



Trade Remedies  
Authority

## **Recommendation to the Secretary of State**

### **Case TD0004**

**Transition review of anti-dumping measures applying to biodiesel originating in the United States of America and consigned from Canada**

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## SECTION A: Introduction

1. This section summarises the legal framework for this Recommendation and the Trade Remedies Authority (TRA)'s findings. The background to the review and further detail on all aspects are set out in the body of the report.
2. This document sets out our recommendation and the essential facts on which we have based our recommendation. It should be read in conjunction with other public documents available for this case on the [public file](#). Its purpose is to set out our recommendation to the Secretary of State.
3. Until June 2021, the UK's trade remedies investigations functions were carried out by the Trade Remedies Investigations Directorate (TRID) as part of the UK Department for International Trade (DIT). On 1 June 2021, the TRA was formally and legally established as an independent arm's-length body of DIT. The recommendation will refer to 'the TRA' to cover all of our activities associated with this transition review, both before and after our establishment as the TRA.
4. For further guidance and information regarding transition reviews, please see our [public guidance](#).

### A1. Legal Framework

5. This recommendation is made pursuant to regulations 100(1) and 100(2)(a)(i) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (the Regulations). In accordance with regulation 100(2)(b) of the Regulations, this recommendation includes:
  - a description of the goods to which the recommendation relates;
  - the names of overseas exporters or, where impracticable, the exporting countries or territories;
  - a summary of the review; and
  - the reasons for the recommendation.

In addition, in accordance with regulation 100A(2) of the Regulations, when making a recommendation to vary the measure, we must:

- show that we are satisfied that the Economic Interest Test (EIT) is met;
- have had regard to the current and prospective impact of the anti-dumping amount; and
- include the following information:
  - the anti-dumping amount;
  - the goods to which the anti-dumping amount applies; and
  - the period for which the anti-dumping amount is to apply.

## **A2. About this review**

6. This UK measure gives effect to the European Union (EU) Commission Implementing Regulation (EU) 2015/1518 of 14 September 2015.<sup>1</sup> This recommendation is in respect of a transition review of a United Kingdom (UK) trade remedies measure under regulation 97 of the Regulations.
7. This review concerns anti-dumping measures applying to biodiesel originating in the United States of America (US) and consigned from Canada. The Notice of Initiation (NOI) was published on 12 August 2020. Due to an omission, an amended NOI was published on 27 July 2021. The scope of the measure transitioned by this review, as detailed within the amended NOI, is defined in section B2.
8. The Period of Investigation (POI) for the review was 1 July 2019 to 30 June 2020. To assess injury, we examined the period 1 July 2016 to 30 June 2020, the Injury Period (IP).

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<sup>1</sup>[COMMISSION IMPLEMENTING REGULATION \(EU\) 2015/ 1518 - of 14 September 2015 - imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11\(2\) of Council Regulation \(EC\) No 1225/ 2009 \(europa.eu\)](#)

## **SECTION B: Summary and Findings**

### **B1. Interested Parties**

9. The following interested parties provided a questionnaire response:

- Argent Energy (UK) Limited, (Argent), a domestic producer
- Greenergy Fuels Limited, (Greenergy), a domestic producer
- Renewable Transport Fuels Association, (RTFA), a domestic trade body
- Valero Energy Limited, (Valero), an importer
- Gunvor International BV, (Gunvor Intl), an importer

10. Relevant submissions were made by contributors:

- Diamond Green Diesel, (DGD), a US producer that does not export to the UK
- Mitchell and Webber Ltd, a domestic fuel distributor
- UK & Ireland Fuel Distributors Association Ltd, a trade body
- Marstons Plc, a brewery, pub and restaurant operator

11. Further relevant submissions were made by other producers, and foreign government departments.

## B2. Scope

12. As set out in the amended NOI, the scope of the transitioned measure is:

*Category 1 goods (biodiesel, pure or blend, greater than 20% biodiesel content)*

*Fatty-acid mono-alkyl esters (FAME) and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as biodiesel. In a pure form or in a blend containing by weight more than 20%, fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the United States of America and consigned from Canada.*

*Category 2 goods (biodiesel, blend, less than 20% biodiesel content)*

*Fatty-acid mono-alkyl esters or paraffinic gasoil obtained from synthesis or hydrotreatment, of non-fossil origin, commonly known as 'biodiesel', in a blend containing by weight 20% or less of fatty-acid mono-alkyl esters or paraffinic gasoil obtained from synthesis or hydro-treatment, of non-fossil origin, originating in the United States of America.*

13. The TRA received a submission on scope from DGD requesting that biodiesel of the type described as paraffinic gas oil obtained from synthesis or hydro treatment (sometimes also referred to as “renewable diesel” or “Green diesel” and referred to in this recommendation as HVO) be removed from the scope of the transition review on the basis that FAME and HVO cannot be considered ‘like’ products.
14. Following receipt of these submissions, the TRA assessed the scope of the transition review under regulations 99A(2)(a)(iii) and 74 of the Regulations. This assessment included a comparison of FAME and HVO across a range of factors as part of an assessment of how alike these goods are. This assessment is set out in [Section D: The Goods](#).
15. We concluded that FAME and HVO were sufficiently similar to remain in scope for the purposes of the transition review. On this basis, the scope of the transition review was not amended.

### **B3. Consideration of whether the anti-dumping amount is necessary or sufficient to offset the dumping**

16. Under regulation 99A(1)(a) of the Regulations, we are required to consider whether the application of the anti-dumping amount is necessary or sufficient to offset the dumping of the goods subject to review.
17. During the POI, there were low levels of imports of the goods subject to review into the UK. Due to such low levels of imports, we are unable to determine definitively whether the measure is necessary or sufficient to offset the dumping of the goods subject to review.
18. Additionally, without data from the import of the dumped goods, we do not consider it appropriate to recalculate the anti-dumping amount under regulation 99A(2)(a)(i) of the Regulations.
19. Therefore, to determine whether the measures should be varied or revoked, we have considered the likelihood that injury would occur if the measures were no longer applied, in accordance with regulation 99A(1)(b) of the Regulations.
20. Under regulations 99A(2)(a)(iii) and 70(6) of the Regulations, we have also considered the likelihood that dumping of the goods subject to review would occur if the measures were no longer applied.

### **B4. Likelihood of dumping assessment**

21. In accordance with regulation 99A(2)(a)(iii) of the Regulations we assessed the likelihood that dumping would occur if the measures were no longer applied (the likelihood of dumping assessment). We determined that:
  - it is likely, on the balance of probabilities, that dumping of FAME would occur if the measures were no longer applied; and
  - it is likely, on the balance of probabilities, that dumping of HVO would occur if the measures were no longer applied.

## **B5. Likelihood of injury assessment**

22. In accordance with regulation 99A(1)(b) of the Regulations, we considered whether injury to the UK industry of the relevant goods would occur if the anti-dumping amount were no longer applied (the likelihood of injury assessment). We determined that:
- it is likely, on the balance of probabilities, that injury would occur if the anti-dumping amount on FAME were no longer applied; and
  - it is likely, on the balance of probabilities, that injury would not occur from importation of HVO if the anti-dumping amount were no longer applied.

## **B6. Economic interest test**

23. Having considered all the evidence gathered, including that presented by the interested parties and contributors, and all of the factors listed in the legislation, we have concluded that the Economic Interest Test (EIT) is met for the proposed duty.

## **B7. Recommendation**

24. Our recommendation is to vary the application of the anti-dumping amount under regulation 100A of the Regulations in relation to the goods subject to review, with the exception of HVO, and to revoke the application of the anti-dumping amount in relation to HVO under regulation 100B of the Regulations. The anti-dumping amount in relation to HVO will be revoked from 30 January 2021 in accordance with 100B(2) of the Regulations.
25. As it has not been possible to recalculate the anti-dumping amount, we recommend maintaining the anti-dumping amount in relation to the goods subject to review, with the exception of HVO, under regulation 100A(4)(b) of the Regulations for a period ending on 30 January 2026.
26. The measure will therefore be revoked in relation to HVO, which fall under the following commodity codes:



27 10 19 43 21  
 27 10 19 43 29  
 27 10 19 43 30  
 27 10 19 46 21  
 27 10 19 46 29  
 27 10 19 46 30  
 27 10 19 47 21  
 27 10 19 47 29  
 27 10 19 47 30

27. The description of the goods to which the measure will be maintained and will continue to apply is therefore as follows:

*“Category 1 Goods (biodiesel, pure or blend, greater than 20% biodiesel content)*

*Fatty-acid mono-alkyl esters (FAME) and/or paraffinic gasoil obtained from synthesis of non-fossil origin, commonly known as ‘biodiesel’. In a pure form or in a blend containing by weight more than 20%, fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis of non-fossil origin, originating in the United States of America and consigned from Canada.*

AND

*Category 2 Goods (biodiesel, blend, less than 20% biodiesel content)*

*Fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis of non-fossil origin, commonly known as ‘biodiesel’, in a blend containing by weight 20% or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis of non-fossil origin, originating in the United States of America.”*

28. The commodity codes to which the measures will be maintained and will continue to apply will be as follows:

15 16 20 98 21	27 10 20 11 21	38 26 00 10 20
15 16 20 98 29	27 10 20 11 29	38 26 00 10 29
15 16 20 98 30	27 10 20 11 30	38 26 00 10 50
15 18 00 91 21	27 10 20 16 21	38 26 00 10 59

15 18 00 91 29	27 10 20 16 29	38 26 00 10 89
15 18 00 91 30	27 10 20 16 30	38 26 00 10 99
15 18 00 99 21	38 24 99 92 10	38 26 00 90 11
15 18 00 99 29	38 24 99 92 12	38 26 00 90 19
15 18 00 99 30	38 24 99 92 20	38 26 00 90 30

29. The duties specified in Annex 1 shall be maintained and applied to the goods described or imported under the above UK tariff codes. These duties will not apply to goods produced by an overseas exporter specified in Annex 2.

30. We have made this recommendation on the grounds that:

- It is likely, on the balance of probabilities, that dumping of FAME from the US and consigned from Canada, would occur if the anti-dumping amount were no longer applied.
- It is likely, on the balance of probabilities, that injury to the UK industry would occur from importation of FAME from the US and consigned from Canada, if the anti-dumping amount were no longer applied.
- The application of the anti-dumping amount on FAME meets the EIT.
- It is likely, on a balance of probabilities, that dumping of HVO from the US, and consigned from Canada, would occur if the anti-dumping amount were no longer applied.
- It is likely, on a balance of probabilities, that no injury would occur from importation of HVO from the US if the anti-dumping amount were no longer applied.

31. In reaching this recommendation we considered the current and prospective impact of the anti-dumping amount.

## SECTION C: Background

### C1. Initiation of the transition review

32. The UK chose to maintain some trade remedy measures once it was outside EU's common external tariff. DIT identified which measures were of interest to the UK following a call for evidence.
33. For each of these measures, the Secretary of State for International Trade (the Secretary of State) published a Notice of Determination, under regulation 96(1) of the Regulations, setting out the decision to transition the corresponding EU trade remedies measure, and a Taxation Notice, on replacement of the EU trade duty. We conduct transition reviews to determine if these measures should be varied or revoked in the UK.
34. On 10 August 2020, the Secretary of State published a [Notice of Determination](#) and [Taxation Notice](#) regarding the anti-dumping duty on biodiesel originating in the United States of America and consigned from Canada. In accordance with the Regulations and this Notice, the TRA was required to conduct a transition review of the original EU measure imposing this anti-dumping duty, pursuant to Article 11(2) of [Council Regulation \(EC\) No 1225/2009](#).
35. On 12 August 2020 the Secretary of State published a Notice to initiate the transition review of the relevant EU trade remedies measure relating to biodiesel originating in the US and consigned from Canada. Due to an omission, an amended NOI was published on 27 July 2021.

### C2. Previous measures in place

36. The European Commission (the Commission) imposed anti-dumping duties on imports of biodiesel originating in the US by implementing [Council Regulation \(EC\) No.599/2009](#) on 7 July 2009. Annex 3 lists the duty rates that were applied.

#### C2.1 EU reviews conducted since the original measure

37. Since the original investigation, the Commission has undertaken the following reviews.

38. An [anti-circumvention review](#) was initiated on 11 August 2010, following a request by the European Biodiesel Board (EBB) on behalf of EU producers. The request was made on the basis of a significant change in the pattern of trade involving exports from the US, Canada and Singapore to the EU following imposition of the measures. The Commission concluded that there was sufficient evidence of transshipment of biodiesel originating in the US via Canada. On 5 May 2011, the Commission imposed definitive measures, extending the anti-dumping duties on biodiesel imports originating in the US to imports of biodiesel consigned from Canada - whether declared as originating in Canada or not, and to imports of biodiesel in a blend containing by weight 20% or less of biodiesel originating in the US. The duties extended were those established in Article 1(2) of Regulation (EC) No.599/2009 and are listed in Annex 4.
39. On 30 April 2013, a [partial interim review](#) was initiated at the request of a Canadian exporting producer, Ocean Nutrition Canada, requesting an exemption from the anti-dumping measures. The partial interim review was terminated by the Commission due to a failure by the producer to provide further data relating to production capacity, as requested by the Commission.
40. On 10 July 2014, an [expiry review](#) was initiated, and on 14 September 2015 the anti-dumping duties applicable to biodiesel imports originating in the US and consigned from Canada were renewed by the Commission for an additional 5 years.
41. A further [partial interim review](#) was initiated on 19 May 2015 at the request of a Canadian exporting producer, DSM Nutritional Products Canada, requesting exemption from the extended measures. Following the review, the exemption was granted by the Commission.
42. A [new exporting producer treatment review](#) was initiated in 2017 following a request by an American company, Organic Technologies. Following the review, the Commission concluded that the applicant met the criteria for a new exporting producer and was therefore eligible for the duty rate applicable to the cooperating companies not included in the sample (the weighted average duty rate of EUR 115.6 per tonne).
43. The most recent [expiry review](#) was initiated by the Commission on 14 September 2020 and concluded on 29 July 2021 with the Commission maintaining the anti-dumping measures.

