



NON-CONFIDENTIAL

AD0049

PVC Originating in the United States

Applicant Response to Ravago Americas' Memorandum on Procedure, Product, Injury, Causality and Domestic Interest

1. This submission responds to the comments made by Ravago Americas, LLC d/b/a Resintech USA ('Ravago') on the procedure, product, injury, causality and domestic interest of 27 June 2024. These comments were published on the public file on 1 October 2024.¹ This response will focus on the key issues raised and allegations made by Ravago and will follow the structure of the comments made. The Applicant relies by analogy on EU case law and practice where relevant.

1. The chlor-alkali production process and its effects

2. Ravago asserts that *'to fend off the risks of a market downturn, producers of PVC generally rely on the integrated production of PVC using the chlor-alkali production process'*.² Therefore, according to Ravago, producers use caustic soda (CS) to generate additional revenues and increase profits, particularly in the case of a market downturn. Ravago therefore asserts that it is necessary to calculate the consolidated profits made from sales of CS and caustic potash, and to factor this into the injury analysis.
3. Ravago relies on a Joint Venture competition decision of the European Commission in support of its argument that caustic soda is a by-product of S-PVC. Firstly, this decision mentions that caustic soda is a by-product of the electrolysis of salt and water – not of S-PVC. Furthermore, it is necessary to distinguish competition procedures from trade investigations and note that different rules apply to each procedure. As such, the Applicant challenges the relevance of the competition authority's decision.
4. Moreover, the Applicant disputes that this characterisation of the relationship between PVC and CS is an accurate representation of the current market situation. This can be

¹ Ravago Americas, LLC d/b/a Resintech USA *'Memorandum on Procedure, Product, Injury, Causality and Domestic Interest'* (27 June 2024) ('Ravago Submission')

² Ravago submission p. 9

seen by the fact that the evidence relied upon by Ravago is a Joint Venture competition decision published ten years ago.³

5. Firstly, the Applicant maintains that PVC and CS should be considered as **co-products** of the Chlor-Alkali process rather than CS being a by-product of the production of PVC, as asserted by Ravago. The reasons for this classification can be summarised as follows:
 - (i) PVC and CS are distinct products and form completely separate and distinct markets.
 - (ii) While integrated PVC and Chlor-Alkali producers produce both CS and PVC, this is not true for PVC producers who are partially integrated or not integrated – demonstrating that these are stand-alone industries.
 - (iii) PVC and CS are produced in different production processes and therefore neither product is capable of being the by-product of the other.
 - (iv) Chlorine and CS are co-products produced in almost equal quantities from the electrolysis of salt – CS is not a secondary product derived from the manufacturing of Chlorine.
 - (v) It is not possible to ascertain which product is primary or secondary, confirming that these are two stand-alone industries with neither producing the by-product of the other.

6. As co-products of the Chlor-Alkali process, it is evident that the supply-demand conditions of chlorine will in turn effect the supply of caustic soda when plants are fully integrated. This does **not** however mean that the markets for PVC and CS, and thus the injury sustained by the UK PVC industry, are connected beyond that. The claim that the PVC and CS markets are intertwined and inter-dependent, as alleged by Ravago, is not correct.⁴

7. Secondly, the Applicant disputes that PVC and CS are ‘*countercyclical*.’ Furthermore, the profitability of the two products is not connected in the way described by Ravago – there is no automatic compensation between the two products. The contention that ‘*the profit of the manufacturer is driven by the balancing effect between caustic soda and PVC resin, where one product can make up for the loss other*’⁵ therefore does not hold true. On the contrary, there are periods, such as the investigation period, where profits are challenged in respect of both products.

8. During the POI, PVC and CS prices did not counterbalance each other. The graph below shows that caustic soda prices have been decreasing since Q4/2022 (Contract Caustic, Del’d). This is the same period during which the UK industry faced pressure from dumped imports, resulting in decreased production. This suggests that the “*counter-*

³ Case M.6905 – *INEOS/Solvay/JV* (2014), paras. 90

⁴ Ravago submission at para 28

⁵ Ravago submission para 23

cyclicality” in these products is no longer present. Both CS and PVC prices and demand were challenged by aggressive imports and import pricing. The graph below furthermore shows that, in the period immediately post-Covid, CS prices were increasing – from 2020 to 2022. Again, during this period, PVC prices were also increasing due to increased demand in the construction sector – as acknowledged by Ravago. However, in the downturn that followed, both industries suffered.

