



OPEN

AD0049

**Applicant's Response to Comments on the Application and Initiation of the Investigation by
Oxy Vinyls**

28 May 2024

1. This submission responds to the comments made by Oxy Vinyls on the Application and the Initiation of the AD0049 Investigation in its submission of 22 March 2024 and published on the public file on 17 May 2024.¹ This response will focus on the key issues raised/allegations made by Oxy Vinyls in its submission.

Oxy Vinyls' Preliminary observations

(a) Other sources of PVC imports

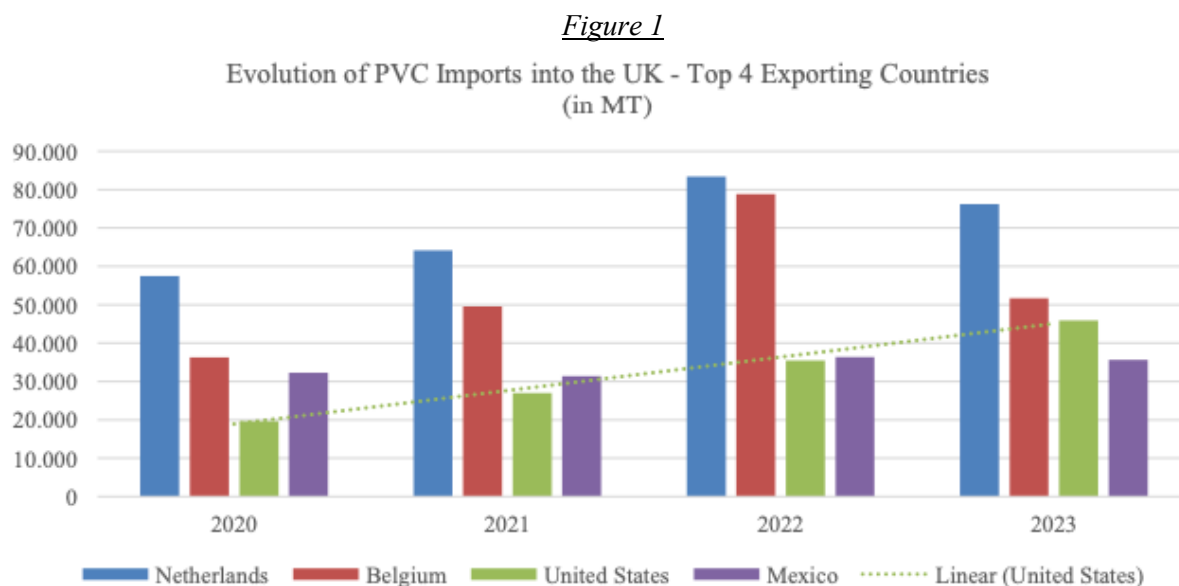
2. Oxy Vinyls alleges that Invoyn has failed to consider all sources of injurious imports and has singularly targeted US imports.² In particular, Oxy Vinyls highlights the trend in import volumes of European PVC producers (particularly EU and Norway) indicating that such import volumes are large and increasing and such origins should therefore have been included in the Anti-Dumping (AD) investigation.³ Invoyn considers that the evidence submitted by Oxy Vinyls is misleading and does not support their allegation.
3. Firstly, in support of its allegation, Oxy Vinyls provides the following graph which assesses the trend in import volumes for certain origins between 2020 and 2023:⁴

¹Oxy Vinyls, 'AD0049 – Anti-dumping investigation concerning imports of Suspension Poly(vinyl chloride) originating in the United States of America – Oxy Vinyls' Comments on the Application and Initiation of the Investigation' (22 March 2024) ('Oxy Vinyls submission')

² Oxy Vinyls submission, page 2

³ *ibid*

⁴ *Ibid*, page 3



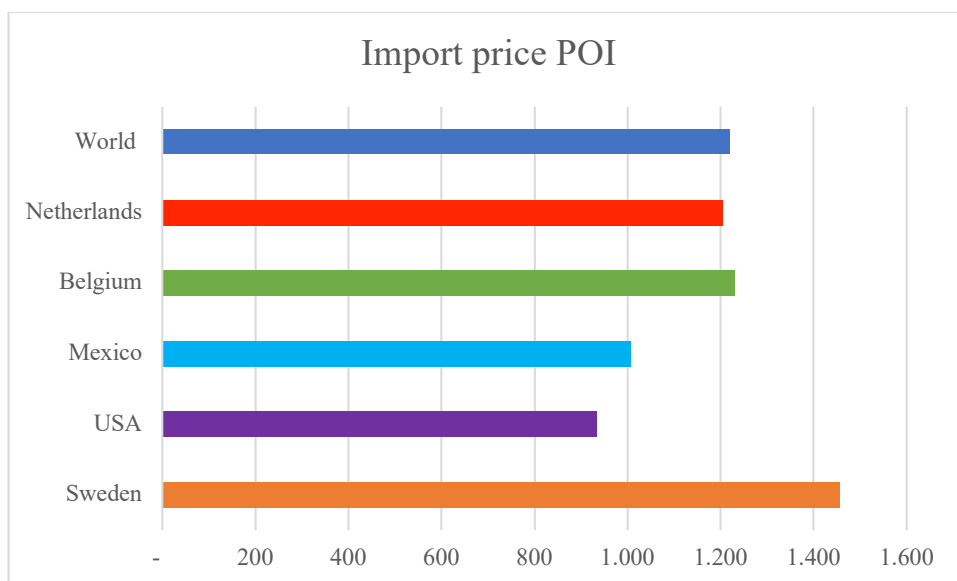
Source: Oxy Vinyls submission

4. While, the graph indicates that the US is not the main import origin, it does not prove that Inovyn excluded other countries with “often increasing import volumes”.⁵ Interestingly, the only import origin with an overall increasing trend in imports between 2020 and 2023, is the US. Inovyn therefore fails to understand how this graph supports Oxy Vinyls’ allegation.
5. Furthermore, Oxy Vinyls deceptively disregards the trend in import prices. Oxy Vinyls merely claims that US exporters “have also sold their product at a higher price than others”,⁶ yet the only evidence provided to support this claim is an assessment of import prices for 2021 – it remains unclear to Inovyn why an analysis of PVC import prices for 2021 should be considered a determining factor for the selection of countries to be targeted by an AD investigation for which the POI is 2023.⁷
6. Indeed, an analysis of the trend in import prices for the Application POI, paints a very different picture:

⁵ Ibid, page 2

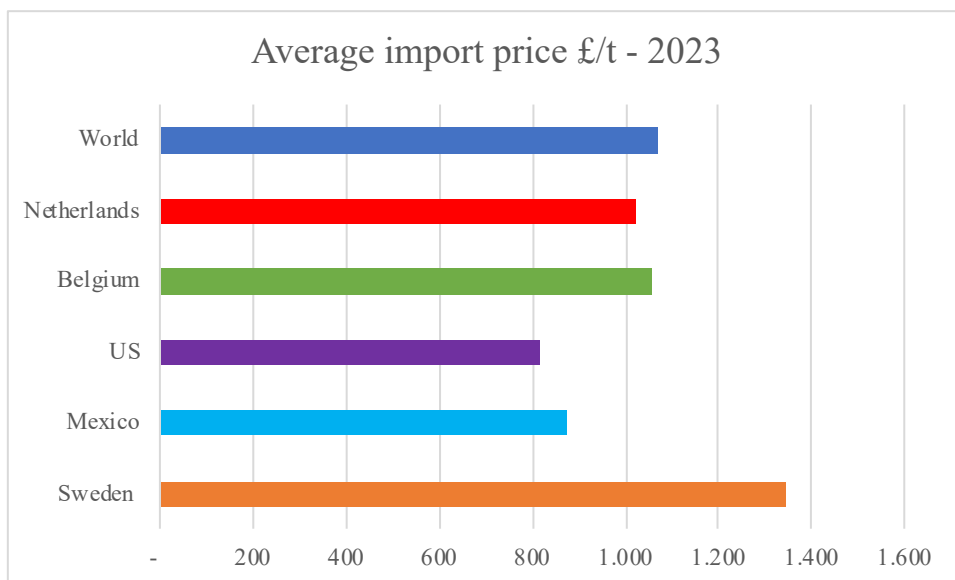
⁶Ibid, page 4

⁷The Investigation POI is 2023; Inovyn notes that the Application POI was September 2022 – August 2023

Figure 2

Source: HMRC

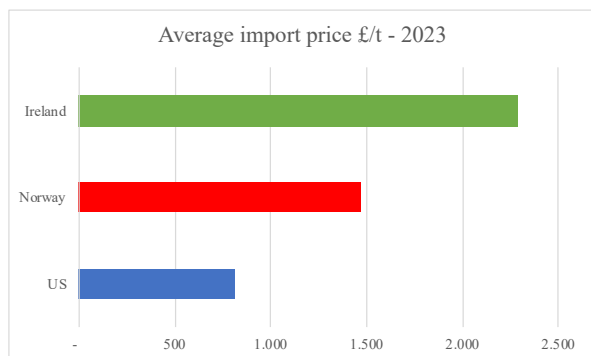
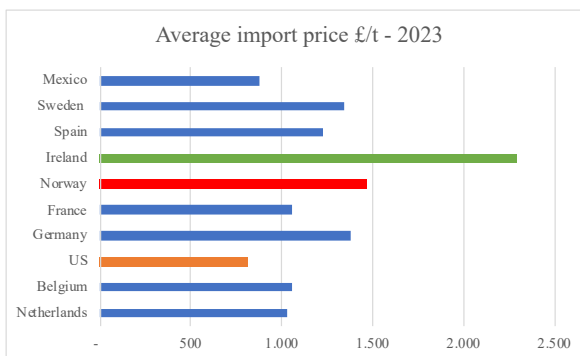
7. As evident in figure 2, the price of US imports during the POI was significantly below the price of other import origins. Additionally, this trend continued in 2023:

Figure 3

Source: HMRC

8. Thus, it is entirely inaccurate to state that US import prices are higher than other import origins. The above graphs demonstrate that, contrary to what Oxy Vinyls has claimed, US exporters have sold their product at significantly lower prices than other import origins.

9. The graphs highlight that despite their larger import volumes, imports from the ‘European/EU countries’ referred to by Oxy Vinyls consistently enter the UK market at prices significantly above US imports. This evidence demonstrates that Inovyn’s decision to bring an AD case against US imports was reasoned.
10. Furthermore, Oxy Vinyls highlights the trend in import volumes of PVC originating in Norway and Ireland, arguing that “*these sources of imports are ignored*”⁸ by the Applicant. Inovyn seeks to emphasise that such imports were not ‘ignored’ but rather considered not to be injurious.

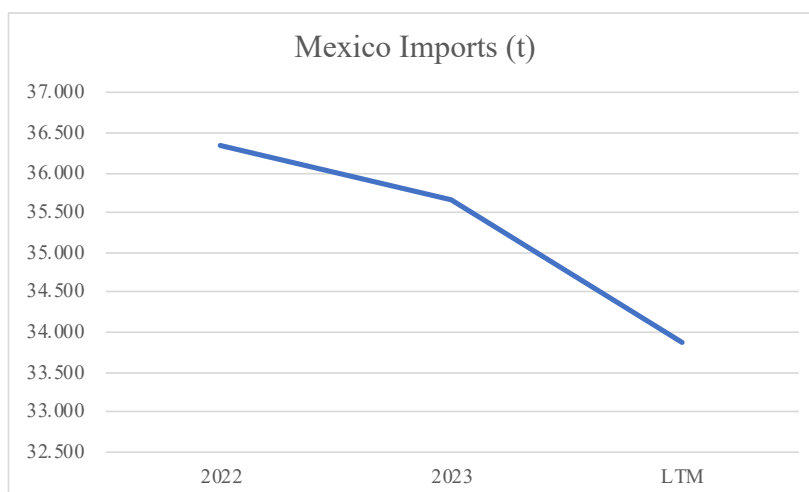
Figure 4*Figure 5*

Source: HMRC

11. The above table highlights the average import price for PVC imports into the UK for 2023. As demonstrated, imports originating in Norway and Ireland entered the UK market at prices significantly above US import prices, and such imports had the highest average price of all import origins in 2023. Additionally, there is no production of PVC in Ireland. Thus, again, Inovyn considers that the exclusion of Norway and Ireland from the investigation was justified.
12. Secondly, with respect to Mexico, the Applicant refutes the claim made by Oxy Vinyls that “*Inovyn turns a blind eye*” to imports originating in Mexico.⁹ To the contrary, 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:

⁸ Oxy Vinyls submission, page 4

⁹ Oxy Vinyls submission, page 5

Figure 6

Source: HMRC

13. 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.
14. The Applicant therefore rejects the assertion that this investigation was initiated on the basis of a “frivolous or unfounded”¹⁰ application but, as shown above, there was a clear and reasoned basis for the initiation of an investigation against imports originating in the US.

(b) Product control numbers

15. Oxy Vinyls requests the TRA to opt for a PCN that takes into account the varied physical and chemical properties of different kinds or types of PVC that are manufactured in the UK and in the US.¹¹ In this regard Oxy Vinyls refers to the fact that manufacturers produce PVC with different K-values.
16. Overall, Inovyn does not disagree with Oxy Vinyls’ assessment of the variety of K-values and their applications. However, Inovyn does not consider that this necessitates altering the PCN. Inovyn considers that 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. Inovyn considers that the large majority of the UK market is pipes and profiles:

[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.]