## **C3. Our transition review process**

### **C3.1 The transitioned measure**

44. The EU measure transitioned into UK law and set out in the Taxation Notice took effect as a UK measure on replacement of EU trade duties. Under regulation 97C of the Regulations, this measure will continue until the Secretary of State publishes a notice accepting or rejecting a recommendation following a transition review to vary or revoke the application of the anti-dumping amount.
45. The transitioned measure applies to biodiesel from the US and consigned through Canada. The rate of anti-dumping duty which applies to the goods produced by the relevant companies is summarised in Annexes 3 and 4.

### **C3.2 Information from participants in the review**

#### **C3.2.1 UK Producers**

46. Pre-sampling questionnaire responses were received from the three main producers of FAME in the UK:
  - Argent
  - Greenergy
  - Olleco
47. The three UK producers were all sampled. The information received from each of them is detailed in Annex 5.

#### **C3.2.2 US Exporters**

48. Pre- sampling questionnaires were received from the following US exporters:

- Kolmar Americas Inc.
- RBF Port Neches LLC
- Renewable Energy Group Inc.
- Vitol Inc.
- World Energy
- Gunvor USA LLC

49. The selection of exporters for the sample was based on the highest production volumes of the goods subject to review. A notice confirming the selected sample was placed on the public file on 9 October 2020. The information received from US exporters is detailed in Annex 6.
50. Six exporting producers in the US registered their interest in the transition review. However, no questionnaire responses were received from these parties. The TRA has published a [Notice](#) to the public file confirming that we deem the sampled exporters to be non-cooperative.

### **C3.2.3 Importers**

51. Three importers registered their interest to the transition review,

- Greenergy
- Valero Energy Limited (Valero)
- Green Power Fuels Ltd

52. Valero was the only party to participate in the review as an importer. Annex 7 details the information received.

### **C3.2.4 Foreign Governments**

53. The US and Canada both registered to participate in this transition review. The information received from these parties is detailed in Annex 8.

### **C3.2.5 Other participants**

54. Two trade bodies registered their interest in the review. The National Biodiesel Board (NBB) submitted a Pre-sampling questionnaire but did not participate in the review further. The Renewable Transport Fuel Association (RTFA) completed a questionnaire and filed additional submissions in relation to product scope. The information received is detailed in Annex 9.

55. Contributor registration forms were issued which permitted additional information to be provided by members of the upstream and downstream industries. Information received is detailed in Annex 10.

## **C3.3 Verification of data**

56. On site verification could not be conducted during this review due to travel restrictions caused by the Covid-19 pandemic. All verification activity took place remotely via email and video conferencing.
57. Submissions by the two UK producers, Argent and Greenergy were checked for consistency and completeness. During these checks, deficiencies were identified relating to inadequate responses and non-confidential summaries. All deficiencies were resolved before verification work commenced.
58. Verification meetings were held with Argent between 28 and 30 April 2021. During the meetings, Argent provided information on their accounting systems, sales data, processes, and transactions. Further information and source documentation relating to injury factors and the Economic Interest Test were also provided.
59. Additional information was also requested regarding sales figures, management accounts, and individual sales transactions. The requested information was submitted by Argent. Any data that was not verified is listed in the [verification report](#) which can be found on the public file.
60. Verification meetings were held with Greenergy between 7 and 11 May 2021. During the meetings with Greenergy, information and data relating to their accounting systems, sales data and injury factors were discussed and verified. Additional information was requested to explain differences in sales volumes and trial balance data. The requested information was partially provided by Greenergy. A copy of the [verification report](#) can be found on the public file.
61. In addition to information provided by these parties, secondary source information was used in accordance with the Regulations. This secondary information was treated with special circumspection and, where practicable, verified using independent sources. This included, but was not limited to, official import statistics and data pertaining to relevant markets. Where data has not been verified, the TRA has been able to highlight the areas and draw conclusions where possible.
62. Following verification of Greenergy and Argent, we are satisfied that we can treat the data relied on as complete, relevant, and accurate for the purposes of this review.



### **C3.4 - Statement of Essential Facts (SEF)**

63. We published the SEF on 15 December 2021 pursuant to regulation 62 of the Regulations. This included:

- our intended recommendation;
- a summary of the facts considered during the transition review;
- details of the analysis forming the basis of our intended recommendation.

64. Interested parties were invited to make submissions within 30 days of the publication. Extensions were requested and we received submissions within the extended timeframe from the following parties:

- [United Kingdom and Ireland Fuel Distributors Association \(UKIFDA\)](#)
- [The Government of Canada](#)
- [Valero and Diamond Green Diesel \(DGD\)](#)
- [Renewable Transport Fuel Association \(RTFA\)](#)
- [Olleco](#)

65. Greenergy Fuels Limited and Argent Energy Limited both requested that the RTFA submissions be accepted as their responses to the SEF.

66. Valero and Diamond Green Diesel submitted a joint response to the SEF. The TRA will refer to Valero when responding to this joint response.

67. RTFA's Appendix 4 contained information from a third party who did not register as an interested party in this review. The third party provided the information on the condition that their involvement in the review remain confidential due to commercial sensitivities. The TRA has included in this information our final consideration and responses below. The information contained in the Appendix was reviewed the TRA does not believe that the anonymisation of the source of this information has had a material impact on the final determination of this review.

68. We received two other submissions in response to the SEF; one was received from a party who did not register to the case and one was received from an interested party after the submission deadline. These submissions have not been considered when making our recommendation. The TRA does not believe that the inclusion or exclusion of this information would have a material impact on the final determination of this review.

## **UKIFDA**

69. The UKIFDA submitted a response to the SEF affirming their support for the proposed removal of measures on HVO from the US.
70. The TRA notes this support for the recommendation.

## **Government of Canada**

71. The Government of Canada submitted a response stating that no measure can be transitioned against imports of biodiesel from Canada unless there is sufficient positive evidence justifying such a result and a properly reasoned and adequate explanation is provided.
72. In order to conduct a transition review, the TRA must consider whether the application of the anti-dumping amount is necessary or sufficient to offset the dumping of the goods, and whether the injury to the UK industry that produces the relevant goods would occur if the anti-dumping amount were no longer applied to the goods. Because we have been unable to make a determination in relation to the necessary or sufficient assessment, we have also considered the likelihood of dumping recurring if the measure were removed.
73. Following this review process, the TRA recommends varying the measure. As it has not been possible to recalculate the amount of the measure, the recommendation is to maintain the measure in relation to FAME and to vary the description of the goods to which the measure applies to exclude HVO. The TRA is therefore maintaining the exemptions in relation to Canadian producers.

74. For the reasons outlined in paragraph 73, the TRA is recommending maintaining the exemption framework granted to Canadian producers including the ability for other Canadian producers to apply for exemptions.

### **Valero submissions**

75. Valero submitted a response stating that they disagree with the TRA's finding that FAME and HVO are sufficiently similar, or, as the appropriate legal threshold would require, that they are 'like goods' due to their commercial likeness. Valero commented that FAME and HVO do not compete to replace mineral diesel because HVO is a drop in fuel which replaces mineral diesel whereas there is no evidence that FAME could be used to replace mineral diesel.
76. Valero provided no additional evidence to alter the TRA's decision. The TRA maintains the reasoning provided in Section D2 of the SEF in relation to scope, that both FAME and HVO compete in the biofuels market to replace (either in whole or in part) mineral diesel as a road transport fuel with environmental benefits.
77. Valero also commented that contrary to the TRA's findings in paragraph 80 of the SEF, such a price difference demonstrates that FAME and HVO do not compete with each other on the biofuels market.
78. The TRA does not consider that the price difference between HVO and FAME negates the fact that consumers make an economic choice between the two products and that this affects interchangeability of the product. This does not therefore alter the TRA's findings in paragraph 80 of the SEF.
79. Valero commented that the TRA's decision that FAME and HVO are comparable products is based solely on end use, and the TRA has not taken into account the differing properties and end uses of HVO. Valero requested that the TRA review their assessment of like goods.
80. The TRA has considered this request. However, Valero has not provided new evidence which alters the TRA's decision on the assessment of like goods of FAME and HVO.

81. Valero commented that paragraph 115 of the SEF appears to imply that FAME and HVO compete with each other and that their prices are within the same price range.
82. In conducting an assessment of the goods, the TRA concluded that in order for HVO to compete with FAME in the UK market, US exporters would need to export HVO at a dumped price due to the price difference between US HVO and UK FAME.
83. Valero further commented that in comparing the price of HVO exported from the US to domestic UK prices of FAME, the TRA contradicts their own findings that there is a need to make a separate analysis for FAME and HVO.
84. The TRA considers HVO and FAME to be like goods, as set out in Section D2 of the SEF. As there is no evidence of current UK production of HVO, the TRA has used the price of FAME in the POI to consider the likelihood of dumping of the goods subject to review. The TRA considers this to be the appropriate price analysis.
85. Valero commented that the TRA has failed to explain how two different products with significant price differences can compete and the fact there is no domestic production of HVO in the UK does not make the imports of HVO compete with FAME.
86. The TRA addressed this point in the assessment of like goods in Section D2 of the SEF and has concluded that HVO and FAME can compete.
87. Valero suggested that the TRA could reconstruct a US export price on the basis of reasonable information available and an alternative export price was suggested.
88. The TRA used a US domestic price which was adjusted for export by adding freight, insurance, and customs duties. The TRA has found this adjusted domestic price to be comparable to confidential export pricing data and export sales data from US exporter PSQs and has concluded it was suitable to use for the purposes of its likelihood assessment.
89. Valero states that the TRA should compare the US HVO price with a reconstructed UK HVO price, not with the price of FAME.

90. The TRA does not consider it appropriate to use third country pricing data in order to establish prices for the UK domestic market during a transition review. The TRA considers that HVO and FAME are like goods, and that the price of US HVO is comparable with UK FAME.
91. Valero challenges the findings of the TRA in section G4.2 of the SEF, that the US will have a significant oversupply of HVO in the future and that the potential increases in demand for HVO, in addition to the unlikely fruition of the planned capacity increases, were not considered when reaching this conclusion. Valero rely upon data from the International Energy Agency (IEA), the EIA and Reuters to support this.
92. The TRA found that capacity for HVO production in the US is expected to increase to a maximum of 1,000% of UK annual consumption by 2024. The more recent EIA data from Valero shows that the original EIA data relied upon by the TRA was more optimistic in its projections of US HVO capacity. Valero also present that the previously planned increases in capacity may be delayed due to various reasons, including commercial, COVID and demand led.
93. The TRA finds that even if planned capacity increases do not occur at the maximum level, or if the majority of the HVO produced is consumed in the US or other markets such as Canada, it is still likely that a small amount of the projected capacity could be exported to the UK.
94. While the EIA data from Valero may show a reduction in potential US capacity for the future, the TRA do not consider that the changes in capacity affect the decision of likelihood of dumping for HVO.
95. Valero rely upon data from IEA to show that HVO production is increasing in the US, with actual production of 1.7 million mT for 2020 and that this indicates that US production will not exceed US consumption, or not until 2026 at the earliest based on accelerated demand scenarios.
96. Considering US HVO producers export to other markets despite the US being a net importer of HVO, the TRA consider the availability of HVO for export is already present as US producers export a significant proportion of their production. When considering these import and export flows, the TRA considers it likely that US producers will continue to export HVO to other

countries and will consider exporting to the UK. The data submitted by Valero does not materially change the outcome of our likelihood of dumping analysis.

97. Valero state that blending mandates will lead to increased demand for HVO rather than a stable demand as concluded by the TRA.
98. The TRA clarifies that in this context, the use of “stable” means that the rate of increase of demand for HVO will increase in line with the requirements of the RTFO. Therefore, an increase in the blending mandate will lead to an increase in demand for HVO.
99. Valero state that there is increasing market demand for HVO from sectors seeking to decarbonise such as high emitters, steel and aggregate producers.
100. Valero have not provided sufficient evidence of increased demand for HVO from other market sectors which alters the TRA’s conclusion on demand for HVO.
101. Valero states that users would pay a premium for HVO and that imports of HVO are necessary due to the lack of domestic production of HVO in the UK. This means that the UK HVO market is not competitive and there is no incentive for US producers to sell HVO at dumped prices in the UK market.
102. The TRA has set out in its likelihood analysis that HVO and FAME can compete. The TRA has found that it is likely that HVO would need to be dumped in order to compete with UK FAME as a road fuel. The attractiveness of the UK export market means that TRA considers it likely that HVO producers would be incentivised to export HVO into the UK market.
103. Valero have made submissions in relation to the data submitted regarding injury and have requested that the TRA confirm all necessary data was submitted and verified.
104. The TRA confirms that the necessary data for the relevant likelihood analyses was submitted by Greenergy and Argent. Where the data was incomplete, the TRA undertook its own verification activity using secondary source information. This information has been verified where possible and treated with special circumspection in accordance with the requirements of the

Regulations. The TRA is satisfied that all of the data used for its analysis was verified where possible and found to be complete, relevant and accurate. Where data was not verified, it was considered verifiable.

