Renewable Transport Fuel Association

23 June 2026,

Re: AS0067: Rebuttal to the comments of Diamond Green Diesel LLC and Valero Energy Ltd of 16 June 2026

1. The RTFA submits this short rebuttal to the comments of Diamond Green Diesel LLC ("DGD") and Valero Energy Ltd ("VEL") of 16 June 2026 on the TRA's Note of 9 June 2026 ("June Note").[1] The submission is long, but it raises nothing that displaces the TRA's affirmative findings on subsidisation and causation. The RTFA refers to and reiterates its Comments of 9 April 2026,[2] its Note of 5 May 2026,[3] and Comments of 16 June 2026,[4] and confines itself below to two points: (i) that the TRA correctly found present subsidisation and may impose duties on the verified BTC data; and (ii) that causation is established, the differences between HVO and FAME calling for a comparability adjustment rather than the abandonment of the price effects analysis altogether.

I. The TRA correctly found present subsidisation and may impose duties on the verified BTC data

2. DGD and VEL reiterate the differences between the BTC and the CFPC (production credit rather than blender's credit, carbon-intensity gradation, feedstock restrictions, prevailing-wage conditions and inflationary adjustment), and conclude that the CFPC cannot be a replacement for the BTC. Each of those points goes to the level or amount of the benefit. None of them bears on the only question that arises at this stage, which is whether subsidisation continues. It plainly does, and the TRA so found in the June Note.

3. The requirement at the imposition stage is a finding of present subsidisation, not a fresh investigation into, or precise re-quantification of, the replacement programme. As the RTFA explained at paragraph 16 of its 9 April Comments, the Appellate Body in *Japan – DRAMS (Korea)* confirmed that WTO rules are

"*not suggesting that an investigating authority [was] somehow required to conduct a new investigation at the time of imposition, in order to confirm the continued existence of the subsidisation found to exist during the period of investigation. That will defeat the very purpose of using periods of investigation in the first place*."[5]

4. The duty is calculated on the basis of the subsidy found to exist during the POI — here, the verified BTC data. That is precisely what the use of a period of investigation entails, and it is the lawful basis for the rate. Countervailing duties are imposed prospectively, based on a retrospective analysis during a POI. If after the POI things change, these need to be addressed during an administrative review. The only condition is that at the time of the final determination, subsididisation continues. If changes in a subsidy after the POI would be enough to stop the imposition of duties, the anti-subsidy instrument would be an open invitation for "hit-and-run" subsidies: change something in the subsidy, and you are off the hook.

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[1] *Comments on the Note of 9 June 2026*, AS0067, Diamond Green Diesel LLC and Valero Energy Ltd, 16 June 2026 (the "DGD/VEL Comments").

[2] RTFA, *Comments to the TRA Note to Public File of 12 March 2026*, 9 April 2026 (the "RTFA Comments").

[3] RTFA, *Note on present subsidisation of the Blender's Tax Credit and the introduction of H.R. 8497*, 5 May 2026.

[4] RTFA, *Comments to TRA Note to Public File dated 9 June 2026, 16 June 2026.*

[5] Appellate Body Report, *Japan – DRAMS (Korea)*, WT/DS336/AB/R, 28 November 2007, para. 209 (quoting the Panel); RTFA Comments, para. 16.

5. DGD and VEL's authorities on the "precise amount" of subsidisation (*Canada – Aircraft*, *US – Softwood Lumber VII*, *EU – CVDs on Biodiesel (Indonesia)* and *US – Washing Machines*), do not assist them.[6] Those cases concern the calculation of the duty rate against the subsidy found to exist; they do not require an authority to re-quantify a post-POI replacement programme before it may impose measures. Any recalibration to reflect the operation of the CFPC, including feedstock eligibility from 2026, the carbon-intensity gradation and any apportionment between recipients, is a matter for a future administrative review, in which the US exporting producers may seek a recalculation if they consider that the level of subsidisation has changed. The same applies for the UK domestic industry in case it considers that the subsidy rates have gone up.