17. 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, Inovyn considers that the

¹⁰ Oxy Vinyls submission, page 5

¹¹ Oxy Vinyls submission, pages 5 to 8

PCN proposed by the TRA is sufficient to “*match the foreign producers’ exported goods with the UK producers’ domestically sold goods*”.¹²

(c) Data provided in the Application

18. With respect to the cost of production data, Oxy Vinyls requests granular data for Inovyn’s cost of production.¹³ At the outset, it should be noted that this data has been provided to the TRA as part of the investigation and verification process. However, the Applicant firmly rejects Oxy Vinyls claim that this data must be disclosed to them. This data is by its very nature commercially sensitive and therefore cannot be disclosed to its competitors for review. The Applicant’s disclosure of ranges for costs of production already provides Oxy Vinyls with sufficient insight into Inovyn’s cost of production of PVC in the UK.
19. With respect to the separation of S-PVC and E-PVC imports, Oxy Vinyls indicates that Inovyn failed to segregate these imports and asks that the TRA does so.¹⁴ The Applicant does not seek to challenge this. Indeed, the estimations provided in the Application were based on educated assumptions made on the basis of the limited market knowledge available to the Applicant. The TRA has access to granular data, which Inovyn does not have access to, and can therefore breakdown the imports and carry out this calculation.

(d) Dumping methodology

20. Inovyn considers that Oxy Vinyls’ claim that the proposed dumping methodology is problematic, should be rejected. The dumping calculation included in the Application was based on the information and data available to the Applicant at the time of filing. Inovyn maintains that the dumping methodology used in the Application, and the evidence provided with respect to the transport costs and trader margin were reasonable. Indeed, Inovyn recalls that the threshold for the TRA to initiate an AD investigation is that “*sufficient evidence*” is provided in the Application that goods have been or are being dumped into the UK.¹⁵ In this regard, the WTO has confirmed that:

“The applicant can only be required to provide such evidence as is ‘reasonably available to [it]’. The standard of evidence required in a complaint may therefore not go beyond what information may be reasonably available to a firm that is part of the domestic industry, which excludes, in particular, confidential information.”¹⁶

21. Thus, Inovyn maintains that there is nothing problematic surrounding the dumping methodology used in the Application.

¹² Oxy Vinyls submission, page 5; 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)

¹³ Oxy Vinyls submission, Page 9

¹⁴ Oxy Vinyls submission, Page 10

¹⁵ TRA, “How to make an application for a trade remedies investigation”, accessible at: <https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/how-to-make-an-application-for-a-trade-remedies-investigation> (last accessed 24 May 2024)

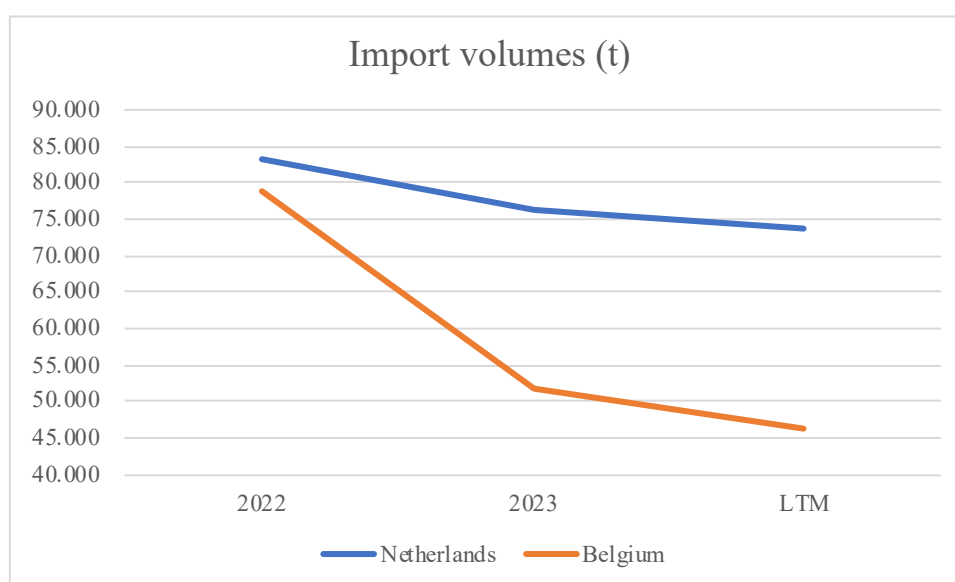
¹⁶ Panel Report, *Morocco – Definitive AD Measures on Exercise Books (Tunisia)*, para. 7.353.

Data on US import volumes and prices shows that US imports are injurious

(a) Main sources of PVC imports

22. Oxy Vinyls considers that US imports are not injuring the UK industry. In this regard, Oxy Vinyls raises two arguments: (a) the US is not the main source of PVC imports into the UK and (b) Invoyn excludes other European/EU sources of PVC.¹⁷ In particular, Oxy Vinyls indicates the trend in imports originating in the Netherlands and Belgium.
23. Inovyn seeks to emphasise that whether the US is the main source of PVC imports is not a determining factor for the initiation of an AD investigation. As demonstrated at figure 3 of this submission, the average import price for imports originating in both the Netherlands and Belgium remained significantly above the average import price of US imports throughout the period considered. Furthermore, imports from both the Netherlands and Belgium have declined since 2022:

Figure 7



Source: HMRC

24. Thus, the fact that the Netherlands and Belgium account for a large portion of PVC imports into the UK is not in itself a determining factor.

(b) Passthrough traffic

25. In addition, Oxy Vinyls challenges the claim of passthrough traffic indicated by Invoyn in the Application. With respect to this allegation, Inovyn maintains that the import figures reported by HMRC reflect a certain level of pass through traffic and confirm that detailed information has been provided to the TRA on this topic. As the only PVC producer in Belgium, Invoyn is able to compare its sales figures to the UK market with Belgium's export figures reported by HMRC. This comparison has demonstrated a large discrepancy in the figures which indicates that the import volume reported by HMRC for Belgium also accounts for material from other countries.

¹⁷ Oxy Vinyls submission, page 11

Additionally, as there is no production of PVC in Ireland, Inovyn maintains that any volumes reported by HMRC must reflect pass through traffic.

26. With respect to the Netherlands, Inovyn’s market intelligence concerning the capacity of PVC production plants in the Netherlands also suggests a discrepancy between the import figures reported by HMRC and local production in the Netherlands – it is on this basis that the Applicant considered that these figures may also account for passthrough traffic.
27. Moreover, Oxy Vinyls seeks to substantiate its challenge to the allegation of passthrough traffic by indicating that it “*does not make any commercial sense*” to route exports to the UK through the EU.¹⁸ On this matter, Inovyn merely seeks to highlight that passthrough traffic does not need to confer a commercial benefit on the exporter for it to exist, several reasons could explain the passthrough. For example, traders could purchase material into Europe without a set customer for all the volume purchased. Thus, once it arrives in the main shipping port (Antwerp) it would then need to go to the UK. It is also possible for PVC to be physically stored in Belgium before onwards sale to the UK.
28. Additionally, the following allegation by Oxy Vinyls’ should be rejected as unsubstantiated and irrelevant: “*Inovyn is potentially ‘double-counting’ US imports: first as US imports into Netherlands and Belgium (in the EU case); and then as US imports into Netherlands and Belgium, transhipped to the UK (in the present case)*”.¹⁹ Oxy Vinyls provides no assessment of the import statistics considered in the EU case against those reported by the HMRC, thus such a claim should be disregarded. Inovyn also maintains that the European Commission’s examination of EU import statistics should have no bearing on the present case which concerns the UK market.
29. Lastly, Inovyn does not consider Oxy Vinyls’ citation of the WTO Panel in *Guatemala – Cement II* to add any weight to their argument.²⁰ Inovyn’s assessment of passthrough traffic did not form the basis of the evidence provided for the initiation of the investigation but rather was an addition to the Application which sought to highlight certain discrepancies in the trade statistics reported by HMRC to be investigated and confirmed by the TRA. Additionally, Inovyn considers that its arguments with respect to passthrough traffic were in any event substantiated with evidence “*reasonably available to it*”²¹ and that such evidence was provided to the TRA as a basis for further investigation.

