799. The TRA has holistically assessed and undertaken verification activities on the evidence provided to date by the sampled interested parties registered to the case. It has been concluded that the UK industry has suffered injury during the injury period which is caused by the imports of the relevant goods.

Volume of subsidised imports

800. The TRA determined that there has been a significant increase in the import volumes from the PRC during the injury period. It was also established that at the same time there had been a significant increase in the subsidised imports relative to UK production and UK consumption.

Effect of subsidised imports on UK prices

801. The TRA determined that in the POI there had been significant price undercutting of 22.51% by the subsidised imports of the goods concerned when compared with the price of the like goods produced in the UK.

802. The TRA identified evidence of price depression in the POI as UK industry reduced its sales prices (per kg). However, given the level of the decrease, and the applicable changes in unit prices in the same period, the TRA did not conclude there had been significant price depression.

803. The TRA obtained evidence of price suppression and determined that this was caused by the considerably lower priced subsidised PRC imports. Throughout the injury period UK industry was selling its like goods at a loss while the average PRC import price continued to be significantly below that of the UK industry's domestic sales price

Impact on UK industry

804. The TRA assessed the trends of the economic factors throughout the injury period and determined that the following factors indicate that UK industry has suffered injury:

- **Profits:** UK industry reported negative profit margins and increased losses on sales of its domestically sold like goods over the injury period.
- **Market share:** UK industry's market share decreased by 11% over the injury period (based on the best available information covering the full injury period).
- **Growth:** UK industry did not grow its market share despite increased domestic sales, UK production and UK consumption.
- **Employment and productivity:** Both total employment and number of employees involved in the production of the domestically sold like goods



decreased during the injury period. Productivity increased over the entirety of the injury period. However, this is to be expected based on the increase in sales volumes.

- **Investments and cash flow:** The level of investments increased during the injury period. However, UK industry continued to experience a negative cash flow for the domestically sold like goods.

805. The following factors showed improving developments in absolute terms while in relative terms indicate that UK industry has suffered injury:

- **Sales:** Domestic and export sales increased in both volume and value during the injury period. However, UK industry still failed to gain market share in the period when both UK consumption and UK production was increasing.
- **Output and production capacity utilisation:** Output and production capacity utilisation increased over the injury period in line with increasing demand and sales. However, UK industry still failed to gain market share in the period when UK consumption was increasing and did not utilise its full production capacity.

806. The TRA assessed that the following factors did not suggest that UK industry has suffered injury:

- **Wages:** Wages increased over the injury period.
- **Stocks:** UK industry does not hold stocks of the like goods and the TRA are therefore unable to attain either a positive or a negative determination regarding whether the UK industry has suffered injury using this factor.

Subsidised goods causing injury to UK industry

529. The TRA is satisfied that the identified volume trends and the associated price effects of the imports of the relevant goods, show a timely coincidence with corresponding negative changes in economic factors to indicate causation.

807. The TRA has identified there was a significant increase in import volumes of the relevant goods from the PRC in absolute terms during the injury period. The available information would also suggest these goods were priced considerably lower than UK industry's domestic sales price throughout the injury period. The goods from the PRC were also generally priced lower than all other imports into the UK, including in the POI. The increase in these lower priced imports directly coincided with the negative developments in the economic factors that indicated UK industry has suffered injury.

808. Despite increased domestic sales, and with increased UK consumption, UK industry has still lost market share during the injury period. Imports of the relevant goods from the PRC have not only captured market share from UK



industry but during the injury period also increased its share of all imports into the UK. The TRA is satisfied this was as a direct result of the pricing levels of the subsidised goods.

809. It is accepted that certain economic factors, such as wages and productivity, have shown considerable improvement over the injury period. However, this is to be expected with the increased sales activity, which would always positively impact UK industry's output and production capacity utilisation (particularly with the reduction in employment). That said the further analysis of NOPAT, employment and net cash flows, based solely on domestic sales of the like goods, now emphasise the previously identified negative impact of the lower priced PRC imports. The operating profit on UK industry's domestic sales decreased over the injury period and net cash flow remained negative.
810. The TRA has concluded that UK industry has suffered injury based on the full consideration of import volumes, price effects and the economic factor analysis. The totality of the available information reasonably evidences injury across multiple economic factors despite increased UK consumption during the injury period. It remains that although UK industry experienced increased sales and production of the like goods, it continued to be loss making and did not experience growth (as measured by comparing trends in total UK consumption of excavators, UK industry's domestic sales volumes, UK industry's market share, production and total employment figures).
811. It has also been determined that subsidised PRC imports, which suppressed the domestic sales prices of like goods, were the main cause of injury to UK industry during the injury period. There were also no other known factors that broke that causal link.
812. The TRA has therefore concluded that it is the subsidised imports of the relevant goods, which suppressed the domestic sales prices of like goods, that have caused injury to UK industry during the injury period.

Other known factors and causation

813. As part of the causation assessment, the TRA considered whether there are any other known factors that may be impacting the economic indicators and thereby be the cause of the injury. The impact of the COVID-19 pandemic, demand reduction, inflation of raw material costs and third country imports and prices were considered.
814. The TRA determined that the COVID-19 pandemic would have disrupted imports of the relevant goods and domestic sales/production of the like goods. However, the COVID-19 pandemic would not account for the overall trends across the full injury period. This factor was of a temporary nature, which mainly affected business activity in 2020 and 2021. However, the negative



impacts of the relevant goods on the economic factors were still evident after the pandemic restrictions had been lifted.

