Renewable Transport Fuel Association

10 July 2026
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AS0067 investigation on HVO imports from the USA

Response of the RTFA to the submission of Diamond Green Diesel LLC and Valero Energy Ltd of 30 June 2026

1. By submission of 30 June 2026, Diamond Green Diesel LLC ("DGD") and Valero Energy Ltd ("VEL") request the TRA to reject and disregard the comments made in response to the Note of 9 June 2026 ("June Note") by the European Biodiesel Board, two EU HVO producers, FABRA UK and Stagecoach (together, the "further comments"), on the ground that those parties did not register within the registration period.[1]

2. The RTFA invites the TRA to decline that request for the following reasons:

   - The 2019 Regulations confer on the TRA a broad discretion to receive information of this kind;[2] (**I**)

   - The TRA itself relied on additional evidence or further comments from non-registered contributors to update its economic interest test ("EIT"), which allowed the June Note to the Public File to depart from the original EIT findings contained in the Statement of Essential Facts ("SEF"). If DGD and VEL's arguments were to be accepted by the TRA, it would similarly require the TRA to disregard the same additional evidence that was used in the June Note to the Public File; (**II**)

   - Nothing in the TRA's guidance or in WTO law requires their exclusion (**III**).

I. THE 2019 REGULATIONS AND THE TRA'S GUIDANCE PERMIT THE TRA TO RECEIVE THE FURTHER COMMENTS

3. DGD and VEL's request rests on the premise that only parties which registered within the registration period may place information before the TRA. That is not what the Regulations provide, nor what the TRA's own guidance provides: rather, the TRA states that it "will consider requests made after the registration period on a case-by-case basis".[3]

4. Regulation 48(1) addresses precisely this situation. It provides that, where a person has supplied information outside any applicable time limit, the TRA "*may accept such information where it considers that – (a) doing so would not significantly impede the progress of an investigation; or (b) it is appropriate to accept that information, having regard to the potential significance of the information … and any explanation provided by that person …*".[4] The provision is discretionary ("may accept") and its two limbs are disjunctive ("or"). It suffices either that acceptance would not significantly impede the investigation, or that acceptance is

[1]DGD and VEL, "Comments on the status of certain submissions in response to the Note of 9 June 2026 made by new parties to AS0067", 30 June 2026.
[2]Regulation 48 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (the "2019 Regulations"); see paragraph 2(a) below.
[3]TRA, The TRA's investigation process (guidance), 5 November 2025, section "Registration", available at https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/the-tras-investigation-process.
[4]Regulation 48(1) of the 2019 Regulations.

appropriate in the light of the information's significance. DGD and VEL treat regulation 48(1) as a mandatory and cumulative bar; it is neither, and limb (a) requires no explanation at all.

5. The registration period governs the acquisition of interested-party status and the procedural rights attaching to it; it is not a cut-off date after which the TRA is disabled from receiving relevant information.

6. Regulation 47(2), on which DGD and VEL also rely, extends explicitly information supplied by "any other person from whom [the TRA] has requested information",[5] and so likewise contemplates the receipt of information from beyond the closed class of registered parties. The TRA's guidance is to the same effect: it will consider information provided by "a*ny interested party, contributor or other person [it has] requested information from*" and may gather information from "*any other group that [it] think[s] is relevant*".[6]

7. The further comments are, in substance, submissions by contributors. On the TRA's own guidance a contributor is "*a person or organisation who is not an interested party but who has contacted us so that they can participate in an investigation, e.g. by ... submitting supplementary information*".[7] A party that contacts the TRA and files comments on the June Note thereby seeks to participate as a contributor. That guidance does not confine contributor status to those who came forward during the registration period; it turns on whether the person has contacted the TRA in order to participate.

8. Consistently, the guidance records that interested parties and contributors "a*re welcome to provide written statements at any time during the course of an investigation*", and that "[b]*oth interested parties and contributors can provide extra information when they feel it is needed*".[8] The EIT guidance in turn provides that "*interested parties and contributors may provide additional submissions which are relevant to the EIT*",[9] which is precisely what the further comments constitute.

9. In the present case, the TRA explicitly invited any contributor to provide its views on the Note to the File, which is publicly available. Thus, in this Note to the Public File the TRA indicated:

"*If you have any comments, please contact the TRA via the Trade Remedies Service or at AS0067@traderemedies.gov.uk by 16 June 2026 at 17:30 hours GMT.*

We may consider submissions made after this date, but we are not obliged to do so if we believe it would cause an unnecessary delay. If we reject information for any reason, we will publish our reasons for rejection in our final determination"[10].

10. To the best of the Applicant's knowledge, these submissions by contributors were provided in due time and fully serve the investigation.

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[5] Regulation 47(2) of the 2019 Regulations.

[6] TRA, The TRA's investigation process (guidance), 5 November 2025, section "Questionnaires and information gathering" (Use of information and facts available).

[7] TRA, The TRA's investigation process (guidance), 5 November 2025, section "Registration" (Interested parties and contributors).

[8] TRA, The TRA's investigation process (guidance), 5 November 2025, sections "Questionnaires and information gathering" and "Meetings, hearings and visits".

[9] TRA, Applying the economic interest test (guidance), 5 November 2025, section "Submissions from interested parties and contributors", available at https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/how-we-apply-the-economic-interest-test.

[10] Note to Public File, p.2

II. DGD AND VEL'S ARGUMENTS CONTRADICT THE TRA'S MOST RECENT FINDINGS ON THE EIT, WHICH WERE BASED ON ADDITIONAL EVIDENCE FROM NON-REGISTERED CONTRIBUTORS

11. The RTFA notes that the revised EIT in the TRA's Note to the Public File rests on additional evidence submitted after the SEF from non-registered contributors (submitted well after the registration period closed on 1 April 2025) including

- The Sustainable Business Consortium (22 January 2026), and
- Logistics UK (22 January 2026),

12. These non-registered companies have downstream interests and their submissions urged the TRA to reconsider its assumptions about HVO use and the potential imposition of a duty.

