

BEFORE THE TRADE REMEDIES AUTHORITY OF THE UNITED KINGDOM

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**ANTIDUMPING PROCEEDING CONCERNING IMPORTS INTO THE UNITED KINGDOM OF  
SUSPENSION POLY(VINYL CHLORIDE) ORIGINATING IN THE UNITED STATES OF AMERICA  
(AD0049)**

**MEMORANDUM ON PROCEDURE, PRODUCT, INJURY, CAUSALITY AND DOMESTIC  
INTEREST**

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ON BEHALF OF RAVAGO AMERICAS, LLC d/b/a RESINTECH USA

Of Counsel:

Nadiya Nychay

Mihai Ioachimescu-Voinea

Dimitar Arsov

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## 1. Introduction

### 1.1. Introductory remarks

1. On January 8, 2024, the Trade Remedies Authority of the United Kingdom (“TRA”) initiated an anti-dumping investigation into imports of polyvinyl chloride (“PVC”) originating in the United States of America under paragraph 9(5) of Schedule 4 of the Taxation (Cross-border Trade) Act 2018 (“TA”).<sup>1</sup> The product investigated consists of suspension polyvinylchloride (“S-PVC”), not mixed with any other substance (HS code (ex): 3904 10 00, commodity codes: 3904 10 00 15 and 3904 10 00 80). The product concerned includes S-PVC only, it does not include emulsion polyvinylchloride (“E-PVC”).
2. In addition, applicable to the present proceeding is the United Kingdom’s Regulation 49 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (“the Regulation”). Also relevant to the present proceeding are the provisions of the World Trade Organization (“WTO”) Agreement on Implementation of Article VI of the GATT 1994 (“the WTO ADA), as well as other relevant WTO rules and principles.
3. The investigation was initiated following the submission of a complaint (“the Complaint”) lodged by Inovyn Chlorvinyls Limited (“the Complainant”) on January 8, 2024.
4. The present submission on injury is made on behalf of Ravago Americas, LLC d/b/a Resintech USA (“Ravago Americas”), a global distributor of polymers, rubber and chemicals, including PVC. It addresses factual and legal aspects of the procedure, purported material injury, threat of material injury, causal link and the UK interest.
5. By way of this submission, Ravago Americas will address certain procedural matters stemming from the acquisition by **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]** and, consequently, **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]** with closing date **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]** (the “Acquisition”). It will also demonstrate that the Complainant has not provided sufficient evidence justifying the initiation of the case in the sense of Article 5(3) of the WTO ADA and as required by the Regulation.
6. More specifically, the present Memorandum addresses the following issues:
  - The Acquisition of **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]** during the period of investigation should not limit the scope of data analyzed by TRA for the purposes of its analysis of dumping.
  - The Complainant failed to provide information on a number of important elements related to the S-PVC market that would have allowed TRA to make a proper assessment of the state of the UK industry.
  - Ravago Americas will demonstrate in Sections 2 to 4 below that the available data is not indicative of the existence of any injury of the UK domestic S-PVC industry (“UK industry”), nor do any possible downtrends point to the existence of a causal link with imports from the US.
  - No national interest would be served in the introduction of the anti-dumping measures; the UK end users will suffer through the inevitable price increases that would occur as a result of imposition of measures that are being contemplated.
7. In our submission, we will make references to the data relied upon by the Complainant, as the injury data is not yet fully available. Our reliance on the Complainant’s data should not be interpreted as an acknowledgment of the reliability of the data. Ravago Americas will rely on

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<sup>1</sup> UK Taxation (Cross-border Trade) Act 2018.

the Complainant's data as a preliminary means to showcase some of the issues related to the deficiencies of the Complaint, such as injury, causation and the UK interest analysis to be carried out on the basis of the data collected by TRA in the framework of this investigation.

8. In our submission, Ravago will sometimes rely by analogy on EU case-law. Ravago Americas understands that such case-law remains to a certain extent relevant in view of the similarities of the present UK procedures with the analogous EU procedures.

**1.2. Considerations concerning the period of investigation in the context of corporate changes at Ravago Americas**

9. As already mentioned by Ravago Americas in the course of the present proceeding, during the investigation period selected by the TRA, i.e. calendar year 2023, **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]** and its subsidiaries (including **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]**). Set out further below are Ravago America's comments as to why this acquisition should not limit the scope of data analyzed by TRA for the purposes of its analysis of dumping:

- First, **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]** This continuity means that the pre-Acquisition data is still relevant for understanding the full scope of the company's market behaviour and pricing practices.
- In addition, the supply chain, customer relationships, and distribution channels established by **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]** before the Acquisition continue to benefit **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]**. These relationships are critical in assessing the pricing and market strategies over the full period of investigation.
- Using the full investigation period allows for a more comprehensive analysis of market trends and pricing behaviour. Only this approach can provide a clear picture of how Resin Technology/Ravago Americas operated in the market over time, including any strategic changes made due to the Acquisition.
- In addition, excluding pre-Acquisition data would create gaps in the analysis, potentially leading to an incomplete or skewed understanding of alleged dumping practices, if any.
- Trade remedy instruments, and the antidumping instrument in particular, aim to capture the true extent of distortive market and dumping practices over a representative period. Excluding part of the investigation period would undermine the thoroughness and accuracy of the assessment. Relatedly, in the context of investigations involving exporters from countries with economies in transition to market economies, competent authorities have commonly considered full periods that included pre-Acquisition phases of companies in receivership. Consistency in applying this practice would ensure fairness and predictability in trade remedy cases.
- **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]**. This financial integration further supports our argument that the entire investigation period is relevant.
- **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]**.
- **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]**.
- Last but not least, ensuring a level playing field requires a complete understanding of all relevant sales activities, including those pre-Acquisition. This approach would prevent any artificial inflation or deflation of dumping margins due to selective data exclusion.

Furthermore, **[BUSINESS CONFIDENTIAL INFORMATION OMITTED]**. As such, it is fair and equitable to consider the full investigation period in the dumping calculations.

**2. Preliminary points concerning injury**

10. In this submission, Ravago Americas addresses the following points with regard to the S-PVC market and the required approach to carry out the assessment of injury:
- The disruptive effects of Covid-19 and Brexit on the S-PVC market and normal market conditions;
  - The chlor-alkali production process and its effects;
  - The effects of high costs for energy;
  - The existence of different market segments;
  - Considerations concerning the period of investigation.

**2.1. Disruptive effects of Covid-19 and Brexit on the S-PVC market and normal market conditions**

11. The S-PVC market is characterized by the existence of business cycles, with variations in time between supply and demand, based on outlooks and growth of the economy and the construction sector. These aspects are well known within the manufacturing industry and confirmed by market intelligence sources<sup>2</sup> and competition authorities in the EU.<sup>3</sup>
12. The existence of business cycles in the S-PVC market is acknowledged by the Complainant in its 2022 Annual Report:
- Certain of our products, including SM, certain grades of PS and ABS Standard, PVC, ECH, caustic soda, PTA, acetic acid and acetic anhydride, are commodity chemicals. The prices and margins of these commodity chemicals have historically been cyclical and sensitive to relative changes in, among other factors, global and regional capacity, supply and demand levels, the availability and price of raw materials and feedstocks and general economic conditions. Across these industries, cycles are generally characterized by periods of high demand or decreased supply, leading to high operating rates and margins, followed by periods of oversupply resulting primarily from either significant capacity additions or lower demand, leading in turn to reduced operating rates and lower margins.<sup>4</sup>
13. The S-PVC industry was greatly impacted by the Covid-19 pandemic and a series of other external events which affected the supply and demand balance in the UK. The impact of these events still reverberate today.
14. Effectively, starting with 2020, the S-PVC market was characterized by insufficient supplies due to planned or unforeseen idling of plants. In August 2020, Hurricane Laura hit Lake Charles in

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<sup>2</sup> See PVC Prices Enter Cyclical Downturn at <https://www.plasticstoday.com/plastics-processing/pvc-prices-enter-cyclical-downturn>

<sup>3</sup> See Case M.6905 – INEOS/ Solvay/ JV (2014), paras. . 90, 93, 94 with regards to the fact that S-PVC and CS are counter-cyclical, i.e. subject to business cycles.

<sup>4</sup> INEOS Quattro Holdings Limited 2022 Annual Report, page 19, available at <https://www.ineos.com/globalassets/investor-quattro-ir/public/annual-reports/ineos-quattro---annual-report-2022.pdf>.

United States, Louisiana, an area where an essential Vinyl chloride monomer (VCM) production plant operated by Westlake is located. This event forced Westlake to shut down its operations, leading to considerable loss in VCM and chlor-alkali production capacity.<sup>5</sup> Westlake's chlor-alkali plants idling were further prolonged following Hurricane Delta in October 2020. The S-PVC supply was also impacted throughout 2021 by winter storm Uri and Hurricane Ida.<sup>6</sup>

15. At the same time, the Covid-19 pandemic led to a surge in the construction sector in 2021 and 2022. As a result of lockdowns, consumers were incentivized to redirect their additional purchasing power into real estate. These combined factors allowed the UK industry to make colossal profits, unabated by imports of PVC from other third countries. In 2022 the pressure on the PVC market accumulated was released, leading to a market correction. The contraction was further aggravated by high inflation and high borrowing and energy costs. All these factors are duly accounted for by market intelligence sources:

The global PVC market has been buffeted by seismic external shocks in recent years. It all started with the Covid-19 pandemic in early 2020, which initially was detrimental to PVC. 2021 was defined by supply shortages due to significant planned and unplanned outages regionally and globally, not least of which was the lasting effects of winter storm Uri in the US. Meanwhile, domestic demand surged, in large part due to the so-called 'cocooning effect' of the Covid-19 pandemic. The upshot was PVC pricing and calculated margins for producers that reached record levels. In 2022, the European bubble burst in spectacular fashion. In the first half of the year, demand held steady on a high level but from mid-year it collapsed, resulting in an annualized market contraction that easily exceeded the surge in demand seen in 2021. Chemical Market Analytics by OPIS estimates that domestic demand grew 8-9% in 2021, while it contracted as much as 15-16% in 2022, which is all the more remarkable when one considers that all of this contraction was concentrated in the second half of the year.

The 2022 collapse was multi-faceted, with the Ukraine conflict as a driving force in many cases. The collapse was the result of rising inflation squeezing disposable income, higher interest rates dragging on investment and economic activity generally, and the energy crisis hitting demand, affordability and buyer sentiment. Moreover, with release from Covid-19 confinement and, as economies re-opened, the population returned to spending less of their, albeit reduced, disposable incomes on products that consume PVC and more in leisure, services, etc. In summary, in the period from early-2020 to mid-2022, the pressure that built in the PVC bubble was significant, the market over-heated and the adverse reaction starting from mid-2022 was even more intense, magnified by multiple negative factors. Using 2019 as the last 'normal' reference point, Chemical Market Analytics by OPIS believes domestic demand lagged approximately 25% in Q1 2023 and operating rates have collapsed.

To the extent that the confluence of events over the last three years were so extraordinary and so intense, we assume that the resulting market volatility was a once-in-a-generation occurrence and that market conditions will normalise. However, it is

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<sup>5</sup> See Westlake Chemical declares force majeure on VCM, PVC after Hurricane Laura: letter, at <https://www.spglobal.com/commodityinsights/en/market-insights/latest-news/chemicals/083120-westlake-chemical-declares-force-majeure-on-vcm-pvc-after-hurricane-laura-letter>

<sup>6</sup> See Impact of Winter Storm Uri on Chemical Markets, at <https://www.spglobal.com/commodityinsights/en/ci/topic/impact-of-winter-storm-uri-on-chemical-markets.html>; Residual Impacts of Winter Storm Drive Spike in PVC Prices, Demand, at <https://www.thomasnet.com/insights/residual-impacts-of-winter-storm-drive-spike-in-pvc-prices-demand/>. See also Ida Disrupts Chlorine Production, Raising Risk of Higher Prices, at <https://www.bloomberg.com/news/articles/2021-08-30/swimming-may-get-pricier-as-hurricane-ida-hits-chlorine-supplies>.

difficult to overstate the scale of the downturn, and recovery from deep deficit territory is likely to be protracted and gradual. The reason for this is that some of the forces underpinning the downturn in demand are considered structural shifts, in particular the fallout from the Ukraine conflict which we expect to feed into enduring macro-economic and cost pressures. Also, as the European economy pivots away from a fossil fuel-based economy to renewables, this will add to costs and r-PVC is expected to remain a limiting factor for prime PVC demand growth.<sup>7</sup>

16. The recent distortive events and their impact on the market are confirmed by the Complainant in its 2022 Annual Report:

As a result of the Covid-19 pandemic, demand was severely impacted in the second quarter of 2020 but experienced a swift recovery thereafter in the second half of 2020, 2021 and the first half of 2022, accompanied by record margins. The war between Russia and Ukraine and the ensuing energy crisis in Europe resulted in very weak European S-PVC demand in the second half of 2022, however, with plant operating rates falling to levels last seen during the global economic crisis in 2008. In the ChlorVinyls industry, an economic downturn typically causes PVC demand to fall.<sup>8</sup>

17. Adding to that, the United Kingdom's withdrawal from the European Union on January 31, 2020 (Brexit), further aggravated the performance of the PVC market, with producers experiencing uncertainties,<sup>9</sup> price increases for their supplies<sup>10</sup> and disruptions in their supply chains.<sup>11</sup> Estimates provided by the British government showed that even with a free trade agreement in place, the UK plastics industry was bound to drop by 18% as a result of Brexit — an assessment shared by the industry.<sup>12</sup> Indeed, four years after Brexit, the UK economy lost almost £140 billion in value, and trade with the EU dropped by 15%.<sup>13</sup> These cumulated factors led the UK economy into recession towards the end of 2023, resulting in a significant drop for the construction sector.<sup>14</sup>
18. While the post-Brexit negative effects were initially concealed due to the strong market growth of PVC during 2021 and 2022, they evidently represent an important aggravating factor to the current status of the UK industry, after the demand bubble burst in the second half of 2022.