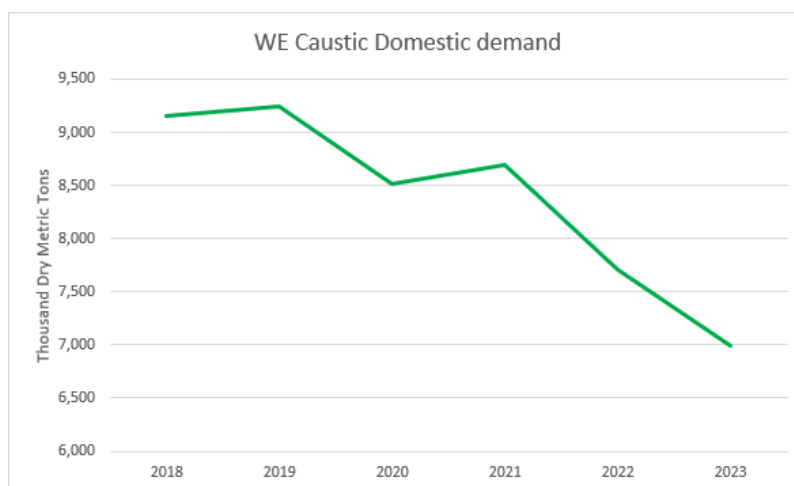
Figure 1

[Confidential information redacted – figure 1 is subject to copyright, by way of non-confidential summary, figure 1 shows the Contract Caustic Delivered prices]

Source: Chemical Market Analytics by OPIS 2024

9. Thirdly, the figure below tracks the domestic demand for caustic soda in Western Europe. The trend shows that caustic soda demand has been decreasing since 2019, barring a slight uptake in the post-Covid period (2020 to 2021). The steep rate of decrease after 2021 led to caustic soda prices being challenged on the demand side, leading to the lower prices, seen above, and lower margins in the caustic soda industry. Ravago claims that the “*counter-cyclicality*” means that when PVC demand decreases, caustic production volumes drop, increasing caustic margins. The Applicant suggests that this neglects the reality of the market.

Figure 2



Source: CMA Global Chlor-Alkali Monthly Supplements

10. There is therefore no reason to examine caustic soda together with PVC in the injury analysis on the basis that (i) PVC and caustic soda are co-products of the Chlor-Alkali process – caustic soda is not the by-product of PVC production and (ii) the “*inherent counter-cyclicality*” that Ravago relies on is not the market reality – in fact, PVC and caustic soda prices and demand have been operating in parallel during the period considered.

2. Effects of high costs for energy

11. The Applicant acknowledges that in 2022, the UK (and Europe) experienced an acute energy crisis. However, the Applicant rejects the allegation that this energy crisis attenuates the causal link between dumped imports originating in the US and the injury suffered by the UK PVC industry. If, as Ravago claims, the decline in UK PVC production completely corresponded with the energy crisis, the UK PVC industry would have recovered in line with the drop in energy prices. This is not the case. The energy crisis stabilised by the end of 2022, yet the declining trends in the performance of the UK PVC industry continued.
12. Additionally, the Applicant wishes to reinforce the causal relationship between the decrease in production and the increase in dumped imports originating in the US. The following graphs compare the trend in the UK industry's utilisation rate with the trend in US imports:

Figure 3

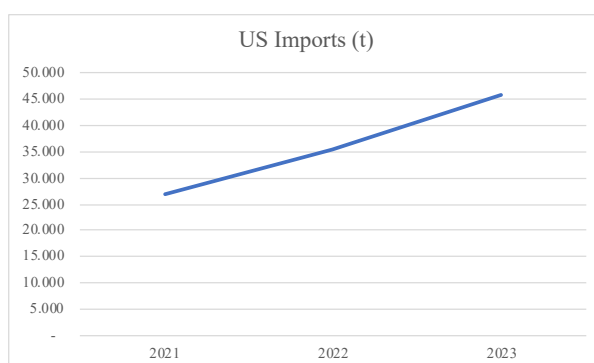
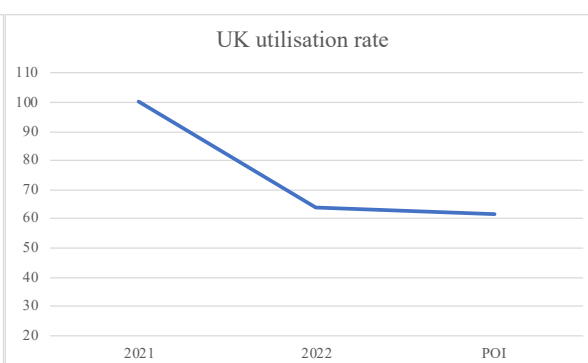


Figure 4



Source: Appendix 2; Appendix 6

13. Despite the significant drop in the energy price, the state of the UK PVC industry has not improved since late-2022. In fact, during the investigation period, the situation of the UK industry has significantly deteriorated compared to 2021 and 2022, the peak years of the energy crisis.
14. Finally, the Court of Justice has found that:
- 'The fact that a Union producer is facing difficulties attributable in part to causes other than the dumping is not a reason for depriving that producer of all protection against the injury caused by the dumping.'*⁶
15. Thus, even if the TRA were to find that the UK PVC industry was facing difficulties attributable in part to the energy crisis, *quod non*, this does not preclude the imposition of antidumping measures.