105. Valero note differences in the injury assessment between the SEF relating to the TD0004 anti-dumping transition review and the SEF relating to the TS0005 subsidy transition review. Valero ask the TRA to clarify the rationale for the differences in assessment and if injury for both investigations was based on the same findings.
106. The dumping and subsidy transition reviews are separate cases. The TRA conducted the dumping likelihood assessment and subsidy likelihood assessment using different likelihood analysis factors. The likelihood of injury assessment for both reviews is based on the same underlying data and the difference noted by Valero is due to the difference in likelihood factors.

## **RTFA**

107. The RTFA submitted a response suggesting that US HVO exports are distorted and any decision to exclude HVO should be based on strong evidence that injury will not be caused to UK FAME producers.
108. The TRA carried out its likelihood assessment on the balance of probabilities and is satisfied that analysis has been conducted in accordance with the Regulations.
109. The RTFA state the findings and margins of the EU investigations. The TRA notes this.
110. The RTFA state that non-cooperation by US exporters means the recommendation has been based on minimal facts available.
111. Detailed questionnaires were sent to parties requesting that information be supplied to the TRA. In the absence of responses from the US exporters, the TRA used secondary source information in accordance with the requirements of the Regulations, treating that information with special circumspection and verifying the information where possible from independent sources.
112. The RTFA state that DGD is a US manufacturing exporter of HVO and should have been treated as an exporter of the goods subject to review. They suggest information submitted by DGD does not have the status of primary, verified information.

113. The TRA is satisfied that DGD is a contributor and not an exporter of the goods subject to review as defined in the Regulations (*as they did not export the goods subject to review to the UK during the POI*). The TRA has completed verification, where possible, in relation to the data provided by DGD in accordance with the TRA's obligations under the Regulations. The TRA is not required to complete a verification report under the Regulations in these circumstances.
114. The RTFA state the information on export prices provided by DGD is incomplete and all export sales data should have been requested in order to determine the likely export price.
115. The TRA is satisfied that DGD provided sufficient relevant information to the TRA during this transition review. Additionally, DGD provided non-confidential versions of its responses to the TRA, which are published on the public file.
116. The RTFA raise concerns regarding the verification of the data provided by DGD due to the absence of a verification report on the public file.
117. The TRA undertook verification activity in relation to the data submitted by DGD in accordance with the requirements under regulation 47(2) of the Regulations.
118. The RTFA suggest that DGD and Valero should have been collectively treated as a US exporter and any export prices are from related sales and potentially unreliable.
119. The TRA is satisfied that Valero is an interested party for the purposes of this transition review. The TRA is aware that Valero own 50% of DGD as stated in their PSQ. The TRA is satisfied that DGD and Valero are not exporters of the goods subject to review for the reasons outlined in paragraph 113 and as defined in regulation 2 of the Regulations. The TRA did not rely upon related export sales between DGD and Valero at any point in the analysis.
120. The RTFA state that measures on HVO should only be excluded from the measure if there is definitive evidence of injury and the data provided by DGD does not meet this standard.



121. The TRA carried out its likelihood of injury assessment on the balance of probabilities and is satisfied that this likelihood analysis has been conducted in accordance with the requirements set out under the Regulations.
122. The RTFA challenge the TRA's decision to separate the analysis of FAME and HVO.
123. The TRA has analysed HVO and FAME separately in order to take into account the different price points for the two products, as well as how the products are traded in considering the likelihood of dumping and injury occurring if the measure is removed.
124. The RTFA state there is significant overlap in terms of FAME and HVO end-use and cite two reasons for this; a) the higher blend biodiesel market has not been considered and b) recent price developments suggest that HVO can compete in the B7 market. The RTFA state that the TRA has not considered the extent to which FAME used in low carbon transport fuels and sold directly to fleet operators as B20, B30 or B100 may compete with HVO.
125. However, the TRA has considered end-use as part of the assessment of like goods in this transition review, taking into account all responses from interested parties. Factors other than end use were considered compelling in establishing how these goods should be analysed in the review. The TRA conducted its likelihood analysis using B100 and also considered blends of B7, B20, B30 and B50. The TRA accepts that there are some HVO end uses where higher blend biodiesel can be substituted but it does not alter our overall conclusion on end-use, interchangeability and direct competition between FAME and HVO. The recent price developments submitted by the RTFA cover a limited time period and could be attributed to other factors such as high energy prices, Covid-19 effects on feedstock pricing and availability.
126. The RTFA state that higher blend FAME is still a niche market but is the part of the market presenting future opportunities.
127. The TRA understands that high blend biodiesel sales are a niche market and represent approximately 0-5% of the overall UK biodiesel market. Due to this, the TRA does not find that the RTFA's submission alters the TRA's conclusions
128. The RTFA state that DGD made several statements which are not true and which misled the TRA.

129. The TRA notes the RTFA's comments on the submissions made by DGD. The TRA has verified data where possible and has reached its conclusions by analysing verifiable evidence provided by all parties and secondary source data, in accordance with the Regulations.
130. The RTFA provide a report from Zemo Partnership to demonstrate that competition already exists in the market between HVO and higher-blend FAME.
131. The TRA acknowledges that HVO already competes with UK biodiesel producers in the high blend transport biofuel markets such as B20, B30, B50 and B100. The RTFA have stated that this is a "niche" market and the evidence submitted by Greenergy and Argent during the verification process confirms that this is a relatively small part of UK biodiesel sales. Due to the higher blend market being relatively smaller, the TRA does not consider this market to affect the injury likelihood conclusion for HVO.
132. The RTFA state that the TRA's HVO export price is unreliable as it is based on the US domestic price which is not a reliable indicator of likely export price.
133. The TRA has relied on some secondary source information in accordance with the requirements of the Regulations when conducting the price analysis. This has included adjusting the US domestic price for export by adding costs in relation to freight, insurance and customs. This data was compared to confidential export sales pricing data received in submissions received from US exporters. These prices were found to be comparable, and the TRA considers that it has satisfied the "special circumspection" requirements for secondary source data in conducting the price analysis.
134. The RTFA state that the TRA's comparison of US HVO prices and UK FAME prices is too simplistic and does not reflect the more complex position in the market, most particularly the need to make adjustments.
135. During this transition review, there has been limited data available and the TRA has relied on secondary source information where required. The TRA considers that the comparisons made between US HVO and UK FAME prices are made in accordance with the obligations set out under the Regulations in relation to transition reviews.

136. The RTFA state that the TRA's methodology in using a US domestic HVO price to indicate likely export price was flawed as the unit value calculation data is not a reliable indicator of US HVO export price.
137. The TRA has considered all data submitted by interested parties and contributors and used open-source data when undertaking price analysis. Within this remit, the TRA has used a US domestic price which was adjusted for export by adding freight, insurance, and customs duties. The TRA compared this data to confidential export sales pricing data from DGD and PSQ responses from US exporters. The TRA found the adjusted domestic price to be comparable to this export price data and concluded it was suitable to use for the purposes of its likelihood assessment.
138. The RTFA state that as US exporters did not cooperate, no detailed domestic price information on FAME or HVO was collected thus the only information on the file is facts available and should be treated with special circumspection.
139. The TRA has relied on secondary source information in order to support its analysis where required during this transition review, in accordance with the obligations set out under the Regulations.
140. The RTFA state that a straightforward price comparison between FAME and HVO is not comparing like with like. They suggest that when comparing the prices of FAME and HVO, the additional costs associated with using higher blend FAME should be considered.
141. The TRA considers that the price adjustment requested by the RTFA is speculative. An adjustment in price for modifications to a downstream end use machine to run a product is also not an adjustment that would be considered in a trade remedy review. The RTFA has not provided sufficient evidence to prove that the higher blend biodiesel market is significant enough to cause injury to UK producers. The TRA also does not find it likely that the higher blend biodiesel market will increase significantly in the foreseeable future without further financial incentives and the TRA has no evidence of government schemes being implemented which would achieve this.
142. The RTFA disagrees with the TRA's price differences between HVO and UK FAME and provides information which suggests that the actual price difference is much smaller.

143. The TRA has reviewed the pricing calculation data that the RTFA relies upon, comparing it to confidential Platts and Argus data for the same periods, both of which are based on actual sales. While the estimated price calculations offer an indication of biofuel pricing, they do not directly translate to actual prices paid. From May 2021 onwards the differential between actual prices paid and calculated prices increased. The TRA has relied upon the evidence of actual prices paid as a source of data. Actual pricing data shows that there remains a price difference between FAME and HVO, and the price convergence that the RTFA refers to did not occur when considering actual prices.
144. The RTFA state that it is possible to calculate indicative prices of HVO and FAME based on the price of fossil diesel and premiums available through incentive schemes such as the RTFO and US equivalents. They suggest a methodology and calculation of such indicative prices based on a report from Olleco.<sup>2</sup>
145. The TRA has relied upon actual sales data when conducting price analysis. Adjustments were made to the US domestic price for export by adding costs in relation to freight, insurance, and customs duties. This data was compared to confidential export sales pricing data in submissions received from US exporters. These prices were found to be comparable. The calculations provided by the RTFA / Olleco are consistent with the TRA's pricing calculations which conclude that HVO sold above FAME prices in the POI. This price differential continued for a further 12 months. In the last quarter of 2021, the prices of both FAME and HVO experienced the usual winter price increase as well as a global energy crisis which led to price volatility. The RTFA's interpretation of price convergence and US HVO price depression is not reflected in confidential price data from Argus and Platts.
146. The RTFA present data on California low carbon fuel standard ("LCFS") price versus domestic HVO capacity which suggests that the LCFS price will continue to fall while HVO capacity rises.
147. The TRA rejects this as the data fails to show causation between the two factors and there are other factors which affect the LCFS price.
148. The RTFA state that adjustments are necessary when comparing prices and evidence from Zemo suggests that HVO20 would be cheaper than B20 taking into account whole life costs.

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<sup>2</sup> The analysis is based on data available from PRIMA's subscription service.

149. The TRA have concluded that HVO and FAME are like goods and that no adjustments were necessary for the price undercutting analysis. The RTFA and UK producers contributed to the assessment of like goods but did not submit any evidence in respect of a need for adjustment in price. We refer to paragraph 141 in respect of adjustments.
150. The pricing data methodology suggested by the RTFA is estimated and is not based on actual sales. It also relates to a short period 17 months after the IP. The TRA has reviewed the data and noted that the predicted pricing is not consistent with market spot prices. The TRA does not consider that the evidence presented changes our analysis of likelihood of injury.
151. The RTFA state that proposed changes in US blending mandates will lead to reduced demand and additional spare capacity causing an increase in imports.
152. The TRA notes that the US government's proposal of reducing blending rates has not yet taken effect. The proposed reduction in blending rates for 2020 – 2021 will be retroactively applied. The TRA notes that mandated increases in 2022 may have a bearing on the price of RIN credits in the future.
153. However, the RTFA<sup>3</sup> and Valero<sup>4</sup> have both presented evidence that feedstock availability will impact the utilisation of production capacity of US producers. The issues of the shortage of recycled feedstock and increased competition for feedstocks from Sustainable Aviation Fuel will affect the market.
154. Due to these conflicting factors, the proposed biodiesel mandate does not significantly affect the TRA's conclusion. The US producers have historically maintained production levels below their nameplate capacity during the injury period. The TRA have already concluded that the forecasted high-capacity levels of HVO will increase the likelihood of dumping of HVO. The TRA do not foresee that the proposed changes to blending mandates will affect the likelihood of injury to the UK producers from imported HVO.

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<sup>3</sup> <https://www.greencarcongress.com/2022/01/20220119-malins.html>

<sup>4</sup> <https://www.reuters.com/markets/commodities/us-epa-unveil-biofuel-mandate-cuts-boost-pandemic-hit-refiners-sources-say-2021-12-07/>

155. The RTFA states that the TRA has not been able to establish that HVO is actually produced in the UK. Additionally, the RTFA submits that the TRA should consider whether increased imports of significantly dumped US HVO imports could materially retard the establishment of a UK HVO industry.
156. The TRA has notified parties of the transition review and maintained a public file setting out details of the review in accordance with the requirements set out under the Regulations. Where the TRA has received responses from parties, these have been verified where possible. The TRA has therefore based its analysis on the information reasonably available during the course of the transition review. The TRA has not been provided with any evidence that UK producers are producing HVO. The lack of any planned production of HVO or any evidence of future investment for establishing a new industry means that the TRA cannot consider material retardation of the UK HVO industry.
157. In Appendix 2, Olleco present data on California LCFS demand versus domestic RD capacity which suggests that demand will remain stable while capacity will rise.
158. The TRA rejects this and finds that the data is based on speculation and variables which are not reflective of the actual market situation.
159. The RTFA present data from the EPA blending requirements which was published after the publication of the SEF. The TRA considered this data and found the proposed blending requirements for 2020 and 2021 are consistent with the data analysed in the SEF. The TRA has considered this new data in the [“Conditions of the exporter’s home market” section](#) by including the proposed 2022 blending requirements. The TRA did not find this new data changed its conclusions.
160. The RTFA submit that US plant developers will be incentivised to produce as much HVO as possible to try and establish market share into mandates with profitable revenue streams. They state that HVO is directly substitutable for biodiesel, and if it arrives into the UK at price parity with, or at a discount to biodiesel, it is highly likely that UK producers will no longer be able to operate.
161. The TRA does not consider it likely that all expected production capacity proposed by US producers will materialise. The TRA does not find it credible that expected production capacity will equate to expected production, nor that US exporters would

choose to produce HVO at their full capacity and sell it into the UK at price parity to UK FAME. The TRA has not been presented with evidence of HVO being dumped into other countries.