815. The TRA considered the potential impact of a reduction in demand for certain excavators. However, the available evidence shows UK consumption, or demand, did increase during the injury period rather than reduce.
816. The inflation of raw material costs was primarily experienced during the middle part of the injury period (2020–2021). This is when the cost for steel, the main input material for excavator components, saw a steep rise. However, the TRA determined that the rising costs of raw materials did not have a significant impact on UK industry. It was established that the rising material costs are not the cause of injury, as the profit indicators of injury pre-date the steep increases.
817. With regards to third country imports and prices, it was identified that the volumes of imports did increase during the injury period. However, this was not at the same rate as PRC imports. Importantly, the market share of imports from all third countries decreased over the injury period, and this share was captured by imports from the PRC. In addition, PRC import prices were below that of imports from third countries throughout the injury period and in particular in the POI. The TRA therefore determined that the impact of third country imports was not sufficient to break the causal link between the relevant goods and the injury suffered by the UK industry.

G4. Injury margin

818. The TRA is required under regulation 36(2) of the Regulations to determine an injury margin. This is relevant amount which it is satisfied is necessary to prevent injury to UK industry. The default method is to base the injury margin for each exporter on its underselling margin. This is calculated by comparing a benchmark UK price (the target price) with the import price (the landed price) for each matching PCN.
819. As referenced in [Section D7](#), PCN-by-PCN calculations were possible for PCNs that were both sold in the UK as domestically produced like goods and exported from PRC to the UK as the relevant goods. This included sales across four PCNs (S, M, L and XL):



Table 30: Average unit values for injury margin calculations by PCN (£/unit)

Category	Average Landed price (£/unit)	Average Target price (£/unit)	Underselling per unit (£/unit)
S	£46,500 - £63,500	£83,500 - £113,500	£37,000 - £50,500
M	£50,500 - £69,000	£92,000 - £125,000	£41,500 - £56,500
L	£69,000 - £94,000	£115,000 - £155,500	£45,500 - £62,000
XL	£119,000 - £161,500	£134,500 - £182,500	£15,500 - £21,000

Source: Questionnaire responses

820. The total amount of underselling is then expressed as a percentage of the total CIF import value of the goods concerned. This method was used to calculate an injury margin for the Sany Group as a sampled cooperating exporter.
821. No injury margin has been calculated for the Liugong Group, following our determination that the amount of subsidy it received was minimal..
822. The TRA calculated the injury margin for non-sampled cooperating exporters; this was the weighted average of the injury margins calculated for the sampled, cooperating exporters.

G4.1. Target price

823. The target price is the price that a UK producer would expect to sell its like goods at if it were not being affected by the subsidised goods.
824. The target price was calculated by using the UK industry cost of production for the like goods, adding its AS&G costs, and applying a normal rate of profit. The normal rate of profit was set at 11% in this instance, which was based on UK industry's submissions for the rate of net profit it said it would reasonably achieve in the absence of injury from the relevant goods. The TRA noted that the 11% submitted by UK industry was in line with the identified profit margin for unrelated UK importers of the excavators and also supported when compared to the calculated profit margins for the Sany Group.

G4.2. Landed price

825. The landed price is the price of the relevant goods when they arrive at the UK port. It equates to the CIF import price plus any relevant import duties and other costs associated with import.



826. Further to [Section G1.2.1](#), given the full circumstances of this case the TRA constructed the landed price by recalculating the CIF import price with the relevant adjustments.

G4.3. Residual injury margin

827. The TRA determined a residual injury margin for overseas exporters where it has not determined an individual countervailing amount and the exporter is not a non-sampled overseas exporter within the meaning of regulation 37 of the Regulations.

828. Regulation 38(3) of the Regulations states that the TRA may determine the residual amount using any reasonable means. The TRA has based this amount on the underselling margin for the PCN with the highest sales volume when compared to the total import volume during the POI. When analysed, PCN S was the highest selling PCN of the overall import volume during the POI.

829. In line with regulation 38(4)(b) of the Regulations the TRA has determined the residual injury margin taking account of information received from other interested parties during the investigation.

G4.4. Injury margins

830. The injury margins are shown in the table below:

Table 31: Injury margins

	Injury margin (%)
Sampled exporter/producer	
Liugong Group	0.00%
Sany Group	66.08%
Non-sampled cooperating exporter/producer	
XCMG Group	66.08%
Sunward	66.08%
All other overseas exporters/producers	
Residual injury margin	79.07%



Section H: Lesser duty rule, alternative measures and forms of measures

831. In accordance with paragraph 11(2) of Schedule 4 to the Act, the TRA has determined that:
- the relevant goods that have been imported into the UK are subsidised; and
 - the importation of the subsidised goods has caused injury to a UK industry in those goods.
832. The TRA calculated countervailing amounts and injury margins for the Sany Group, for XCMG Group and Sunward as well as for all other PRC exporters. In accordance with paragraph 18(7) of Schedule 4 to the Act, and regulation 36 of the Regulations, the recommended import duty should be set at a level that does not exceed the countervailing amount, in relation to the goods as determined by the TRA as part of its final affirmative determination, or the amount which the TRA is satisfied would be adequate to remove the injury to the UK industry in the goods if that amount is less than the countervailing amount.
833. Given the circumstances of this case the recommended import duty would therefore equate to an ad valorem duty based the lower of the countervailing amounts and the injury margins as shown in Table 32 below:

Table 32: Countervailing amount and injury margins by group

	Countervailing amount (%)	Injury Margin (%)	Duty Amount (%)
Sampled exporter/producer			
Liugong Group	0.00%	N/A	0.00%
Sany Group	2.40%	66.08%	2.40%
Non-sampled cooperating exporter/producer			
XCMG Group	2.40%	66.08%	2.40%
Sunward	2.40%	66.08%	2.40%
All other overseas exporters	2.93%	79.07%	2.93%



Section I: Economic Interest Test

I1. Introduction

834. The TRA must be satisfied, in accordance with paragraph 17(8E) of Schedule 4 to the Act, that any recommendation made to the Secretary of State requiring a countervailing duty from importers meets the Economic Interest Test (EIT). This relates to any applicable, or potentially applicable countervailing duty to the Goods Concerned.
835. The test is set out in paragraph 25 of schedule 4 to the Act and is, in accordance with paragraph 25(3) of schedule 4 to the Act, presumed to be met unless the TRA is satisfied that the requirement of a countervailing duty is not in the economic interest of the UK.
836. In line with paragraph 25(4) of schedule 4 to the Act, we took account of the following in conducting the EIT:
- the injury caused by the importation of the subsidised goods to a UK industry in the Like Goods and the benefits to that UK industry in removing that injury;
 - the economic significance of affected industries and consumers in the UK;
 - the likely impact on affected industries and consumers in the UK;
 - the likely impact on particular geographic areas, or particular groups, in the UK;
 - the likely consequences for the competitive environment, and for the structure of markets for Like Goods, in the UK; and
 - such other matters as we considered relevant.