(c) Volume of US imports

30. Oxy Vinyls indicates that over the course of 2023, US import volumes into the UK have decreased.²² Inovyn 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.
31. Inovyn considers the following events to be important explanatory evidence:

¹⁸ Oxy Vinyls submission, page 12

¹⁹ Oxy Vinyls submission, page 13

²⁰ Oxy Vinyls submission, page 13

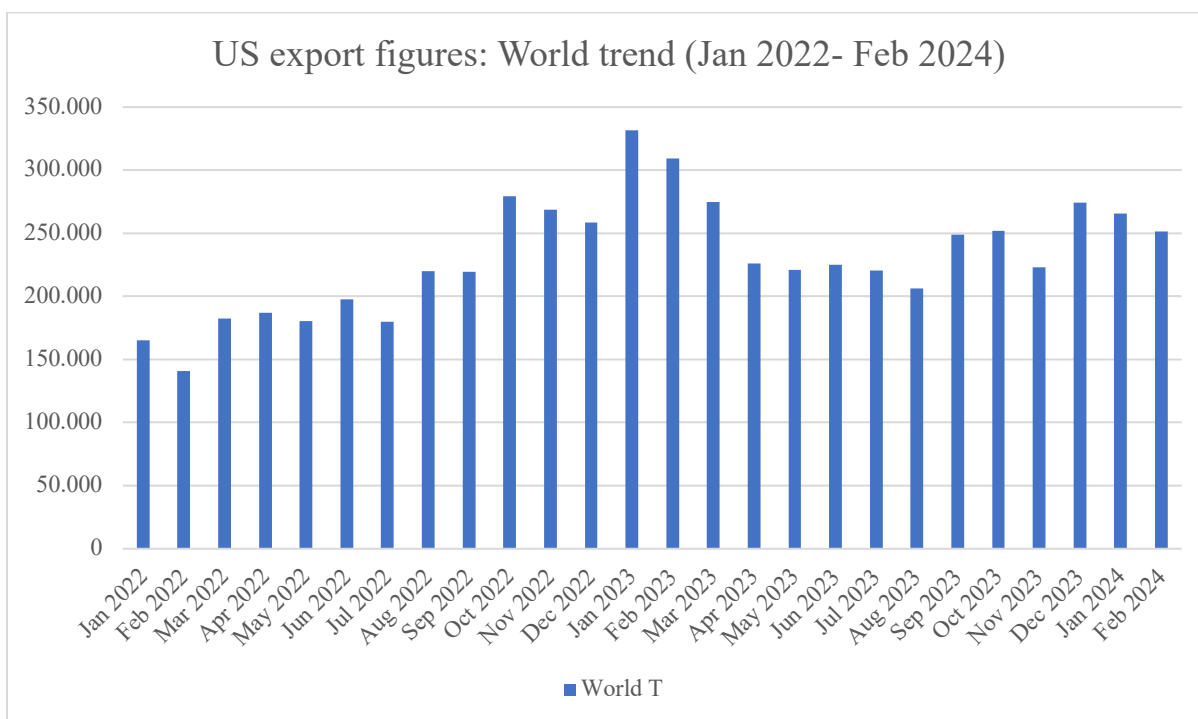
²¹ Article 5.2 WTO Anti-dumping Agreement; Panel Report, *Morocco – Definitive AD Measures on Exercise Books (Tunisia)*, para. 7.353.

²² Oxy Vinyls submission, page 14

- 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.²³ 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.²⁴ According to Platts, *[confidential information redacted – evidence of two plant closures]*.

32. Invoyn 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 8

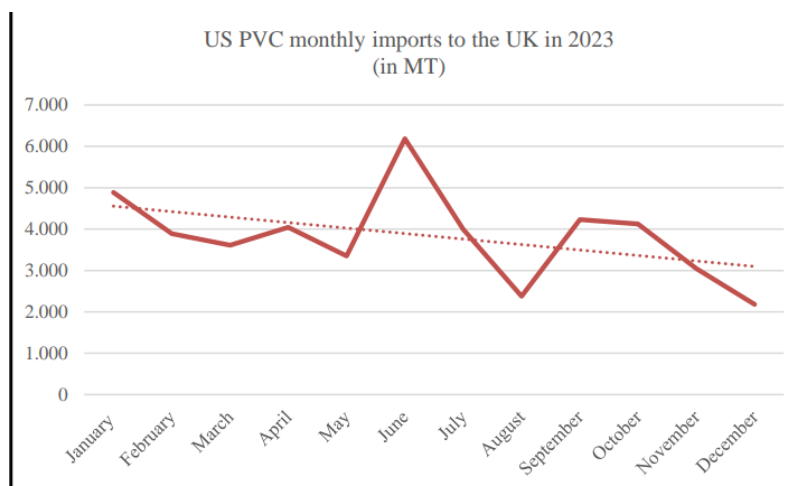


Source: Platts; US Department of Commerce export data.

33. The above 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 Oxy Vinyls):

²³ Platts Polymerscan Weekly report, Volume 46/Issue30/July 26, 2023, accessible [here](#).

²⁴ Platts Polymerscan Weekly report, 2nd August

Figure 9

Source: Oxy Vinyls Submission

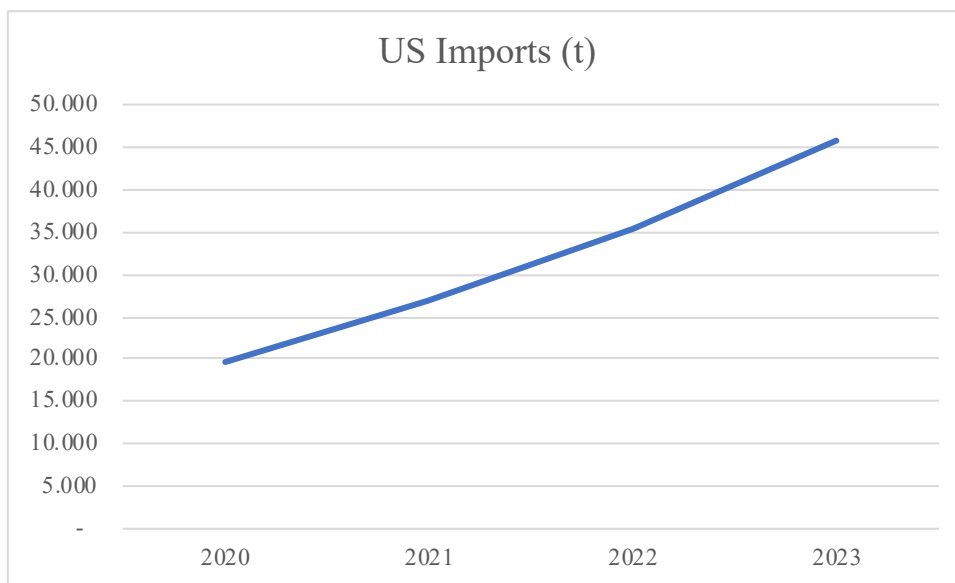
34. It should be noted that several sources have indicated the temporary nature of the decline in US exports. Indeed, ICIS reported in November 2023 that:

*“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”.*²⁵

35. In line with this position, figure 8 of this submission shows that there is now an upwards trend in US exports.
36. Additionally, Inovyn 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 since it is likely that both events have had a chilling effect on imports into the West-Europe region.
37. In any event, Invoyn maintains that overall, it is factually incorrect to claim that US imports have decreased. Indeed, the following graph highlights the trend in import volumes of US imports between 2020 and 2023:

²⁵ 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.

Figure 10



38. The graph shows a clear upwards trend in US imports. Despite the monthly drop in 2023, the total import volume for 2023 remained significantly above that reported in 2022.

(d) US prices have not increased or stabilised

39. Oxy Vinyls alleges that the average US import prices have continuously increased, yet the evidence provided to support this allegation is entirely misleading. The following graphs are included in Oxy Vinyls’ submission:

Figure 11

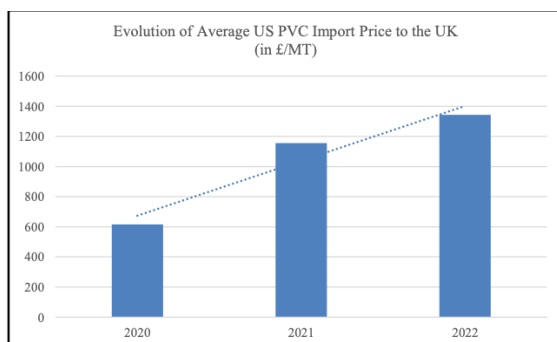
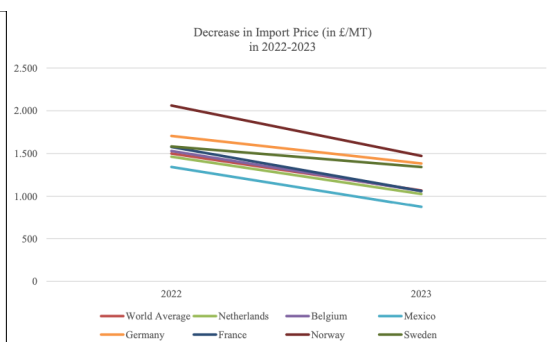


Figure 12



Source: Oxy Vinyls submission

40. In the graph displayed on the left (figure 11),²⁶ Oxy Vinyls deliberately omits the US import price for 2023 which dropped significantly. On the right (figure 12),²⁷ Oxy Vinyls deliberately omits the US import price, thereby failing to show that the average US import price remained significantly

²⁶ Oxy Vinyls submission, page 15

²⁷ Oxy Vinyls submission, page 16



below all other import prices in both 2022 and 2023. The following graphs paint a more accurate picture of the trend in import prices and clearly show that US imports are a cause for concern:

Figure 13

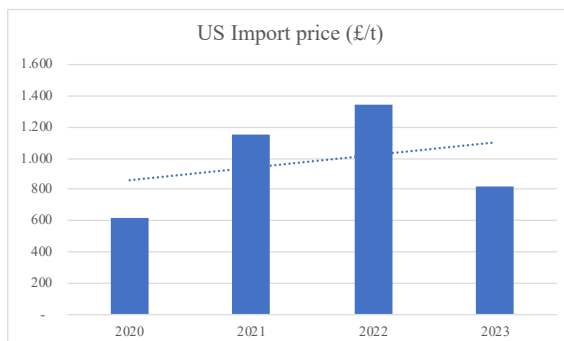
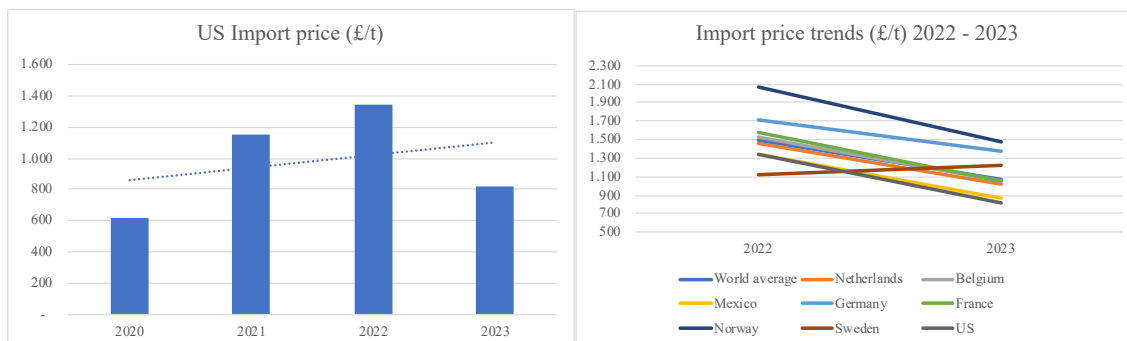


Figure 14



Source: UK HMRC

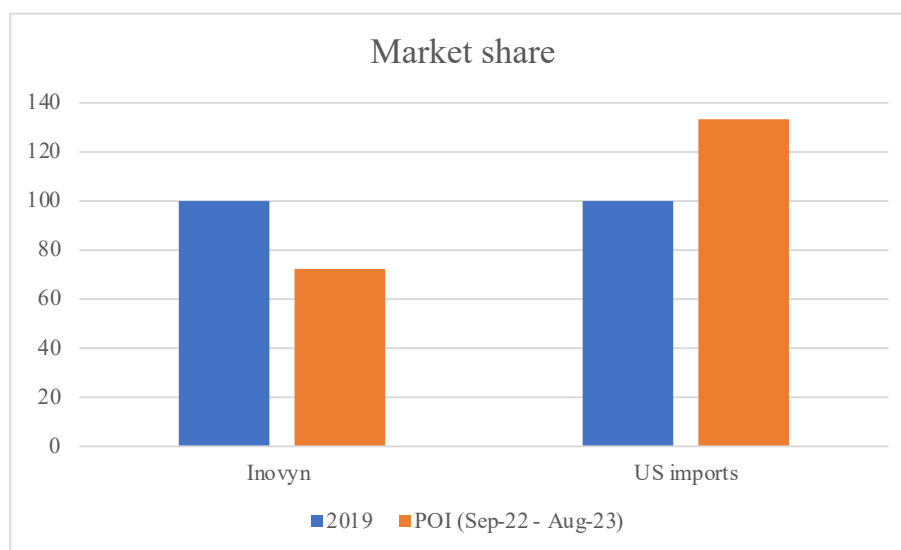
41. Additionally, with regard to the declining trend in prices of all major sources of UK PVC imports, Invoyn seeks to highlight that this is largely the result of price depression caused by dumped US imports. The trends in price depression were discussed in the Application.