⁶Joined cases 277/85 and 300/85 Canon Inc (Typewriters) (5 October 1988), paragraph 63

3. The existence of different market segments

16. Ravago asserts that the injury analysis should take into account different segments, allegedly: commodity S-PVC, extender S-PVC and specialty S-PVC.
17. The Applicant contends that commodity, extender and specialty S-PVC have the same basic chemical characteristics and are merely three different product types forming part of the same product concerned.
18. Furthermore, the General Court of the European Union has held, in relation to arguments as to segmentation, that an assessment by segment may be justified where the totality of circumstances shows that (i) one or more segments are more likely to be concerned than others by the dumped imports; (ii) the products covered by the investigation are not interchangeable; and (iii) where there are significant price differences between the different segments.⁷ The Applicant considers that this approach should be followed by the TRA.
19. Firstly, it is not disputed by Ravago that the UK industry produces extender, commodity and specialty S-PVC. Furthermore, this production takes place at the same production sites.
20. Secondly, there is no assertion that the imports of S-PVC from the US do not match with the S-PVC produced by the UK industry. For example, in *Hubei*, the General Court of the European Union found that an assessment by segment was justified by:

*‘The fact that the largest sampled EU producer mainly operated in the oil and gas sector and that the imports of the sampled exporting producers were concentrated in the construction segment.’*⁸
21. *In casu*, Ravago has not adduced any evidence that one or more supposed segments are more likely to be concerned than others by the dumped imports. Therefore, the Applicant maintains that the legal standard justifying segmentation is not met.
22. Ravago has simply adduced information from the INEOS/Solvay/JV merger investigations by the Commission’s Directorate-General for Competition in the European Union. The Applicant notes that merger investigations are not binding on trade defence investigations which are conducted by a different body with a different set of rules.

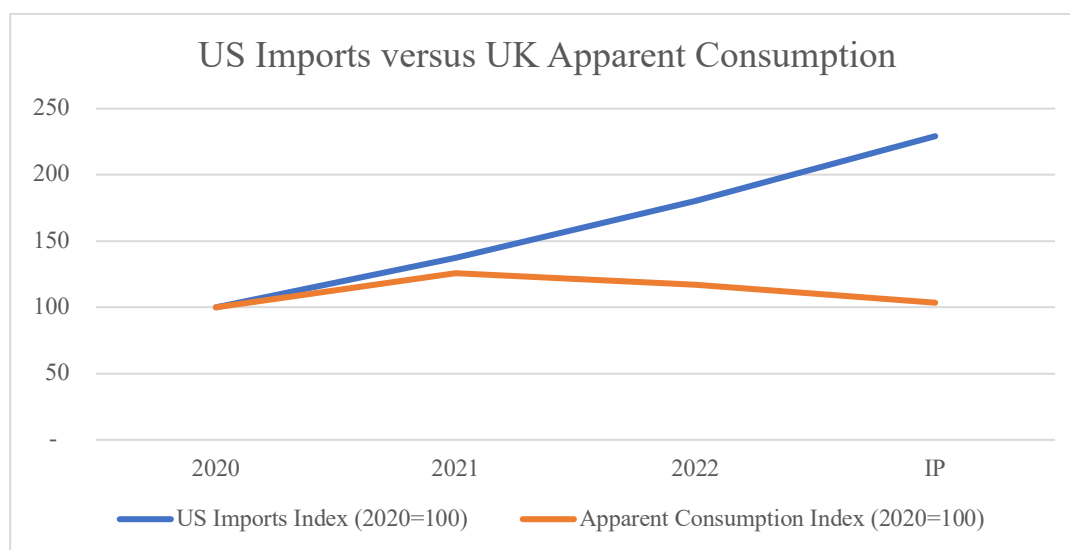
⁷ Judgment of the General Court (Fourth Chamber, Extended Composition) of 19 May 2021 China Chamber of Commerce for Import and Export of Machinery and Electronic Products and Others v European Commission, T-254/18 at Recitals (377) to (379)

⁸ Judgment of the General Court (Seventh Chamber) of 24 September 2019 Hubei Xinyegang Special Tube Co. Ltd v European Commission Case T-500/17 Recital (63)

4. Volume of imports

23. Ravago asserts that the US import volumes follow the cyclicality of the S-PVC market. Furthermore, they rely on a historical analysis of import flows, asserting that import volumes have not surpassed historical values. The Applicant respectfully submits that the analysis of US imports in isolation does not take into account global trends in imports or consumption and is devoid of any context. Therefore, the analysis should not stand. The below graph compares the US import volumes to the apparent consumption in the UK. It is possible to see that US imports have defied any alleged “cyclicality”.