I2. Evidence base

837. The TRA received the following questionnaire responses which contained information relevant to the EIT:
- one producer of excavators in the UK, JCB Heavy Products Limited (JCB);
 - three importers of excavators, Sany Heavy Machinery (UK) Limited, XCMG UK Sales and Services Limited, Liugong Machinery (UK) Limited; and
 - one downstream retailer of excavators, Fox Group Equipment Sales Limited.



838. The TRA has supplemented these submissions with background research and collated additional data and information from sources such as Companies House, Dun & Bradstreet, ONS (Nomis) and HMRC (Overseas Trade in Goods Statistics and Find UK Traders tool).

13. Injury caused by subsidised imports and benefits to UK industry in removing injury

839. In the injury section, the TRA found that the UK industry has been suffering injury as a result of subsidised imports from the PRC.
840. The injury assessment concluded that there would be further injury to UK industry were a measure not imposed. It is expected that the proposed measure will remove the material injury to UK industry.

14. Economic significance of affected industries and consumers in the UK

841. The TRA has identified the following groups as potentially being affected by the proposed measure:
- Upstream industries: this group includes suppliers of engines, hydraulics, cabs, tracks and computer systems. It also includes businesses involved in large and small metal fabrication.
 - UK producers of excavators.
 - Retailers and importers of excavators: the TRA has chosen to group these together due to the significant overlaps between them.
 - End users: this group includes businesses in civil engineering, construction, demolition, quarrying, agriculture and forestry.
842. As certain excavators are typically bought by end user companies rather than private individuals, final consumers have not been factored into the TRA's analysis. The term 'consumer' for the purposes of the EIT analysis refers to end user companies rather than final consumers.
843. For each affected group the TRA selected businesses and analysed data from Companies House and Dun & Bradstreet to calculate employment, Gross Value Added (GVA), Turnover, Earnings Before Interest, Taxes, Depreciation and Amortisation (EBITDA), and the EBITDA margin.



844. Using available evidence, the TRA assessed the financial vulnerability of each industry group, as well as the importance of excavators to them.

14.1 Upstream industries

845. The TRA identified 16 upstream businesses that supply raw materials and inputs to UK producers of excavators. Of these, the TRA selected seven upstream businesses. The businesses were proportionally selected to cover a range of purchased component costs based on cost to the producer.
846. On average, over the five most recent years for which financial accounts have been published, the selected businesses employed approximately 2,000 workers, had a total GVA of around £100m, turnover of £588m and an average EBITDA of £6.5m.
847. On average around 5% of the selected upstream businesses' turnover was linked to their sales to UK producers of excavators. Therefore, the TRA concluded that excavators are somewhat important for upstream businesses.

14.2 UK producers of excavators

848. Excavators produced in the UK are manufactured by two businesses: JCB Heavy Products Limited (JCB) and Komatsu UK Limited (Komatsu).
849. The TRA estimated that during the POI UK producers of excavators employed around 900 workers, had a GVA of around £51m, turnover of just under £500m and an average EBITDA of £0.5m.
850. The data in JCB's questionnaire response indicated that excavators are a very important product to them and the TRA consider the same is likely to be true for Komatsu.

14.3 Retailers and importers

851. The TRA identified a total of 136 retailers and importers of excavators that source excavators from UK and non-UK producers.
852. The TRA selected nine businesses to analyse the economic significance of this group. Many retailers are small businesses and so they only publish abbreviated accounts. The businesses were selected to represent sales of excavators from all major excavator producers.



853. During the POI these selected retailers employed around 3,000 workers, had a total GVA of around £239m, turnover of £1,452m and an average EBITDA of £87.1m.
854. Although less than 10% of turnover of selected retailers was related to purchases of excavators, the TRA considers excavators to be important to them. In the TRA's quantitative analysis it could not fully assess the importance of excavators to the overall business model of downstream retailers, which is likely to involve other excavator related activities, including sale and hire of excavators, and services, for which the TRA does not have accurate data and information.

14.4 End users

855. The selected end users of excavators cover a range of principal business activities, including waste management, house building, quarrying, civil engineering, demolition and earthmoving, identified from market data.
856. During the POI these selected end users employed around 30,500 workers, had a total GVA of around £3,559m, turnover of £12,460m and an average EBITDA of £1,996m.
857. The TRA assessed that excavators are a somewhat important product to downstream end users.
858. It is important to note that end users are a diverse group, where businesses are likely to be varied in the nature and the size range from small and medium-sized contracting businesses to large businesses in construction industries.

14.5 Summary table

859. Table 33 presents data on the economic significance of different industries, which could be impacted by the measure on excavators.
860. Based on data, as discussed and as set out in the table, the TRA find that excavators are a very important product for the UK producers and an important product for retailers and importers. The TRA assess that for upstream businesses and end users excavators are a somewhat important product, although there is likely to be variation between different businesses.



