

**F. No. 6/4/2022-DGTR
Government of India
Department of Commerce
Ministry of Commerce & Industry (Directorate General of Trade Remedies)
4th Floor, Jeevan Tara Building,
5, Parliament Street, New Delhi-110001**

Dated: 30th September 2022

**INITIATION NOTIFICATION
Case No. AD (OI) - 04/2022**

Subject: Initiation of Anti-dumping investigation concerning imports of “Wheel Loaders” originating in or exported from China PR.

M/s **JCB India Limited** (hereinafter referred to as the 'applicant') has filed an application before the Designated Authority (hereinafter referred to as the Authority), on behalf of the domestic industry, in accordance with the Customs Tariff Act, 1975 as amended in 1995 and thereafter (hereinafter referred as the Act) and the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, as amended from time to time (hereinafter referred as the "Rules"), for initiation of anti-dumping investigation concerning imports of "Wheeled Loaders" (hereinafter referred to as 'subject goods' or 'product under consideration' or 'WL') originating in or exported from **China PR** (hereinafter referred to as 'subject country').

The applicant has alleged that material injury is being caused to the domestic industry due to the dumped imports, originating or exported from the subject country and has requested the imposition of anti-dumping duties on the imports of subject goods from the subject country.

A. PRODUCT UNDER CONSIDERATION (PUC)

1. The PUC in the present investigation is “Wheel Loaders” which is self-propelled wheel-mounted equipment with an articulation joint, having front end loading mechanism.
2. The following specifications of the Wheel Loaders are to be excluded from the scope of the investigation:
 - a) Rated payload capacity of more than 7,000 Kg;
 - b) Gross engine power above 180 kW.
 - c) Measured distance at the center between right and left wheel (wheel tread/ track) above 2280 mm;
and
 - d) Measured distance between the front and back wheel axles (wheelbase) above 3350 mm.
3. All the above parameters mentioned above are ‘and’ conditions. In other words, a product is

excluded from the scope of the PUC only if it satisfies all of the above conditions concurrently.

4. The PUC is commonly known as "Wheel Loading Shovel/Wheel Loader/Front-end Loader/Wheeled Loading Shovel/Wheeled Loader". A Wheel Loader or "WL" is wheel-mounted, self-propelled equipment with front and rear chassis connected with an articulation joint. A WL is also fitted with hydraulically operated arms on the front with lift/lower operations. Further, a WL is equipped with a front-mounted bucket, which is supported by a tilting cylinder for operating the bucket and other attachments on the front based on application. The PUC scope includes Wheel Loaders with any additional features that provide for functions beyond the essential functions of loading, shifting, and dozing of materials, etc. For the purposes of this application, the terms "PUC", "Wheel Loaders" and "WL" are used interchangeably.
5. The PUC is generally used for varied applications such as loading, shifting, heaping, dozing bulk, or discrete materials using buckets or usage of various attachments. The PUC is generally used across different sectors including material handling and loading in crushers, Ready Mix Concrete (RMC) plants, Mining, Ports, Process industries, Other general engineering and industrial applications etc.
6. The applicant has proposed a product control number ("PCN") based methodology for the purposes of dumping and injury assessment in the present investigation, using numbers/pieces as the unit of measurement since the product varies in terms of commercial and technical parameters.

Criteria	Range	Code
Rated payload	Up to 4,000 KG	A
	Above 4,000 KG	B
Engine gross power	Up to 140 kW	1
	More than 140 kW	2
Measured distance at the center between right and left wheel (wheel tread/ track)	Less than 2100 mm	X
	2100 mm and above	Y
Measured distance between the front and back wheel axles (wheelbase)	Up to 3000 mm	U
	More than 3000 mm	M

7. The interested parties can provide their comments or suggestions, if any, for the finalization of PUC/PCNs for this investigation within 20 days from the date of this initiation notification.
8. The PUC is generally imported into India under HS Codes 84295900 and 84295100 of Schedule I of the Customs Tariff Act, 1975. However, it is possible that the subject goods may also be imported under other headings and therefore, the Customs Tariff Heading is indicative only and is not binding on the scope of the product.

B. LIKE ARTICLE

9. The applicant has claimed that the subject goods, which have been alleged to be dumped in India, are identical to the goods produced by the domestic industry. There are no known differences in the technical specifications, functions and end-use of the two products. The Authority notes that the two are *prima facie* technically and commercially substitutable. Hence, for the purposes of the present investigation, the Authority holds that the two should be treated as “like article” under the Rules. Therefore, for the purpose of the present investigation, the subject goods produced by the applicant in India are being treated as ‘like article’ to the subject goods being imported from the subject country.