162. The RTFA claim that “Norway can be used as a case study to show the potential impact of US material being dumped into markets where there is no protection”.
163. The TRA reject this claim as the RTFA has submitted no pricing data which supports the assertion that dumping has occurred. The data presented on Norwegian consumption of biofuels from US feedstocks does not represent imports of biodiesel entering Norway from the US. This does not impact the TRA’s findings.
164. In appendix 4 the RTFA has presented a view of a confidential third-party producer. The view suggests that US HVO could compete with UK UCOME (Used cooking oil Methyl ester), a FAME biodiesel, if the trade remedy duties were removed due to the existence of the US blenders tax credit.
165. The TRA rejects this claim. The confidential pricing data already includes the benefit the US producers receive in blenders tax credit. Confidential pricing data for HVO and FAME in the period after the injury period, September 2020 December 2021 demonstrates that HVO has always traded in excess of \$400 mT more than UCOME (FAME).
166. The RTFA’s confidential third party provides a pricing formula in appendix 4 to demonstrate that HVO can complete with UK FAME on price.
167. The TRA rejects this claim. The TRA has relied on data of actual sales. The TRA also noted that the formula is based on assumptions including shipment via sea in the US sales example, via the Panama Canal. It is known that alternative transportation solutions are available and are used, and we make our decisions based on ex-works prices.
168. The final view raised by the RTFA’s confidential third party is that in 2022 2.4million mT of additional HVO will be available in the US, and this will pull down the value of RINS and LCFS reduce US margins.
169. The TRA refers to paragraph 161 in respect of increased capacity.





## SECTION D: The Goods

### D1. Introduction

170. 'Goods subject to review' are defined in regulation 2 of the Regulations as *"the goods described in the notice of initiation of a review under Schedule 3, Paragraph 1."*

171. The goods subject to review in this transition review are defined in the amended NOI as:

*"Category 1 goods (biodiesel, pure or blend, greater than 20% biodiesel content)*

*Fatty-acid mono-alkyl esters (FAME) and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as biodiesel. In a pure form or in a blend containing by weight more than 20%, fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the United States of America and consigned from Canada.*

*Category 2 goods (biodiesel, blend, less than 20% biodiesel content)*

*Fatty-acid mono-alkyl esters or paraffinic gasoil obtained from synthesis or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in a blend containing by weight 20% or less of fatty-acid mono-alkyl esters or paraffinic gasoil obtained from synthesis or hydro-treatment, of non-fossil origin, originating in the United States of America."*

172. The amended NOI sets out the commodity codes relating to these goods descriptions.

### D2. Assessment of the goods

173. The scope of this transition review, as set out in the amended NOI and detailed above, consists of biodiesel made from various feedstocks and at different blend levels, and includes both FAME and HVO. Both FAME and HVO are produced in the US. While there is evidence that the UK biodiesel industry produces FAME, the TRA has not established any evidence of production of HVO production within the UK.

174. We received submissions regarding scope from Diamond Green Diesel Ltd (DGD) requesting that HVO be removed from the scope of the transition review on the basis that HVO is not sufficiently 'like' the goods produced in the UK (FAME). In order to respond to these submissions, we have assessed a number of factors to establish the similarities (or likeness) of FAME and HVO. These included physical, chemical, technical, and commercial similarities and differences between the goods concerned and other potential like goods.
175. The following observations have been made regarding physical, chemical, and technical likenesses of FAME and HVO.

## **D2.1 Production process**

176. FAME and HVO have different production processes. FAME is produced through the esterification process (the reaction of an alcohol with acid) while HVO is produced through the process of hydrotreatment (which uses hydrogen as the catalyst). FAME production requires other reagents, such as methanol, and produces glycerol as a by-product. During HVO production, hydrogen is used to remove oxygen from the vegetable oils. Due to the difference in production method, it is not possible to have a production plant that can produce both FAME and HVO. In the production of the goods identical feedstocks can be used for both products and the end product is odourless, however their chemical composition, other inputs and by-products differ.

## **D2.2 Quality**

177. The products also have differences in their quality. HVO has a higher cetane number, better energy density and lack of oxygen content (meaning it is less likely to oxidise). It also has a much lower cold filter plugging point (CFPP) of anywhere between -20 °C and -50 °C which is an important quality in fuel as this determines the level of cold/temperature the fuel can withstand before it freezes or gels. It also has a minimum flashpoint of 61 °C which means that it is safe in warmer conditions as well as freezing temperatures. HVO can also be stored for up to ten years without any detrimental effect on its quality as it does not contain sulphur, and it does not oxidise or absorb water thereby making it a more 'stable' product. In comparison, FAME has a shelf life of 6 months to 1 year and is more susceptible to degradation. HVO can also be blended without any limits and can be used as a pure 100 product without causing damage to engines.

## **D2.3 Technical and chemical characteristics**

178. The difference in technical and chemical characteristics is not disputed by the parties, however we consider that each type of biodiesel has different properties depending on the feedstock source, and the corresponding quality of the feedstock.

## **D2.4 Commodity codes**

179. The TRA has considered the commodity codes and is satisfied that these reflect the similarities and differences of the goods.

## **D2.5 Commercial likeness**

180. This refers to how the market treats the potential like goods compared to the goods concerned. As part of this review, the TRA considered:

- end use and interchangeability; and
- direct competition between FAME and HVO.

### **D2.5.1 End Use and Interchangeability**

181. End use requires consideration of the extent to which FAME and HVO products are capable of performing the same, or similar function.

182. Interchangeability requires consideration as to whether consumers are willing to choose one product instead of another to perform those end uses.

183. DGD argued in their submission on scope that commercially, FAME and HVO are different and have different end uses. As well as use as road fuels, the TRA has considered submissions in relation to various uses of HVO as a non-road transport fuel for rail and agriculture and maritime applications, as well as the use of HVO as a heating oil.
184. Having examined the potential end uses for HVO and FAME and recognising that HVO has uses for which FAME is not appropriate, we consider that these products all compete in the biofuels market to replace (either in part or whole) mineral diesel as a road transport fuel with environmental benefits.

#### **D2.5.2 Direct Competition between FAME and HVO**

185. HVO is less dense than FAME, which results in more litres of HVO per tonne when compared to FAME. This difference means that HVO is cheaper per litre relative to its per tonne cost but still remains significantly more expensive than FAME. We consider it economically rational that UK blenders would opt for the less expensive product (FAME) over HVO in order to satisfy the blending mandate and their requirements under the RTFO.

#### **D2.6 Conclusion**

186. The TRA has determined that the relevant goods produced in US and the UK are comparable and fall within the description of the goods subject to review.
187. Nevertheless, we considered it appropriate to conduct separate analysis of FAME and HVO in this report as research, questionnaire replies, and information from verification confirmed that these products are traded as distinct commodities in the biofuels market.

### **SECTION E: The Current UK Industry and Market**

#### **E1.1 Overview**

188. UK industry is comprised of three manufacturers: Greenergy, Argent, and Olleco. Greenergy are also an active importer of FAME into the UK market, but only the fuel produced and sold by the parties in the UK is considered as part of the UK industry for the purposes of this review.
189. While the UK industry only produces FAME, HVO is available on the international market for purchase as an import into the UK. Both FAME and HVO fall under the scope of this investigation as defined by the taxation notice and the amended NOI.

## **E2.1 Market size and structure**

190. 1.41 million metric tonnes of biodiesel were sold on the UK market during 2019. UK producers accounted for approximately 36% of this production.<sup>5</sup>
191. Biodiesel is a commodity good, with demand generated by legislative mandates to include a proportion of biofuel blended with mineral diesel for sale as road fuel. The FAME produced by UK industry is used in this capacity, blended into road fuel, in concentrations from 7% to 100%, depending on the user. Most biodiesel available at the pump for the consumer is B7 – 7% biodiesel, 93% from other (mineral) sources. The fuel can be differentiated from other blends and from other types (e.g. FAME and HVO) by its behaviour in cold conditions, and the amount of RTFO credits generated by the production of the fuel, dependent on feedstock.
192. There is a physical blend wall of 7% for the use of FAME in road fuel, beyond which vehicles must be specially modified for the use of the fuel. Fuel produced from waste-based feedstock is ‘double counted’ meaning that UK suppliers could meet RTFO blend obligations of up to 14% with the use of their fuel. There is no such limit for the use of HVO, and thus it can be blended in a higher proportion than FAME.

## **E2.2 Competition in the market**

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<sup>5</sup> Based upon confidential data and [BEIS -DUKES stats 2017-2020](#)

193. UK production competes with biodiesel imported into the UK market, blended with mineral diesel into road fuel.
194. Greenergy, the largest UK producer, blend their fuel into mineral diesel and distribute it as road fuel. Argent blend some fuel, and also sell on their fuel for blending by other fuel companies.
195. Imports from the US and Canada are small compared to imports from other countries. Imports account for 64%<sup>6</sup> of the UK market, and primarily come from European Union producers. As set out above, in [Section D: The Goods](#), imported and UK produced biofuels all compete in the biofuels market to replace (either in part or whole) mineral diesel as a road transport fuel with environmental benefits.

## **E2.3 Conclusion**

196. We have determined the UK industry is comprised of Greenergy, Argent and Olleco for the purposes of this transition review. The FAME produced by these companies is competitive with the goods produced by the US industry and thus provides a meaningful comparison for our analyses.

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<sup>6</sup> See note 3

## **SECTION F: Necessary or Sufficient Assessment**

### **F1. Introduction**

197. Under regulation 99A(1)(a) of the Regulations, we are required to consider whether the application of the anti-dumping amount is necessary or sufficient to offset the dumping of the relevant goods to the UK (the necessary or sufficient assessment).
198. Her Majesty's Revenue and Customs (HMRC) records low levels of imports from the US of the goods subject to review during the POI and IP. Import data from HMRC shows that during the POI, 0.26% of UK imports of the goods subject to review were from the US.
199. Due to such low levels of imports, we are unable to determine definitively whether the measure is necessary or sufficient to offset the dumping of the goods subject to review.
200. Additionally, without imports of the goods subject to review, we do not consider it appropriate to recalculate the anti-dumping amount under regulation 99A(2)(a)(i) of the Regulations.

### **F2. Conclusion**

201. In light of the low levels of imports of the goods subject to review, we are unable definitively to determine whether the application of the anti-dumping amount is necessary or sufficient to offset the dumping of the relevant goods to the UK.
202. Therefore, to determine whether the measures should be varied or revoked, we have considered the likelihood that injury would occur if the measures were no longer applied, in accordance with regulation 99A(1)(b) of the Regulations.
203. Under regulations 99A(2)(a)(iii) and 70(6) of the Regulations, we have also considered the likelihood that dumping of the goods subject to review would occur if the measure were no longer applied.





## SECTION G: Likelihood of dumping assessment

### G1.1 Introduction

204. In accordance with regulations 99A(2)(a)(iii) and 70(6) of the Regulations we have assessed the likelihood that the dumping of relevant goods would occur if the measures were no longer applied. In doing so, and in conjunction with our consideration of the economic interest test, we have also had regard to the current and prospective impact of the dumping amount, as required under regulation 100A(2) of the Regulations.
205. We have considered the likelihood of dumping on a countrywide basis, rather than an exporter-by-exporter basis. This is due to the non-cooperation of US exporters, which resulted in no suitable data being available to the TRA on the individual companies.
206. Information obtained from secondary sources was used in accordance with the Regulations where primary data was not available.
207. The assessment considered:
- the price comparison between US produced goods and UK produced goods;
  - whether dumped imports to the UK have continued whilst the measure has been in place;
  - whether exporters have significant levels of production capacity (current or potential), which would give them the ability to dump if measures were removed;
  - whether exporters have significant levels of production which would give them the ability to dump if measures were removed;
  - whether exporters have significant inventories, which give them the ability to dump if measures were removed;

- whether exporters are dumping in third countries and/or subject to anti-dumping measures elsewhere;
- whether the conditions in the US domestic market are favourable for the goods concerned;
- whether exporters would be likely to choose to export to the UK over other markets based on the attractiveness of the UK market; and
- whether exporters have previously or habitually circumvented the effects of the trade remedy measure.

208. We conducted this assessment to inform our determination as to whether the measure should be varied or revoked. The assessment of the likelihood of dumping of the goods subject to review occurring was concluded on the balance of probabilities.

## **G2. Price comparison between US and UK products**

### **G2.1 FAME**

#### **G2.1.1 UK FAME price**

209. The UK FAME price has been calculated using a weighted average of the UK price data provided by the UK producers, Argent and Greenergy during verification. The price calculated for UK FAME is GBP 810.62.