Table 33: Significance metrics for the UK stakeholders potentially affected by the proposed measure

	Upstream industries	UK producers of excavators	Downstream industries: retailers	Downstream industries: end users
Sample details				
Number of known UK businesses	16	2	136	8
Number of selected UK businesses	7	2	9	8
Sample statistics ^{a)}				
Total employment	2,050	880	3,020	30,480
Total GVA (£m) ^{b)}	100	51	239	3,559
Total turnover (£m)	588	499	1,452	12,460
Total EBITDA (£m) ^{c)}	7	1	87	1,996
Average EBITDA margin (%) ^{d)}	1.1%	0.1%	6.0%	16.0%
Conclusions				
Economic vulnerability (financial data) ^{e)}	Low level of vulnerability to negative economic shocks*	Medium level of vulnerability	Overall low level of vulnerability	Overall low level of vulnerability
Estimated importance of excavators to this group ^{f)}	Somewhat important (5%)	Very important (55%)	Important (8%)*	Somewhat important (8%)

Source: Questionnaire responses submitted by interested parties to TRA; *Companies House, 2023*; *Dun and Bradstreet, 2023*; *HMRC, trader data, 2023*.

Notes:

^{a)} The significance metrics are derived by taking an average or weighted average of financial data for selected businesses over the most recent five years of published financial accounts.



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- b) GVA (Gross Value Added) was calculated as follows: $GVA = \text{operating profits} + \text{employment costs (total employees remuneration and total directors' remuneration)} + \text{depreciation} + \text{amortisation}$.
- c) EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortisation) was calculated as follows: $EBITDA = \text{operating profit} + \text{depreciation} + \text{amortisation}$.
- d) EBITDA margin was calculated as follows: $EBITDA \text{ margin} = EBITDA / \text{turnover}$.
- e) Economic vulnerability is assessed using financial data of the sampled businesses, including profitability (EBITDA and EBITDA margin), turnover and employment, and relevant trends over the injury period (from 1 July 2018 to 30 June 2022) and in more recent period (using most recent financial data available).
- f) The estimated importance metrics are derived by taking a weighted average of sales and financial data from participating and selected businesses during an accounting period that covers the POI. Where financial data is not reported between POI dates, the closest accounting period reported is selected. This is true for importance analysis of all sectors excepting the end user sector, in which, financial data from the five most recent published financial accounts is used.



15. Likely impact on affected industries and consumers

861. In this section the TRA assess the overall impact that the imposition of the countervailing measure might have on the affected groups identified. The TRA do this by looking at how prices and quantities of goods in the excavators supply chain might change under two scenarios: (i) if the countervailing measure was to be imposed, and (ii) if the countervailing measure was not to be imposed. The possible impacts for affected industries and end users (i.e. consumers) are then considered and compared across the two scenarios.

15.1 Inputs and assumptions in quantification of economic impacts

862. There are two UK producers that sell in the UK market: JCB and Komatsu. Only JCB participated in this investigation, and supplied data and evidence to the TRA. The assessment of the quantity, the value and the unit price of excavators supplied to the UK market by Komatsu was informed by data from Systematics that JCB shared.

863. JCB Brasil was the sole third country producer that participated in this investigation, and supplied data and evidence to the TRA. With limited data and evidence from third country producers, the assessment of the quantity, the value and the unit price of excavators supplied to the UK market by third country producers was also informed by data from Systematics that JCB shared.

864. In the quantification of economic impacts, the TRA considered two scenarios with the countervailing measure and two counterfactuals without the countervailing measure, as detailed in Table 35. The TRA also considered the effects of different assumptions of tariff to price pass through (PT) and different assumptions of price elasticity of demand (PED).



Table 34: Scenarios and counterfactuals used in quantification of economic impact

Scenario	Description
Scenarios with the countervailing measure	Scenario 1: All producers increase prices of excavators by between 0.76% (low PT of 75%) and 1.01% (high PT of 100%).
	Scenario 2: PRC producers increase prices of excavators by between 0.76% (low PT of 75%) and 1.01% (high PT of 100%). UK producers and third country producers do not increase their prices because they want to be more price competitive.
Counterfactuals without the countervailing measure	Counterfactual 1: There are no changes to prices of excavators and quantities of excavators sold in the UK.
	Counterfactual 2: UK producers exit the UK market as a result of competition from PRC producers.

Notes: PT stands for tariff to price pass through. PT of 75% indicates that where an import tariff increases by 1%, prices increase by 0.75% as a result. PT of 100% indicates that where an import tariff increases by 1%, prices increase by 1% as a result.

865. In the TRA's analysis for the level of the measure it used a weighted average of the individual and residual duties set out in Section G using current import values. This equates to an average duty of 1.01%.
866. The TRA's assumption of PED for excavators was based on the PED estimates from the work of Ghodsi et al. (2016).¹ In the different quantification scenarios the TRA used PED for Excavators ranging from -0.6 (low PED) to -1.0 (high PED).
867. The TRA's assumption of PT for excavators was based on internal research by the Department for Business and Trade (DBT) which found that the proportion of tariff costs passed on to downstream businesses typically range between 75% and 100%.
868. For UK producers, the TRA assumed that their marginal cost was equal to the sum of variable costs that are involved in production and sale of excavators.

¹ Ghodsi, M., Grübler, J. and Stehrer, R. (2016) Import Demand Elasticities Revisited, The Vienna Institute for International Economic Studies, Wiener Institut für Internationale Wirtschaftsvergleiche, available at: <https://wiiw.ac.at/import-demand-elasticities-revisited-p-4075.html>.



For UK downstream retailers, it was assumed that their marginal cost was equal to the price of the excavators that they purchased.

869. To quantify the likely impact on affected industries and consumers, the TRA modelled two different scenarios with the countervailing measure. Both scenarios assumed that prices of PRC excavators sold in the UK would increase if the countervailing measure was imposed.
870. In terms of price response of UK producers and third country producers the TRA modelled two scenarios.
871. The first scenario with the countervailing measure assumes that UK and third country producers match PRC producers in terms of price rises. As the subsidy margin is less than both the undercutting margin and the injury margin, this demonstrates that UK producers will want to increase prices of excavators that they sell in the UK by the amount of the countervailing measure. The TRA considered that it was reasonable to assume that prices of third country excavators would also increase. This is because the average price of third country excavators is similar to the average price of UK excavators. This suggests that third country excavators are also competing with PRC excavators on price when sold in the UK market.
872. The second scenario with the countervailing measure assumes that UK and third country producers will not raise their prices in an attempt to become more price competitive vis-à-vis PRC producers. This could also be a result of UK and third country producers competing with each other and not wanting to be the first mover to raise the prices.
873. In the TRA's analysis it has two counterfactuals, which covered two extremes, where the countervailing measure is not imposed as recommended.
874. The first counterfactual assumes that there is no change in the UK market for excavators: prices, quantities and market shares remain as they are.
875. The second counterfactual assumes that as a result of price competition and injury to UK industry, UK producers exit the UK market in the event where the countervailing measure is not imposed as recommended. Under this counterfactual, the UK market for excavators is only served by PRC and third country producers. Market shares previously held by UK producers are redistributed proportionally between PRC and third country producers. PRC and third country producers do not increase their prices because they compete with each other.