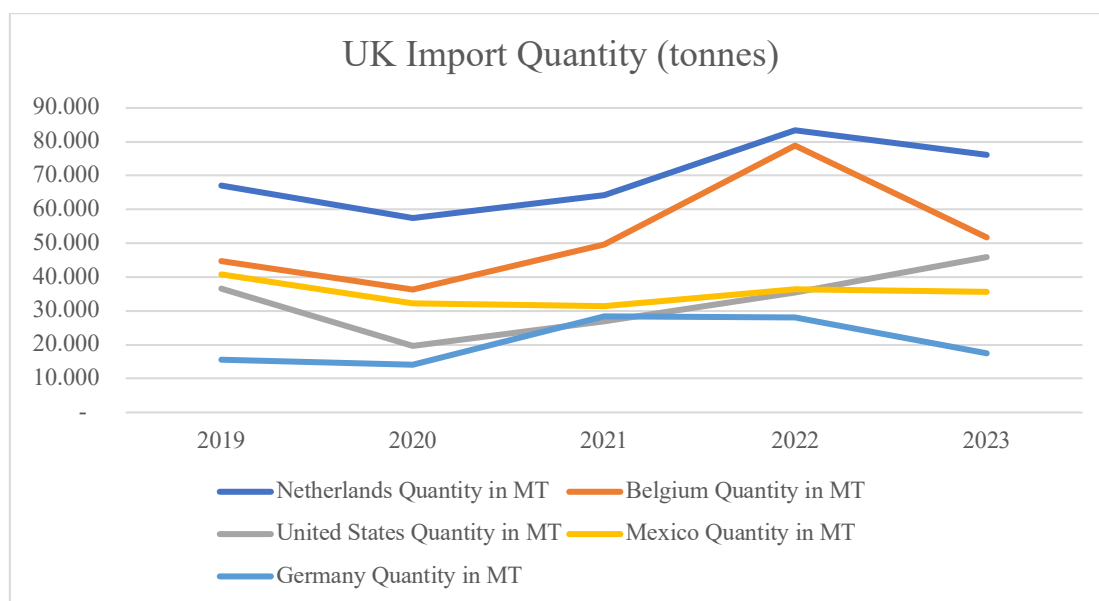
Figure 5



Source: Appendix 2; Appendix 6

24. The graph in Figures 5 and 6 demonstrates that, rather than following any supposed cyclicality of the S-PVC market, US imports have increased year-on-year since 2020. It is possible to see that in 2022, imports from the Netherlands, Belgium and Mexico reached a turning point and started to decrease significantly. Germany’s imports had already begun to decrease since 2021, however began to decrease at a higher rate. This is contrasted with imports from the US which have consistently increased since 2020.

Figure 6



Source: HMRC

25. Furthermore, Ravago highlights the decline in US imports over the course of 2023. The Applicant acknowledges that this trend is visible but seeks to highlight that this is not the result of a change in the unfair trade practices by US exporters. Rather, the temporary decline in US imports can largely be explained by certain temporary production issues faced by US producers which led to an overall drop in global US export volumes.

26. The Applicant considers the following events to be important explanatory evidence:

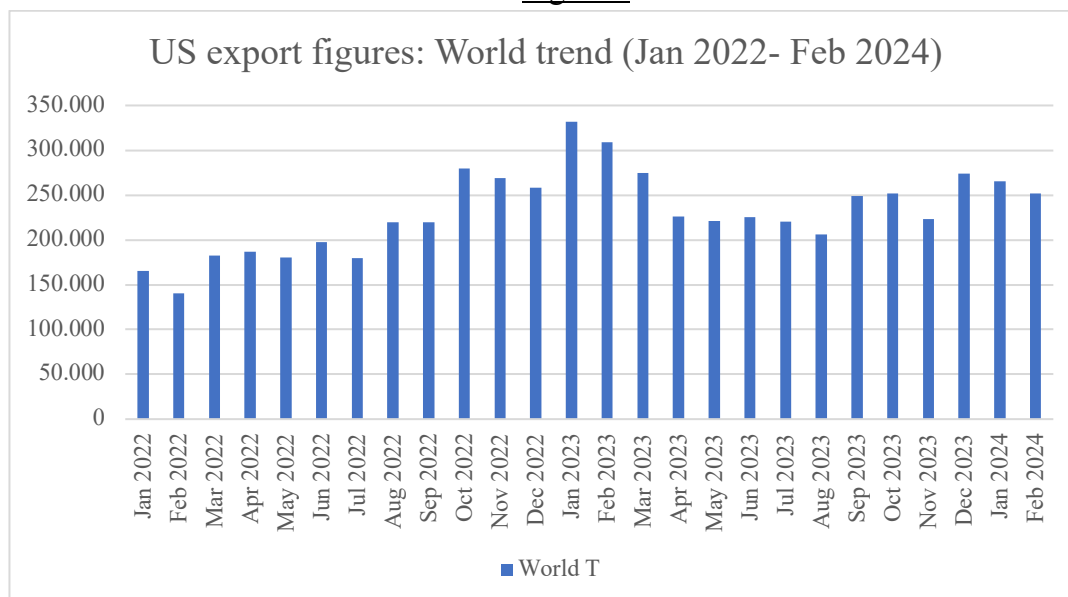
- One of the key US producers, Shintech, faced a supply disruption affecting its output. Shintech's feedstock supplier, Olin, shut its unit on 12 July 2023 as a result of equipment failures, thus affecting its chief customer. Therefore, US exports to all destinations decreased, including the UK. This is supported by evidence from Platts Polymerscan.⁹ Not only did this lead to a decrease in exports from the affected producer but also likely for other US producers who had to fill the temporary gap left on the domestic market from the supply disruption. Therefore, the temporary decrease in exports can be attributed to the situation of domestic producers in the US rather than to a change in the patterns of dumping.
- Formosa Plastics USA – a major US exporter – had two turnarounds planned in the August/September period. A pre-planned turnaround generally impacts export volumes as they reduce supply availability.¹⁰ According to Platts, *[confidential information redacted – evidence of two plants closures]*.