6. DGD and VEL's reliance on *Canada – Aircraft* for the proposition that a benefit cannot be assessed "*in the abstract*" misreads the nature of the subsidisation question at issue. There can be no doubt that the TRA assessed the actual details and implementation of the CPC during the POI, to arrive at precise rates of benefit and subsidization. The question of how to assess continued subsidization in the event of a replacement subsidy after the POI is different. At that stage, only the fact of continued subsidisation, on the basis of the "rules on the books", needs to be established; there is no need (nor can it be done based on POI data) for a detailed assessment of the rate or level of the replacement subsidy. As the RTFA set out at paragraph 43 of its 9 April Comments, in the case of revenue foregone the Appellate Body in *US – Aircraft (Article 21.5)* held that the analysis turns on whether the government has relinquished an entitlement to raise revenue, and that the evidence for that analysis "*will be located in a Member's taxation rules*".[7] The US taxation rules establishing the CFPC plainly demonstrate that there is a benefit and subsidy, and the Congressional Research Service describes the CFPC as a credit that "*consolidates and replaces*" the expired fuel credits, including those for biodiesel and renewable diesel.[8] The RTFA's statement at paragraph 42 of its Comments, that a finding on the statutory language suffices to establish present subsidisation, was made in that specific context and is correct. The RTFA's references to the close-nexus jurisprudence under Article 21 (paragraphs 30 to 34 of its Comments) were advanced by analogy, to demonstrate the continuity between the BTC and the CFPC; they reinforce, and do not displace, the operative finding of present subsidisation under paragraph 11(2)(a) of Schedule 4 to the Taxation Act.[9]

7. In any event, there is no factual basis for any suggestion that subsidisation has ceased. On DGD's own 2025 financial statements, it received USD 598,7 million in clean fuel production credits.[10] That confirms that the CFPC confers a substantial benefit, well above the *de minimis* threshold. The precise attribution of that benefit to UK-bound HVO is, again, a question of rate and quantification for administrative review; it does not bear on the existence of present subsidisation.

8. The same answer disposes of the SAF point: the finding of present subsidisation rests on the CFPC's statutory coverage of HVO and renewable diesel, and any apportionment of the credit as between HVO and SAF production is a matter of quantification reserved for a potential, later review.

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[6] DGD/VEL Comments, Section 3.1, citing Appellate Body Report, *Canada – Aircraft*, WT/DS70/AB/R, para. 154; Panel Report, *US – Softwood Lumber VII*, para. 7.111; Panel Report, *EU – CVDs on Biodiesel (Indonesia)*, para. 7.89; Appellate Body Report, *US – Washing Machines*, paras. 5.267–5.268.

[7] Appellate Body Report, *US – Aircraft (Article 21.5)*, WT/DS353/AB/RW, 28 March 2019, para. 5.153; RTFA Comments, para. 43.

[8] Congressional Research Service, *The Section 45Z Clean Fuel Production Credit*, IF12502 (updated 18 February 2025). Submitted as Exhibit 4 with RTFA Comments, 9 April 2026.

[9] RTFA Comments, paras. 30–34, referring to Appellate Body Report, *US – Carbon Steel (India)*, WT/DS436/AB/R, 8 December 2014, para. 4.543. Submitted as Exhibit 8, with RTFA Comments, 9 April 2026.

[10] DGD Holdings LLC, Consolidated Financial Statements 2025, as cited in the June Note (USD 598,7 million in clean fuel production credits).

II. Causation is established: the product differences call for a comparability adjustment, not the abandonment of the price-effects analysis

9. DGD and VEL contend that, because there are differences between HVO and FAME, a UK FAME industry cannot be injured by imports of HVO. They rely on the Panel in *China – Autos (US)* and the Appellate Body in *China – HP-SSST*. Properly read, those authorities do not support termination; they describe the analysis the TRA must, and did, perform.

10. The like-products determination is settled. The TRA found HVO and FAME to be like products in transition reviews TD0004 and TS0005 and reaffirmed that finding in the SEF.[11] The like-products standard under the trade-remedy framework is a demanding one, requiring the imported and domestic products to closely resemble one another; the finding therefore establishes that the two products start from a position of close competition. The intra-group differences between HVO and FAME on which DGD and VEL rely were considered and found insufficient to displace likeness, and they cannot be re-run now as a reason to set injury aside.