The UK Industry is not economically healthy

(a) Trends in Invoyn and US import market shares

42. In essence, Oxy Vinyls claims that the trend in the UK industry's market share does not suggest that the industry is suffering material injury.²⁸ On the contrary, Invoyn considers that the trend in market shares, if properly assessed, supports the conclusion that the material injury suffered by the UK industry is caused by US imports.
43. At the outset, Invoyn considers that it is necessary to examine the developments of market shares on a long-term basis. The following graph compares the evolution of Invoyn's market share (indexed) in terms of volume with the market share of US imports:

²⁸ Oxy Vinyls submission, page 17

Figure 15

Source: Application Annex 2

44. The above graph clearly shows that while Inovyn’s share of the UK market has dropped significantly between 2019 and the POI, the share of US imports has increased.
45. Furthermore, Inovyn seeks to highlight that Oxy Vinyls’ reference to the WTO Panel Report in *Pakistan – BOPP Film (UAE)*²⁹ should be dismissed as entirely misleading. Oxy Vinyls cites this report in an attempt to substantiate the importance of the fluctuations in Inovyn’s market share during the September 2022 – August 2023 period. However, the quotation is taken entirely out of context:

- Firstly, the ‘POI’ referred to in the WTO Panel Report was the three year period of 2007 – 2010³⁰ as opposed to a single 12 month period (as examined by Oxy Vinyls).³¹
- Secondly, while the WTO Panel does indeed report that the competent authority in the WTO case had failed to consider the decline in imports *during the first and last part of the POI*, the Panel refers to the decline between 2007 (‘first part of the POI’) and 2010 (‘second part of the POI’).
- Thirdly, the key issue examined by the WTO Panel was as follows: while there was an overall decline in imports between 2007 and 2010, the competent authority had only focused on the increase in imports in 2009 on the basis that it was at a ‘higher rate’ than the subsequent decrease in 2010 (which the panel considered an inadequate explanation due to the rate of increase/decrease being close in magnitude). This issue is not relevant to the case at hand.

²⁹ Oxy Vinyls submission, page 17; WTO Panel Report, *Pakistan – BOPP Film (UAE)* [WT/DS538/5](#)

³⁰ WTO Panel Report, *Pakistan – BOPP Film (UAE)* [WT/DS538/5](#), Paragraphs 7.267 - 7.272

³¹ Oxy Vinyls submission, page 17

46. Thus, Inovyn maintains that Oxy Vinyls' submission is misleading. In fact, as highlighted in the above graphs, the UK industry's market share declined significantly between 2019 (the first part) and 2023 (the last part of the period).
47. Lastly, with respect to the confidentiality of market shares, Inovyn maintains that these figures are commercially sensitive. Disclosure of market share percentages in the present investigation, which involves only one domestic producer, would indirectly disclose Inovyn's precise sales figures which are confidential. With respect to Oxy Vinyls' comparison with the EU investigation, Inovyn seeks to emphasise that in the EU investigation the Complainant consisted of three Union producers and the confidentiality requirements therefore differed: aggregate figures could be disclosed without disclosing individual company data.

(b) Investment data

48. Oxy Vinyls submits that Inovyn's investment data shows that Inovyn is healthy but is not prioritizing its UK facilities.³² In support of this claim, several investments are highlighted concerning European projects.
49. Inovyn rejects the claim that Inovyn has a strategy to invest in EU countries over the UK. This is unsubstantiated and untrue. Inovyn seeks to emphasise that investments are looked at by Inovyn on a site-by-site and product-by-product basis. The investment figures provided in the Application³³ and relayed by Oxy Vinyls in the submission³⁴ relate only to investments by Inovyn's PVC production entity in the UK. Consequently, Oxy Vinyls' argument does not flow. Oxy Vinyls refers to several investments made by different INEOS business units which are not relevant to this investigation.³⁵ For example, Newton Aycliffe does not sell or produce Biovyn,³⁶ the €3.5 billion for its cracker project in Antwerp is an investment by another business unit³⁷ and the cracker will not produce PVC.
50. Consequently, Inovyn considers that the entirety of Oxy Vinyls' assessment of Inovyn's investments should be disregarded as both incorrect and misleading.
51. Finally, Inovyn seeks to emphasise that part of the reason for the increased investment evidenced in the Application is due to increased regulation and sustainability guidelines that the European Petrochemical industry needs to meet. It is not due to an investment to add capacity. Additionally, the increase in investments takes as its base year 2020 where investments were lower as a result of Covid and the inability for work to be carried out on the site itself. This should be taken into consideration when assessing the injury picture.

Causation between US imports and injury to the UK industry

³² Oxy Vinyls submission, page 18 and 19

³³ Appendix 6 to the Application

³⁴ Oxy Vinyls submission, page 18

³⁵ Oxy Vinyls submission, page 19

³⁶ Biovyn is produced predominantly in Norway: <https://www.ineos.com/businesses/inovyn/news/biovyn-provides-a-sustainable-solution-for-fossil-free-construction/>

³⁷ The cracker project is an investment by INEOS Olefins: <https://www.ineos.com/news/ineos-group/ineos-secures-3.5-billion-financing-for-project-one---the-greenest-cracker-in-europe/>

52. Oxy Vinyls considers that there is no causal relationship between the injury sustained by the UK PVC industry and US imports. Inovyn maintains that it has provided ample data both in the Application and throughout the investigation to demonstrate that a causal link exists between US dumped imports and injury to the domestic industry.
53. Oxy Vinyls raises two issues which it considers negate the existence of the causal link: (a) profitability of the UK industry and (b) the trend in market shares of different players on the UK market. Inovyn considers that both challenges should be dismissed on the following grounds:
- Profitability: Oxy Vinyls cites Inovyn’s annual report for 2020, 2021 and 2022 in an attempt to show that profitability has increased between 2020 and 2022 yet the report cited accounts for all of Inovyn’s financial data, representing several products and several sites outside the UK. This data is therefore entirely outside the scope of the investigation and has no bearing on the performance of the UK PVC industry. It is therefore not capable of attenuating the causal link between the increased US imports and the injury sustained by the UK PVC industry.
 - Market shares: Oxy Vinyls indicates that “*it is clear that the UK industry has lost market share to non-US imports*”³⁸ yet it is entirely unclear on what basis this conclusion is drawn since it is unsupported by the figures reported by HMRC. Indeed, between 2022 and 2023, while US imports increased by 29%, total imports from all origins decreased by 13%. This trend does not suggest that other import origins are to blame for the injury suffered by the UK industry. Additionally, with respect to the trend in market shares, the Applicant has already highlighted earlier in this submission that the decrease in Inovyn’s market share correlates to the increase in the market share of US imports.
54. In addition, Oxy Vinyls contends that various known factors break the causal link between US imports and the injury suffered by the UK PVC industry.³⁹ In particular, the following factors are addressed:
- a. Turnaround problems in Rafnes
 - b. Energy costs
 - c. Ethylene costs
 - d. Regulatory costs
 - e. Weak demand
55. Inovyn will consider each factor in turn and demonstrate why the developments do not attenuate the causal link.