<sup>7</sup> See The European PVC Industry – In the Eye of a Storm, or Just a Storm in a Tea Cup?, at <https://chemicalmarketanalytics.com/blog/european-pvc-industry/>. See also <https://www.chemanalyst.com/Pricing-data/poly-vinyl-chloride-5>. (emphasis added)

<sup>8</sup> INEOS Quattro Holdings Limited 2022 Annual Report, page 21, available at <https://www.ineos.com/globalassets/investor-quattro-ir/public/annual-reports/ineos-quattro---annual-report-2022.pdf>.

<sup>9</sup> See at <https://www.rayda.co.uk/blog/will-no-deal-brexit-affect-plastic-industry/>

<sup>10</sup> See Reflecting on the Early Effect of Brexit on Material Prices, available at <https://www.plastikcity.co.uk/blog/reflecting-on-the-early-effect-of-brexit-on-material-prices/>

<sup>11</sup> See Brexit Remains Biggest Headache in UK's Recession-Prone Economy at <https://www.bloomberg.com/news/newsletters/2022-11-28/supply-chain-latest-uk-business-struggle-with-brexit>

<sup>12</sup> See Manufacturing and Brexit, page 24, at <https://ukandeu.ac.uk/wp-content/uploads/2020/06/Manufacturing-and-Brexit.pdf>. See also <https://www.foodingredientsfirst.com/news/brexit-and-packaging-sector-plastics-to-be-the-hardest-hit-in-a-no-deal-scenario-experts-warn.html>

<sup>13</sup> See London's economy after Brexit: Impact and implications, available at [https://www.camecon.com/wp-content/uploads/2024/01/GLA\\_Impacts-of-Brexit-report\\_Final.pdf](https://www.camecon.com/wp-content/uploads/2024/01/GLA_Impacts-of-Brexit-report_Final.pdf). See also Manufacturing and Brexit, at <https://ukandeu.ac.uk/wp-content/uploads/2020/06/Manufacturing-and-Brexit.pdf>

<sup>14</sup> See at <https://www.building.co.uk/news/construction-output-down-as-uk-falls-into-recession/5127837>. article

19. In effect, the circumstances describing the PVC market presented above can be summarized as follows. The S-PVC market is highly dynamic and subject to business cycles, even in normal market circumstances. Because of the Covid-19 pandemic, the last three years were defined as 'a once-in-a-generation occurrence' by market intelligence providers.<sup>15</sup> These elements are indeed essential for examining whether or not any injury, if it exists, to the UK industry is related to imports from the US. The Complaint filed with TRA barely touches on any of the underlying market realities discussed earlier, which are essential for evaluating the UK industry accurately.
20. Indeed, trade defence measures are a tool that should be deployed to address unfair practices rather than to correct free market dynamics. Disregarding the volatile conditions of the market of the past three years – reported by multiple sources – and attributing all effects to imports would go against the letter of WTO's Anti-Dumping Agreement.
21. Ravago Americas would therefore like to request TRA to carefully take into account the business cycles and volatility of the S-PVC market in these past years. These factors are key to explaining the record margins achieved by the UK industry in 2021 and 2022 and play a particularly important role in the causation analysis, as Ravago Americas will address below.

## 2.2. The chlor-alkali production process and its effects

22. As we have outlined above, the S-PVC market is generally highly dynamic and subject to business cycles. 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, which generates Caustic Soda ("CS") and/or caustic potash, a by-product of S-PVC. CS is commonly used by the PVC industry to generate additional revenues and increase profits, particularly in case of a market downturn. These aspects are well known within the industry and have been explained in the past by the EU competition authorities:

The joint production has two main implications. First, PVC and CS production and sales decisions are intertwined and based on joint profits. In other words, a PVC supplier calculates profitability on the basis of a full chain margin that includes CS and also all the other by-products and eventually PVC and CS contribute to overall profitability. PVC and CS have inherent counter-cyclicity: when PVC demand decreases, caustic production volumes drop, increasing caustic margins.<sup>16</sup>

23. The link between PVC and CS is also confirmed by market intelligence reports, which cite the existence of a balancing effect, where the revenues generated by one product can make up for the loss of the other:

[...] some stability has been seen more recently because of higher netbacks on caustic soda, a byproduct of chlorine production.<sup>17</sup>

Despite the starkly bearish PVC markets, prices of caustic soda, a by-product in the PVC production process, have climbed sharply given high demand for this product.<sup>18</sup>

In the chlor-alkali industry chain, 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 of the other.<sup>19</sup>

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<sup>15</sup> See at <https://chemicalmarketanalytics.com/blog/european-pvc-industry/>.

<sup>16</sup> Case M.6905 – *INEOS/ Solvay/ JV* (2014), paras. 90 *et subseq.* (emphasis added)

<sup>17</sup> See at <https://www.argusmedia.com/en/news/2403964-viewpoint-eu-pvc-struggles-to-remain-cost-competitive>.

<sup>18</sup> See at <https://www.chemorbis.com/en/plastics-news/Surging-caustic-prices-cause-PVC-supply-to-rise-contributing-to-PVC-slump-/2022/10/26/856199&isflashhaber=true#reportH>

<sup>19</sup> See at <https://www.echemi.com/cms/1237056.html>. (emphasis added)

24. In other words, players on the PVC market have integrated the chlor-alkali in their production chain in order to use CS as a counter-balance to hedge against the risks of a highly dynamic market and round up their profits. The additional revenues are particularly important in case of market shocks, such as the severe one experienced recently. As explained by the EU competition authority in a case concerning the parent company of the Complainant:

As mentioned, PVC and CS are countercyclical, that is to say when profitability in PVC is low the profitability of CS is high and vice-versa. CS can thus effectively be used to hedge both short term large demand shocks and medium term price trends in the PVC market. In extreme cases, it might even be possible for PVC suppliers to sustain losses in one market, if margins on the other market are strong.

On the basis of the dataset provided by the Notifying Parties, the Commission has also computed the evolution of INEOS' S-PVC and CS prices as well as INEOS' SPVC and CS margins. Figure 3 confirms the counter-cyclicity of the S-PVC prices and the CS prices and Figure 4 shows how the position in both S-PVC and CS markets smoothed the large economic shock in 2008-2009, helping to preserve the overall profitability of the INEOS' PVC production chain.<sup>20</sup>

25. The Complainant has explained that it does not rely on the chlor-alkali process for its production of PVC, but that it uses VCM supplies from a plant located in Rafnes, Norway. The Complainant omits any information on whether or not the VCM plant is part of the same group of companies, but Ravago Americas takes note of the fact that INEOS group operates a Chlorine and VCM plant at the same location.<sup>21</sup> Therefore, the Complainant in effect benefits from a vertically integrated business, albeit located in different places, whereby it produces VCM and CS in Rafnes, Norway, and relies on VCM input for the production of PVC in the plant located in Newton Aycliffe, UK.
26. Therefore, to the extent that the Complainant relies on intra-group VCM supplies, Ravago Americas requests TRA to examine whether the allocation of costs for the production of VCM and the prices charged are made on Fair, Reasonable, and Nondiscriminatory (FRAND) terms.
27. Ravago Americas submits that an integrated chlor-alkali production facility for S-PVC is the market standard, utilized by virtually all producers aiming to thrive on a fluctuating and highly competitive market. While the Complainant *de facto* benefits from an integrated chlor-alkali production process, the location of the VCM plant in a different country may exclude the production costs and profits made from sales of CS and caustic potash from the injury analysis in an anti-dumping investigation. Such exclusion weighs heavily when the PVC market experiences a market downturn, such as it happened recently. As the EU competition authority stated in a market investigation, “PVC and CS are countercyclical, that is to say when profitability in PVC is low the profitability of CS is high and vice-versa”.<sup>22</sup>
28. As the PVC market and CS and/or caustic potash markets are intertwined and inter-dependent, it is necessary to calculate the consolidated profits made from sales of CS and caustic potash, and to factor in such profits in the injury analysis. The exclusion of such margins in the overall profitability of the Complainant would provide a distorted and more negative picture of the industry, with one business being extremely profitable (that of CS and caustic potash), and the other one showing negative trends (that of S-PVC).
29. In the alternative, if profits made out of sales of CS and/or caustic potash are excluded, Ravago Americas believes that the more pessimistic outlook of the S-PVC market (which does not include CS profits) cannot be attributed to imports from the US, but is the result of the

<sup>20</sup> Case M.6905 – *INEOS/ Solvay/ JV* (2014), paras. 93, 94.

<sup>21</sup> See at <https://www.ineos.com/sites/rafnes/>

<sup>22</sup> Case M.6905 – *INEOS/ Solvay/ JV* (2014), paras. 93, 94.

inefficiency created by the Complainant, which did not set up an integrated chlor-alkali production facility, although this is the market standard. Therefore, the exclusion of profits made out of sales of CS and/or caustic potash should not be wrongly attributed to US imports, but be considered as an inefficiency stemming from the separation of the two businesses. Ravago Americas will further develop the argument on the resulting inefficiency in the causality part in Section 5 below.

### **2.3. Effects of high costs for energy**

30. Rising energy costs have impacted the PVC markets in the UK. Costs have risen for both electricity and gas, as a result of Russia's war in Ukraine and inflation. The heavy impact of high energy costs on the PVC industry was reflected in market intelligence sources:

The PVC price showed an overall downward trend in Q4 of 2022, backed by the ample availability of stocks and weak demand fundamentals in the region. Meanwhile, volatility in the upstream crude oil prices amidst the European energy crisis also caused input pressure on the PVC-producing industries in this Quarter. In addition, the rising Recession in the region and bearish market sentiments for PVC in the regional market compelled the manufacturers to limit the profit margins in the region and destock piled-up inventories at lower prices in the market in the Quarter ending December 2022.<sup>23</sup>

The 2022 collapse was multi-faceted, with the Ukraine conflict being a driving force in many cases. The collapse was the result of rising inflation squeezing disposable income, higher interest rates dragging on investment and economic activity generally and the energy crisis hitting demand, affordability and buyer sentiment.<sup>24</sup>

31. The impact of high energy costs on the PVC industry was also referenced by the Complainant:

As a result of the recent energy crisis, UK costs of production have increased substantially resulting in a significant increase in the prices sought by UK producers. Costs of production in the US remained well below UK costs as, inter alia, exporters have not been hit by the energy crisis to the same extent as UK producers.<sup>25</sup>

32. Ravago Americas therefore observes that there is a direct link between the increase in energy prices in Europe (including the UK) and the deteriorating results alleged by the Complainant.

### **2.4. The existence of different market segments**

33. The S-PVC market is divided into three separated market segments, namely Commodity S-PVC, Extender S-PVC and Specialty S-PVC. The EU competition authorities have already found in the past that these three products belong to different market segments, due to their different properties, including production processes, prices, different uses and sales channels.<sup>26</sup> The parent company of the Complainant agrees with the segmentation of the S-PVC market.<sup>27</sup>

34. The three categories of S-PVC have considerable differences with regards to their prices, physical, technical and chemical characteristics, the production methods, uses and applications, lack of interchangeability and consumer perception.

<sup>23</sup> See at <https://www.chemanalyst.com/Pricing-data/poly-vinyl-chloride-5>. (emphasis added)

<sup>24</sup> See at <https://chemicalmarketanalytics.com/blog/european-pvc-industry/>. (emphasis added)

<sup>25</sup> Complaint, page 49.

<sup>26</sup> See, *inter alia*, CASE M.6905 – INEOS/ SOLVAY/ JV, para. 196. Case COMP/M.4734 INEOS/Kerling (2008), para. 20. Case COMP/M.4572 Vinnolit/INEOS CV Speciality PVC Business (2007) para 7-9.

<sup>27</sup> Case M.6905 – INEOS/ Solvay/ JV (2014), paras. 200.