11. What the Panel Report in *China – Autos (US)* (paragraphs 7.278 to 7.282) holds is narrower than DGD and VEL suggest. The Panel found that a like-products finding does not necessarily entitle an authority to compare prices mechanically. The obligation to conduct an objective examination of the effect of the subject imports on domestic prices requires the authority to account for inherent price differences attributable to differences between the products.[12] In other words, at best, an adjustment may be called for. Intra-group product differences do not mean that price effects cannot be looked at or cause injury. The same applies for the Appellate Body Report in *China – HP-SSST*: whether products compete in the same market turns on an examination of their competitive relationship.[13] The consequence of product differences is therefore a comparability adjustment at the price-effects stage, not, as DGD and VEL would have it, the abandonment of the price-effects analysis altogether.

12. Performed properly, that adjustment removes the very premium on which DGD and VEL rely. The apparent HVO premium is a certificate artefact: it arises only when waste-based HVO Class II, which earns two RTFCs per litre, is set against a single-counting fuel such as FAME 0. On the correct like-for-like comparison, UCOME (which also gets the double-counting premium) against HVO Class II, the level of undercutting is clearly revealed, as set out in the RTFA's June 16 Note.[14] On that aligned basis US HVO undercut UK FAME throughout the POI, the undercutting deepening rather than easing post-POI.[15]

13. For the goods actually under investigation the premium does not even arise on DGD and VEL's own case. They state that the US HVO eligible for the CFPC — produced from North American soybean oil, canola, DCO or tallow — "*would only qualify for single counting under the RTFO*".[16] Single-counting HVO carries no certificate premium; compared against single-counting FAME it competes on equal certificate terms, and the premium DGD and VEL invoke simply does not exist. **They thus advance two incompatible propositions** — that the exported HVO single-counts, in order to minimise the subsidy, and that it commands a structural premium, in order to defeat product comparability and causation. Whichever they maintain, the premium falls away on the goods under investigation: it either nets out, where

[11] TRA, Final Recommendations TD0004 and TS0005, 10 November 2022; Statement of Essential Facts, AS0067, 28 November 2025 ("SEF"), paras. 110–122.
[12] Panel Report, *China – Autos (US)*, WT/DS440/R, paras. 7.278–7.282. See SCM Agreement, Articles 15.1 and 15.2.
[13] Appellate Body Reports, *China – HP-SSST (Japan) / China – HP-SSST (EU)*, WT/DS454/AB/R, WT/DS460/AB/R, paras. 5.262–5.263.
[14] RTFA, *Comments to TRA Note to Public File dated 9 June 2026, 16 June 2026*, para. 39-42.
[15] RTFA, Comments of 16 June 2026 on the TRA's Note of 9 June 2026, paras. 39–41 (certificate netting on the UCOME / HVO Class II comparison) and paras. 44–49 (constructed export-price comparison, showing US HVO undercutting UK FAME and deepening post-POI). The supporting figures are set out in the confidential version of that submission.
[16] DGD/VEL Comments, p. 3.

the HVO is waste-based and double-counting, or is absent, where it is crop-based and single-counting. The price differences are accordingly a certificate and feedstock artefact, not something inherent to the physical product, and a proper comparability adjustment removes them.

14. Finally, the low US HVO prices did exert downward pressure on UK FAME. When the HVO price fell to approach the FAME price in 2024, blenders switched to HVO to claim RTFCs, with HVO reaching some 21 % of verified renewable fuel supplied against FAME's 22 %.[17] This is direct evidence that the two products compete and that price governs the blending choice.

III. Conclusion

15. The DGD and VEL comments disclose no basis to depart from the TRA's findings. The RTFA respectfully requests that the TRA confirm the existence of present subsidisation on the basis of the statutory language of the CFPC and its close nexus with the BTC, impose definitive countervailing measures on the basis of the verified BTC data, and confirm its finding that the subsidised US HVO imports are causing injury to the UK industry.[18]

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[17] SEF, para. 115, citing *RTFO statistics 2024: Final report* (HVO at some 21 % and FAME at some 22 % of verified renewable fuel supplied in 2024).

[18] Paragraph 11(2)(a) of Schedule 4 to the Taxation (Cross-border Trade) Act 2018.