#### **G2.1.2 US FAME price**

210. Due to the non-co-operation of US exporters, publicly available information obtained from the USDA Bioenergy Statistics was used in accordance with the Regulations to determine the domestic price of US biodiesel.



**Table G.1: B100 (SME) free on board (FOB) at IL, IN and OH<sup>7</sup>**

<b>Month</b>	<b>US SME (USD/gal)</b>	<b>US SME (\$/mT)</b>	<b>US SME (£/mT)</b>
Jul-19	2.91	873.29	700.19
Aug-19	2.99	897.30	738.04
Sep-19	3.06	918.30	743.30
Oct-19	3.13	939.31	741.81
Nov-19	3.21	963.32	748.00
Dec-19	3.26	978.32	746.78
Jan-20	3.33	999.33	764.33
Feb-20	3.11	933.31	719.66
Mar-20	2.97	891.30	721.69
Apr-20	2.77	831.28	669.23
May-20	2.74	822.27	667.98
Jun-20	2.87	861.29	688.50
<b>POI average</b>	<b>3.04</b>	<b>912.30</b>	<b>724.19</b>

Conversions: 1 US gallon = 3.78541 litres, 1 tonne = 1136 litres, USD to GBP using monthly exchange rates.

### **G2.1.3 FAME freight, insurance, and customs**

<sup>7</sup> USDA US Bioenergy Statistics, Table 17. Available at: <https://www.ers.usda.gov/data-products/us-bioenergy-statistics/>

211. We have relied on information obtained from secondary sources, including from the most recent EU expiry review,<sup>8</sup> to calculate costs in relation to freight and insurance. This information has been used in accordance with the requirements set out in the Regulations.
212. The cost of freight and insurance has therefore been set at GBP 41.29 per mT. A customs duty of 6.5% has been applied, providing a customs duty amount of GBP 47.06 per mT. The combined costs for freight, insurance and customs duty have therefore been calculated as GBP 88.35 per mT.
213. We understand that blenders purchase FAME principally on the basis of price, in order to enter the UK market and capture market share, US producers would need to sell at a price close to the average ex-works price of FAME sold in the UK (by UK producers) during the POI. This price is calculated as GBP 810.62 per mT.
214. We consider that if the US producers resumed exports to the UK at competitive prices, they would need to do so at an ex works price of less than GBP 722.27 per mT.<sup>9</sup> This price is lower than the US domestic sales price of GBP 724 per mT (see table G.1). The TRA finds it likely that US exporters would need to undercut the UK price at a comparatively larger margin in order to gain UK market share. This increases the likelihood of US FAME entering the UK market at dumped prices.

## **G2.2 HVO**

### **G2.2.1 UK HVO price**

215. There is no domestic production of HVO within the UK. Therefore, we have considered the domestic sale price for HVO within the US and compared this with the UK price for FAME (see paragraph 209), which has been calculated as GBP 810.62 per mT.

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<sup>8</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1266&from=EN> page 8, (55)

<sup>9</sup> (GBP 810.62 (UK domestic price) – GBP 88.35 (freight, insurance, and customs)).

### **G2.2.2 US HVO Price**

216. The TRA has used the best facts available to determine a HVO domestic price for the US. Based on confidential data submitted by interested parties, the TRA has calculated a US domestic HVO price of GBP 1,073.32 per mT during the POI.

### **G.2.2.3 HVO freight, insurance, and customs**

217. In order to enter the UK market, US producers would need to sell at a price similar to or lower than GBP 810.62 per mT. The price should also include the insurance and ocean freight costs which would be applied to HVO, which have been calculated as GBP 41.29 per mT.

218. We applied the customs duty for commodity code 27101943 to this calculation, however this amounts to a customs duty of GBP 0 per mT.

219. If US producers resumed exports to the UK at competitive prices, they would need to do so at an ex works price of less than GBP 769.33 per mT.<sup>10</sup> This price is lower than the US domestic sales price of HVO of GBP 1,073 per mT. This reduced price would require that the products are dumped onto the UK market in order to compete with UK FAME prices.

### **G2.2.4 HVO price comparison**

220. The TRA has concluded that if US producers were to export HVO into the UK market to compete with UK FAME, they would need to do so at dumped price levels.

## **G2.3 Conclusion**

221. We have therefore concluded that:

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<sup>10</sup> (GBP 810.62 (UK domestic price) – GBP41.29 (freight, insurance, and customs)).

- US producers would be able to export FAME into the UK at dumped prices, and would need to do so to capture market share; and
- if US producers were to export HVO into the UK market to compete with UK FAME, they would need to do so at dumped price levels.

### **G3. Continued dumping**

222. There have been low level imports of the goods subject to review to the UK during the POI. HMRC data shows that 0.26% of UK imports of biodiesel were from the US, and that 0.08% of UK imports of biodiesel were from Canada. The TRA has concluded that dumping of the goods subject to review to the UK from the US and consigned from Canada had not continued during the POI.

#### **G3.1 Continued dumping - FAME**

223. The TRA has been unable to find reliable publicly available information on US FAME imports and the total imports is captured in the data for biodiesel above.

#### **G3.2 Continued dumping - HVO**

224. The TRA has been unable to find reliable publicly available information on US HVO imports and the total imports is captured in the data for biodiesel above.

#### **G3.3 Conclusion**

225. There have been low levels of imports of both FAME and HVO into the UK during the POI.

## **G4. Production Capacity**

### **G4.1 Production capacity of FAME**

226. Based on open-source data from the US Energy Information Administration (US EIA), the potential manufacturing capacity of the goods subject to review in the US is at least 8.4 million mT.<sup>11</sup> This exceeds the annual UK consumption of like goods, which for the POI was 1.5 million mT.<sup>12</sup>
227. The TRA has established that there was 32% excess capacity in the US industry in the POI.<sup>13</sup> The US was a net importer of biodiesel during this period. US exporters did not utilise excess capacity to satisfy domestic demand during the injury period. We consider it unlikely that such available production capacity would be used in the future to satisfy domestic demand.
228. The data also shows US exporters export biodiesel to other countries whilst the US continues to be a net importer of biodiesel.<sup>14</sup> We consider that it is likely that US producers will continue to prioritise exporting going forward.
229. Spare production capacity increases both the incentive and the ability of US exporters to dump in the future, as having spare capacity may be inefficient or unsustainable.
230. If the UK were to remove measures, the TRA considers it likely that US producers would be incentivised to export into the UK market.

### **G4.2 Production capacity of HVO**

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<sup>11</sup> <https://www.eia.gov/totalenergy/data/monthly/#renewable>

<sup>12</sup> <https://www.gov.uk/government/statistics/hydrocarbon-oils-bulletin>

<sup>13</sup> <https://www.eia.gov/totalenergy/data/monthly/#renewable>

<sup>14</sup> <https://www.eia.gov/todayinenergy/detail.php?id=47816>



231. Open-source data from the US EIA<sup>15</sup> on future HVO production capacity indicates that there would be a maximum HVO production capacity of 14.8 million mT in the US in 2024 if all planned plants are built.
232. UK consumption of biodiesel in the POI was 1.5 million mT, therefore even with more limited expansion of US production capacity and the goods exported to the UK, there is potential for US exports to have a significant effect on the UK market. US producers would likely have the capacity to meet US consumption and spare capacity will exceed HVO demand in the US; analysis has not been completed on potential increased demand for HVO, in the US in line with this capacity increase, due to a lack of data.
233. The TRA has minimal non-confidential primary data evidencing the capacity or production of US producers for HVO<sup>16</sup> and has relied on data provided in a article by ADI Analytics<sup>17</sup>. Table G.2, below, shows that US plant capacity of HVO is expected to increase over the next 3 years. The expected increase is 3.3 million mT, although this is based on the plants in production/build coming online, and being able to source the right feedstocks.

**Table G.2: US HVO planned increased capacity<sup>18</sup>**

Company	Commission date	Capacity in million litres	Capacity in mT
Marathon	2020	697	543,304
ARA C and N Biofuels	2020	129	100,393
Valero	2021	1,514	1,181,096
Philips 66	2021	640	499,013

<sup>15</sup> <https://www.eia.gov/todayinenergy/detail.php?id=48916>

<sup>16</sup> <https://www.eia.gov/todayinenergy/detail.php?id=48916>

<sup>17</sup> [Regulations to drive U.S renewable diesel capacity growth through 2025 - ADI Analytics \(adi-analytics.com\)](#)

<sup>18</sup> [Regulations to drive U.S renewable diesel capacity growth through 2025 - ADI Analytics \(adi-analytics.com\)](#)

<b>Hollyfrontier</b>	2022	454	354,329
<b>Hollyfrontier</b>	2022	341	265,747
<b>Hollyfrontier</b>	2022	Unknown	Unknown
<b>Global Clean Energy</b>	2022	568	442,911
<b>TOTAL</b>		4,342	3,386,792

234. The above data is supported by recent publications in Reuters<sup>19</sup> suggesting that the increase in capacity in the US will be affected by a number of additional factors. The more conservative estimate of increased capacity expected will more than double current capacity and represent 330-390% of UK annual consumption by 2024.

#### **G4.3 Conclusion**

235. Capacity in US HVO production is expected to increase. The maximum case based on all facilities planned coming online would be 1,000% of UK annual consumption by 2024. The more conservative level of capacity is estimated at between 330-390% of UK annual consumption by 2024. Future overcapacity of both FAME and HVO in the US has the potential to increase the likelihood of US exporters using a small part of that HVO capacity to export to the UK market if the measure was removed. Spare capacity in the US market has the potential to fulfil in excess of 100% UK annual consumption.

### **G5. Current production**

236. The TRA has referred to EIA data regarding biodiesel production in the US.

#### **G5.1 Production levels of FAME**

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<sup>19</sup> <https://www.reuters.com/business/energy/less-than-half-projected-us-renewable-diesel-output-likely-by-2025-study-2022-01-18/>

**Table G.3 – US FAME production levels<sup>20</sup>**

<b>Time period</b>	<b>Production (mT)</b>
<b>July 2016 – June 2017</b>	5,178,614
<b>July 2017 – June 2018</b>	5,814,189
<b>July 2018 – June 2019</b>	6,216,536
<b>POI (July 2019 – June 2020)</b>	5,718,208

237. Production levels in the US during the IP have increased from 5,178,614 mT to 5,718,208 mT. Although FAME production fell in the final year of the IP, it increased by 10.4% over the entire IP.

## **G5.2 Conclusion**

238. Production levels of FAME in the US are 300% of UK annual consumption and has increased over the course of the IP. Such high levels of production combined with the spare capacity in the US market indicates that there is and will continue to be a surplus of FAME that US producers can export abroad.

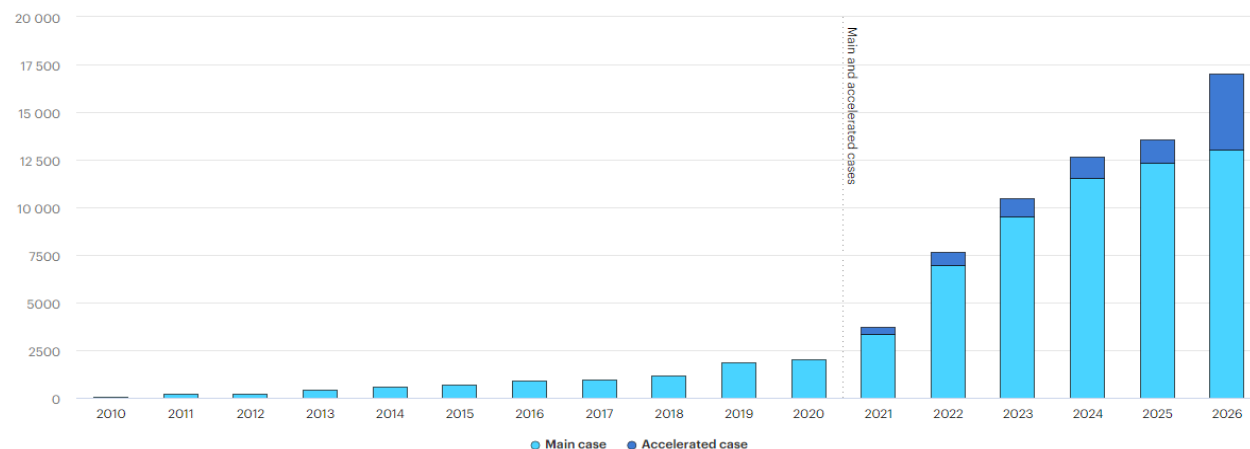
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<sup>20</sup> <https://www.eia.gov/biofuels/biodiesel/production/table2.pdf>

## G5.2 Production levels of HVO

Figure G.1 US HVO Production data <sup>21</sup>

Renewable Diesel production, United States, 2010-2026  
M litres/year



surplus of HVO that US producers can export abroad.

239. IEA data shows that production figures of HVO in the US are 122% of UK annual consumption of FAME <sup>22</sup>. This percentage is expected to rise in line with forecasted increased production of HVO.