⁹ Platts Polymerscan Weekly report, Volume 46/Issue30/July 26, 2023, accessible [here](#).

¹⁰ Platts Polymerscan Weekly report, 2nd August

27. The Applicant considers that an analysis of the trends in US exports demonstrates that the decline in US imports is not unique to the UK market but rather a result of temporary disruptions on the US market:

Figure 7



Source: Platts; US Department of Commerce export data.

28. The Figure 7 graph highlights the trend in US exports to third countries and shows that these exports follow the same trend as exports to the UK, highlighted by Ravago.

29. It should be noted that several sources have indicated the temporary nature of the decline in US exports. Indeed, ICIS reported in November 2023 that:

*'The increase in the US export volumes has been made feasible by the slowdown in demand in the US and Canada, as well as by improved output from one US manufacturer following plant repairs in July and another that is anticipated to contribute volumes in the upcoming weeks following the completion of scheduled maintenance.'*¹¹

30. Additionally, the Applicant considers that the drop in exports in 2023 may also be a result of the ongoing EU investigation and the initiation of the UK investigation, including the registration of imports, since it is likely that both events have had a chilling effect on imports into the West-Europe region.

31. In any event, the Applicant maintains that overall, it is factually incorrect to claim that US imports have decreased as highlighted at the outset of this section.

¹¹ Daniel Lopes 'APLA '23: US PVC exports strategies increase market share competition for new projects in Brazil' ICIS (7 November 2023) available at: <https://www.icis.com/explore/resources/news/2023/11/07/10941230/apla-23-us-pvc-exports-strategies-increase-market-share-competition-for-new-projects-in-brazil/>, accessed on 15 February 2024.

5. Price comparison

32. With regard to the price comparability of the different S-PVC types, Ravago fails to submit any evidence that US imports are of a certain K-value that would distort the price comparability with the domestic market.
33. Overall US producers and UK producers, while they may have different grade names, provide the same K-values to the UK market. US exporters will only export grades which are purchased and in demand by UK customers. The Applicant considers that the large majority of the UK market is pipes and profiles:

Figure 8

[Confidential information redacted – FIDES statistics - breakdown of the end-uses of the UK PVC market. This information is confidential as this is a third party source and is not publicly available. By way of non-confidential summary the Applicant indicates that the statistics show that the majority of the UK market demand is for pipes and profiles]

Source: FIDES statistics

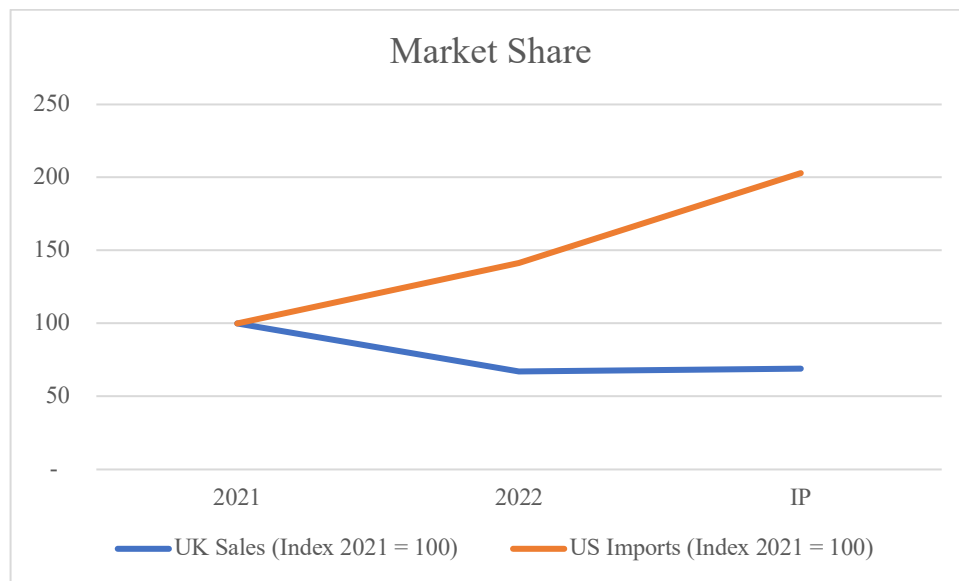
34. These end-uses are supplied predominantly by K67 PVC resin and this grade is imported at the highest volume and produced at the highest volume within the UK. Thus, the Applicant considers that the PCN proposed by the TRA is sufficient to ‘*match the foreign producers’ exported goods with the UK producers’ domestically sold goods.*’¹²