35. These three products have distinct uses and applications, as follows:<sup>28</sup>
- Commodity S-PVC, the most prevalent type of S-PVC resin, is primarily employed in manufacturing pipes and rigid profiles.
  - Extender S-PVC differs from Commodity S-PVC in particle size and its compatibility with E-PVC, distinguishing it from both Commodity and Specialty S-PVC. End-users opt for Extender S-PVC over Commodity S-PVC when needing a material akin to E-PVC. It is commonly utilized as a filler in E-PVC applications.<sup>29</sup>
  - Specialty S-PVC is utilized in specialized applications, such as films and sheets requiring impeccable transparency.<sup>30</sup>
36. In light of their significant differences, the European Commission found in the past that there was a lack of interchangeability between Extender, Specialty and Commodity S-PVC due to their different properties, production processes, pricing and applications.<sup>31</sup> The existence of a limited demand-substitutability between the three product types was confirmed by the parent company of the Complainant.<sup>32</sup> In the same investigation, the European Commission found that 74% of customers and all competitors agreed with the segmentation between Extender, Specialty and Commodity S-PVC.<sup>33</sup>
37. As a result of distinct uses and lack of interchangeability between the products, the three products are not in a competitive relationship with each other. In other words, each of the product types would not be able to cause injury to the other two market segments, as the products are not substitutable with each other.
38. Ravago Americas would therefore like to request TRA to examine the impact of the imports concerned separately for each market segment. A different approach would likely lead to distorted results and affect the objectivity of the injury assessment.<sup>34</sup>
39. The need to conduct a segmented analysis in case of different market segments is supported by WTO case law. In *US – Hot-Rolled Steel*, the Appellate Body held that “*it may be highly pertinent for investigating authorities to examine a domestic industry by part, sector or segment*” as “*[D]ifferent parts of an industry may exhibit quite different economic performance during any given period.*”<sup>35</sup>

## **2.5. Preliminary conclusion**

40. In the following sections, Ravago Americas will demonstrate that there is no material injury produced by Ravago Americas to the UK industry in accordance with the data available. With

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<sup>28</sup> See also the explanations provided in the Complaint, at page 11.

<sup>29</sup> Case M.6905 – *INEOS/ Solvay/ JV* (2014), para. 197.

<sup>30</sup> Case M.6905 – *INEOS/ Solvay/ JV* (2014), para. 197.

<sup>31</sup> See, inter alia, Case M.6905 – *INEOS/ Solvay/ JV* (2014), para. 204. See also, *mutatis mutandis*, Commission Implementing Regulation (EU) 2017/ on imports of certain stainless steel tube and pipe butt-welding fittings, whether or not finished, originating in the People's Republic of China and Taiwan, *OJ L 22, 27.1.2017*, recital 65 – where the Commission found that low roughness fittings were not interchangeable, as they could not withstand high pressure and temperature requirements of the product concerned. Council Implementing Regulation (EU) No 248/2011 of 9 March 2011, *OJ L 67, 15.3.2011*, recital 21 – where the Commission found that yarns were not substitutable with other products as this would not have been an economically viable option.

<sup>32</sup> Case M.6905 – *INEOS/ Solvay/ JV* (2014), para. 200.

<sup>33</sup> Case M.6905 – *INEOS/ Solvay/ JV* (2014), para. 204.

<sup>34</sup> See Art. 3 of the WTO Anti-Dumping Agreement - 3.1 A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.

<sup>35</sup> Appellate Body Report, *US – Hot-Rolled Steel*, para. 204.

regards to some of the negative economic indicators indicated in the Complaint, these cannot be attributed to the relevant imports, but to other external factors exemplified above, as further detailed in Section 5 below.

**3. Lack of material injury**

**3.1. Volume of imports**

**3.1.1. Preliminary considerations on the import data**

41. First, the goods subject to the investigation under HS Code 39041000 include E-PVC, an aspect confirmed in the Complaint.<sup>36</sup> The Complainant claims, without producing evidence, that between 6-16% of imports under HS Code 39041000 represent E-PVC, and that almost 100% of the volumes originating from the US are S-PVC. The Complainant does not specify whether it applied any reduction to imports from other countries or the US, and Ravago Americas cannot verify whether the data presented is indeed correct. Ravago Americas would therefore respectfully request TRA to verify the exact amount of E-PVC imported each year during the period considered and the quantity of E-PVC produced by the Complainant (if any), and to exclude any injury data related to this product, as it does not form part of the scope of the investigation.

**3.1.2. Imports from the US follow the cyclicity of the market**

42. Ravago Americas has explained at Section 2.1 above that the S-PVC market is a cyclical one, subject to variations in demand. This aspect is acknowledged by the Complainant in its 2022 Annual Report:

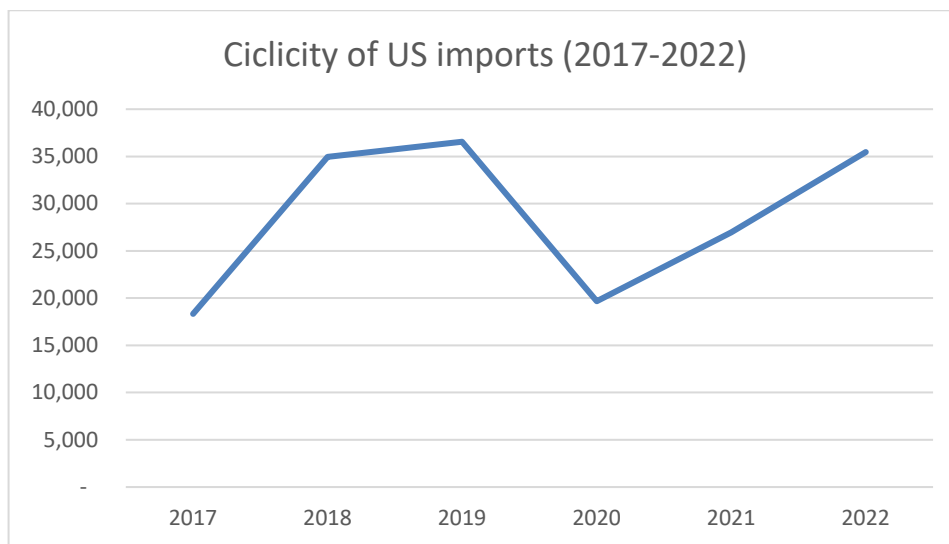
Across these industries [i.e. PVC], cycles are generally characterized by periods of high demand or decreased supply, leading to high operating rates and margins, followed by periods of oversupply resulting primarily from either significant capacity additions or lower demand, leading in turn to reduced operating rates and lower margins.<sup>37</sup>

43. The cyclicity of the S-PVC market is reflected in the data concerning the import volumes from the US, as shown in the below graph.

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<sup>36</sup> See Complaint, at page 3.

<sup>37</sup> INEOS Quattro Holdings Limited 2022 Annual Report, page 19, available at <https://www.ineos.com/globalassets/investor-quattro-ir/public/annual-reports/ineos-quattro---annual-report-2022.pdf>.



44. In 2022, US import volumes of S-PVC to the UK were lower than in 2019, experiencing a decrease of 3%. In fact, import volumes from the US experienced a drop of 8.6% in the three-year span of 2020-2022 (imports of 82.102 tonnes) compared to 2017-2019 (imports of 89.835 tonnes).<sup>38</sup>

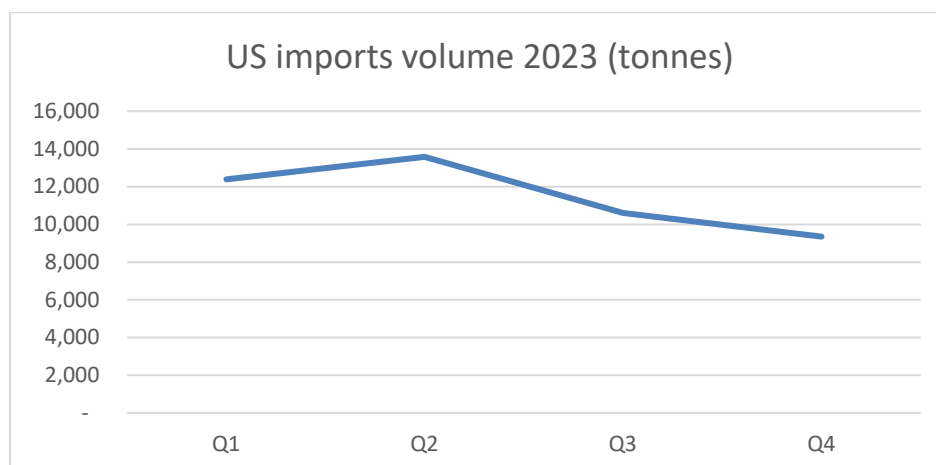
| US imports historical data |        |        |        |        |        |        |
|----------------------------|--------|--------|--------|--------|--------|--------|
|                            | 2017   | 2018   | 2019   | 2020   | 2021   | 2022   |
| <b>Total volume (t)</b>    | 18.332 | 34.948 | 36.555 | 19.661 | 26.973 | 35.468 |
| Index                      | 52     | 100    | 100    | 54     | 74     | 97     |

45. Therefore, Ravago submits that the UK industry could not have suffered a material injury as a result of imports from the US, as such volumes have not surpassed historical values. This conclusion is further supported by the small share of total import volumes represented by US imports of S-PVC (i.e. between 10-11% of total imports for 2020-2022)<sup>39</sup>, as well as the small market share relative to domestic consumption.

46. Data for 2023 indicates that there is a decrease of imports from the US, evidence of the fact that the peak of the cycle was reached and that the market is now entering a downward trend.

<sup>38</sup> Source: <https://www.uktradeinfo.com/>

<sup>39</sup> See Appendix 2 of the Complaint.



47. Ravago Americas therefore considers that US imports have followed market trends and remained within historical values. In view of their very limited market shares, US imports of S-PVC are not the cause of injury suffered by the UK industry, if any.

### 3.2. Prices

#### 3.2.1. Price comparison

48. As Ravago Americas explained at Section 2.4 above, the S-PVC market is divided in three separate market segments, namely Commodity S-PVC, Extender S-PVC and Specialty S-PVC. Moreover, these categories of S-PVC are further subject to different grades of K-values. The prices broadly range between the three different market segments and between S-PVC of different K-value grades.

49. Ravago Americas submits that an objective examination of the price effects of imports on the S-PVC domestic market requires a comparison between the same types and grades of products. Indeed, the duty of the investigative authority to ensure price comparability is a well-established practice under the WTO regime.<sup>40</sup>

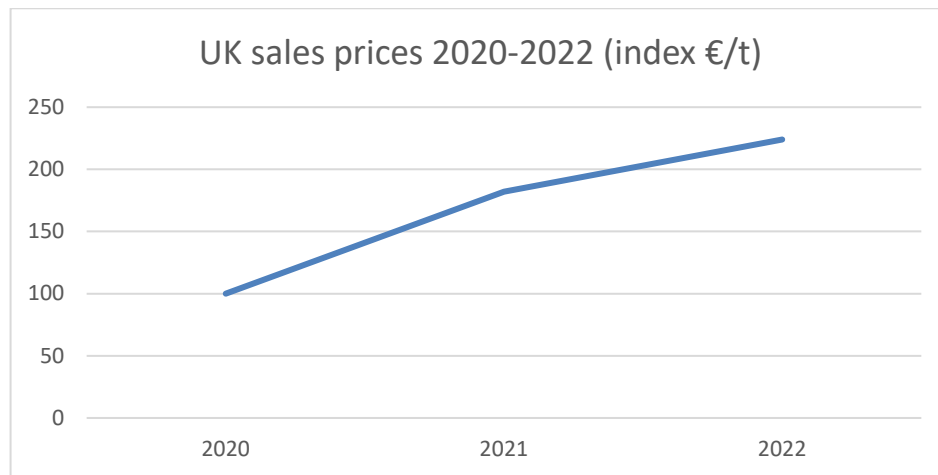
50. Therefore, Ravago Americas respectfully requests TRA to ensure price comparability between the different types and grades of S-PVC in assessing the price effects.

#### 3.2.2. UK sales prices

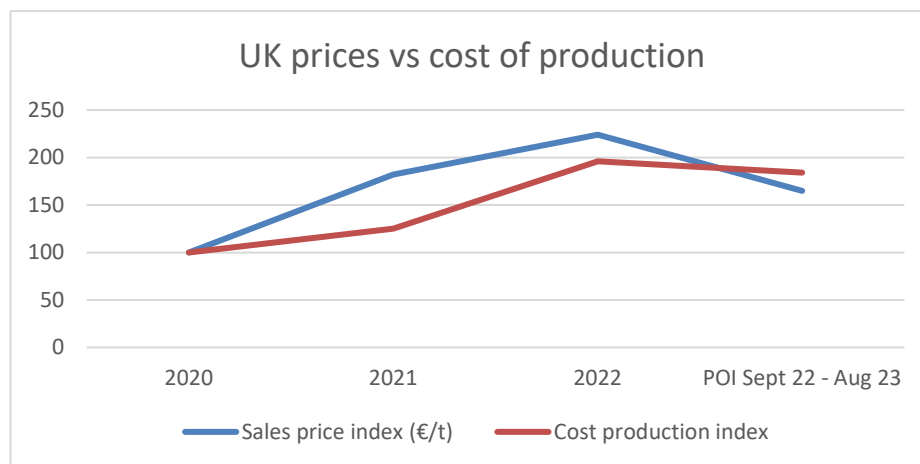
51. In the following discussion, Ravago Americas will examine the evolution of UK sales prices of S-PVC during the period considered. As Ravago Americas will demonstrate, the prices are not indicative of an industry that suffered a material injury as a result of negative effects on its prices. To the contrary, throughout the period considered the UK industry was able to increase its prices and to sell above production costs. This is indicative of the fact that the UK prices have not suffered from suppressive or depressive effects as a result of prices of US imports.

52. As is evidenced below, the sales prices of the UK industry in 2022 more than doubled compared to 2020 values, increasing by 124%. Even in the Period of Investigation (POI) selected by the Complainant, the sales prices in the UK were 65% above the 2020 values.

<sup>40</sup> See, inter alia, Panel Report, China - Anti-Dumping Measures on Stainless Steel Products from Japan, para. 7.171. See also Panel Report, China - X-Ray Equipment, para. 7.67.