## G5.3 Conclusion

240. The high level of production combined with the projected spare capacity in the US market indicates that there is likely to be a

## G6. Inventory levels

241. EIA data provided to the TRA indicates the ending stocks of biodiesel in the US each month.

242. If the US hold sufficient stocks to supply the UK at short notice while they are able to increase production, to meet a potential new demand then it may have an impact on the likelihood of being able to dump the relevant goods. It is therefore relevant to

<sup>21</sup> <https://www.iea.org/articles/renewables-2021-data-explorer?mode=transport&region=United+States&publication=2021&flow=Production&product=Renewable+Diesel>

<sup>22</sup> 2020 HVO production capacity has been compared with POI UK FAME consumption in the absence of monthly data.

consider whether the exporters inventories of goods are substantial enough to affect the UK market between the current and future US capacity to export biodiesel.

## G6.1 Inventory levels of FAME

**Table G.5 – US ending stocks of FAME from 2016-2020 as a percentage of UK consumption<sup>23</sup>**

Period (July-June)	mT	Percentage of UK biodiesel consumption
<b>2016-17</b>	158,836	26%
<b>2017-18</b>	172,443	23%
<b>2018-19</b>	176,053	15%
<b>2019-20</b>	177,163	12%

*Conversion rate of 1 US gallon = 3.78541 Litres, 1136 litres to 1 m/tonne*

243. The POI inventory figure (average of 12 months of inventory figures from July 2019-June 2020) represents 12% of UK consumption of FAME in the POI. The level of ending stocks (stocks of FAME held in storage as of the last day of the month) have increased across the IP from 158,836 to 177,263 mT, however as a percentage of UK consumption there has been a downwards trend (accounted for by the UK's increased consumption due to the increased RTFO mandates). At the beginning of the IP, US ending stocks amounted to 26% of UK consumption and at the end of the IP they reduced to 12%.

<sup>23</sup>[https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=M\\_EPOOBD\\_SAE\\_NUS\\_MMGL&f=M](https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=M_EPOOBD_SAE_NUS_MMGL&f=M)

## G6.2 Inventory levels of HVO

Table G.6 – US ending stocks of HVO from 2016-2020 as a percentage of UK consumption <sup>24</sup>

Period (July-June)	mT	Percentage of UK biodiesel consumption
2016/17	783,199	129.0
2017/18	696,945	94.1
2018/19	758,231	65.8
2019/20	723,930	48.5

*Conversion rate of 1 barrel = 158.99 litres = 1282 litres to 1 m/tonne*

244. EIA data demonstrates that inventory levels of HVO have fluctuated from 2016-2020 but there has been a general downwards trend. Whilst there has been a downwards trend, the POI average inventory figure for HVO represents 48.5% of UK consumption in the POI which is significant.
245. There is a significant level of inventories of HVO which US exporters could use in the short term to export into the UK market if measures were removed before increased production capacity is able to be utilised.

## G6.3 Conclusion

246. FAME inventory levels represent 12% of UK annual consumption. The inventory levels, high levels of production and spare capacity available to US producers indicate that there is a surplus of products for US producers to export. Additionally, US producers have a history of exporting surplus product rather than selling it on the domestic market. These factors together shows that US producers have the immediate availability of stocks, an ability to increase production to meet demand from a new market and have a history of exporting surplus product instead of meeting domestic demand.

<sup>24</sup> [https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=m\\_epoord\\_sae\\_nus\\_mbbl&f=m](https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=m_epoord_sae_nus_mbbl&f=m)

247. These findings indicate that US exporters will have incentive and ability to dump the relevant goods if the anti-dumping measures are removed.

## **G7 Exports to third markets and anti-dumping measures in other countries**

### **G7.1 FAME**

248. There were low levels of US imports of biodiesel in the IP. As a result, the TRA has not been able to obtain representative average prices in relation to the goods subject to review. For the purposes of this analysis, the TRA has therefore relied upon publicly available information from the United States International Trade Commission (USITC) to assess US exports to third countries.

249. The USITC data is valued at FAS (Free Alongside Ship), i.e. the value of the goods at the US port of export, based on the transaction price including inland freight, insurance and other charges incurred in placing those goods alongside the carrier at the US port of export.<sup>25</sup>

250. The table below compares the average sales price in US dollars per mT with the average domestic price in the US for the top 5 countries (outside the UK) to which the US exports.

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<sup>25</sup> <https://www.census.gov/foreign-trade/reference/guides/tradestatsinfo.html>

**Table G.7 – Top 5 US export destinations of FAME in the POI (commodity code 38260000)**

251. The table producers below sales out of the countries to during indicates exporters dumping countries, likely that occur in measures were removed.

Country	Quantity exported (% of total exports by quantity)	Quantity (mT)	Value (USD millions)	Average value (USD) per mT	Average value (GBP) per mT	Average US biodiesel domestic price (GBP) per mT
<b>Canada</b>	89.38%	391,981	354.87	905.32	718.65	724.19
<b>Netherlands</b>	3.17%	13,888	9.92	714.30	567.02	724.19
<b>Peru</b>	3.05%	13,388	7.65	571.44	453.61	724.19
<b>China</b>	2.82%	12,363	6.18	499.77	396.72	724.19
<b>Norway</b>	0.80%	3,500	3.31	945.00	750.15	724.19

shows that US sold at prices their domestic prices to four top five they exported the POI. This that US are currently in third which makes it dumping may the UK if the

252. The TRA has calculated an average export price of USD 877.50 per mT. This is based on USITC data of total US exports of biodiesel to third countries in the POI of 438,543 mT, at the value of USD 384,822,306.

253. Using the POI USD to GBP conversion rate of 0.794, this equates to GBP 696.73 per mT.

254. This export price is a FAS price to which ocean freight and insurance costs need to be added to calculate a CIF price. In comparing UK and US prices of the goods subject to review, above, we used the figures of GBP 41.29 per mT for freight and insurance costs, and GBP 47.06 per mT for customs duty. These prices have also been used in these calculations. These sums added together total GBP 88.35 per mT for freight, insurance, and customs costs.



255. The average US export price to third countries therefore totals GBP 785.08 per mT.

256. The calculated export price of GBP 785.08 per mT is lower than the UK price of GBP 810.62 per mT. We consider that US exporters would be able to sell at a price below GBP 810.62 per mT to enter the UK market. The higher FAME price of the UK market compared to other countries would likely incentivise US producers to divert exports from other countries to the UK if measures were removed.

## **G7.2 HVO**

257. The TRA has been unable to find sufficient information in relation to US HVO exports in order to assess US exports to third countries.

## **G7.3 Conclusion**

258. The TRA has found that US producers sold FAME at prices below their domestic sale price to four of out of the top five countries they exported to in the POI. This makes it more likely that US exporters would dump into the UK market if measures were removed.

## **G8 Anti-dumping measures in other countries**

259. The Peruvian authorities have an anti-dumping duty on imports of pure biodiesel (B100) and mixtures containing more than 50% biodiesel from the US (Resolution No. 113-2009/CFD-INDECOPI, 03.07.2009). This was initiated in 2009 and extended in two further sunset reviews in 2015 and 2020. Despite the duty, US biodiesel continues to be exported to Peru.

260. The Commission have imposed anti-dumping duties on biodiesel from the US since 2009 and have extended measures in two sunset reviews in 2015 and 2021.

261. The fact that Peru and the EU have anti-dumping duties in place on biodiesel from the US indicates that dumped imports of biodiesel are more likely to occur in the UK if the United States is subject to anti-dumping duties from third countries.

## **G8.1 Conclusion**

262. The data on third country price comparison to UK domestic price and the anti-dumping duties in other countries demonstrate that US exporters would be likely to dump into the UK market.

## **G9 Conditions in exporters' home market**

### **G9.1 Regulatory environment in exporters home market**

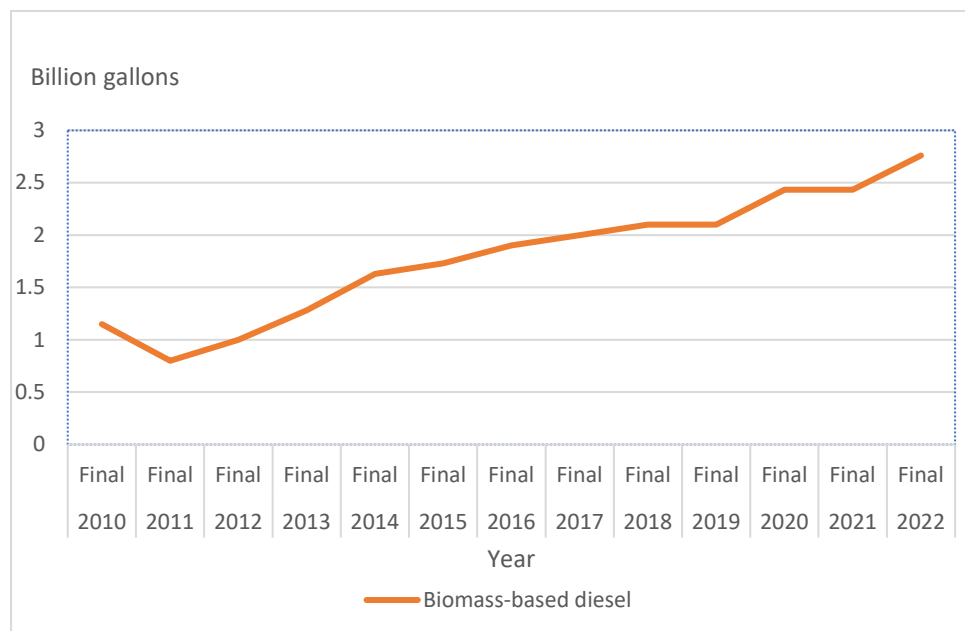
263. The TRA has considered the recently released EPA data<sup>26</sup> accessed on 15<sup>th</sup> February 2022, alongside the historical EPA data<sup>27</sup>. Much of this data is focussed on California, as much of US demand is centred on this state, however we acknowledge that the US is not geographically homogenous and other states may show different patterns of consumption.

**Figure G.1: EPA data on Renewable Fuel Standard volumes for biomass-based diesel**

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<sup>26</sup> <https://www.epa.gov/renewable-fuel-standard-program/proposed-volume-standards-2020-2021-and-2022>

<sup>27</sup> <https://www.epa.gov/renewable-fuel-standard-program/renewable-fuel-annual-standards>



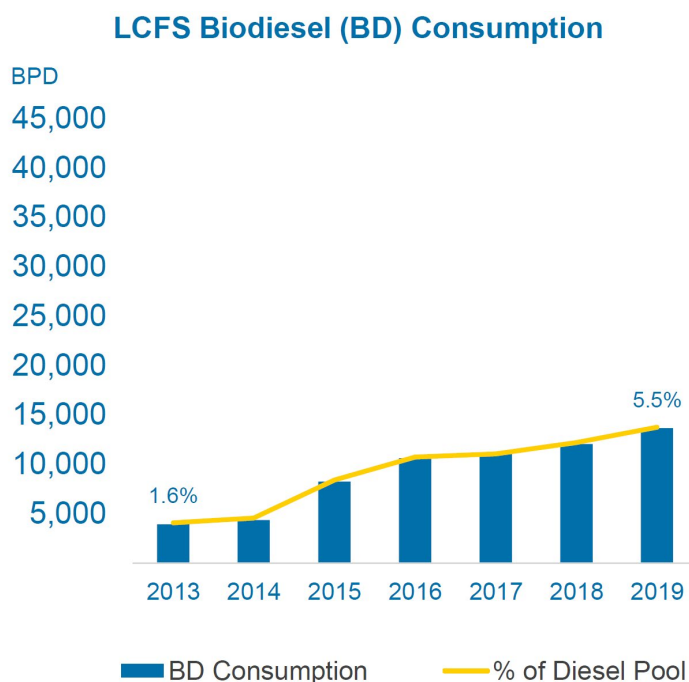
264. The trends from Figure G.1 demonstrate that there has been an upward trend in the amount of biodiesel required to be blended into transport fuel. Should this upward trend continue, the incentive for US exporters to export biodiesel abroad may reduce. However, there remain significant levels of production capacity and spare capacity, and these are likely to continue to increase alongside demand. US producers have shown a historic preference for exporting their products abroad, and we consider it likely that this will continue.

## G9.2 US demand

### G9.2.1 FAME

265. Domestic subnational mandates for biodiesel in several US states indicates that there is likely to be increasing domestic demand for biodiesel in the US. As noted above, a key centre for the consumption of FAME within the US is California, which uses the LCFS to require a reduction in the carbon intensity of transportation fuels by 20% by 2030.
266. As a result of these schemes, and in line with a rise in consumption across the US as a whole, the consumption of FAME in California has shown an increase during the POI. This rise in consumption may not be indicative of FAME usage in other US states but correlates broadly with the national increase in the use of biodiesel products, as shown above.

**Figure G.2: California Air Resources Board graph showing LCFS data of FAME consumption in California, US<sup>28</sup>**



<sup>28</sup> <https://www.trade-remedies.service.gov.uk/public/case/TD0004/submission/28ee8600-23d9-4685-beff-6fbace74ff5c/> 2 Basics\_of\_Renewable\_Diesel\_-\_March\_2020

Source: DGD

BPD- Barrels per day

267. Figure G.2 shows the trend of LCFS consumption of biodiesel. The graph shows a stable upwards trend in the consumption of biodiesel in California.