(a) Turnaround problems in Rafnes

56. Oxy Vinyls seeks to imply that the injury suffered by the UK industry may have been caused by the ‘production issues’ in Rafnes (Norway), the site which supplies VCM to Inovyn’s UK PVC production plant, rather than by US imports. Inovyn submits that Oxy Vinyls has failed to demonstrate that the production issue in Rafnes attenuates the causal link.

³⁸ Oxy Vinyls submission, page 22

³⁹ Oxy Vinyls submission, page 22

57. Inovyn wishes to highlight, at the outset, that the bulk of the information relied on by Oxy Vinyls with respect to the production issues in Rafnes, is taken from the EU AD Complaint. Inovyn considers that it is not appropriate for Oxy Vinyls to reference this information since the EU Complaint is provided in confidence to interested parties via a database referred to as TRON. This Complaint is not a public document and contains information pertaining to Union producers other than Inovyn. On this basis alone, Inovyn considers that the arguments put forward by Oxy Vinyls should be rejected.
58. Oxy Vinyls' argument can be summarised as follows: (a) since production issues existed in 2022, this is *"clearly the reason behind poor economic performance at that time"*⁴⁰ and (b) since Inovyn also declared a *force majeure* due to a power outage at Rafnes in 2020, Inovyn is prone to production issues which may attenuate the causal link.⁴¹ Inovyn considers that these arguments are not convincing. Indeed, the following assessment of the trends in UK production and US imports contradicts the conclusion drawn by Oxy Vinyls:

	2019	2020	2021	2022	POI
UK production (index 2019)	100	107	110	70	68
US imports (index 2019)	100	60	65	93	133

Source: Application, Annex 2

59. The above table clearly shows that the correlation between injury and 'production issues' is not as clear-cut as Oxy Vinyls claims. For example, in 2020, despite the production issues in Rafnes, UK production remained high. Additionally, in 2020, imports from the US remained low. However, during the POI, where US imports were at their highest, UK production dropped significantly. This shows that even a major production issue cannot in and of itself negate the significant impact of US imports entering the UK market at dumped prices.
60. Additionally, Inovyn seeks to highlight that contrary to what Oxy Vinyls seeks to imply by referring to information supplied by Rehau in EU investigation,⁴² the increase in imports is not a result of Inovyn's inability to supply the UK market.
61. Firstly, if the import of material from the US were indeed 'essential' for the stability of supply due to a shortage of supply on the UK market, Rehau and other customers would have paid a premium instead of heavily reduced import prices.
62. Secondly, *[redacted: confidential information showing that the Applicant fulfilled its contractual obligations to users in 2020 despite production issues. Additionally, the Applicant indicates that where a lower contractual uptake is seen this was not due to Inovyn's inability to supply the material but rather due to users purchasing below their contractual volumes and increasing their uptake of low-priced imported material]*.

⁴⁰ Oxy Vinyls submission, page 23

⁴¹ Oxy Vinyls submission, page 26

⁴² Oxy Vinyls submission, page 36

63. Therefore, to conclude, Inovyn considers that production issues do not attenuate the causal link.

(b) Energy costs

64. Inovyn acknowledges that in 2022, the UK (and Europe) experienced an acute energy crisis. However, Inovyn rejects the allegation that this energy crisis breaks the causal link between dumped imports originating in the US and the injury suffered by the UK PVC industry. If, as Oxy Vinyls 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.
65. Additionally, Inovyn wishes to reinforce the causation relationship between the decrease in production and the increase of 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 16

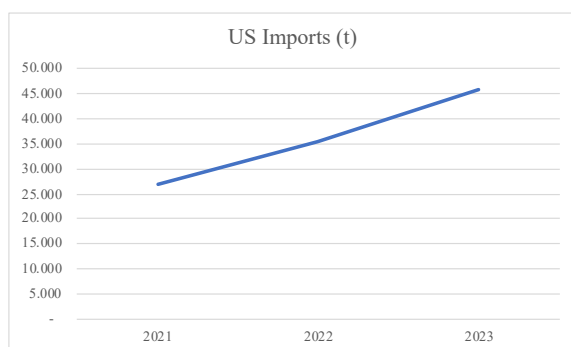
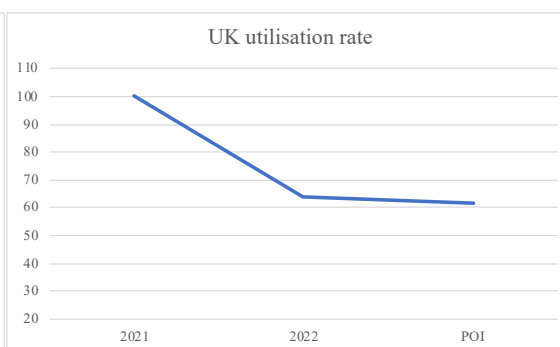


Figure 17



66. Thus, while the development in energy prices had an effect on the industry, Inovyn maintains that this cannot be considered to negate the correlation between the increase in US dumped imports entering the UK market and the decline of the UK industry.

(c) Ethylene costs

67. Oxy Vinyls considers that the price difference between US and European ethylene has rendered US producers more competitive. At the outset, Inovyn seeks to highlight that it is irrelevant to the assessment of the dumping practices of US producers whether it is more expensive to produce ethylene in Europe than in the US. Whether US producers are engaging in unfair trade practices in the form of dumping on the UK market, requires an assessment of the domestic US price against the US export price – the cost of ethylene in Europe is not a factor for consideration and is not a defence to dumping.
68. With regards to the relevance for the injury assessment, Inovyn considers that Oxy Vinyls' assessment does not show that the increase in the European price for ethylene has caused injury to the UK industry. Oxy Vinyls takes for granted that the price reported by CMA, is the price paid by Inovyn. Producers have several options to optimise their cost of ethylene taking into account the price paid for Ethylene in the US such as negotiating spot agreements or importing ethylene from the US to cover their needs.

69. In any event, Invoyn maintains that the difference in the price of ethylene does not break the causal link. Under fair market conditions, in the absence of dumped imports from the US, the UK industry could maintain its sales price levels so as to benefit from a reduction in costs and remain profitable. However, low-priced US imports have subject domestic prices to significant price pressure and prevented such market adaptations.