53. The growing increase of the UK industry’s sales prices is not indicative of injury or of the existence of price suppression or depression. This conclusion is further supported by looking at the industry’s sales prices in comparison with production costs, as provided by the Complainant.<sup>41</sup>



54. The data provided by the Complainant is indicative of the fact that the UK industry was able to set its prices in line with the cost increases. In 2022, while the production costs increased by 96% compared to 2020 values, the industry was able to set a price 124% higher, thus increasing its profit margins. In the POI selected by the Complainant, both the production costs and the sales prices decreased. While the Complainant does not provide nominal data on the costs of production and sales prices, it is indeed very likely that the UK sales prices were maintained well above the production costs for the entire period considered.

55. The data illustrates a healthy industry, which was able to constantly increase the sales prices along the period considered. The UK industry had not suffered any negative effects on its prices during the relevant period. Moreover, the UK prices have increased overall in line with the production costs. While nominal data is not made available, Ravago Americas believed that the UK industry was able to maintain the sales prices at a level above the production costs for the relevant period. As a result, any allegations with regards to the existence of price depression or suppression are groundless and should be dismissed.

<sup>41</sup> See Complaint, Appendix 6.

3.2.3. Price undercutting

56. With regards to price undercutting, the Complainant indicates that an undercutting margin of 6-11% existed during the POI.<sup>42</sup> No data is provided on an undercutting margin for the entire relevant period, although in the WTO context, the duration of undercutting is one of the elements which requires assessment for determining whether the undercutting is 'significant' under Art. 3.2. of the WTO ADA.<sup>43</sup>
57. Based on the available evidence, Ravago Americas observes that the positive undercutting level was marginal and present for a very limited period of time. Therefore, the small undercutting margin, observed at the time where the UK domestic prices were at their highest, could not have negatively impacted the UK industry. Such a conclusion is further reinforced by the reduced volume of US imports, which accounted for only 16% of the total share of imports during the POI.

3.2.4. Price underselling

58. As we have demonstrated above, the Complainant's prices were not depressed as a result of US imports during the relevant period. Moreover, the UK industry obtained record profits during the relevant time. Therefore, Ravago Americas believes that a target price should not be used for calculating the injury margin, provided any injury is found.
59. If, notwithstanding the above, a target price is used, the proposed target profit margin of 15% is absurd given that the S-PVC market is a highly competitive commodity market, especially if profits made from sales of CS are not included in the overall profitability. The Complainant does not provide any evidence or explanations capable of justifying such a high target profit level.
60. If used, the target price should be set at a level corresponding to normal conditions of competition. Therefore, Ravago Americas argues that if used, a target profit should be set at the level of profitability achieved by the Complainant in any of the previous years where normal conditions of competition existed.
61. According to market intelligence sources, the period between 2020-2022 was not characterized by normal market competition conditions:

In summary, in the period from early-2020 to mid-2022, the pressure that built in the S-PVC bubble was significant, the market over-heated and the adverse reaction starting from mid-2022 was even more intense, magnified by multiple negative factors. Using 2019 as the last 'normal' reference point, Chemical Market Analytics by OPIS believes domestic demand lagged approximately 25% in Q1 2023 and operating rates have collapsed.

To the extent that the confluence of events over the last three years were so extraordinary and so intense, we assume that the resulting market volatility was a once-in-a-generation occurrence and that market conditions will normalise.<sup>44</sup>

62. The Complainant refers in its 2022 Annual Report to the time between 2014 and 2019 as representing a sufficiently long period of time where conditions of normal competition existed:

European S-PVC demand was stable between 2014 and 2019, but PVC spreads over ethylene and operating rates were higher than in the preceding period, also due

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<sup>42</sup> Complaint, page 47.

<sup>43</sup> AB Report, China – HP-SSST (Japan), para. 5.161.

<sup>44</sup> See at <https://chemicalmarketanalytics.com/blog/european-pvc-industry/>

to various plant closures that had taken place in the industry between 2008 and 2014.

63. As a result, Ravago Americas submits that if a target price is indeed used, the profitability margin should be set at a level corresponding to the one between 2014 and 2019, which reflects normal market conditions.

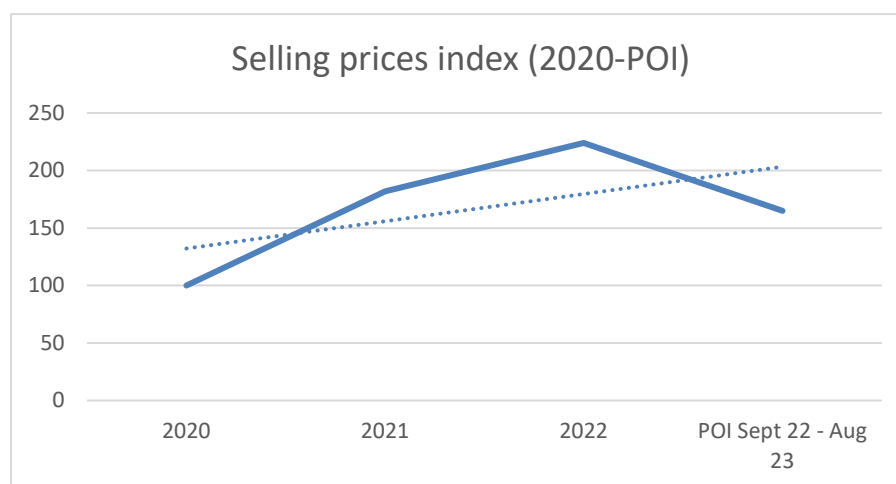
**3.3. Macro-economic indicators**

**3.3.1. Revenues and selling price increased**

64. The revenues obtained by the UK industry as well as selling prices have increased during the relevant period. According to the data provided in the Complaint, the evolution of the indicators is as follows:

| <b>Total UK sales</b>           |             |             |             |                             |
|---------------------------------|-------------|-------------|-------------|-----------------------------|
| <b>Year</b>                     | <b>2020</b> | <b>2021</b> | <b>2022</b> | <b>POI Sept 22 - Aug 23</b> |
| <b>UK Sales € unrel</b>         | 100         | 219         | 168         | 114                         |
| <b>UK sales unrelated (€/t)</b> | 100         | 182         | 224         | 165                         |

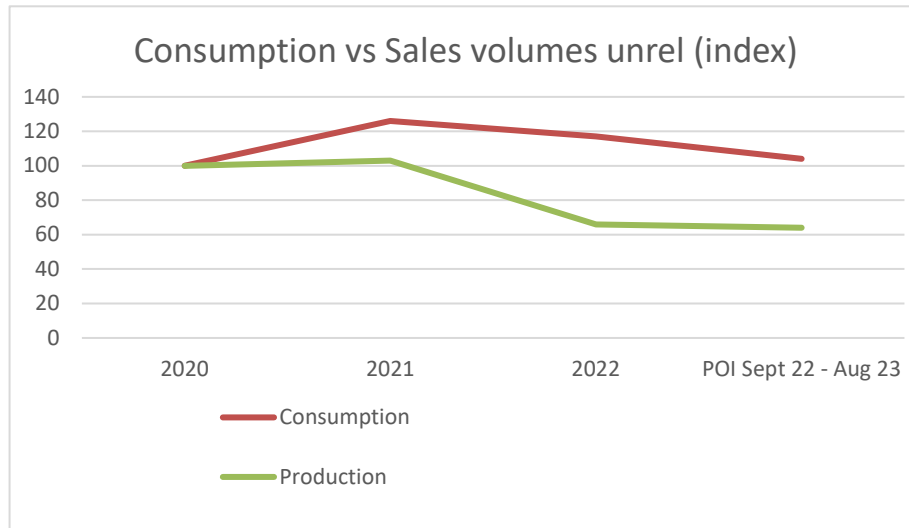
65. The UK domestic industry essentially doubled its revenues in 2021 compared to 2020 levels, having a strong performance during 2022 and the POI selected. While no data is provided for 2019 – the last year with normal market conditions, Ravago Americas posits that the revenues obtained during the POI were at a level above 2019. Such recent positive performance is indicative of the strength of the domestic industry, given the recent PVC market downturn, characterized by a demand slump.
66. In addition, the selling prices of the domestic industry increased during the entire period considered, reaching a level in the POI which is 65% above the one in 2020.



67. The data presented above is not indicative of a struggling industry. Rather, during the period considered, the UK industry managed to double its revenues and considerably increase its selling prices, maintaining a strong positive outlook despite recent limited demand. As we will address below, the overall healthy performance is further backed by the high market share of the industry and the strong profit margins obtained.

3.3.2. UK production and sales volume follow the trend of apparent consumption

68. According to the data provided by the Complainant, the UK production of S-PVC evolved in line with the apparent consumption index, as follows:



69. Therefore, despite a decrease in the overall production and sales volumes over the period considered, Ravago Americas contends that the trend is not indicative of injury, given the decrease in consumption in the UK and other export markets. The weak demand is emphasized by the Complainant in its 2022 Annual Report, which cites the war in Ukraine and the ensuing energy crisis as the main causes for the weak market:

As a result of the Covid-19 pandemic, demand was severely impacted in the second quarter of 2020 but experienced a swift recovery thereafter in the second half of 2020, 2021 and the first half of 2022, accompanied by record margins. The war between Russia and Ukraine and the ensuing energy crisis in Europe resulted in very weak European S-PVC demand in the second half of 2022, however, with plant operating rates falling to levels last seen during the global economic crisis in 2008. In the ChlorVinyls industry, an economic downturn typically causes PVC demand to fall.<sup>45</sup>

70. With regards to the data provided by the Complainant concerning the capacity utilization rate, the decrease would also be a direct consequence of reduced consumption. The fact that PVC producers decided to reduce operating rates due to prior stockpiling and subsequent lower demand in the UK, Europe and other export markets was emphasized by market intelligence sources:

Lower e-PVC exports to Russia, following sanctions related to Moscow's invasion of Ukraine, contributed to a prolonged supply glut in Europe that is leaving many domestic producers to look for new export opportunities in the US and Asia-Pacific. This is unlikely given the unfavourable prices.

As a result, PVC producers in Europe are reducing operating rates in order to manage inventories and the lower demand. Chlorine capacity utilisation in Europe fell from 69pc to 58pc between July and October, but some stability has been seen

<sup>45</sup> INEOS Quattro Holdings Limited 2022 Annual Report, available at <https://www.ineos.com/globalassets/investor-quattro-ir/public/annual-reports/ineos-quattro---annual-report-2022.pdf>

more recently because of higher netbacks on caustic soda, a byproduct of chlorine production.<sup>46</sup>

71. Hence, the drop in capacity utilization rate is not indicative of injury, nor the result of imports from the US, but a consequence of weak demand. In this regard, it is worth noting that Complainant’s PVC plant located in the UK has a capacity of around 440.000 MT, according to publicly available information.<sup>47</sup> In 2022, the total volume of US imports represented a mere 8% of the total UK production capacity. Therefore, with or without imports from the US, the UK industry was bound to decrease production due to a consumption drop.

**3.3.3. Market shares are indicative of a strong industry**

72. The most recent data indicates that the UK industry has increased its market share. In any event, Ravago Americas believes that a comparison should be made with the levels reached by the UK industry in 2019, the last year reflecting normal market conditions.<sup>48</sup>

|                              | 2020   | 2021   | 2022   | POI Sept 22 -<br>Aug 23 |
|------------------------------|--------|--------|--------|-------------------------|
| <b>UK market share index</b> | 100    | 96     | 64     | 66                      |
| <b>US imports volume (t)</b> | 19.661 | 26.973 | 35.468 | 45.059                  |
| <b>US market share Index</b> | 100    | 109    | 154    | 221                     |

73. In Ravago Americas’ view, it is indeed very likely that the US market share in 2022 was similar to the level of 2019. At the same time, although an increase in volume of US imports is observed during the POI compared to 2022 levels, the UK domestic industry managed to further increase its strong market position. This aspect reflects the fact that the US imports did not negatively impact the UK market shares, in view of the overall low volumes. Nor could such limited volumes be the cause of the decrease in market share experienced by the domestic industry between 2021 and 2022. In *Hubei*, the EU General Court had found 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%.<sup>49</sup>

74. Ravago Americas therefore submits that the recent data, which shows an increase in market share of the UK industry, is clearly not indicative of injury. In fact, as we will demonstrate below, the UK domestic industry maintained good economic results throughout the relevant period.

<sup>46</sup> See at <https://www.argusmedia.com/en/news-and-insights/latest-market-news/2403964-viewpoint-eu-pvc-struggles-to-remain-cost-competitive>

<sup>47</sup> See at <https://www.ineos.com/sites/newton-aycliffe/>

<sup>48</sup> See *The European PVC Industry – In the Eye of a Storm, or Just a Storm in a Tea Cup?*, at <https://chemicalmarketanalytics.com/blog/european-pvc-industry/>. See also <https://www.chemanalyst.com/Pricing-data/poly-vinyl-chloride-5>. (emphasis added)

<sup>49</sup> Case T-528/09, *Hubei Xinyegang Steel Co. Ltd v Council*, ECLI:EU:T:2014:35, para. 61.

**3.4. Micro-economic indicators**

75. From the outset, Ravago Americas recalls that the PVC market behaved in an exceptional manner during 2020-2022 as a result of the Covid-19 pandemic. This allowed the Complainant to obtain record profits in that period, with margins unattainable under normal market conditions. The micro-economic indicators therefore are not indicative of injury, but rather portray the movement of a market which returns to its normal values.