### G9.2.2 US demand for HVO

268. As with FAME, the majority of US HVO consumption is in California<sup>29</sup> due to the tax credit system in place to promote renewable fuel.<sup>30</sup> There is evidence that similar schemes are in place in other US states, for example Oregon, which has a similar system driving demand for HVO in diesel powered units.<sup>31</sup>

**Figure G.3: California Air Resources Board graph showing LCFS data of HVO (renewable diesel, RD) consumption, California US<sup>32</sup>**

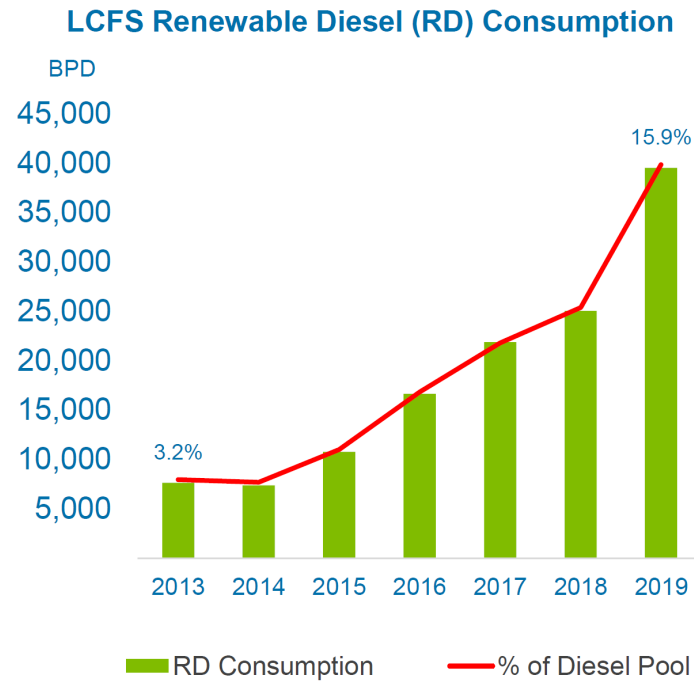
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<sup>29</sup> <https://www.eia.gov/energyexplained/biofuels/use-of-biodiesel.php>

<sup>30</sup> <https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard>

<sup>31</sup> <https://afdc.energy.gov/fuels/laws/BIOD?state=OR> (Renewable Fuels Mandate)

<sup>32</sup> <https://www.trade-remedies.service.gov.uk/public/case/TD0004/submission/28ee8600-23d9-4685-beff-6fbace74ff5c/> 2 Basics\_of\_Renewable\_Diesel\_-\_March\_2020



Source: DGD

BPD- Barrels per day

### G9.2.3 Conclusion

269. Due to changes to the RFS blending requirements, there has been an overall increase in demand for both FAME and HVO products within the US, and this is likely to continue. The increase in demand may act to reduce the incentive for US producers to export these products and sell them into the UK market, however we consider that the continued increases in production capacity and spare capacity (as covered in section G4. and G5.) will more than match this increase in demand and are likely to mean that exports of these products to other countries will continue.

## G10 The attractiveness of the UK market

### G10.1 UK regulatory environment

#### G10.1.1 FAME

270. The RTFO biofuel blending targets are shown in Table G.6, below.

**Table G.8: RTFO biofuel blending targets**

Obligation year	<a href="#">Percentage of biofuel within road transport diesel</a> <sup>33</sup>	<a href="#">Amended percentage of biofuel within road transport use diesel from January 2022</a> <sup>34</sup>
2016	4.75	-
2017	4.75	-
2018*	7.25	-
2019	8.5	-
2020	9.75	-
2021	10.1	10.679
2022	10.4	12.599
2023	10.6	13.078
2024	10.8	13.563
2025	11	14.054
2026	11.2	14.552

<sup>33</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/952228/rtfo-guidance-part-1-process-guidance-2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952228/rtfo-guidance-part-1-process-guidance-2021.pdf)

<sup>34</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf)

<b>2027</b>	11.4	15.056
<b>2028</b>	11.6	15.566
<b>2029</b>	11.8	16.083
<b>2030</b>	12	16.607
<b>2031</b>	12.2	17.138
<b>2032</b>	12.4	17.676

*\*2018 was a short obligation period to switch to a calendar year from 2019.*

*Sources: RTFO Guidance Part One Process Guidance: 15 April 2017 to 14 April 2018.* <sup>35</sup>

271. Renewable fuel targets under the RTFO have increased over the POI and IP from 4.75% to 9.75% (see Table G.6). The RTFO target is to further increase to 12.4% by 2032 (17.676% by 2032 following an amendment to the RTFO).<sup>36</sup>

272. The mandated increases for biofuels through the RTFO provide a stable demand for FAME, along with an increase in requirement for biofuels in road fuels. UK producers are unlikely to be able to expand production to fill the gap in demand to be met by importers. The UK market will therefore continue to remain an attractive market for foreign producers to export into.

### **G10.1.2 HVO**

273. The TRA considers that the mandated increases for biofuels through the RTFO, as shown in table G.6, may provide a stable demand for HVO. This is because UK blenders may not be able to meet RTFO targets through FAME alone as the targets exceed the blend limits of FAME, meaning that blenders may use HVO to fulfil blend obligations. The TRA has not received any information which shows that UK producers are likely to produce HVO in the future. The UK market will therefore continue to remain an attractive market for foreign producers to export into.

<sup>35</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/604591/rtfo-guidance-part-1-process-guidance-year-10.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604591/rtfo-guidance-part-1-process-guidance-year-10.pdf)

<sup>36</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf)



## **G10.2 Conclusion**

274. The mandated increases for biofuels through the RTFO are likely to provide a stable demand for both FAME and HVO, along with an increase in requirement for biofuels in road fuels. UK producers are unlikely to be able to expand production to meet all that demand and have indicated that there are no plans to expand current UK production. Without UK producers expanding production, we consider it likely that the UK market will therefore continue to remain an attractive market for foreign producers to export into.

## G10.2 UK market size and growth

275. Sales of FAME are driven by the end user (the person filling their vehicle at a fuel station), creating demand for the fuel companies to purchase biodiesel to blend into the forecourt B7 blend at the regulated rate. Further demand is created from public service vehicles (bus and coach operators) and the haulage industry who consume biodiesel for a variety of purposes at higher blend rates of B10 to B100.
276. The TRA has established the UK consumption of biodiesel over the POI and IP using data obtained from the Digest of UK Energy Statistics (DUKES).

**Table G.9 UK biodiesel consumption<sup>37</sup>**

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
<b>Total UK biodiesel consumption, mT</b>	624,454	614,752	1,003,713	1,409,432	1,418,252
<i>Index (2016=100)</i>	100	98	161	226	227
<b>Regulated increase in biofuel content</b>	4.75%	4.75%	7.25%	8.50%	9.75%

<i>Index (2016=100)</i>	<i>100</i>	<i>100</i>	<i>153</i>	<i>179</i>	<i>205</i>
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Compared to RTFO mandated blending of biofuel – Annual data Jan/Dec.<sup>38</sup>

277. Table G.7 indicates that biodiesel consumption has followed the regulated increase in biofuel content in the UK and increased during the POI. We consider it likely that this increase will continue, in line with the requirements of the RTFO in the short to medium term, although UK government data predicts this will tail off closer to 2030, as the reduction in pure diesel car sales affects consumption.

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<sup>38</sup> <https://www.gov.uk/government/news/new-regulations-to-double-the-use-of-sustainable-renewable-fuels-by-2020>

### G10.2.3 Conclusion

278. We consider it likely that consumption will increase in line with the requirements of the RTFO in the short to medium term. This makes the UK an attractive market for exporters to meet this rise in consumption.

## G10.3 Production

### G10.3.1 Production – FAME

279. The TRA has calculated the production of FAME in the UK using verified data from Greenergy and Argent, and non-verified data from Olleco. The data compares with DUKES data although there is a small difference (under 1.8%), which can be accounted for in rounding up of data. The TRA has used data provided in DUKES, which is produced by BEIS (It is reported annually from January to December).

**Table G.10 UK FAME production, 2016-2019**

	FAME (mT)			
	<a href="#">2016</a>	<a href="#">2017</a>	<a href="#">2018</a>	<a href="#">2019</a>
<b>UK production</b>	339,000	461,000	471,000	504,000
<i>Index (2016 = 100)</i>	100	136	139	149

280. While UK production of FAME has increased over the POI, it has not kept up with the level required to meet domestic demand for biodiesel in road transport fuels. Around one third of the UK biodiesel market is supplied through UK production, with imports supplying the remaining two thirds.

### **G10.3.2 Production - HVO**

281. The TRA has found that the UK does not produce HVO. This means that demand for HVO would need to be fulfilled by exporters. This makes the UK an attractive market for HVO exporters.

### **G10.3.3 Conclusion**

282. UK production, in relation to FAME, does not meet UK consumption, and production levels are unlikely to increase to the level required in order to meet domestic demand for biodiesel in road transport fuels.

283. There is no UK production for HVO, and so foreign exports will be required in order to meet the demand for this product in its entirety.

## **G10.4 Opportunity to differentiate products and services**

### **G10.4.1 FAME**

284. The TRA has not received evidence on opportunity to differentiate products services on US FAME entering the UK market.

### **G10.4.2 HVO**

285. The TRA has received submissions from UKIFDA and UKPIA which state that there is potential demand for HVO as a heating oil in the UK which is separate from road fuel demand. This suggests that there is a demand for HVO in the UK market, regardless of price, due to its properties which differentiate it from traditional heating oils, such as kerosene.

286. The TRA has not received submissions from potential end users of HVO for other uses such as train usage, agriculture usage and maritime usage.

### **G10.4.3 Conclusion**

287. The TRA has not received evidence on opportunity to differentiate products services on US FAME entering the UK market.

288. There is some evidence that indicates there is potential demand for HVO as a heating oil, separate from road fuel demand.

## **G10.5 Intensity of UK competition**

### **G10.5.1 FAME**

289. Two UK biodiesel producers, Argent and Greenergy, have indicated that they base their pricing on an EU pricing range from the Amsterdam, Rotterdam, and Antwerp area (“ARA”), which is a European standard. With domestic prices influenced by the EU and international prices and considering both the reliance on imports to supply demand and the estimated total number of suppliers, the UK biodiesel market is understood to be competitive.

290. Barriers to entry, including the availability and cost of the necessary technology and feedstocks, could limit the number of new producers entering the market. Import requirements, storage, and requirements arising from the RTFO could act as barriers to entry for new importers. Existing importers, however, would have limited switching costs to source biodiesel from the US rather than other third countries, provided the necessary documentation for RTFO verification could be obtained. As such, any barriers to entry are not considered likely to impact the level of competition or the resulting attractiveness of the UK market.

### **G10.5.2 HVO**

291. DGD have made a submission stating that the UK is 100% reliant on the EU for the supply of HVO.<sup>39</sup> We understand that the majority of this comes from one supplier. This lack of competition means that the TRA has found it is not likely that the HVO market in the UK is competitive.

### **G10.5.3 Conclusion**

292. There are barriers to entry facing potential new entrants into the biodiesel market in the UK, but few for established importers. Additionally, the potential life span for this market is limited, further reducing the incentive for new producers to enter the market. Therefore, levels of competition between UK producers are unlikely to rise significantly, and the UK remains an attractive market for foreign exporters.

293. The UK is entirely reliant on foreign exporters for the supply of HVO, and it is therefore unlikely that the HVO market in the UK will be competitive.

### **G10.6 UK consumer protection**

#### **G10.6.1 FAME**

294. The TRA has not received evidence on consumer protection implications on US FAME entering the UK market.

#### **G10.6.2 HVO**

295. The TRA has not received evidence on consumer protection implications on US HVO entering the UK market.

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<sup>39</sup> <https://www.trade-remedies.service.gov.uk/public/case/TD0004/submission/28ee8600-23d9-4685-beff-6fbace74ff5c/>

### **G10.6.3 Conclusion**

296. There has been no evidence received regarding consumer protection implications.

### **G10.7 UK vs other export markets**

#### **G10.7.1 FAME**

297. We considered whether US exporters would be likely to expand into the UK market over other markets.

298. The largest market for biodiesel is the European market, and in September 2021 the EU announced that it would continue the anti-dumping measures in place on FAME originating from the US. This leaves limited available markets for US exporters. This increases the likelihood of US exporters entering the UK market.

299. The TRA has established that US exporters are exporting FAME to third countries at a lower price than the UK domestic price. The TRA finds it likely that US exporters could divert exports from other markets to the UK market due to this price differential and the favourable regulatory environment in the UK for FAME.

#### **G10.7.2 HVO**

300. We considered whether US exporters would be likely to expand into the UK market over other markets.

301. The largest market for biodiesel is the European market, and in September 2021 the EU announced that it would continue the anti-dumping measures in place on HVO originating from the US. This leaves limited available markets for US exporters. This increases the likelihood of US exporters entering the UK market.



302. Overall consumption of diesel as a road fuel has levelled off in recent years<sup>40</sup>, ranging from 23.8-24.5 mT between 2016 and 2019. The consumption of FAME has increased as the biofuel content of road fuels increased, within the 7% blend wall. (Blend wall concept is a blend level of biodiesel with mineral diesel that EU motor manufacturers have agreed is acceptable for the use of their vehicles without affecting warranties. In the UK this is set at 7%, hence this is referred to as B7 in the UK).<sup>41</sup> This trend is expected to continue over the next five years before levelling off, as the UK increases the mandated level of biofuel in road diesel from 9.75% in 2020 to 17.676% in 2032 (this will increase to 14.552% in 2026).<sup>42</sup>

### **G10.7.3 Conclusion**

303. The TRA finds it likely that US exporters could divert exports from other markets to the UK market due to this price differential and the favourable regulatory environment in the UK for FAME.