876. JCB has previously stated that they are making losses on their business activities related to production and sales of certain excavators, as they compete on prices with PRC producers to avoid losing more sales. JCB has also stated that if no trade remedy measure was imposed, it could be forced to reevaluate its decision to produce excavators in the UK, where 'UK production may disappear and exports thus collapse' as a result.²
877. An average countervailing measure of around 1% will impose costs on downstream industries and end users but it may not be sufficient to considerably reduce any probability of UK market exit of UK producers, especially in light of much higher undercutting margin and injury margin.
878. At the time of publishing this SEF, there is an ongoing anti-dumping investigation concerning imports of certain excavators from the PRC. While the TRA has recently recommended anti-dumping measures are put in place, these have not been formally accepted. If both the anti-dumping investigation and subsidy investigation were to result in the imposition of trade remedy measures, any probability of UK market exit of UK producers would be reduced further.

15.2 Impact on prices and quantities if the countervailing measure was imposed

879. For the scenarios with the measure, the TRA has assumed that either all producers or only PRC producers will raise their prices by the level of the measure – by between 0.76% (low PT of 75%) and 1.01% (high PT of 100%). The TRA expects retailers to pass on these prices to their customers in order to maintain their profit margins.
880. These price increases are likely to lead to a reduction in quantities of excavators sold to end users. If all producers increased their prices, the TRA estimates that quantities could reduce by between 0.4% and 1.0% depending on the degree to which the costs of the tariff are passed on to end users and their sensitivity to changes in prices. If only PRC producers increased their prices, but UK and third country producers held them constant, any reduction in quantities of excavators sold in the UK is likely to be marginal.
881. The TRA has not assumed that these increases in prices are likely to lead to any excavator producers entering or exiting the UK market. In particular, UK

² UK Producer Questionnaire of JCB: 20240301_AS0046 - OPEN - JCB - Producer Questionnaire.pdf, available at: <https://www.trade-remedies.service.gov.uk/public/case/AS0046/submission/e1e92cb0-3e32-4886-99e3-b76ca9a3d103/>.



producers would have the option of raising their prices, bringing them more in line with their target prices. UK producers could also hold their prices constant but become more price competitive where the measure brings prices of PRC excavators more in line with prices of UK excavators.

15.3 Impact on prices and quantities if the countervailing measure was not imposed

882. For the counterfactuals without the measure, the TRA has assumed that either there are no changes to the existing UK market structure or UK producers exit the UK market as a result of competition from PRC producers (which may not be sustainable for UK producers in the medium- to long-term).
883. Under the first counterfactual, the prices and the quantities of excavators supplied to the UK market by UK producers, PRC producers and third country producers will remain unchanged.
884. Under the second counterfactual, there could be a small reduction in average prices of excavators and a small increase in quantity of excavators sold in the UK market. This however is on the assumption that competition between PRC and third country producers prevents any considerable price rises. The TRA would nonetheless expect some future price rises in the medium- to long-term in line with inflation.

15.4 Likely impacts on affected industries and consumers

885. The TRA estimated welfare impacts for each scenario by looking at the change in producer and consumer surplus. Consumer surplus is the welfare a consumer gets from buying a product. Producer surplus is the welfare a producer gets from selling a product. The surplus was estimated using the following formulas:

$$PRODUCER SURPLUS = (Price per unit - Marginal cost) \times Quantity sold$$

$$\Delta CONSUMER SURPLUS = -\frac{1}{2} \times (Q_{TARIFF} + Q_{NO TARIFF}) \times (P_{TARIFF} - P_{NO TARIFF})$$

where:

Q_{TARIFF} is the quantity of excavators consumed with a proposed measure
 $Q_{NO TARIFF}$ is the quantity of excavators consumed without a proposed measure



P_{TARIFF} is the average price of excavators with a proposed measure

$P_{NO TARIFF}$ is the average price of excavators without a proposed measure

886. Table 35 shows the welfare impacts for different affected industries and consumers for each of the modelled scenarios and counterfactuals.³ The impacts on different groups are explained in the following sections.
887. The quantification suggests that the net impact on welfare could be a reduction of up to £5.5m per annum if the countervailing measure is imposed, with welfare gains for UK producers but welfare losses for UK retailers and importers, and UK end users. Over a five-year period of the countervailing measure being in force, this equates to a welfare loss of up to £27.5m. This, however, is highly uncertain because it does not consider the effect of other economic events that could impact the UK industry and the wider UK economy within the next five years.
888. Arguably, the proposed countervailing measure of around 1% could have a positive net impact on welfare of up to £2.8m per annum. This is under the assumption that the proposed measure removes the probability of UK market exit of UK producers and helps UK producers and their retailers to remain in business, while at the same time it only leads to a small increase in PRC excavator prices but it does not lead to an increase in prices of other excavators, keeping the additional costs for end users low.
889. As stated earlier, at the time of publishing this SEF, there is an ongoing anti-dumping investigation concerning imports of certain excavators from the PRC. This investigation may or may not result in an anti-dumping measure being imposed. The combined impact of an anti-dumping measure and a countervailing measure would increase the magnitude of the likely welfare changes for different groups of stakeholders: increase welfare gains of UK producers, but also increase welfare losses of retailers and importers, and end users, resulting in a greater overall welfare loss.