76. Due to the fact that the market behaves in an elastic manner, a market correction was looming. The correction was further amplified by additional external events, such as the war in Ukraine, the high level of inflation and the slowdown of the construction sector in the UK. The downturn is not however the result of imports from the US, but a consequence of broader market shifts, which impact the PVC market at a global level.<sup>50</sup> Lastly, if one would account for the economic performance of the Complainant obtained from the sale of the CS, the indicators would change dramatically, reinforcing the fact that the domestic industry had not suffered from injury in the relevant period.

**3.4.1. The Complainant achieved very high profitability margins in the relevant period**

77. Injury factors are not to be analyzed on an individual basis, but in connection with one another.<sup>51</sup> Although no factor is decisive, certain injury factors, such as profitability, are often given particular weight by investigative authorities.

78. Ravago Americas notes that the UK industry obtained extremely high profitability margins during the period considered. Based on the evidence provided, the Complainant's profitability was the following:<sup>52</sup>

| Profitability |      |      |      |                      |
|---------------|------|------|------|----------------------|
| Year          | 2020 | 2021 | 2022 | POI Sept 22 - Aug 23 |
| Index %       | 100  | 277  | 172  | 35                   |

79. As stems from above, the Complainant achieved very high profits in 2021 and 2022. The year of 2020 was also likely very profitable for the Complainant, as the Covid-19 pandemic disrupted supply chains across the world, making imports more difficult. Hence, during the POI, the profit margins simply returned to normal market levels. Of important note, we observe that the Complainant obtained positive profit margins throughout the relevant period, which strongly indicates the non-existence of injury.

80. The period of high profits also coincides with the time when US imports allegedly increased and undercut the domestic prices. Ravago Americas explained above that in view of the small market share of US imports, such imports could have not caused injury to the UK industry.

81. Ravago Americas concludes that the profitability data produced by the Complainant portrays a strong industry, which increased and consolidated its profits over the years. The margins are probably even higher, if one accounts for the sales made of CS / caustic potash. The decrease experienced in the POI is not indicative of injury, but of the return to normal market conditions following the Covid-19 pandemic and other external events as already mentioned above.

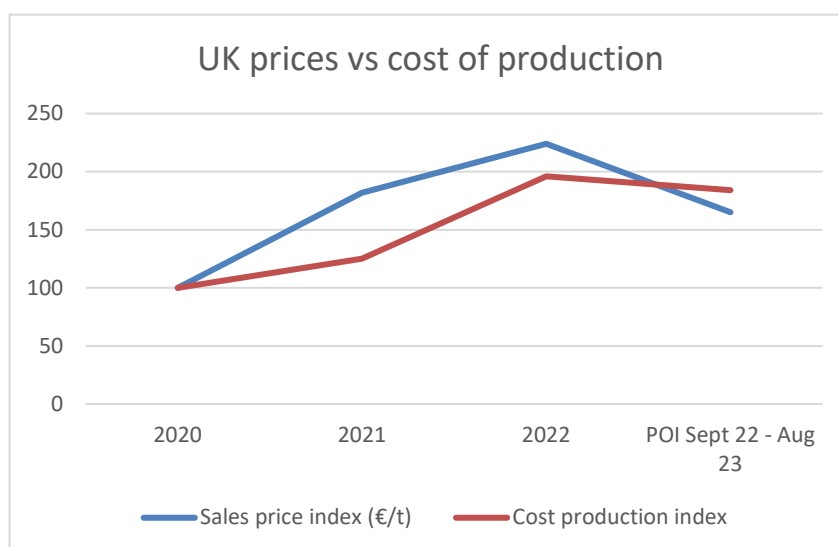
<sup>50</sup> See at <https://www.chemanalyst.com/Pricing-data/poly-vinyl-chloride-5>

<sup>51</sup> WTO Panel Report, *Korea – Certain Paper*, para. 7.268.

<sup>52</sup> Appendix 6 of the Complaint.

**3.4.2. Prices have increased in line with production costs**

82. Prices are an important factor in assessing the existence of injury, due to their direct impact on the industry’s financial situation. As a result, the lack of an impact on prices should be an essential element in concluding to the non-existence of the UK industry’s injury. As we have addressed in Section 3.2 above, based on the data made available in the Complaint, there is no evidence indicating that the UK industry suffered from negative effects with regards to its prices. On the contrary, it appears that the industry managed to significantly increase its prices and sell above the costs of production during the relevant period.



83. The Complainant was able to increase its prices sufficiently in order to cover the cost of production, therefore passing on any additional costs to the final consumers. Moreover, Ravago Americas believes that the Complainant was able to maintain its prices well above production costs, allowing it to obtain reasonable profit margins along the entire relevant period.

**3.4.3. Revenues and sales**

84. Ravago Americas observes that, as a consequence of the increase in selling prices, the Complainant was able to generate consistent revenues throughout the period considered.

| Total UK revenues               |      |      |      |                      |
|---------------------------------|------|------|------|----------------------|
| Year                            | 2020 | 2021 | 2022 | POI Sept 22 - Aug 23 |
| <b>UK Sales € unrel</b>         | 100  | 219  | 168  | 114                  |
| <b>UK sales unrelated (€/t)</b> | 100  | 182  | 224  | 165                  |

85. According to the data available at that time,<sup>53</sup> in 2021 the revenues increased by 119% compared to 2020 levels, and in 2022 the revenues were 68% higher compared to 2020 levels. During the POI, despite the market correction, revenues were still at a level above the 2020 results.

<sup>53</sup> Appendix 6 of the Complaint.

86. With regards to the sales volumes, Ravago Americas submits that these have decreased in line with the apparent consumption decrease. Moreover, while the UK market share experienced a decrease in 2022, it rebounded during the POI, as it would be expected to return to values during normal market conditions.

| <b>Complainant sales volumes</b>   |             |             |                      |                    |
|------------------------------------|-------------|-------------|----------------------|--------------------|
| <b>Year</b>                        | <b>2020</b> | <b>2021</b> | <b>2022 - Aug 23</b> | <b>POI Sept 22</b> |
| <b><i>Index UK consumption</i></b> | 100         | 126         | 117                  | 104                |
| <b><i>UK sales (t) unrel</i></b>   | 100         | 120         | 75                   | 69                 |
| <b><i>Index Market shares</i></b>  | 100         | 96          | 64                   | 66                 |

87. On this point, Ravago Americas would respectfully request TRA to verify the accuracy of the data presented in the Complaint. According to Ravago Americas' simulations, the data presented may have some inaccuracies with regards to the actual total sales volume and market share of the Complainant.
88. In *Tartaric Acid*, the Commission found no injury following a decrease of sales and market share of Union producers by 21%. The Commission found that the negative trend did not impact the financial situation of the Union industry, and their levels of profitability showcased an actual increase.<sup>54</sup> Similarly, in this case, the Complainant was able to increase their revenues and profitability significantly compared to normal market conditions, despite suffering a decrease in sales volume.

3.4.4. *Complainant's production capacity and utilization rate*

89. As we have demonstrated in Section 2.1 above, the PVC market behaves in a cyclical manner. Therefore, the Complainant's production and utilization rate mirrored the downturn of the PVC market experienced in 2022. It was therefore expected that during the return to normal market values (pre-Covid-19), production and utilization levels would mirror the decrease in demand. Therefore, Ravago Americas submits that the production capacity and utilization rate should be assessed holistically, bearing in mind that the Complainant remained profitable throughout the period considered and that their market share has recently increased.
90. According to the data provided in the Complaint, compared to 2021 values, the apparent consumption in the UK dropped during the POI by 22% (based on the 2020 indexed values).<sup>55</sup> At the same time, production in the UK dropped proportionally by 37% in 2022 compared to 2021 values (based on the 2020 indexed values). Ravago Americas stresses that the drop in UK production levels is not the result of an increase in imports, but indeed was caused by external factors, such as the decrease in demand following the slowdown of the construction sector.<sup>56</sup>
91. This is evidenced by the fact that between 2021 and 2022, the imports of PVC from the US increased by a mere 8.495 tonnes, or approx. 2.5% of total imports volume. Likewise, the lack of correlation between import volumes and domestic production levels is best evidenced by the most recent data. While the volume of total imports dropped by 12.65% during the POI -

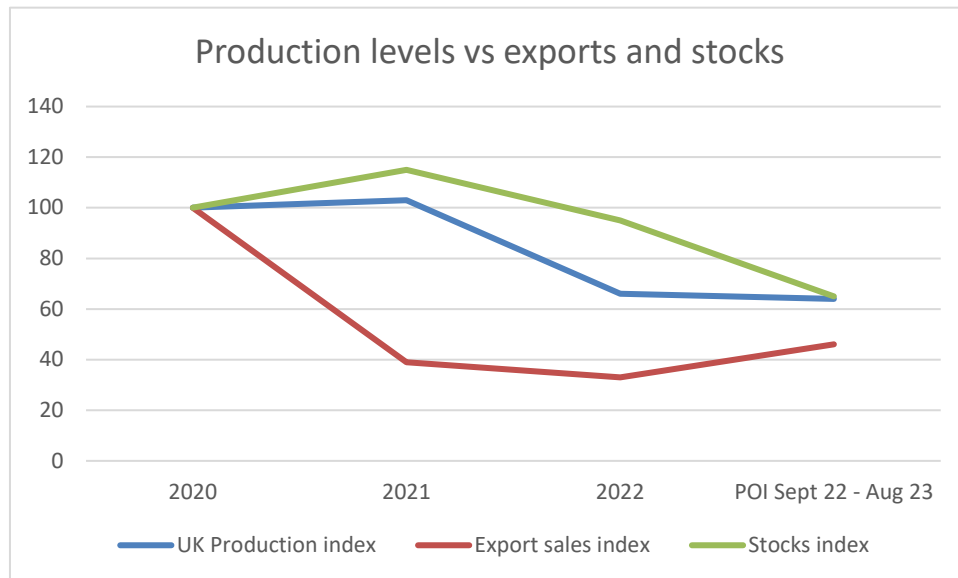
<sup>54</sup> Commission Implementing Decision (EU) 2016/176 terminating the anti-dumping proceeding concerning imports of tartaric acid originating in the People's Republic of China and produced by Hangzhou Bioking Biochemical Engineering Co. Ltd, OJ L 33, 10.2.2016, recital 140.

<sup>55</sup> See Appendix 6 of the Complaint.

<sup>56</sup> See at <https://www.fmj.co.uk/bcis-predicts-construction-slowdown-as-uk-economy-stagnates/> ; <https://www.newcivilengineer.com/latest/frustration-across-sector-as-new-figures-show-uk-recession-and-construction-slowdown-15-02-2024/>

compared to 2022 levels (from 283.708 tonnes to 233.712 tonnes), production in the UK continued to decrease.

92. In addition to a decrease in consumption levels, Ravago Americas submits that the decrease in production levels was also generated by the drop in exports and the Complainant’s decision to reduce stocks, as illustrated below.



93. Therefore, the decrease in production level and utilization rates are proportional to the overall decrease in consumption levels. Moreover, such a decrease must be assessed in light of the Complainant’s decision to reduce stocks and the collapse of exports. At the same time, it is important to keep in mind that despite this market downturn, the Complainant was able to maintain high profitability margins throughout the period considered and to even increase its market share during the POI.

**3.4.5. Stock levels**

94. The fact that Complainant’s stock levels have decreased over the period considered is yet another indication of the inexistence of injury. Indeed, the lack of stock accumulation is an indication that the industry anticipated the demand reduction, particularly in view of the fact that production of PVC is not order-based.

|                     | <b>Stocks</b> |             |             |                             |
|---------------------|---------------|-------------|-------------|-----------------------------|
|                     | <b>2020</b>   | <b>2021</b> | <b>2022</b> | <b>POI Sept 22 - Aug 23</b> |
| <b>Index Stocks</b> | 100           | 115         | 95          | 65                          |

95. The decision to reduce stocks and production, in order to maintain positive levels of profitability during a market downturn was cited by the market intelligence sources:<sup>57</sup>

Lower e-PVC exports to Russia, following sanctions related to Moscow's invasion of Ukraine, contributed to a prolonged supply glut in Europe that is leaving many domestic producers to look for new export opportunities in the US and Asia-Pacific. This is unlikely given the unfavourable prices.

<sup>57</sup> See at <https://www.argusmedia.com/en/news/2403964-viewpoint-eu-pvc-struggles-to-remain-cost-competitive>.

As a result, PVC producers in Europe are reducing operating rates in order to manage inventories and the lower demand. Chlorine capacity utilisation in Europe fell from 69pc to 58pc between July and October, but some stability has been seen more recently because of higher netbacks on caustic soda, **a by-product of chlorine production.**

96. Thus, the Complainant manage to obtain greater efficiencies, by reducing the stock levels and the production volume at a time of market downturn. This efficiency in turn has translated into higher profitability margins throughout the period considered.

**3.4.6. Investments of the industry have grown**

97. Investments play a crucial role in assessing the vitality of the domestic industry in the injury analysis. A decline in investment levels is a strong signal of industry distress, especially for capital-intensive sectors. Conversely, an uptick in investment levels signals a robust industry.

