



**NON CONFIDENTIAL**

Brussels, 27 June 2025

**ANTI-DUMPING INVESTIGATION BY THE UNITED KINGDOM ON IMPORTS OF CERTAIN  
ENGINE OILS AND HYDRAULIC FLUIDS FROM LITHUANIA AND UAE**

**HEARING HELD ON 25/06/2025**

**Post hearing Submission - Provisional Affirmative Determination (PAD)**

The European Commission would like to thank the UK Trade Remedies Authority ('TRA') for the opportunity to exchange views regarding the on-going anti-dumping investigation on certain engine oils originating in Lithuania and the UAE.

The European Commission has been following the case since the beginning. As you may be aware, we have submitted comments at initiation and at the provisional stage.

Among the comments and major shortcomings already raised in the written submissions, we would like to re-iterate certain aspects of the case, in particular:

- the methodology used to calculate cumulation,
- the lack of adequate evidence to support a finding of material injury, and
- the deficient causality analysis.

These points are developed here below:

**1. Cumulation based on inadequate import statistics:**

According to the cumulation analysis done by the TRA, Lithuania's volume of exports to the UK represents a share of 3,11% of total exports. Therefore, according to Article 3.3 of the Anti-dumping Agreement, since this share is above 3% and the preliminary margin of dumping is more than *de minimis*, the effect of Lithuania's exports can be assessed cumulatively with those of the UAE.

However, as the TRA confirms, "*Import data for this investigation includes some goods that are not in the scope of the investigation. This makes it difficult to determine an exact volume of imports of the goods concerned. Our assessment is that most imports imported under the 2 relevant 8-digit commodity codes are in the scope of*

*goods under investigation as these are the most widely consumed goods within those codes.”*

In this particular case, this inaccuracy is of crucial importance for Lithuania, which is very close to the negligibility threshold and is currently being subject to measures that may not be justified.

The European Commission is therefore requesting the TRA to refine this analysis, using other sources of information (now verified) to effectively find out what are the right import volumes overall and from Lithuania in particular. In fact, the Lithuanian exporter has actually provided the real volumes of exports during the POI. Based on these figures it appears that the Lithuanian imports are below the negligibility threshold of 3%. The TRA should establish a methodology to make a new calculation, using the new data obtained through verification visits.

Furthermore, Lithuanian export prices of the product concerned to the UK, based on the Eurostat statistics (as no import prices have been provided in the PAD), increased by more than 100% between 2020 and the POI, suggesting that Lithuanian imports are not causing any injury, and warranting their exclusion from the cumulative assessment.

Finally, we remind that the support letter from the UK lubricant’s association did not specifically support the inclusion of Lithuania in this investigation (only the UAE) and that imports from Lithuania may not be representing any threat to the UK industry at all.

## **2. Lack of adequate evidence to support a finding on injury**

This point represents the most serious concern of the European Commission.

At the outset and as raised in writing, already at initiation the issue of insufficient evidence was already problematic.

According to Article 3.1. of the WTO Anti-dumping Agreement (‘ADA’): *“A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination”*.

According to our assessment, **the whole injury analysis is inadequate and incomplete as it is based on extremely deficient information** provided by the respondents. Evidence is either contradictory to a finding of injury, incomplete or inconclusive. In any case, clearly not sufficient for a finding on material injury.

**It is therefore not possible with the data available to conduct an objective examination.**

There are several elements of concern, which are the following:

- The injury to the domestic industry at preliminary stage, was assessed based on the questionnaire replies of two sampled producers (Aztec Oils Ltd. And Paterson Enterprises Ltd.) representing only 15% of UK production. As a result, the representativeness of this sample is put into question. The fact that 2 other selected producers did not submit any reply to the questionnaire may also raise doubts about the support of the domestic industry of this investigation.