³ In the TRA's quantification of the likely impact it reports the likely welfare changes per annum. If the countervailing measure is imposed for a period of five years, the TRA need to multiply the likely welfare changes by five.



Table 35: Estimated welfare impact of imposing the proposed countervailing measure (as compared to not imposing it) on affected UK industries and consumers

Stakeholder group	Expected annual impact from the measure (£m)	
	Scenario 1 (counterfactual 1)	Scenario 2 (counterfactual 1)
UK producers (£m)	£0.9 to £1.2	£0.0
UK retailers and UK importers (£m)	£-0.4 to £-0.2	£-0.0 to £-0.0
UK end users (£m)	£-6.3 to £-4.7	£-0.4 to £-0.3
Total change in welfare (£m)	£-5.5 to £-4.0	£-0.4 to £-0.3
Impact per excavator purchased (£/unit)	£-929 to £-695	£-52 to £-39
	Scenario 1 (counterfactual 2)	Scenario 2 (counterfactual 2)
UK producers (£m)	£4.1 to £4.4	£3.2
UK retailers and UK importers (£m)	£2.1 to £2.3	£2.4 to £2.5
UK end users (£m)	£-8.9 to £-7.3	£-3.0 to £-2.9
Total change in welfare (£m)	£-2.5 to £-0.9	£2.6 to £2.8
Impact per excavator purchased (£/unit)	£-1,312 to £-1,076	£-432 to £-418

Notes: Total change in welfare is the sum of the change in producer surplus for UK producers, UK retailers and UK importers, and the change in consumer surplus for UK end users (where end users are defined as downstream end user businesses and not as consumers that are private individuals). We could not quantify change in welfare for UK upstream businesses. Total change in welfare does not account for change in tariff revenue because we cannot directly attribute as a benefit or a cost to any affected industries and consumers.



15.4.1 Upstream industries

890. In this assessment the TRA could not quantify change in welfare for upstream industries due to a lack of participation from upstream businesses.
891. JCB said that the measure could lead to increased production of excavators in the UK, which could increase the need for inputs benefitting upstream industries. The TRA acknowledges that while any increased production of excavators in the UK will benefit upstream industries in the UK that supply UK producers, any increase in average prices of excavators will have the effect of reducing demand for excavators from end users of excavators. This will potentially reduce the benefit of the measure for upstream industries.

15.4.2 UK producers of excavators

892. The TRA estimates that compared to the current state of play in the UK market, UK producers may benefit from the countervailing measure by up to £1.2m per annum. This increase in producer surplus is due to an increase in average prices of excavators sold in the UK.
893. In the event that not imposing the countervailing measure could lead to the exit of UK producers from the UK market, this potential benefit from the countervailing measure rises up to £4.4m per annum.

15.4.3 UK retailers and importers

894. The measure is likely to have a negative effect on UK retailers, whose producer surplus could decrease by up to £0.4m per annum compared to the current state of play in the UK market. Although UK downstream retailers will benefit from their ability to sell excavators to end users at higher prices, they will see a reduction in sales volume and value leading to an overall reduction in welfare.
895. In the event that not imposing the countervailing measure could lead to the exit of UK producers from the UK market, the countervailing measure could arguably lead to an increase of £2.5m per annum in producer surplus for UK retailers and importers. This however is driven by the benefit derived by UK retailers that sell UK-produced excavators.

15.4.4 End users

896. In this assessment the TRA quantified change in welfare for end users, which it considers to be downstream end user businesses.



897. The TRA's analysis suggests that the countervailing measure is likely to be welfare reducing for end users and could decrease consumer surplus of end users by between £0.3m to £6.3m per annum when compared to unchanged UK market conditions and by between £2.9m and £8.9m per annum when compared to counterfactual with exit of UK producers from the UK market.⁴ This negative impact of the proposed countervailing measure on end users outweighs the positive impact of the measure on UK producers. This is because end users are a more economically significant group in terms of economic size (employment, GVA, turnover) than other affected groups in the supply chain for excavators taken together.

16. Likely impact on particular geographic areas or particular groups in the UK

898. This section explores how impacts of the proposed measure are likely to be geographically distributed and whether any particular groups might be disproportionately impacted. The spatial units of analysis are Travel to Work Areas (TTWAs).

16.1 Likely impact on particular areas

899. This section considers those companies for which the evidence suggests that certain excavators are a significant product: the UK producers, the upstream sector, the downstream (retailer) sector and the downstream (end user) sector.

900. The TRA used three sources of evidence for its employment analysis:

- Questionnaire responses: these provided employment by site and employment relating to the production of certain excavators for the participating UK producer, JCB;
- Dun and Bradstreet business directory: this provides the location of known sites and estimates of employment by site; and
- ONS estimates of working age population across the indicators: median earnings, job density, economic inactivity, and level of education by Travel To Work Areas (TTWAs).

901. To estimate employment by site, the TRA identified all known immediate subsidiaries of the companies selected in its analysis alongside their registered office address

⁴ This wide range of possible reduction in consumer surplus of end users is because of uncertainty about the possible reaction of UK producers and third country producers in response to the measure. In the event where UK producers and third country producers do not increase their prices, any reduction in consumer surplus would be less than it would be in the event where all producers raise their prices in response to the measure.

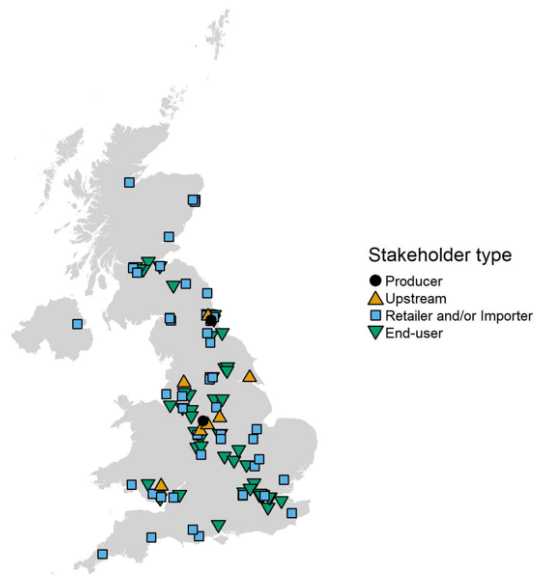


and known employment. Where there is no employment information for sites, the known remaining employment of the parent company is split evenly across sites.