98. The current data made available in the Complaint portrays the fact that the UK industry remained healthy and improved its performance during the period considered.<sup>58</sup> According to the data, Complainant’s investments developed as follows:

| <b>Investments</b> |             |             |             |                             |
|--------------------|-------------|-------------|-------------|-----------------------------|
|                    | <b>2020</b> | <b>2021</b> | <b>2022</b> | <b>POI Sept 22 - Aug 23</b> |
| <b>Index (€)</b>   | 100         | 109         | 213         | 137                         |

99. Ravago Americas notes that throughout the period considered, investments made by the Complainant have increased. Investments made during 2022 were 113% above 2020 levels. Moreover, during the POI investments remained high, increasing by 37% compared to 2020 levels. In fact, investments remained above the 2020 values throughout the period considered, reflecting the position of strength of the domestic industry.

**3.4.7. No significant decrease in employment levels**

100. Based on the current available data with regards to the employment levels, Ravago Americas notes that there were no significant changes in the Complainant’s number of employed personnel. In fact, the Complainant has incrementally laid off its staff, despite experiencing high profits in 2021 and 2022.

| <b>Year</b>                | <b>2020</b> | <b>2021</b> | <b>2022</b> | <b>POI Sept 22 - Aug 23</b> |
|----------------------------|-------------|-------------|-------------|-----------------------------|
| <b>Index No Employee</b>   | 100         | 96          | 94          | 90                          |
| <b>Index Profitability</b> | 100         | 277         | 172         | 35                          |

101. Ravago Americas submits that the rate of decrease in employment levels has not changed in any significant manner throughout the years. In fact, the Complainant was able to obtain greater efficiencies as a result of increased investments and the gradual reduction of employment levels. Moreover, the Complainant adjusted the production and stock levels in order to reflect the market demand, thus managing to obtain healthy profitability margins despite the obvious PVC market downturn.

<sup>58</sup> See Appendix 6 of the Complaint.

### **3.5. Conclusion on injury**

102. As Ravago Americas has demonstrated above, over the period considered, the Complainant successfully:

- Increased its prices and generated high revenue levels;
- Maintained prices at levels which reflected costs of production;
- Remained profitable and achieved high profitability margins;
- Decreased its stocks, achieving higher efficiencies;
- Increased investment levels.

103. Additionally, Ravago Americas had demonstrated that the other factors, such as the market share, sales volumes and production levels, which appear to have suffered a decrease over the period considered, are the result of the decrease in demand, both on the domestic market and beyond, and cannot be explained by the imports of the goods investigated.

## **4. Lack of a threat of material injury**

104. As Ravago Americas explained above, the Complainant does not suffer from material injury as a result of imports from the US. Moreover, Ravago Americas will demonstrate below that the Complainant does not face a threat of material injury either.

105. In accordance with Section 28 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, the notion of 'threat of material injury' is defined as 'injury which, although it has not yet occurred, is clearly foreseen and imminent' (*emphasis added*).<sup>59</sup> Hence, the threshold for demonstrating the existence of a threat of material injury is very high, and the examination must be of a prospective nature.

### **4.1. No further increase in imports**

106. Paragraph (2) letter (a) of Section 28 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 requires the Complainant to demonstrate the existence of a 'significant rate of increase in the volume of the importation'.<sup>60</sup> This criterion is not met in our case.

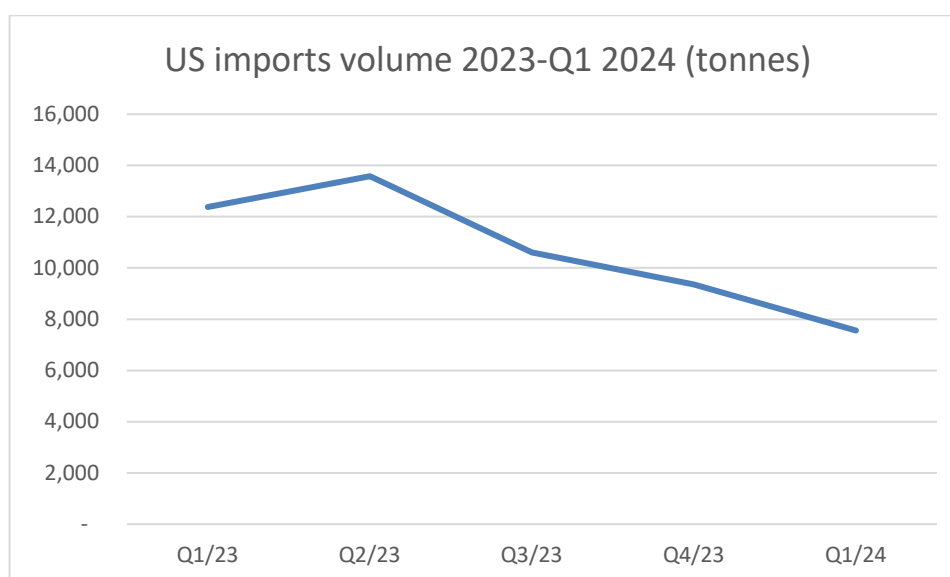
107. As the assessment of the existence of a threat of material injury is prospective, the most recent data available should be considered. US import data during 2023 and Q1 of 2024 show a clear descending trend.<sup>61</sup>

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<sup>59</sup> See Section 28 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019.

<sup>60</sup> See Section 28 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019.

<sup>61</sup> Source: HM Revenue & Customs ( HMRC )



108. From the available data, it results that imports from the US reached a peak in 2023 and are now returning to normal values, in light of the reduced demand. The above data does not indicate the existence of a 'likelihood of substantially increased importation' within the meaning of paragraph (2) letter (a) of Section 28 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019. Rather, the available data indicates the likelihood of a further decrease in the short to medium term of imports of PVC from the US. While the Complainant seems to argue that the decline in US imports was caused by the temporary shutdown of one US VCM producer,<sup>62</sup> the further decline of US PVC imports in Q1 2024 is a clear indication that the decrease is in fact market-driven. Therefore, Ravago Americas submits that there are no indications of a clearly foreseen and imminent likelihood of substantially increased importation, as required under the applicable laws.

#### **4.2. Production capacity and the availability of other markets**

109. The Complainant provides some data with regards to the purported overcapacity of production in the US.<sup>63</sup> Ravago Americas notes that the data presented by the Complainant are estimates, and may not be used to determine the existence of a clearly foreseen and imminent likelihood of substantially increased importation.<sup>64</sup>

110. Even if the data was to be taken at face value, Ravago Americas submits that the increase in US production capacity was in line with the increase in consumption levels. Therefore, the increase in production levels reflected an increase in domestic demand.

111. In addition, besides the UK, which only imports a small amount of PVC from the US, there are a number of other available third markets capable of absorbing any excess production of PVC.

<sup>62</sup> See Complaint, page 48.

<sup>63</sup> Appendix 12 of the Complaint.

<sup>64</sup> See Section 28 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019.

| US exports of PVC (HS 390410) |                         |                         |                         |                         |                         |
|-------------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| Importers                     | 2019                    | 2020                    | 2021                    | 2022                    | 2023                    |
|                               | Exported quantity, Tons | Exported quantity, Tons | Exported quantity, Tons | Exported quantity, Tons | Exported quantity, Tons |
| Canada                        | 437278                  | 463242                  | 555895                  | 534523                  | 472977                  |
| India                         | 95748                   | 57698                   | 11216                   | 122645                  | 315606                  |
| Mexico                        | 223234                  | 246775                  | 282614                  | 287451                  | 306319                  |
| Türkiye                       | 67218                   | 69772                   | 61529                   | 139268                  | 213044                  |
| China                         | 309516                  | 242629                  | 21108                   | 143189                  | 169474                  |
| Viet Nam                      | 70668                   | 37034                   | 1878                    | 56814                   | 109826                  |
| Colombia                      | 84858                   | 66526                   | 78637                   | 82795                   | 89181                   |
| Brazil                        | 35595                   | 30415                   | 21792                   | 51051                   | 85341                   |
| Peru                          | 97879                   | 83622                   | 91453                   | 95717                   | 80486                   |

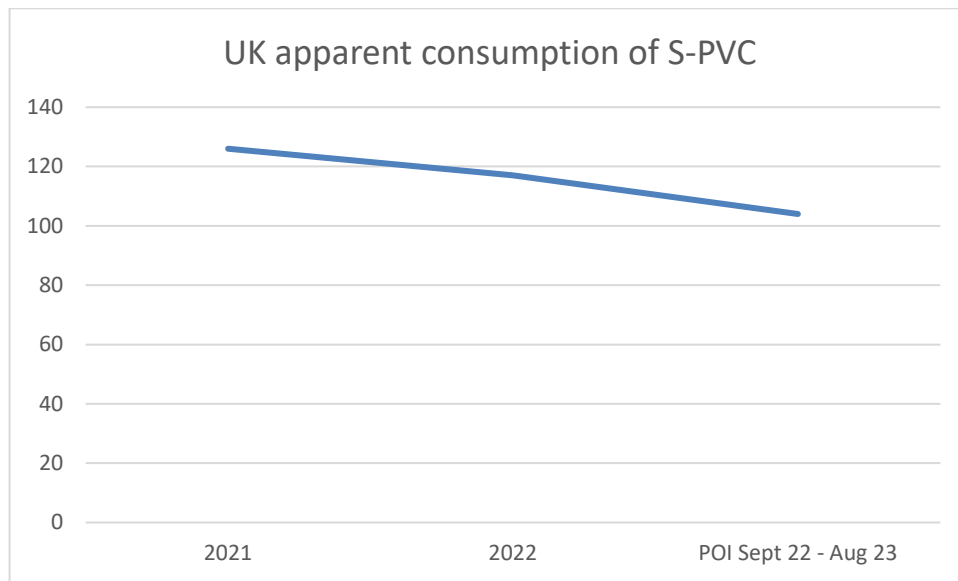
**Source: Trademap**

112. As can be seen in the table above, the UK is not a main target for US-produced PVC, with countries such as Canada and Mexico being prime destinations. In addition, India and Turkey have in recent years greatly expanded the amount of S-PVC imported from the US.
113. Ravago Americas also observes that the global market is expected to grow by estimates of the CAGR of 2.9%- 4.7% between now and 2032.<sup>65</sup> Therefore, any presumed excess production capacity from the US would be absorbed by the increase in global demand.
- 4.3. Price effects**
114. Lastly, the Complainant alleges that US imports of S-PVC affected UK sales prices. Under Section 28 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, it must be examined whether there is 'a significant depressing or suppressing effect on prices of the like goods in the United Kingdom and whether such prices are likely to increase the demand for further imports of the goods concerned'.<sup>66</sup>
115. Ravago explained in Section 3.2.2 above that the Complainant was able to increase its prices throughout the period considered. Even considering the POI selected, the prices of the Complainant were 65% above the 2020 values, which is a clear indication of the lack of any depressive or suppressive effects caused by imports. This has enabled the UK industry to generate high revenues and profits throughout the period considered.
116. At the same time, due to Brexit, a slowdown of the construction sector and the bursting of the Covid-19 bubble, the consumption of S-PVC in the UK decreased starting with 2021. This is also evident in the data made available by the Complainant.<sup>67</sup>

<sup>65</sup> See <https://www.precedenceresearch.com/polyvinyl-chloride-market>. See also <https://www.chemanalyst.com/industry-report/polyvinyl-chloride-pvc-market-60> and <https://www.globenewswire.com/news-release/2022/08/04/2492922/0/en/Polyvinyl-Chloride-PVC-Market-Size-to-Hit-USD-105-8-Bn-by-2030.html>

<sup>66</sup> See Section 28 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019

<sup>67</sup> See Appendix 6 of the Complaint.



- 117. In instances of a market downturn, characterized by reduced demand and oversupply, producers need to adjust their pricing. Maintaining high prices, or further increasing such prices when there is an obvious demand drop, would negate the market realities, particularly in a highly competitive commodity market, such as for S-PVC.
- 118. An additional important element that needs consideration is the limited volume of US PVC imports and the strong market position of the domestic producer. At their peak, during the selected POI, US imports accounted for just over 15% of the total imports volume and represented only a small fraction of the total consumption levels. Therefore, even if one were to ignore the demand slump, the ability of US imports to realistically have a suppressing or depressing effect on UK prices is indeed very remote in light of their marginal volume.
- 119. Lastly, Section 28 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 requires an examination of whether the import prices are ‘likely to increase the demand for further imports of the goods concerned’. As explained in Section 4.1 above, data from 2023 and Q1 2024 shows that there is a decrease in US import volumes. Therefore, the second prong of the test required by Section 28 would not be met in any event.

**4.4. Conclusion on the lack of threat of material injury**

- 120. As demonstrated above, the available data does not indicate the existence of a threat of material injury for the UK domestic industry. There is no significant increase of imports of S-PVC from the US. Rather, recent data indicates that imports from the US have consistently decreased since 2023, as a result of the decrease in demand. Moreover, there are a significant number of other third markets capable of absorbing large quantities of US-made S-PVC. As Ravago Americas explained above, US imports do not have a depressive or suppressive effect on the prices of domestically produced S-PVC. During the relevant period, the Complainant was able to set the prices at the level desired, generating high revenues and profit margins. Any price adjustment must have been dictated by market dynamics rather by the marginal volumes of imports of S-PVC from the US.

**5. Examination of causation**

- 121. As Ravago Americas will show below, even if the UK industry had suffered from injury during the relevant period, *quod non*, the injury suffered was not the result of S-PVC imports from the US. First, Ravago Americas will explain that the alleged injury could not be attributed to imports of S-PVC from the US. Second, Ravago Americas will describe the existence of other factors which have negatively impacted the domestic industry in the UK.