6. UK Production and Sales Volume Follow the Trend of Apparent Consumption

35. Ravago submits that the trends in UK sales and production follow the apparent consumption in the UK. The Applicant submits that a contraction in consumption taken in isolation is not meaningful. As such, the market share accounts for relative changes in sales because of changes in consumption. An evaluation of the market share of UK sales compared to US imports clearly shows that the former is suffering at the expense of the latter.

¹² TRA, Guidance: How we assess injury, accessible at: <https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/how-we-assess-injury> (last accessed 24 May 2024)

Figure 9



Source: Appendix 6

7. Market shares are indicative of a strong industry

36. Ravago references the judgment in *Hubei*, citing that ‘the fact that the EU industry’s market share decreased by a few percentage points was not sufficient to support the conclusion that the industry was in a vulnerable state, based on the significant market share it had of 63.6%’.¹³

37. The Applicant submits that the *Hubei* case can be distinguished. In *Hubei*, the Union industry’s market share decreased by 5.2 percentage points during the period considered, whereas *in casu* the UK PVC industry’s market share declined by [14.5-19.5] percentage points.

38. Ravago Americas submits that the recent data ‘which shows an increase in market share of the UK industry, is clearly not indicative of injury’.¹⁴ The Applicant submits that this is blatantly incorrect considering that the UK market share decreased by 34% over the period considered.

8. UK Sales Price

39. With regard to the UK sales price, Ravago relies on the indexes to suggest that the UK industry is a healthy industry. Ravago suggests that while the production costs increased in 2022 compared to 2020 values, ‘the industry was able to increase its prices during the relevant period thus increasing its margins’.¹⁵

¹³ Ravago Submission para 73

¹⁴ Ravago Submission para 74

¹⁵ Ravago Submission para 55

40. The Applicant submits that it is relevant to evaluate the sales price together with the full unit cost and the prices of US imports. In this way, the downward price pressure exerted by dumped imports becomes evident. Furthermore, it is possible to see that the UK sales price has had to decrease to just above the price of the full unit cost. Prices are therefore insufficient to make a reasonable profit.

Figure 10

[Confidential Information Redacted – by way of non-confidential summary, figure 10 contains a graph demonstrating the converging of the full unit cost and the UK sales price]

Source: Appendix 2; Appendix 6

9. Price Underselling

41. Firstly, the Applicant seeks to emphasise that, as highlighted by Advocate General Emiliou in his Opinion in the case of *Severstal v Commission*,¹⁶ it is within the Commission's – or in this case, the TRA's – margin of discretion to establish the underselling margin on the basis of a target price for the Union industry:

'Regulation 2016/1036 does not, however, provide any method or set of criteria for establishing the so-called 'injury margin'. It follows that the EU authorities enjoy a wide margin of discretion in that respect. Consequently, they are free to choose the methodology they find most appropriate under the given circumstances, provided that, in particular, it is reasonable, applied in an objective and consistent manner, and thus leads to plausible outcomes.'

42. With respect to the level of target profitability used, Ravago claims that a 15% target profit is not reasonable. Ravago therefore suggests that the profitability margin corresponding to the level between 2014 and 2019 should be used because it reflects normal market conditions. In the European Commission's investigation into dumped imports of Mono Ethylene Glycol (MEG), a commodity chemical requiring extensive investment, the Commission used a target profit of between [17,5–19,5]¹⁷ to establish the target price for the underselling margin calculation. The PVC industry is a capital-intensive industry requiring extensive investment which needs to achieve 15% profit margins to be sustainable. This includes re-investing in existing plants to ensure future operations and to remain competitive against imports from countries that have lower energy costs and less stringent decarbonisation requirements. As such, the Applicant maintains that not only is a 15% target profit reasonable, but it is also necessary in the circumstances.

¹⁶Opinion of Advocate General Emiliou delivered on 12 January 2023, *Joined Cases C-747/21 P and C-748/21 P PAO Severstal and Novolipetsk Steel PJSC (NLMK) v European Commission*, ECLI:EU:C:2023:20 (*Severstal v Commission*, AG Opinion)

¹⁷Commission Implementing Regulation (EU) 2021/939 of 10 June 2021 imposing a provisional anti-dumping duty on imports of mono ethylene glycol originating in the United States of America and the Kingdom of Saudi Arabia, Recital 260

10. Causation

10.1. *Lack of integrated chlor-alkali production facility*

43. The Applicant has already addressed the relationship between the production of PVC and CS. The Applicant has provided evidence rebutting Ravago's claims that the markets are intertwined. There is therefore no basis for including the costs and profits of CS in the evaluation of the PVC market. The Applicant disputes that the lack of an integrated chlor-alkali production facility can impact the causation analysis.