902. Figure 7 shows the geographic distribution of businesses locations that are part of excavators supply chain in the UK. The TRA identified two concentrated areas of businesses around the main production sites of the two UK producers. However, estimated employment in these areas does not indicate a significant proportion of the working age population would be impacted by a measure.

Figure 7: Locations of UK businesses that are part of UK supply chain for excavators

Locations of UK businesses that are part of UK Excavators supply chain.



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Notes: This map shows location of all known UK producers of excavators, sampled upstream businesses, sampled downstream retailers and importers, and sampled downstream end users.

UK producers, upstream, retailers and importers

903. The TRA did not find any areas where the estimated employment from UK producers, upstream industries, and retailers and importers constituted a significant proportion of the working age population of any TTWA.

End users

904. The TRA found the selected end user businesses employed a large portion of the working age population in the York and Leicester TTWAs so these areas could potentially be significantly affected by the proposed measure.



905. Neither area is very deprived with York being above average for all measures of deprivation considered and Leicester being above or close to the average for all.
906. The estimated employment in these areas comes from construction companies. Given the site-based nature of construction, and the relatively small impact that the TRA expect the measure to have on individual end user businesses, it is not considered there are likely to be significant economic impacts on either area as a result of the proposed measure.

16.2 Likely impact on particular groups

907. The TRA considered the likely impact on particular groups including those with protected characteristics as defined by the Equality Act 2010.
908. No party provided any evidence with respect to potential impacts on any particular groups, either as workers or consumers. There is no evidence to suggest that there will be disproportionate impacts on particular groups.

17. Likely consequences for the competitive environment, and for the structure of the market, in the UK

909. The assessment of the likely consequences for the competitive environment and structure of the UK market considers four factors:
- the impact on the number or range of suppliers;
 - the impact on the ability of suppliers to compete;
 - the impact on the incentives to compete vigorously; and
 - the impact on the choices and information available to consumers.

17.1. Background

910. There are two UK producers and over 10 known manufactures importing excavators. The Herfindahl-Hirschman Index (HHI) calculated for the UK excavator market implies the UK market is concentrated.

17.2. The impact on the number or range of suppliers

911. There are high barriers to entry into the UK excavator market such as high capital investment and technological expertise. The TRA believes there is unlikely to be an increase in the number of UK producers with the imposition or non-imposition of a measure.



912. The TRA does not anticipate that the imposition of the measure will impact the range or number of excavator manufacturers in the UK market, however the TRA acknowledges that a measure would make the UK market less attractive for new PRC producer entrants.
913. Based on HHI analysis for the UK excavator market the TRA anticipates the UK market will maintain its level of concentration due to the presence of suppliers from other countries exporting competitively priced excavators to the UK.

17.3. The impact on the ability of suppliers to compete

914. Imposing the measure would increase the prices of PRC excavators, which could bring these prices in line with UK and third country prices. The TRA does not expect the measure will significantly reduce PRC producers' ability to compete.
915. The TRA expects the measure to have a positive effect on UK and third country producers' ability to compete.

17.4. The impact on the incentives to compete vigorously

916. There is no evidence to suggest that suppliers would face reduced incentives to compete vigorously with the imposition or non-imposition of a measure.

17.5. Impact on the choices and information available to consumers

917. The TRA does not anticipate any impact on the choices or information available to customers. More than 50% of the UK excavator market is supplied by third country producers, as such, consumer choice across all PCNs will remain high.

18. Such other matters as the TRA considers relevant

918. As part of the EIT, the TRA considers any other factors additional to those set out in the legislation, which could have implications in concluding whether the proposed trade remedy measure is in the economic interest of the UK.
919. The TRA has found no evidence of any other relevant factors for this subsidy investigation and no evidence was submitted to it by interested parties.

19. Forms of measure

920. In the EIT, the TRA also considers the most appropriate form of measure to recommend, in particular whether any changes to the length, scope or type of measure would minimise the negative impacts of the measure on some parties while retaining the overall benefits.



921. The TRA has found no evidence suggesting that a form of measure, other than the type which the TRA recommends imposing, would be more appropriate.

I10. Conclusion on Economic Interest Test

922. In accordance with paragraph 25 of Schedule 4 to the Act, the EIT is met in relation to the proposed measure if the application of the proposed measure is in the economic interest of the UK. This test is presumed to be met unless the TRA is satisfied that the application of the proposed measure is not in the economic interest of the UK.

923. As described in previous sections, the TRA determined that the UK industry has suffered injury due to the subsidised goods from the PRC. The [injury assessment](#) concluded that there would be further injury were the proposed countervailing measure not imposed.

924. The [economic significance section](#) assessed the financial metrics of the different groups that make up the supply chain for certain excavators in the UK. The TRA found that certain excavators were very important to UK producers, important to retailers and importers, and somewhat important to upstream businesses and end users.

925. In the TRA's assessment of the [likely economic impact](#) it was concluded that the imposition of the proposed countervailing measure would have an overall welfare reducing effect on the UK economy. The TRA's quantification of the likely impact confirmed that the proposed measure would have a welfare reducing effect on UK end users, and for the most part also a welfare reducing effect on retailers and importers, which will be greater than the welfare enhancing effect on UK producers. The welfare reduction would come from an increase in the price of excavators imported from the PRC up to the level of the measure, which could lead to an increase in the price of domestically produced excavators and the price of excavators imported from third countries. This increase in prices of different excavators would benefit UK producers but would impose a cost on retailers and importers, as well as end users. In the TRA's assessment it was unable to quantify change in welfare for upstream industries due to a lack of participation from upstream businesses.