C. DOMESTIC INDUSTRY AND STANDING

10. The application has been filed by M/s JCB India Limited (“JCB”). In addition to the applicant, there are other manufacturers of the PUC in India.
11. The applicant has submitted the production data of other manufacturers from available aggregated data. It has been submitted that out of the other Indian manufacturers, M/s Caterpillar India Private Limited (“Caterpillar”) and Liugong India Private Limited (“Liugong India”) are related to exporters of the PUC from the subject country. The related exporters have exported and sold significant quantities of the PUC during the POI. Considering that Caterpillar and Liugong India are related to regular exporters of the PUC and such exporters exported significant quantities of the PUC during the POI, therefore, Caterpillar and Liugong India are considered to be ineligible domestic producers under Rule 2(b) of the ADD Rules. The applicant has submitted that it has not imported the subject goods from subject country or any other country during the POI. Further, it has been submitted that the applicant is not related to any of the exporters of the subject goods from the subject country, and importers of the subject goods in India.
12. It is seen that JCB accounts for a major proportion of the total production of the eligible domestic production (i.e., Indian production after excluding Caterpillar and Liugong) and therefore, has the requisite standing to file the present application.

D. BASIS OF ALLEGED DUMPING

i. Normal Value

13. The applicant has claimed that in terms of Article 15(a)(i) of China's Accession Protocol, the normal value for Chinese producers may be determined based on costs or domestic selling prices prevailing in China, only if the responding Chinese producers demonstrate that their cost and price information are based on market-driven principles and allow for fair comparison in terms of Para 1 to 6 of Annexure I to ADD Rules, failing which, normal value for Chinese producers must be determined based on para 7 and 8 of Annexure I to the rules. The Normal Value has therefore been constructed by adopting the cost of production in India as normated with due adjustment for SGA expenses and a reasonable profit at the rate of 5% on the cost of production in accordance with Para 6(8) of the Rules.
14. Owing to a significant difference in commercial and technical parameters of different PCNs of subject goods, the normal value for each PCN has been determined separately. There is sufficient *prima facie* evidence of normal values in the subject country to consider the initiation of the investigation.

ii. Export price

15. The export price for subject goods for the subject country has been computed based on the DG Systems import data. Price adjustments have been made for ocean freight, inland freight, handling charges, ocean insurance, dealers commission, bank charges and credit cost and after-sale services expenses. There is sufficient prima facie evidence with regard to the net export price so computed.

iii. Dumping margin

16. The normal value and the export price have been compared at the ex-factory level for the PUC and separate PCNs, which prima facie shows that the dumping margin is above the de-minimis level and is significant in respect of the product under consideration from the subject country. Thus, there is sufficient prima facie evidence that the product under consideration is being dumped in the Indian market by the exporters from the subject country.

E. INJURY AND CAUSAL LINK

17. Information furnished by the applicant has been considered for assessment of injury to the domestic industry on account of dumped imports of the subject goods from the subject country. The applicant has furnished evidence regarding the injury taken place as a result of price undercutting, and price suppression. The applicant has claimed that because of adverse price effect, its performance has deteriorated in respect of production, capacity utilization, sales, cash profit, profit, and return on investment. There is sufficient *prima facie* evidence that the injury is being caused to the domestic industry by dumped imports from the subject country.
18. The applicant has also claimed that imports are causing threat of material injury, considering significant surplus capacities in subject country, price suppression, and excess inventories.

F. INITIATION OF ANTI-DUMPING INVESTIGATION

19. On the basis of the duly substantiated written application by the domestic industry, and having satisfied itself, on the basis of the prima facie evidence submitted by the domestic industry pertaining to the dumping of the product under consideration originating in or exported from the subject country, injury to the domestic industry and causal link between such alleged dumping and injury, and in accordance with Section 9A of the Act read with Rule 5 of the Rules, the Authority, hereby, initiates an investigation to determine the existence, degree and effect of any alleged dumping in respect of the product under consideration originating in or exported from the subject country and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the injury to the domestic industry.