- Moreover, the quality of the questionnaire replies was largely deficient, as a significant amount of data was not provided adequately by the respondents. For instance, on certain indicators, the sampled companies did simply not provide data or provided it without non-confidential summaries. This affects around 8 of the 15 injury factors to be assessed.
- In this case, it is important to remind that the jurisprudence confirmed that each of the fifteen factors listed in Article 3.4 of the AD Agreement must be evaluated by the investigating authorities in each case in examining the impact of the dumped imports on the domestic industry concerned. This is far from being the case.
- In other cases, information provided by the two respondents was contradictory. For instance, one company increased profits and the other reduced profits during the period analysed. This was the case for 5 out of 15 indicators.
- For the injury indicators where an answer had been provided, the TRA did not aggregate the available data, for the whole domestic industry, therefore the information was inconclusive. This concerned 6 out of 15 indicators. In case of only 2 respondents, the TRA could have aggregated the data and present it in the form of indexes or ranges, in order to preserve confidentiality, but this was not done.
- Finally, with some exceptions, the injury indicators were not provided for the whole injury investigation period, which results in a poor injury analysis.

As a result, for most of the injury indicators it was **not possible for interested parties to have a clear picture** of the domestic industry's situation during the investigation period and for the product concerned.

**The TRA, however, did find injury in a total of 10 injury indicators** where, for some of them, the respondents did not provide a proper reply to the questionnaire.

An analysis on this basis **cannot be considered as based on positive evidence and involving an objective examination** as provided for in Article 3.1 of the WTO ADA, and it is **impossible to conclude that the UK domestic industry is suffering material injury** in terms of Article 3.4 of the WTO ADA.

### **3. The causality analysis is deficient**

Article 3.5 of the WTO ADA provides that the investigating authority must demonstrate that the dumped imports are, through the effects of dumping causing material injury. The demonstration of a **causal relationship** between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities, including any known factors other than imports that are at the same time injuring the domestic industry.

Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumped prices, contraction in demand or changes in the patterns of consumption, trade restrictive practices of and competition between the foreign and

domestic producers, developments in technology and the export performance and productivity of the domestic industry.

However, the PAD did not assess any of the above elements except for the volumes imported from other main countries, just to confirm that imports from the two countries assessed are increasing in the last two years of the injury investigation period. There is no assessment of prices from these countries or, if this was not possible, an alternative means to provide some evidence on other countries' evolution of export prices. In any case, in terms of volumes, it appears that imports from Lithuania and the UAE may have taken market share from the German exporters, instead of from the domestic industry (whose decrease in sales has so far not been demonstrated).

An important element in this context is the development of **demand**. While in the PAD it is mentioned that with the increased use of electric vehicles, the demand for engine oils is likely to reduce (para 69), in para 253, it is stated that the TRA assumes that the demand will not change as it is an essential product for end users. Despite this contradiction, no further analysis or any data has been provided other than that it is assumed that more than half of the UK demand is supplied by imports.

Other factors, such as **costs** have not been addressed at all. The development of costs has an important impact on profitability and thus needs to be analysed.

Furthermore, there is a lack of any information about the other 19 UK producers, in order to assess any **competition issues** that may be present in the domestic industry. This is even more important as there seems to be significant competition even between the two applicants, whose results are completely divergent.

**Therefore, the analysis of a causal link and the impact of other factors as provided for in Article 3.5 of the WTO ADA is substantially incomplete.**

#### **4. Closing remarks:**

The TRA confirms in the PAD that: *TRA deems the data used in this PAD as sufficient for a preliminary determination, although it is not verified.* However, our assessment shows that this is not the case. **The whole injury analysis is inadequate and incomplete** as it is based on extremely deficient information provided by the respondents. The information contained in the preliminary determination is clearly not sufficient to support a finding of material injury.

**On cumulation, the European Commission is requesting the TRA to refine this analysis**, using other sources of information to effectively find out what are the correct import volumes in general and specifically from Lithuania.

The Commission has assessed that a **causality analysis** is practically missing. **The PAD fails to assess any other potential contributing factors, such as prices of other imports, development in demand, costs or domestic competition.**

**In view of the elements exposed during the hearing, in this submission and in the European Commission's previous written submissions, this investigation is highly deficient in many respects. The initiation was already lacking sufficient evidence, and this continues to be the case. Preliminary measures on such weak grounds are clearly not warranted. Therefore, the investigation should be terminated without further delay.**