926. The TRA concluded that the imposition or non-imposition of the countervailing duty is not expected to have any [geographical impacts](#) due to sites being distributed across the UK and employment for each site being a small proportion of total employment in each area. There was no evidence of impacts on [particular groups](#).



927. In the [competition section](#), the TRA determined that the countervailing duty would not alter the current competitive environment or change the structure of the certain excavator market.
928. There were [no other matters](#) that the TRA identified as relevant for this subsidy investigation.
929. The TRA has identified the following positive impacts of the proposed countervailing duty:
- UK producers could benefit from an increase in producer surplus of up to £4.4m per annum.
 - The probability of UK market exit of UK producers is slightly reduced.
930. The contrasting negative impacts are:
- Prices of excavators from the PRC will increase as a result of the proposed measure, which will have a negative impact on retailers and importers, and on end users.
 - The proposed measure is likely to have a net welfare reducing impact on the UK economy because welfare loss for retailers and importers, and users will be greater than welfare gain for UK producers.
 - Total welfare in the UK economy could decrease by up to £5.5m per annum.
931. Having considered the evidence submitted by interested parties and all of the factors listed in the legislation, the TRA does not consider that the negative impacts are disproportionate to the need to remove injury, and therefore conclude that the EIT is met for the proposed countervailing measure.



Section J: Intended final determination and recommendations

932. The TRA's intended final determination is set out below.
933. The TRA intends to make a final affirmative determination on imports of the relevant goods originating from the PRC that fall under the commodity code 8429 5210 00.
934. As set out in [Section D2](#), the relevant goods are:

Self-propelled track-laying (i.e. tracked) excavators with a 360° revolving superstructure and with an operating weight of 11,000 kg (i.e., 11 tonnes) or more but less than 80,000 kg (80 tonnes).
935. The TRA has determined that the relevant goods that are the subject of the intended final affirmative determination have been or are being subsidised and the subsidised goods have caused or are causing injury to a UK industry in those goods. The TRA therefore intends to recommend to the Secretary of State that a countervailing measure is imposed.
936. The TRA intends to make a final negative determination in respect of the goods concerned originating from the PRC that fall under commodity codes 8429 5210 00 with an operating weight of 80 tonnes and above.
937. The goods concerned subject to the final negative determination are not manufactured by the UK industry and the TRA has determined that these goods have not or are not causing injury to the UK industry.
938. The TRA intends to recommend that the Secretary of State impose an ad-valorem duty for a period of five years on the relevant goods subject to the final affirmative determination.
939. The TRA has determined that it is not appropriate to recommend alternative forms of measures to the Secretary of State. The decision has taken into consideration, the EIT being met, market conditions of excavators, and no alternative forms of measures being proposed by interested parties.
940. In accordance with paragraph 18(6) of Schedule 4 to the Act, the TRA intends to recommend that the Secretary of State impose the lower of the two margins (the subsidy amount as the countervailing amount duty). Individual margins as well as the residual amount are shown below.



Table 36: Recommended ad-valorem duty rates

	Injury Margin	Countervailing Amount	Duty amount
Sampled exporter/producer			
Liugong Group	N/A	0.00%	0.00%
Sany Group	66.08%	2.40%	2.40%
Non-sampled cooperating exporter/producer			
XCMG Group	66.08%	2.40%	2.40%
Sunward	66.08%	2.40%	2.40%
All other overseas exporters/producers			
Residual margin	79.07%	2.93%	2.93%



Annex A: Interested parties and contributors

The table below lists the information submitted to the TRA by interested parties and contributors to date that form part of its consideration to reach its decisions.

Table 37: List of interested parties and submissions

Interested party	Category	Submissions
China Chamber of Commerce for Import and Export of Machinery and Electronic Products	Trade Body	Pre-sampling questionnaire Contributor questionnaire Comments from CCCME CCCME reply to JCB comments
Fox Group Equipment Sales Limited	Contributor	Downstream questionnaire
Guangxi Liugong Machinery Co., Ltd.	Exporter	Exporter questionnaire
JCB Heavy Products Limited	Applicant	Application Pre-sampling questionnaire Producer questionnaire Comments on submissions and questionnaires Comments on sampling approach Comments on PCNs Response to comments on PCN changes Additional evidence of injury Response to CCCME's submissions
Liugong Changzhou Machinery Co., Limited	Exporter	Pre-sampling questionnaire Exporter questionnaire
Liugong Machinery (UK) Limited	Importer	Pre-sampling questionnaire Importer questionnaire
Liugong Machinery Hong Kong Co Limited	Exporter	Associated company questionnaire
Liuzhou Liugong Excavator Co., Limited	Exporter	Pre-sampling questionnaire Exporter questionnaire



Ministry of Commerce, P.R.C.	Foreign Government	Pre-sampling questionnaire Foreign government questionnaire
Sany Heavy Machinery (UK) Limited	Importer	Pre-sampling questionnaire Importer questionnaire
Sany Heavy Machinery Limited	Exporter	Pre-sampling questionnaire Exporter questionnaire
Scot JCB Limited	Contributor	Pre-sampling questionnaire
Sany Heavy Machinery Co., Limited	Exporter	Pre-sampling questionnaire Exporter questionnaire Comments on change to PCN structure
Sunward Intelligent Equipment Co., Limited	Exporter	Pre-sampling questionnaire
XCMG European Sales and Services GmbH	Exporter	Exporter questionnaire
XCMG Excavator Machinery Co., Limited	Exporter	Pre-sampling questionnaire Exporter questionnaire
XCMG UK Sales and Services Limited	Importer	Pre-sampling questionnaire Importer questionnaire
Xu Zhou Construction Machinery Group Import & Export CO., Limited	Exporter	Pre-sampling questionnaire Exporter questionnaire

Source: [Trade Remedies Service \(TRS\)](#)