G. SUBJECT COUNTRIES

20. The subject country in the present petition is China PR.

H. PERIOD OF INVESTIGATION

21. The applicant had proposed the period of investigation ("POI") as 1st January 2021 to 31st March 2022 (period of 15 months), with the injury investigation period as 2018-19, 2019-20, 2020-21 and the proposed period of investigation. However, the Authority has considered a period of 12 months from 1st April 2021 to 31st March 2022 as the period of investigation with injury period as

I. PROCEDURE

22. Principles, as stated under Rule 6 of the said Rules, shall be followed in the present investigation.

J. SUBMISSION OF INFORMATION

23. In view of the special circumstances arising out of the COVID-19 pandemic, all communication should be sent to the Designated Authority via email at email address jd12-dgtr@gov.in, and ad12-dgtr@gov.in with a copy to adg13-dgtr@gov.in, adv12-dgtr@gov.in. It should be ensured that the narrative part of the submission is in searchable PDF/ MS Word format and data files are in MS Excel format.
24. The known producers/exporters in the subject country, the Government of the subject country through its Embassy in India, and the importers and users in India known to be concerned with the subject goods are being informed separately to enable them to file all the relevant information in the form and manner prescribed within the time limit set out below.
25. Any other interested party may also make its submissions relevant to the investigation in the form and manner prescribed within the time limit set out below.
26. Any party making any confidential submission before the Authority is required to make a non-confidential version of the same available to the other parties.
27. Interested parties are further advised to keep a regular watch on the official website of the Designated Authority <http://www.dgtr.gov.in/> for any updated information with respect to this investigation.

K. TIME LIMIT

28. Any information relating to the present investigation should be sent to the Designated Authority via email at the following email addresses jd12-dgtr@gov.in, and ad12-dgtr@gov.in with a copy to adg13-dgtr@gov.in, adv12-dgtr@gov.in, within 30 days from the date on which it was sent by the Designated Authority or transmitted to the appropriate diplomatic representative of the exporting country as per Rule 6(4) of the Rules. If no information is received within the prescribed time limit or the information received is incomplete, the Authority may record its findings on the basis of the facts available on record in accordance with the Rules.
29. All the interested parties are hereby advised to intimate their interest (including the nature of interest) in the instant matter and file their questionnaire responses within the above time limit.

L. SUBMISSION OF INFORMATION ON A CONFIDENTIAL BASIS

30. Any party making any confidential submission or providing information on a confidential basis before the Authority, is required to simultaneously submit a non-confidential version of the same in terms of Rule 7(2) of the Rules. Failure to adhere to the above may lead to the rejection of the response / submissions.
31. The parties making any submission (including Appendices/Annexures attached thereto), before the Authority including questionnaire response, are required to file Confidential and Non-Confidential versions separately.
32. The "confidential" or "non-confidential" submissions must be clearly marked as "confidential" or "non-confidential" at the top of each page. Any submission made without such marking shall be treated as non-confidential by the Authority, and the Authority shall be at liberty to allow the other interested parties to inspect such submissions.
33. The confidential version shall contain all information which is by nature confidential and/or other information which the supplier of such information claims as confidential. For information which is claimed to be confidential by nature or the information on which confidentiality is claimed because of other reasons, the supplier of the information is required to provide a good cause statement along with the supplied information as to why such information cannot be disclosed.
34. The non-confidential version is required to be a replica of the confidential version with the confidential information preferably indexed or blanked out (in case indexation is not feasible) and summarized depending upon the information on which confidentiality is claimed. The non-confidential summary must be in sufficient detail to permit a reasonable understanding of the substance of the information furnished on a confidential basis. However, in exceptional circumstances, the party submitting the confidential information may indicate that such information is not susceptible to a summary, and a statement of reasons why summarization is not possible must be provided to the satisfaction of the Authority. The other interested parties can offer their comments on the confidentiality claimed within 7 days of receiving the non-confidential version of the document.
35. The Authority may accept or reject the request for confidentiality on examination of the nature of the information submitted. If the Authority is satisfied that the request for confidentiality is not warranted or if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, it may disregard such information.
36. Any submission made without a meaningful non-confidential version thereof or a good cause statement on the confidentiality claim shall not be taken on record by the Authority.
37. The Authority on being satisfied and accepting the need for confidentiality of the information provided, shall not disclose it to any party without specific authorization of the party providing such information.

M. INSPECTION OF PUBLIC FILE

38. A list of registered interested parties will be uploaded on DGTR's website along with the request therein to all of them to email the non-confidential version of their submissions to all other

interested parties since the public file will not be accessible physically due to ongoing global pandemic.

N. NON-COOPERATION

39. In case any interested party refuses access to and otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the Authority may declare such interested party as non-cooperative and record its findings based on the facts available to it and make such recommendations to the Central Government as deemed fit.



(Anant Swarup)
Designated Authority