**5.1. Lack of a causal link**

122. The Complainant alleges a link between imports of PVC from the US and the alleged injury suffered by the UK industry. However, the limited volumes of S-PVC imported from the US were not capable of causing the alleged negative effects in the performance of the UK industry.
123. Firstly, US imports were marginal during the relevant period, both in terms of share of the total imports and total consumption levels in the UK. During the relevant period, US imports accounted for 11.75% on average of total import volumes. Moreover, relative to total consumption levels of S-PVC in the UK, US imports represent a small fraction of the total share.
124. The Complainant's allegations with regards to the existence of an alleged 'passthrough traffic' from the Belgium, Norway and Ireland, are unsubstantiated and hypothetical.<sup>68</sup> Data suggests that imports from these countries have not been subject to significant changes throughout the relevant period, with imports from Belgium and Norway experiencing a decrease compared to previous years.<sup>69</sup> Moreover, as a result of Brexit, additional customs procedures were implemented for trade between the EU and the UK. Therefore, it would not make any economic sense for an US trader to ship to the EU and to export afterwards to the UK, when faced with additional administrative customs procedures and costs.
125. In addition, the Complainant fails to explain how US import prices have had a negative effect on the domestic industry. As Ravago Americas has demonstrated in Section 3.2.2 above, the domestic industry was able to set the prices at the level desired and generate significant revenues. Any decrease in prices naturally occurred as a result of the demand slump, and cannot be attributed to the limited volumes of imports of S-PVC from the US.
126. Rather, any alleged negative effects on the Complainant were caused by other external factors, such as high energy costs, a contraction in demand, the Complainant's lack of an integrated chlor-alkali production process and imports from other third countries.

**5.2. Non-attribution analysis**

127. The non-attribution analysis plays a key role in the assessment of whether anti-dumping duties should be imposed to address injury cause to the domestic industry by imports. In *US – Hot-Rolled Steel*<sup>70</sup> the Appellate Body emphasized the importance of identifying and separating all the different causal factors, and in *EC – Tube or Pipe Fittings* it held that "the investigating authorities are not permitted to attribute to dumped imports injuries caused by other factors".<sup>71</sup> Therefore, if TRA were to conclude that the domestic injury experienced any negative effects during the period considered, it must ensure that any such effects caused by other factors are not attributed to the subject imports.
128. Ravago Americas submits that even if the UK industry suffered any injury, *quod non*, this was not caused by imports from the US, but by other factors, such as:
- Disruptive production costs, such as for energy and raw materials;
  - Contraction in demand, as a result of the market downturn and market cyclicality;
  - Apparent lack of an integrated chlor-alkali production process;
  - Imports from third countries ;
  - Decrease in exports;

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<sup>68</sup> See Complaint, page 51.

<sup>69</sup> See Complaint, Appendix 2.

<sup>70</sup> Appellate Body Report, *US – Hot-Rolled Steel*, para. 228.

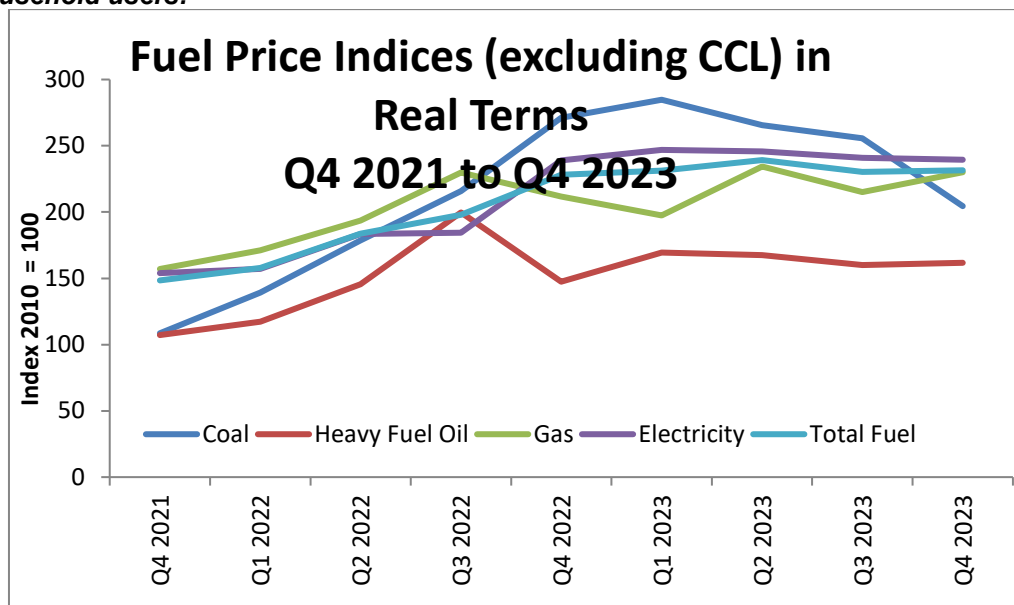
<sup>71</sup> WTO AB Report, *EC – Tube or Pipe Fittings*, para. 175.

- Overcapacity and investments.

5.2.1. Disruptive production costs, such as for energy and raw materials

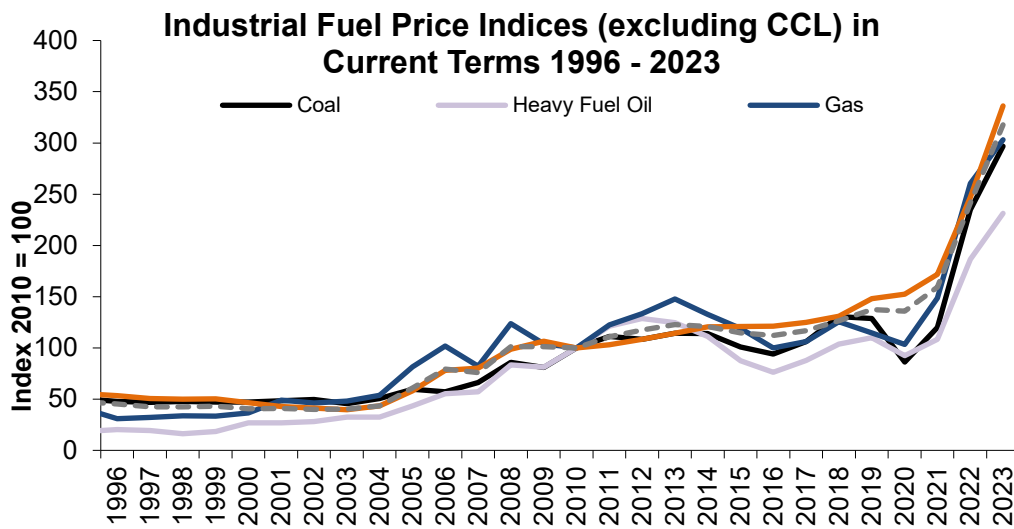
129. The UK industry experienced high costs for energy and other raw materials and was negatively impacted as a result. Indeed, the Complainant acknowledged the effects of high production costs at pages 43, 45, 48 and 49 of the Complaint.<sup>72</sup>
130. Electricity prices in the UK greatly increased, both for household and non-household users. Compared to 2021 levels, the prices for electricity of non-household users almost doubled at the UK level. Similarly, gas and oil costs in the UK and Europe increased twofold since 2021, as a result of the war in Ukraine.

**Household users:**

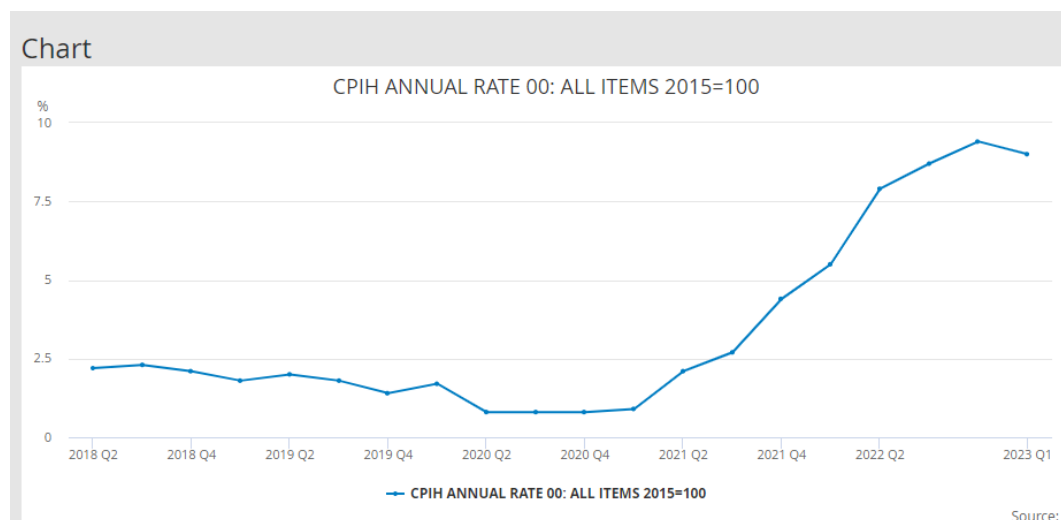


**Industrial users:**

<sup>72</sup> Source: <https://www.gov.uk/statistical-data-sets>



- 131. Both electricity and oil and gas costs are crucial in the production of VCM, and ultimately S-PVC. For instance, the electrolysis process of water consumes large amounts of electricity. Additionally, gas is used to fuel the steam boilers that crack naphtha from NGL. Furthermore, naphtha and NGL, which are used to produce ethylene, are direct derivatives of gas and oil, making their prices susceptible to fluctuations in these commodities. Consequently, these factors contribute to higher ethylene costs, which lead to higher VCM prices, significantly impacting the profitability of the Complainant.
- 132. These elements must be assessed together with high inflation and borrowing costs, which further impacted the production costs of the Complainant. In 2022, inflation in the UK reached a staggering value of 9.6%.<sup>73</sup>



- 133. There appears to be a direct link between the rising costs of raw materials and energy prices in Europe and the reported decline in the performance of the UK industry, which cannot be overlooked. The surge in gas and electricity prices resulted from conflicts close to Europe and was not an effect experienced globally. Consequently, European S-PVC producers were significantly affected by the increased costs. These points were underscored by the

<sup>73</sup> Source: <https://www.ons.gov.uk/>

Complainant and market intelligence, which cite that with regards to the end of 2022 and beginning of 2023:<sup>74</sup>

“[...] Meanwhile, volatility in the upstream crude oil prices amidst the European energy crisis also caused input pressure on the PVC-producing industries in this Quarter. In addition, the rising Recession in the region and bearish market sentiments for PVC in the regional market compelled the manufacturers to limit the profit margins in the region and destock piled-up investors at lower prices in the market in the Quarter ending December 2022.”

134. Ravago Americas contends that the Complainant's profitability was impacted by high raw material costs, although they were consistently able to pass on these production costs to the final consumers. Therefore, if the UK industry experienced any injury, Ravago Americas submits that it was the result of other factors, such as the weak performance of the market in the UK and across Europe, which was impacted by high electricity and raw materials costs and high inflation and borrowing costs.

5.2.2. Decrease in consumption levels and market downturn

135. The S-PVC market is subject to business cycles, as acknowledged by the UK industry and EU authorities:<sup>75</sup>

Figure 3 confirms the counter-cyclicity of the S-PVC prices and the CS prices and Figure 4 shows how the position in both S-PVC and CS markets smoothed the large economic shock in 2008-2009, helping to preserve the overall profitability of the INEOS' PVC production chain.

136. In addition, external factors, such as economic crises and the stagnation of the constructions sector, considerably impact the S-PVC market. In this respect, the Covid-19 pandemic and Brexit affected the Complainant's operations, as it acknowledged:<sup>76</sup>

In our INOVYN Business, supply and demand in the PVC and caustic soda industries is driven by product prices, global and regional capacity, the availability and price of substitute products, as well as general economic conditions, including GDP growth and growth of core industries that consume those products.

[...]

As a result of the COVID-19 pandemic, demand was severely impacted in the second quarter of 2020 but experienced a swift recovery thereafter in the second half of 2020, 2021 and the first half of 2022, accompanied by record margins.

137. During the POI selected by the Complainant, the data made available suggests that the S-PVC market experienced a return to normal values, following the bubble reached as a result of the effects of the Covid-19 pandemic. This fact was recorded by market intelligence sources :<sup>77</sup>

<sup>74</sup> See, inter alia, INEOS Quattro Holdings Limited 2022 Annual Report, available at <https://www.ineos.com/globalassets/investor-quattro-ir/public/annual-reports/ineos-quattro---annual-report-2022.pdf> ; <https://www.chemanalyst.com/Pricing-data/poly-vinyl-chloride-5>

<sup>75</sup> Case M.6905 – INEOS/ Solvay/ JV (2014), paras. 90, 93, 94 with regards to the fact that S-PVC and CS are counter-cyclical, which implies both products are subject to a business cycle. See also INEOS Quattro Holdings Limited 2022 Annual Report, available at <https://www.ineos.com/globalassets/investor-quattro-ir/public/annual-reports/ineos-quattro---annual-report-2022.pdf>.