13. The TRA took into account those submissions: however, it did not provide enough time for to parties to comment on them.

14. The RTFA notes that DGD and VEL did not ask the TRA to disregard these submissions.[11] Having accepted the benefit of post-registration submissions from unregistered parties whose input supported their own position, DGD and VEL are not well placed to demand the exclusion of comments filed at the equivalent stage, in response to TRA's June Note to the Public File, merely because those comments do not support DGD and VEL's positions.

15. In view of the above, if the TRA were to accept DGD and VEL's argument to reject additional evidence from contributors submitted after the Note to the Public File, it would likewise be required to reject the additional evidence received after the SEF, which originally led the TRA to revise its EIT.

III. THE WTO LAW DOES NOT SUPPORT DGD and VEL'S ARGUMENT

16. WTO law does not require to disregard arguments from unregistered contributors.

17. DGD and VEL invoke Article 11.11 of the SCM Agreement, which requires only that an investigation be concluded, except in special circumstances, within one year and in no case more than 18 months after its initiation. That is a discipline on the duration of the investigation, not a rule of evidence. It neither requires nor permits the exclusion of relevant information received during the investigation. *Mexico – Olive Oil*, on which DGD and VEL rely, bears this out. The investigation there ran to 24 months, and the Panel held Article 11.11 to be an absolute cap that could not be exceeded even where the overrun was attributed to the accommodation of requests to consider additional information late in the proceeding. The violation in that case centred on the excess duration, not the receipt of late information; the provision guards against unduly protracted investigations and is not a warrant to exclude the evidence of others.

18. Here the TRA's timetable places its final recommendation in September 2026, within 18 months of the initiation on 17 March 2025. Because the further comments respond to the TRA's own June Note and fall within that timetable, so considering them does not extend the investigation, still less beyond 18 months. If anything, DGD and VEL's emphasis on the timetable tells against them. The way to respect it is to consider the comments now, rather than opening a collateral dispute over their admissibility.

[11] Sustainable Business Consortium and Logistics UK, submissions of 22 January 2026, both on the AS0067 public file; neither appears among the registered interested parties or contributors listed in the SEF, pp. 10–11.

19. Acceptance would not impede the investigation; it forms part of the process the TRA itself opened.

20. The further comments respond to the TRA's June Note to the Public File, in which the TRA revised its EIT assessment and expressly invited comment.

21. Receiving comments that the TRA's own notice called for cannot sensibly be characterised as impeding the investigation. The TRA has indicated a final recommendation in September 2026, and the consideration of these comments falls within that timetable rather than extending it. In any event, where the admissibility or weight of evidence is in question, the course indicated by the TRA's guidance is a reasoned, individualised assessment rather than wholesale exclusion: under the EIT guidance the TRA "*will assess the quality and relevance of any evidence provided to [it] on an individual basis*", and it will give its reasons for incorporating or disregarding information in the SEF.[12]

22. Furthermore, the pertinent evidentiary provision, Article 12 of the SCM Agreement, guarantees parties "*ample opportunity to present in writing all evidence which they consider relevant*", a requirement that WTO panels have found is not circumscribed as to form or time;[13] Article 12.9 leaves it to the discretion of the investigating authority whether to include other entities, without requiring them to hold a defined interest in the outcome.[14] The Appellate Body in *Japan – DRAMs (Korea)* held that this clause confers a power to include other parties as interested parties, that inclusion is not predicated on a formal request, and that <u>no interest in the outcome of the proceeding need be established</u>.[15]

23. In this case, the additional pieces of evidence are relevant and several plainly have a UK nexus. If these unregistered contributors took the time to provide their views to the TRA, it follows that such arguments should be analysed and taken into account in the TRA's final decision. Comments made by several unregistered contributors, including FABRA UK (which represents the UK animal by-products processing industry, an upstream UK feedstock interest), Stagecoach (a UK bus and coach operator and downstream fuel user), and the representative of the EU biodiesel industry (which also had to deal with severe unfair trading practices from US HVO exporters) reflect direct interests in the UK market. Their comments bear directly on the statutory EIT factors the TRA must weigh, including the likely impact on UK industries, on downstream users, the availability of alternative sources, and particular geographic areas or groups within the UK.[16]

IV. CONCLUSION

24. The RTFA requests that the TRA exercise its discretion under regulation 48(1) to consider the comments made in response to the June Note, and disregard DGD and VEL's objections.

25. That course is consistent with the 2019 Regulations, with the TRA's guidance, and with the UK's WTO obligations, and it serves the TRA's overriding interest in reaching a correct EIT determination on a complete record.

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[12]TRA, Applying the economic interest test (guidance), 5 November 2025, section "Submissions from interested parties and contributors"; and TRA, The TRA's investigation process (guidance), 5 November 2025, "Use of information and facts available".

[13]Article 12.1 of the SCM Agreement; Panel Report, US – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China, WT/DS379/R, para. 15.23.

[14]E.g. Panel Report, EU – Countervailing and Anti-Dumping Duties on Stainless Steel Cold-Rolled Flat Products (Indonesia), paras. 7.371–7.377.

[15] Appellate Body Japan – DRAMs (Korea), WT/DS336/AB/R, paras. 237–238.

[16]TRA, Applying the economic interest test (guidance), 5 November 2025, "Relevant factors of the EIT" (economic significance of, and likely impact on, downstream businesses; effect on particular geographic areas and groups).