10.2. *Imports from third countries*

44. Ravago alleges that the Applicant has failed to consider all sources of injurious imports and has targeted US imports.¹⁸ In particular, Ravago highlights the trend in import volumes of European PVC producers, particularly Belgium and the Netherlands, indicating that such import volumes are large and increasing and such origins should therefore have been included in the Anti-Dumping (AD) investigation.¹⁹ The Applicant considers that the evidence submitted by Ravago is misleading and does not support their allegation.

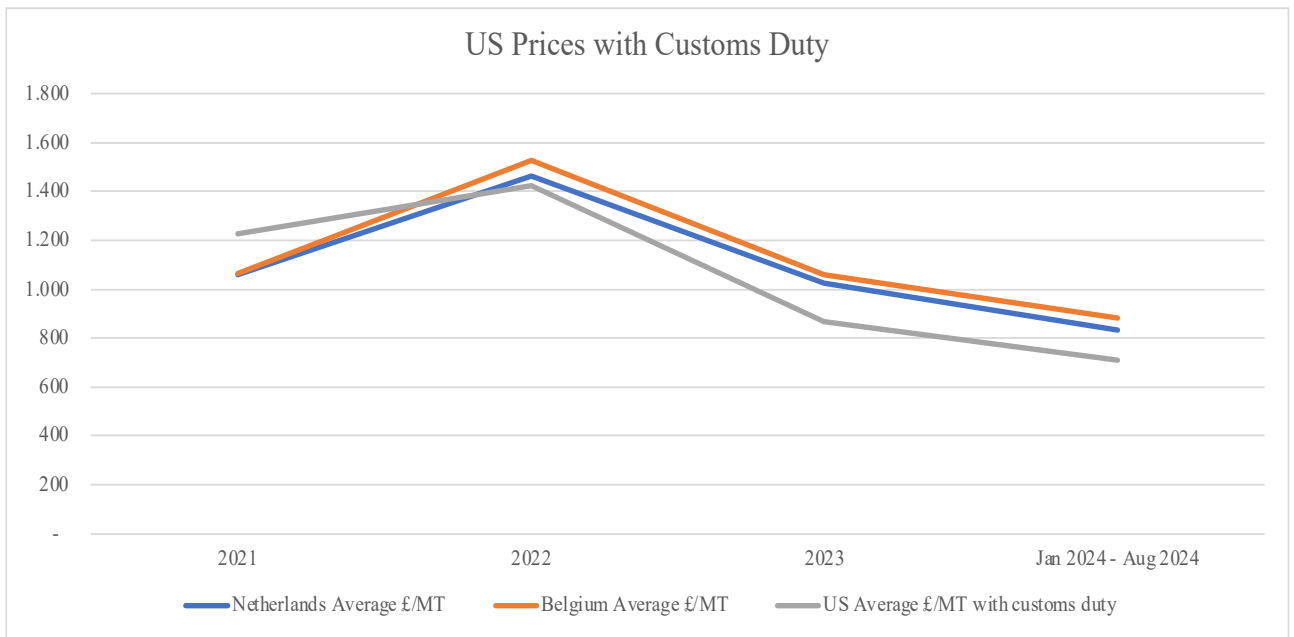
45. Firstly, Ravago points out that import volumes from the Netherlands, Belgium and Mexico were all higher in terms of volume when compared to the US. The Applicant does not contest the volumes of imports from these destinations. However, the Application is concerned with dumping. As such, an evaluation of import volumes without an evaluation of import prices is redundant.

46. Secondly, when Ravago does make a price comparison, it stops in 2022, just when US prices began to decrease below prices from other origins – even with an additional 6% import duty. As such, it creates a false impression that prices from the US have remained above prices from all other origins.