<sup>76</sup> INEOS Quattro Holdings Limited 2022 Annual Report, available at <https://www.ineos.com/globalassets/investor-quattro-ir/public/annual-reports/ineos-quattro---annual-report-2022.pdf>

<sup>77</sup> See at <https://chemicalmarketanalytics.com/blog/european-pvc-industry/>

In summary, in the period from early 2020 to mid-2022, the pressure that built in the bubble was significant, the market over-heated and the adverse reaction when it came from mid-2022 was even more intense, magnified by multiple negative factors.

To the extent that the confluence of events over the last three years were so extraordinary and so intense, we assume that the resulting market volatility was a once-in-a-generation occurrence and that market conditions will normalise.

138. In addition, the market correction was further influenced by high energy prices, inflationary pressure and high borrowing costs (see Section 5.2.1 above), as well as the downturn of the construction sector.

***New construction output:***<sup>78</sup>



**Source: Construction output and employment data from the Office for National Statistics**

139. The overall impact of these elements on the S-PVC market was recognized by the Complainant in its annual report, citing that “[I]n the ChlorVinyls industry, an economic downturn typically causes PVC demand to fall”.<sup>79</sup>
140. According to the data made available in the Complaint, UK demand of S-PVC dropped by 22% between 2021 and the POI. By comparison, in the *Soy Protein* case investigated by the EU authorities, a decrease by 8% in consumption levels resulting from the 2008/2009 economic crisis was identified as the main reason for the injury suffered by the Union industry.<sup>80</sup> Therefore, Ravago Americas submits that a similar reasoning should be used in the case at hand.
141. It was impossible for the UK industry to maintain the same high margins experienced during the Covid-19 pandemic, when the construction sector increased and imports from other third countries were scarce. The market correction, coupled with inflation, high energy costs and slowdown of the construction sector, further contributed to the performance of the Complainant.

<sup>78</sup> Source: <https://www.ons.gov.uk/>

<sup>79</sup> INEOS Quattro Holdings Limited 2022 Annual Report, available at <https://www.ineos.com/globalassets/investor-quattro-ir/public/annual-reports/ineos-quattro---annual-report-2022.pdf>

<sup>80</sup> See Commission Decision of 27 June 2012 terminating the anti-dumping proceeding concerning imports of certain concentrated soy protein products originating in the People’s Republic of China.

Therefore, Ravago Americas submits that if any injury is found, this was the result of the overall outlook of the market.

5.2.3. Lack of an integrated chlor-alkali production facility

142. As acknowledged by the Complainant, the S-PVC market is cyclical and dynamic, being susceptible to external economic developments.<sup>81</sup> To fend off the risk of a PVC market downturn, producers have integrated their production process to incorporate the production of VCM, a process which starts with the electrolysis of water. This process generates CS and/or caustic potash, a by-product which can be used to generate additional profits. In fact, the market of PVC and CS are countercyclical, balancing each other in case of market downturns.<sup>82</sup> This makes sales of CS and caustic soda particularly relevant during times of PVC market downturn. In the words of the EU competition authority:

The joint production has two main implications. First, PVC and CS production and sales decisions are intertwined and based on joint profits. In other words, a PVC supplier calculates profitability on the basis of a full chain margin that includes CS and also all the other by-products and eventually PVC and CS contribute to overall profitability. PVC and CS have inherent counter-cyclicity: when PVC demand decreases, caustic production volumes drop, increasing caustic margins.<sup>83</sup>

143. Although the two markets are intertwined, the Complainant separated its PVC and VCM production facilities into businesses located in different countries. As a result of the counter-cyclicity of the two, when the S-PVC market drops, the business separation leads to one business being extremely profitable (*i.e.* the operations concerning sales of CS and / or caustic potash), while the other business is left vulnerable to inherent market fluctuations (*i.e.* the PVC business).
144. Ravago Americas therefore submits that if costs and profits made out of sales of CS and caustic potash are artificially excluded from the injury analysis, the picture obtained with regards to the Complainant's economic health would be greatly distorted. In such an instance, Ravago Americas urges TRA to investigate the inefficiency resulting from the location of the separate VCM production unit in a different third country. In Ravago Americas' view, such inefficiency should compensate for the exclusion of CS and caustic soda profits from the injury analysis. In other words, the negative effects experienced as a result exclusion of sales of CS and caustic potash cannot be attributed to imports from the US, if any injury is found. Such effects must be attributed to the Complainant's own inefficiency.

5.2.4. Imports from other countries

145. As can be observed from the graph below, during the period considered, imports from other third countries were imported in greater volumes compared to the US and/or sold at lower prices.

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<sup>81</sup> INEOS Quattro Holdings Limited 2022 Annual Report, page 21, available at <https://www.ineos.com/globalassets/investor-quattro-ir/public/annual-reports/ineos-quattro---annual-report-2022.pdf>.

<sup>82</sup> See Case M.6905 – INEOS/ Solvay/ JV (2014), paras. 93, 94. See also <https://www.echemi.com/cms/1237056.html>; <https://www.chemorbis.com/en/plastics-news/Surging-caustic-prices-cause-PVC-supply-to-rise-contributing-to-PVC-slump-/2022/10/26/856199&isflashhaber=true#reportH>

<sup>83</sup> Case M.6905 – INEOS/ Solvay/ JV (2014), paras. 90 *et subseq.* (emphasis added)

| <b>Third country imports volume (t)</b> |             |             |             |
|---|-------------|-------------|-------------|
|   | <b>2020</b> | <b>2021</b> | <b>2022</b> |
| <b>US</b>                               | 19.661      | 26.973      | 35.468      |
| <b>The Netherlands</b>                  | 57.458      | 64.183      | 83.394      |
| <b>Belgium</b>                          | 36.320      | 49.600      | 78.875      |
| <b>Mexico</b>                           | 32.277      | 31.417      | 36.335      |

146. Imports volume from the Netherlands, Belgium and Mexico were all higher in terms of volume when compared to the US. For example, imports from Belgium increased by 117% between 2020 and 2022, reaching a value of 78.875 tonnes, i.e., more than double the amount of imports from the US. The Netherlands’ exports in 2022 reached even higher values, amounting to 83.394 tonnes.

| <b>Import prices (£/t)</b>          |             |             |             |
|-------------------------------------|-------------|-------------|-------------|
|                                     | <b>2020</b> | <b>2021</b> | <b>2022</b> |
| <b>The Netherlands</b>              | 703         | 1.058       | 1.462       |
| <b>Belgium</b>                      | 740         | 1.065       | 1.529       |
| <b>Mexico</b>                       | 673         | 919         | 1.342       |
| <b>US (incl. 6% customs duties)</b> | 707         | 1.224       | 1.424       |

147. Ravago Americas also points out that imports from Mexico consistently undercut US prices, while import volumes remained high. When accounting for the applied UK customs duty of 6%, Ravago Americas notes that US prices were either above (compared to Mexico) or at the level with the prices of imports from other countries (such as Belgium and the Netherlands).
148. Generally and by way of reference, in EU anti-dumping investigations, imports from other third countries were found to cause injury to the domestic industry when their volume followed an increase in trade, their market share was comparable or higher than that held by the imports concerned and they undercut the domestic industry’s prices by a degree similar to the subject imports. In *Polyester Staple Fibers*, the European Commission found a breach of the causal link due to the rapid increase prior to and during the investigation period of imports from other third countries, such as Korea, Taiwan and China.<sup>84</sup> A similar decision was adopted in the *Biodiesel* case, where imports from Indonesia increased during the period considered while prices remained lower compared to those of the Union industry.<sup>85</sup> To the extent that any injury is found in the present case, Ravago Americas therefore submits that a similar approach should

<sup>84</sup> Commission Implementing Decision terminating the anti-subsidy proceeding concerning the imports of polyester staple fibres originating in the People’s Republic of China, India and Vietnam, *OJ L 360/65*, recitals 324-330, 339.

<sup>85</sup> Commission Implementing Regulation (EU) 2018/1570 terminating the proceedings concerning imports of biodiesel originating in Argentina and Indonesia and repealing Implementing Regulation (EU) No 1194/2013, *OJ L 262, 19.10.2018*, recitals 71-90. See also Commission Decision terminating the anti-dumping proceeding concerning imports of pentaerythritol originating in the People’s Republic of China, Russia, Turkey, Ukraine and the United States of America, *OJ L 94/55*, recitals 128, 128, 138; Commission Implementing Regulation (EU) 2017/1480 imposing a provisional anti-dumping duty on imports of certain cast iron articles originating in the People’s Republic of China, *OJ L 211/14*, recitals 175-182.

be followed, and that any injury is not the result of imports from the US, but from the combined effects of imports from other third countries, such as Mexico, Belgium and the Netherlands.

149. Of note, Ravago Americas notes that the Complainant operates a PVC plant in Belgium.<sup>86</sup> Ravago Americas therefore requests TRA to also examine the extent to which any injury caused to the domestic industry was self-inflicted as a result of imports from Belgium.

**5.2.5. Decrease in exports**

150. Based on the data made available by the Complainant, Ravago Americas observes the significant decrease in exports made by the domestic industry during the period considered. Exports more than halved between 2020 and the POI, and had low margins throughout 2021 and 2022.

| Exports outside UK |      |      |      |                         |
|--------------------|------|------|------|-------------------------|
|                    | 2020 | 2021 | 2022 | POI Sept 22 -<br>Aug 23 |
| <b>Index (t)</b>   | 100  | 39   | 33   | 46                      |

151. In view of the industry’s weak export performance, if any injury is found, Ravago Americas requests TRA to examine the extent to which exports contributed to this. In this vein, any negative impact which exports by the UK industry have on the situation of domestic producers should be excluded from the injury analysis. Trends in injury factors must be examined exclusively with regards to sales in the UK.<sup>87</sup>

**5.2.6. Investment levels and production capacity**

152. Ravago Americas notes that the Complainant made large investments throughout the period considered, which have not materialized in increased efficiencies or capacities.

| Investments            |      |      |      |                         |
|------------------------|------|------|------|-------------------------|
|                        | 2020 | 2021 | 2022 | POI Sept 22 -<br>Aug 23 |
| <b>Index (€)</b>       | 100  | 109  | 213  | 137                     |
| <b>Index Cash flow</b> | 100  | 840  | 275  | -29                     |

153. Compared to 2020, investments doubled in 2022, and were 37% higher during the POI, although at that moment the market downturn was already in plain sight.<sup>88</sup> Therefore, Ravago Americas submits that if any injury is found, this was further amplified by the large investments made in a period of market downturn.

154. In addition, Ravago Americas urges TRA to examine the extent to which overcapacity of the UK industry in relation to UK consumption levels contributed to the injury of the domestic industry. As a result of the closure of the Russian export market and the difficulties of the

<sup>86</sup> See at <https://www.ineos.com/sites/jemeppe/>

<sup>87</sup> See, by analogy, Commission Decision terminating the anti-dumping proceeding concerning imports of pentaerythritol originating in the People’s Republic of China, Russia, Turkey, Ukraine and the United States of America, *OJ L 94/55 2007*; Council Regulation (EC) No 1184/2007 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of peroxosulphates (persulphates) originating in the United States of America, the People’s Republic of China and Taiwan, *OJ L 265, 11.10.2007*, p. 1–19, recital 78.

<sup>88</sup> See at <https://www.chemanalyst.com/Pricing-data/poly-vinyl-chloride-5>

industry to export to other third countries, if injury is found, it is likely that this was partly caused by installed overcapacities.

**6. UK economic interest**

155. In accordance with Paragraph 25 of Schedule 4 to the UK Taxation Act, prior to the imposition of trade remedies, a determination should be made of whether or not such measures would be in the economic interest of the UK.
156. Ravago Americas submits that the imposition of duties is not warranted in this case, as there are no clear indications that the UK industry had suffered any injury. On the contrary, the UK industry achieved record profit levels during the period considered and was able to successfully navigate the market downturn, while at the same time increasing its market share. The health of the industry at a consolidated level would be even more explicit, if taking account of the profits obtained from sales of CS and caustic potash.
157. Therefore, Ravago Americas posits that imposing anti-dumping duties on imports from the US would only be to the disadvantage of downstream users, further weakening the construction sector in the UK.
158. Common S-PVC is widely used in the construction industry for applications such as pipes and fittings, cables and wiring, profiles and frames, as well as flooring and roofing. The construction sector in the UK faces significant challenges in the aftermath of the Covid-19 crisis and Brexit effects, largely due to high inflation and increased borrowing costs, coupled with a sharp rise in the cost of construction materials and labor shortages.<sup>89</sup>
159. Therefore, applying duties on imports of S-PVC from the US would further hinder the recovery of the UK construction sector, which would then face additional increases in prices for their materials. Moreover, end-buyers in the UK would face even higher prices on the housing market, further contributing to the UK housing crisis.
160. Lastly, imposing duties on S-PVC imports from the US would result in higher import volumes from third countries such as Mexico, which consistently undercut both the US and UK prices. Such a measure would have negative consequences for the competitive environment in the UK without resulting in any significant benefits for the domestic industry.

**7. Conclusion**

161. Based on the aforementioned arguments, Ravago Americas respectfully requests the TRA to terminate the current anti-dumping investigation without imposing anti-dumping measures on S-PVC imports from the US. There is no evidence of dumping from the US, no injury to the UK industry, and no causal link. Moreover, imposing duties would not align with the UK's economic interests.

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<sup>89</sup> See at <https://www.pinsentmasons.com/out-law/analysis/construction-sector-turbulent-2023> ; <https://www.chas.co.uk/blog/3-challenges-facing-the-uk-construction-industry-in-2024/>