



August 24, 2026

**Trade Remedies Authority
Premier House
60 Caversham Road
Reading
RG1 7EB**

RE: Government of Canada's Comments on the Statements of Essential Facts in ER0083 and ER0084

The Government of Canada (Canada) appreciates the opportunity to comment on the Statements of Essential Facts issued in the United Kingdom's expiry reviews of its anti-subsidy and anti-dumping measures on biodiesel.

Unfortunately, Canada has significant concerns regarding both the rationality and WTO-consistency of the Trade Remedies Authority's (TRA) intended recommendation that countervailing duties (CVD) and anti-dumping duties (AD duties) continue to be extended to biodiesel consigned from Canada, whether declared as originating in Canada or not.

As noted in Canada's previous submissions, there is no evidence of transshipment of subsidized or dumped U.S. biodiesel through Canada to the United Kingdom on the record in these proceedings or related past proceedings. Canada has repeatedly demonstrated that the United Kingdom's transition review should have properly established, as a fact, that dumped or subsidized U.S. subject goods were being transhipped through Canada to the United Kingdom (rather than the European Union) before imposing AD duties and CVDs on goods consigned from Canada. After the transition reviews failed to do so, Canada once again asked the TRA to examine this fundamental factual question in the present reviews. This was not done. As a result, there is still no evidence, let alone positive evidence, that dumped and subsidized U.S. subject goods have been transhipped through Canada to the United Kingdom. Given the absence of an evidentiary basis to conclude that transshipment via Canada to the United Kingdom is occurring (or even has occurred in the past), there can be no reasoned explanation for continuing to subject imports from Canada to a UK trade remedy measure.

In response to Canada's submissions, the TRA justified its intended recommendation based on the assertion that "the finding of circumvention by the European Commission in 2011 represents positive evidence relevant to exporters' past conduct and incentive to circumvent dumping and countervailing measures applicable to UK imports" and this is "relevant to its assessment as to the likelihood of recurring injury caused by subsidised or dumped imports consigned from Canada."¹

The European Commission is not the relevant investigating authority; that can only be the TRA. There has never been any evidence before the TRA of any circumvention through Canada to the UK market. Moreover, the TRA's explanation cannot constitute a reasoned explanation, based on

¹ Trade Remedies Authority, Statement of Essential Facts, Review No. ER0083, August 6, 2026, para. 68 and Trade Remedies Authority, Statement of Essential Facts, Review No. ER0084, August 5, 2026, para. 66.



positive evidence, capable of justifying the imposition or maintenance of CVDs and AD duties on goods consigned from Canada.

First, it is unclear how the TRA can assess "likelihood of recurring injury caused by subsidised or dumped imports consigned from Canada"² without establishing whether any such imports exist or existed in the first place.

Second, it is patently unreasonable to conclude that a European Commission finding pertaining to a different market, a different domestic industry, and a period of investigation over 15 years ago, is relevant to – let alone dispositive of – the question of whether injury to the UK industry caused by dumped or subsidized U.S. imports transhipped through Canada is likely to recur.

Third, evidence "relevant to exporters' past conduct and incentive to circumvent dumping and countervailing measures", by itself, cannot reasonably be considered sufficient to justify the extension of trade remedy measures to the goods of a non-implicated WTO Member.

Indeed, the TRA's reasoning is incompatible with the United Kingdom's Regulations governing the application of anti-circumvention duties. As Canada previously noted, those Regulations require a finding that circumvention "exists", which entails, *inter alia*, a determination that: 1) a change in the pattern of trade between a third country and the United Kingdom has occurred; 2) that change results from a practice, process, or work which has insufficient economic justification other than the avoidance of CVD and AD duties; and 3) there is injury to the UK industry or undermining of the UK's measures.³ Clearly, evidence of implicated exporters' past conduct and incentive to circumvent is insufficient to justify the application of anti-circumvention measures. Evidence of circumvention is required.

Canada strongly encourages the TRA to reconsider its recommendations. As noted previously, if there is a credible risk of circumvention to the UK market via Canada, the Applicant may request a circumvention review. Only if the TRA finds positive evidence of circumvention to the UK market via Canada may anti-circumvention measures be justified.

Canada will closely review the UK's final determinations to ensure compliance with WTO rules and UK law.

Respectfully submitted,

**McCracken,
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² Ibid (emphasis added).

³ Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 , part 7 chapter 2 regulation 73(2).