¹⁸ Ravago submission, Section 5.2.4

¹⁹ *ibid*

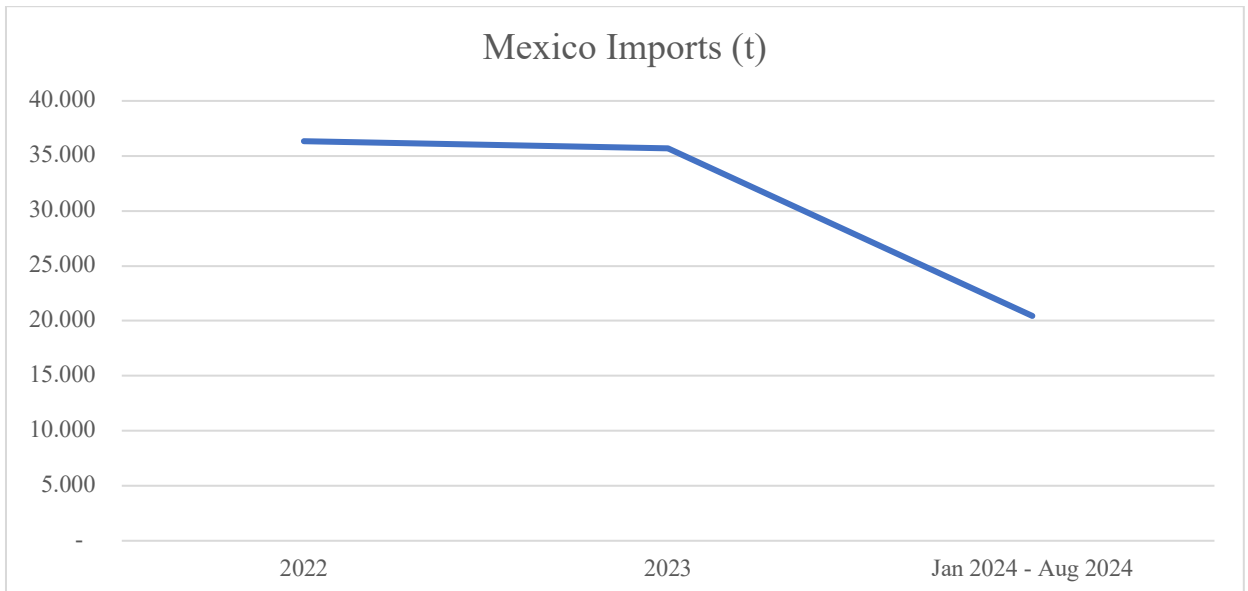
Figure 11



Source: HMRC

47. Thirdly, with respect to Mexico, the Applicant submits that Mexico was dealt with in great detail in the Application. The Applicant clearly showed that imports originating in Mexico have remained relatively stable over the period considered, with import volumes decreasing between 2022 and the most recent period:

Figure 12



Source: HMRC



48. In addition, the Applicant carried out a detailed dumping calculation for imports originating in Mexico which resulted in the conclusion that PVC producers in Mexico were not dumping on the UK market.

10.3. Decrease in exports

49. Ravago claims that there has been a significant decrease in exports made by the domestic industry during the period considered.²⁰

50. In *Certain heavy plate of non-alloy or other alloy steel (China)*, the European Commission found that (i) the export performance of the Union industry mirrored its domestic performance and (ii) that due to the limited significance of its export sales, this could not break the causal link.²¹ With regard to the first aspect: *in casu*, export quantities have consistently decreased – except for a slight uptake in the POI – since 2020 mirroring the loss in sales on the domestic market. Regarding the second aspect, export sales accounted for less than a quarter of total sales during the POI. Therefore, export sales are of limited significance as compared to domestic UK sales which accounted for [78% – 85%] of total sales in the UK during the POI. Therefore, the drop in export sales, which represented less than a quarter of total sales, cannot attenuate the causal link. As such, the Applicant contends that a decline in export sales or prices cannot break the causal link.

11. UK economic interest

51. The Applicant notes that duties will not result in the disappearance of the US imports on the UK market, duties will merely reinstate fair competitive conditions – restoring a level playing field.

52. With regard to the UK economic interest, the Applicant stresses that there are several alternative sources for S-PVC on the UK market, as demonstrated in Appendix 2 to the Application. Furthermore, there is significant spare capacity of the UK industry – demonstrated by the low-capacity utilisation rate.

53. The Applicant notes that maintaining a UK PVC industry is essential to ensuring security of supply. In the absence of corrective measures, it is likely that the UK PVC industry will continue to suffer as a result of dumped imports. If the Applicant continues to suffer injury, it is likely that the quantities it produces will reduce – decreases in production have already been examined in the Application. This could lead to site closures and a loss of employment in the industry over time.

²⁰ Ravago submission para 150

²¹ Commission Implementing Regulation (EU) 2016/1777 of 6 October 2016 imposing a provisional anti-dumping duty on imports of certain heavy plate of non-alloy or other alloy steel originating in the People's Republic of China C/2016/6390, OJ L 272, Recitals (179)-(183).

54. The Applicant furthermore stresses that the current investigation into the dumping of S-PVC on the European Union market is likely to put additional pressure on UK suppliers, if measures in the UK are not imposed. Dumped imports of S-PVC originating in the US are likely to be redirected to the UK if measures in the UK are not taken against the unfair competition. This is especially considering the proposed high anti-dumping duties on imports of S-PVC originating in the US – ranging from 58% to 77%.²²

²² Commission Implementing Regulation (EU) 2024/1896 of 11 July 2024 imposing a provisional anti-dumping duty on imports of certain polyvinyl chloride (PVC) originating in Egypt and the United States of America OJ L, 2024/1896, 12.7.2024