(d) Regulatory costs

70. Oxy Vinyls considers that increased regulatory costs are the cause of Invoyn's loss in profitability.⁴³ Invoyn considers that this is incorrect and is not supported by the data provided.
71. As indicated by Oxy Vinyls, INEOS annual reports⁴⁴ highlight the increased initiatives taken to achieve decarbonisation goals. However, such initiatives are not novel to the POI. Indeed, the burden of green initiatives was also acknowledged in earlier Annual Reports⁴⁵ when the UK PVC industry obtained a healthy profitability. Thus, Invoyn considers that the reality of increased costs due to green initiatives is not capable of breaking the causal link. Additionally, as discussed in greater detail below, Invoyn maintains that under normal conditions of competition the industry's profitability would account for such initiatives.

(e) Weak demand

72. Invoyn acknowledges that there has been a decrease in PVC demand on the UK market. However, Invoyn maintains that this does not negate the significant injury caused by the increase in US imports at dumped prices. Indeed, it is important to highlight that US imports have continued to increase at low prices, despite the decline in the UK market. This can be seen by the increase in US imports relative to domestic consumption (market share) highlighted at figure 15 of this submission.

Threat of injury

73. Oxy Vinyls raises three key issues with regard to the threat of injury claimed by Invoyn in the Application: firstly, that there is no overcapacity on the US market, secondly that US exports are not destined to the UK market and lastly that no evidence was provided of price depression or suppression on the UK market.
74. With regard to the overcapacity, Invoyn considers that Oxy Vinyls' distinction between "overcapacity" and "export capacity" is futile since SI 450/19 does not actually utilise the term 'overcapacity' but rather (as Oxy Vinyls themselves indicate) refers to "*sufficient freely disposable or an imminent substantial increase in capacity*".⁴⁶ Thus, Invoyn maintains that the US export capacity demonstrated in the Application remains relevant to the threat of injury analysis.

⁴³ Oxy Vinyls submission, page 28

⁴⁴ Nevertheless, Invoyn considers that such reports are not reflective of the situation of the UK PVC industry since they are comprehensive reports for INEOS covering several countries and business units.

⁴⁵ See for example Annual Report for 2022: <https://www.ineos.com/ineos-quattro-investor-relations/financial-reports/annual-reports/>

⁴⁶ Oxy Vinyls submission, page 30; basic Regulation 28(2)(a)-(c)

75. Oxy Vinyls argues that the UK is not the main destination for US PVC exports and that in 2022 the US exported 1200% more PVC to Canada than to the UK. Invoyn considers such arguments to be entirely redundant. The Canadian PVC market⁴⁷ is objectively larger than the UK PVC market with a correspondingly higher demand and therefore requires a larger volume of imports. It follows that a comparison of the volume of US imports into the Canadian versus the UK market is not capable of proving that there is no threat of injury to the UK PVC industry.
76. With respect to the trends in price depression and suppression, Oxy Vinyls indicates that no prospective analysis of such price trends was provided by the Applicant. However, at page 30 of its submission, Oxy Vinyls acknowledges that a threat of injury analysis, which requires a prospective analysis, should consider data from the most recent time period as this is particularly instructive.⁴⁸ Indeed, in the Application, Invoyn provided a detailed price depression analysis for the most recent period, namely for the 12-month period of September 2022 – August 2023.
77. Thus, Invoyn considers that the arguments made by Oxy Vinyls with respect to the threat of injury should be dismissed.

Target profit

78. Oxy Vinyls submits that a 15% profit margin is groundless. Invoyn maintains that 15% is a normal profitability margin for the chemical sector and should therefore be considered reasonable as a target profit for the underselling margin. While Oxy Vinyls considers that no evidence has been provided to support this claim, this is entirely untrue. The Application clearly indicates the trend in profitability achieved by the UK PVC industry over the course of the period considered. This *'historic data from the UK industry'*⁴⁹ highlights that *[redacted: confidential information concerning Invoyn's profitability]*.
79. Oxy Vinyls states that *"in its selected IP, the average profits it made were significantly below the target profit of 15%"*⁵⁰ in attempt to prove that a 15% margin is not appropriate. This argument does not make sense. Indeed, during the POI – the period during which Invoyn suffered serious injury caused by dumped US imports – the target profit was not achieved. This is precisely the point of taking a target profit and applying it to the cost of production during the POI in order to estimate the price at which the UK industry should have been able to sell in the absence of dumped imports. The fact that a 15% profit margin was not achieved during the POI is entirely consistent with the injury sustained by the industry. This is supported by the citations evidenced by Oxy Vinyls which highlight that the profit margin should be one which the domestic industry could have expected to achieve under *"normal conditions of competition"*⁵¹ – thus the profit margin achieved in a period where the industry suffered injury from dumped imports is clearly not an appropriate benchmark.
80. This level of profitability is fundamental to maintaining a sustainable PVC industry. Furthermore, the PVC industry is a capital intensive industry which requires a healthy profit margin to operate. In

⁴⁷ In 2023 the Canadian demand was 520kt (CMA world vinyl report 2024)

⁴⁸ Oxy Vinyls submission, Page 30

⁴⁹ Oxy Vinyls submission, Page 35

⁵⁰ Oxy Vinyls submission, Page 33

⁵¹ Oxy Vinyls submission, Pages 34 and 35

addition, a reasonable target profit must take into account additional regulatory costs faced by the UK industry to comply with environmental goals. The level of capital needed to invest in such decarbonisation projects, which are in the UK interest, is significant.

Interests of the UK PVC users

81. Oxy Vinyls claims that ‘cutting off’ US imports would result in “*a monopolistic situation on the UK PVC supplier market*”.⁵² Invoyn considers that this argument should be rejected for the following reasons:
82. Firstly, this claim is entirely inconsistent with the rest of Oxy Vinyls’ submission where it is repeatedly asserted that large volumes of PVC are imported into the UK from origins other than the US.⁵³ Thus, Oxy Vinyls has indirectly acknowledged that many players are present on the UK market,⁵⁴ in addition to the US and the UK.
83. Secondly, Invoyn seeks to emphasise that the imposition of AD measures on dumped US PVC entering the UK market does not deny access to the UK market to US producers. Rather, AD measures seek to ensure that US producers compete fairly on the UK market.
84. Thus, Oxy Vinyls arguments in relation to the interests of UK users should be dismissed.

Conclusion

85. In conclusion, Invoyn considers that there was a reasoned and valid basis for seeking an investigation into the dumping practices of US PVC exporters. As demonstrated in this submission, US imports have continued to increase significantly since 2020 with imports consistently entering the UK market at an average price significantly below all other import origins.
86. Additionally, a clear causal relationship exists between US dumped imports and the injury sustained to the UK PVC industry. While Invoyn acknowledges that certain other factors have affected the UK market in recent years, Invoyn rejects the allegation that such factors attenuate the causal link.

⁵² Oxy Vinyls submission, Page 36

⁵³ Oxy Vinyls submission, Pages 2,4,5,11 and 12

⁵⁴ For example: Netherlands, Belgium, Mexico, Germany, France, and Norway