304. The continuation of EU anti-dumping measures in relation to HVO originating from the US means that there may be an increased likelihood of US exporters looking to enter the UK market.

### **G10.8 Have exporters previously circumvented or absorbed measures?**

305. Following the imposition of trade remedy measures in 2009 by the EU on biodiesel imports from the USA in B100 form or blends containing by weight more than 20% of biodiesel, it was observed that US exporters were circumventing these measures via transshipment through Canada and imports of biodiesel below 20% blend level.

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<sup>40</sup> <https://www.gov.uk/government/statistical-data-sets/energy-and-environment-data-tables-env-table-Env0101>

<sup>41</sup> [Compatibility of Biodiesel with Petroleum Diesel Engines \(dieselnet.com\)](https://dieselnet.com/compatibility/)

<sup>42</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf)

306. The EU undertook a circumvention review<sup>43</sup> which led to measures being extended to imports of biodiesel consigned from Canada - whether declared as originating in Canada or not, and to imports of biodiesel in a blend containing by weight 20% or less of biodiesel originating in the US.
307. Based on this historical behaviour and the attractiveness of the UK market (as detailed in [Section G10: The attractiveness of the UK market](#)), this indicates an increased likelihood that US exporters would dump if measures were removed.

#### **G10.8.1 Conclusion**

308. Based on this historical behaviour and the attractiveness of the UK market, this indicates that it is likely that US exporters would dump if measures were removed.

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<sup>43</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:122:0012:0021:EN:PDF>

## **G10.9 Conclusion – Likelihood of Dumping**

### **G10.9.1 FAME**

309. The TRA has found that US producers would need to export FAME at dumped prices to enter the UK market. The UK is an attractive market due to its regulatory environment and surplus demand. The TRA has found that US exporters are selling to countries at prices below their domestic prices in [Section G8: Anti-dumping measures in other countries](#).
310. The current levels of spare capacity in the US have not been utilised to meet their domestic demand for biodiesel. The TRA considers it likely that US exporters would utilise this spare capacity to export to the UK if anti-dumping measures were removed based on exports and import trends and statements from the US EIA.
311. There is a history of US exporters circumventing measures and US exporters are subject to anti-dumping measures in Peru and the EU. Based on this historical and current evidence, this increases the likelihood of US exporters dumping into the UK market.
312. The UK market is likely to remain an attractive market for foreign exporters, as UK production in relation to FAME does not meet UK consumption, and production levels are unlikely to increase to the level required in order to meet domestic demand for biodiesel in road transport fuels. We consider it unlikely that UK producers will have the incentive to increase production of FAME, or to start producing HVO, and so the gap in the UK between production and consumption will continue to be filled by foreign exports.
313. It is likely that dumping of FAME would occur if the anti-dumping duties were no longer applied.

### **G10.9.2 HVO**

314. The TRA has found that the US would need to export HVO into the UK at dumped prices to compete with UK produced FAME.

315. The projected production capacity of HVO production in the US makes it likely that the US will have an oversupply of biodiesel. Whilst the US is a net consumer of HVO, US exporters also have a high level of inventories of HVO which it could use to close the gap between current and future capacity to export. This means that, despite federal and state mandates for the use of HVO in the US, the US is likely to have an oversupply of HVO which it will not be able to sell in its domestic market. The TRA considers it likely that US exporters would utilise this oversupply of HVO to export to the UK if anti-dumping measures were removed.
316. The UK is an attractive market for US exporters due to its regulatory and business environment. There is no production within the UK of HVO, and so this market is entirely reliant on foreign exports. The TRA has also received submissions from interested parties which supports that there is potential demand for HVO in the UK which is separate from road fuel demand. The TRA considers that this increases the likelihood that US exporters would export HVO to the UK if anti-dumping measures were removed.
317. There is a history of US exporters circumventing EU anti-dumping measures and US exporters are subject to anti-dumping measures in Peru and the EU. Based on this historical and current evidence, this increases the likelihood of US exporters dumping into the UK market.
318. It is likely that dumping of HVO would occur if the anti-dumping measures were no longer applied.

## SECTION H: Likelihood of injury assessment

### H1. Introduction

319. We are required under regulation 99A(1)(b) of the Regulations to consider whether injury to the UK industry in the relevant goods would occur if the anti-dumping duty was no longer applied (the likelihood of Injury Assessment).

320. In order to conduct the Likelihood of Injury Assessment, we considered:

- the current state of the UK industry;
- undercutting and/or underselling of the UK industry; and
- whether US producers could export quickly and at scale to the UK.

### H2. The current state of the UK industry

#### H2.1 Production

321. Domestic producers comprised 33.5% of the UK market during the POI. Three producers of the like goods in the UK, in order of production volume, are Greenergy, Argent, and Olleco.

Table H.1: UK producers' UK market share, POI

	Mass in mT	Volume in million litres	Percentage of the UK consumption of B100	Percentage of UK production of B100

<b>UK consumption</b>	1,387,000	1,576		
<b>UK production</b>	505,000 <sup>44</sup>	573	36%	100%
<b>Total value of Greenergy/ Argent/ Olleco</b>	496,000	562	34%	98%

Source: DfT statistics and TRA questionnaire responses.

322. There was no domestic production of HVO in the UK during the POI. The TRA is not aware of any plans to manufacture HVO in the UK in the near future.

## H2.2 Consumption

323. The UK market for biodiesel is regulated by the UK government via the DfT, which operates the RTFO. Data obtained from the DfT and the Department for Business, Energy and Industrial Strategy (BEIS) and National Statistics shows consumption of biodiesel in Table G.7 above.

324. Consumption of biodiesel increased during the period 2016-2019. This is due to the regulation of road fuels in the UK, which required a higher biofuel content in order to meet the UK's greenhouse gas commitments.

325. Consumption of HVO was low in comparison, with 5,975 m/tonnes consumed in the UK in 2019.<sup>45</sup>

## H2.3 Sales

<sup>44</sup> BEIS data is in litres; this is a converted figure based on 1133.79L/mT

<sup>45</sup> <https://www.gov.uk/government/statistics/renewable-fuel-statistics-2019-final-report>

**Table H.2: UK FAME production domestic sales value – indexed to 2016/17**

Domestic sales UK industry financial statements	2016/17	2017/18	2018/2019	2019/2020
Index (2016/17 =100)	100	152	199	226

326. The sales value has increased during the IP and POI from the 2016/7 base due to increased sales volume and increased unit pricing.

#### **H2.4 Profits**

327. The TRA did not receive data at the level to be able to differentiate the profit of the goods subject to the review from overall company profit. It was not possible to consider verified data relating to profits for all the companies as they produce other products in addition to the goods subject to review.

328. We found that profits decreased during the IP, recovering in the POI. Profit levels in the POI were affected by the reduction in demand for biodiesel due to the UK lockdown following the COVID–19 pandemic, between March 2020 and June 2020, but they still rose against the previous year. The TRA has not been provided with industry wide data in respect of profits.

329. The fall in profit rate during the IP was accounted for by reduced turnover and increased expenditure on capacity utilisation.

#### **H2.5 Output**

330. The UK industry increased output over the IP. Annual data from the DUKES report shows an increase of 49% over the total period (see table G.8).

331. This is accounted for by one plant resuming production in 2017 following a conversion to run on used feedstocks and subsequent increased capacity optimisation.

332. The TRA verified UK producer data which confirmed this increased output trend. The growth in FAME output is due to increased demand as a result of the increased mandate in biofuels in road fuel, and increased plant efficiencies leading to greater production over the IP.

## H2.6 Market Share

333. The TRA assessed a range of sources including DfT, BEIS, and the Office of National Statistics (ONS). The DUKES production data has been compared to confidential production data to confirm its reliability.

334. The market share of the UK producers fell between 2016 and 2019 although production increased. Production increased from 338,631 mT to 503,989 mT in the IP, although consumption has risen faster than UK production.

335. The increase in consumption has been met by increased imports of FAME, which account for over 880,000 mT (1,000m litres) of UK demand (almost two thirds of total UK demand).

**Table H.3 – Market share analysis of UK producers**

UK Biodiesel estimates - DUKES, mT	UK production mT	UK producers' market share	Importers' market share
<a href="#">2016</a>	338,631	54%	46%
<a href="#">2017</a>	460,890	75%	25%
<a href="#">2018</a>	470,565	47%	53%



<a href="#">2019</a>	503,989	36%	64%
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Source: DUKES stats 2017-2020 \* The table above is based on annual data January to December and produced by the ONS from DfT data.

## H2.7 Productivity

336. Confidential data from UK producers demonstrates the largest input costs of biodiesel (both FAME and HVO) is the feedstock. The process is not labour intensive, and employment costs account for a small percentage of the final costs of production, at approximately 9% to 14%.
337. The TRA verified productivity with the two UK producers and established that a small change in the number of employees had a significant effect on the average productivity data. The TRA did not therefore consider productivity per employee to be a good measure for injury.

## H2.8 Utilisation of capacity

338. Capacity of UK producers has increased over the IP, as shown in table G.8. Verification of the UK industry has shown that the trend indicated by DfT is correct.
339. No new plants have been built in the UK during the IP, but a plant conversion has resulted in an increase in UK production by 49% from 2016. Capacity has risen by 29% in the same period. The UK industry is almost producing at full capacity and without significant investment capacity cannot be increased.

## H2.9 Cash Flow

340. The TRA was unable to verify sufficient data to be able to provide a conclusion on industry cash flow.

## H2.10 Inventories

341. The TRA was unable to verify inventories due to limited data being available. It was not possible to see a trend in inventories due to the limited information supplied by producers.

## H2.11 Employment

342. Employment numbers during the IP increased, although this was not in line with increased capacity. The UK industry directly employed approximately 400 people over the POI.

343. Employment costs constitute a small element of production costs in comparison to feedstock which amounts to over 75% of total production costs, as discussed at paragraph 336. Accordingly, a small increase in employee numbers can significantly affect the total indexed amount.

**Table H.4: Employment from selected verified UK producers**

<b>Total number of employees from financial statements*</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>Indexed total</b>	100	126	146	184

Source: Verification report UK producers. \* Note that this data only looks at Employees involved in production.

## H2.12 Ability to raise capital or investments

344. The verified UK producers have no current plans to invest further into FAME production plants. During the IP, investment was made in capacity utilisation, which related to converting plants and processes for the use of used and recycled feedstock.
345. The UK producers provided no data for the TRA to consider on their ability to raise capital, or how they anticipated it may change if the anti-dumping duty is removed.

### **H2.13 Other causes of injury**

346. UK verified producers did not identify any other potential causes of injury. We have, however, considered the impact of recent events on injury.

#### **H2.13.1 EU exit**

347. The UK withdrew from the EU customs Union after the POI. The uncertainty of the arrangements leading up to the withdrawal may have been within the POI, however the withdrawal itself fell outside the time constraints of this investigation.
348. The questionnaire responses were due in before UK withdrawal from the EU. Therefore, at the time of response there was no definitive decision on the future duties for imports and exports following withdrawal from the customs union.
349. None of the verified UK producers provided data on the effect of the UK's withdrawal from the EU on their business but both Greenergy and Argent confirmed that the effect was less monetary and more administrative, relating to completion of declaration documentation in respect of feedstock origins.
350. No change in duty was enforced (save for re-importing UK produced FAME from the EU for which a 6.5% tariff is now imposed). The TRA has not verified the producers' assessments of the withdrawal from the EU customs union beyond the 6.5% tariff, which fell outside the POI.

#### **H2.13.2 COVID – 19 Pandemic**

351. The effects of the COVID 19 pandemic are not addressed by any of the interested parties or contributors within their questionnaire responses. The verified producers, Argent and Greenergy advised that demand fell during both periods of UK lockdown – 23 March 2020 and 05 November 2020, however demand recovered thereafter.
352. The pandemic occurred during the POI, up to June 2020. However, the TRA has been unable to quantify the effect of the pandemic.

## **H2.14 General drop in demand for diesel vehicles/regulated ban on new diesel vehicle sales from 2030**

353. While there has been a fall in UK demand for new diesel vehicles<sup>46</sup> in 2019 and 2020,<sup>47</sup> the effect on vehicle miles has been low. It is likely that the fall in diesel vehicle sales (which is expected to continue until the expected ban on pure diesel car sales from 2030) will be offset by increased demand for biodiesel. The volume of biodiesel in road fuels is set to increase to 12.4% by 2032 (17.676% under new legislation,<sup>48</sup> expected to come into force on 01 January 2022).
354. It is expected this will not harm UK producers in the next five years, although it may in the longer term as demand from road transport for FAME starts to tail off from 2026.<sup>49</sup> UK government predictions show that over the next 11 years there will be a “levelling off” of demand and slight contraction in the demand for biodiesel,<sup>50</sup> as reducing diesel vehicle sales are offset at first by the increasing bio content in road fuel.

## **H2.15 Conclusion**

355. The UK industry is currently in a stable position, due to the protection it has had from dumped goods from the current trade remedy in place.

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<sup>46</sup> <https://www.gov.uk/government/statistical-data-sets/veh02-licensed-cars> - table VEH0203

<sup>47</sup> [www.gov.uk/government/organisations/departments-for-transport/series/road-traffic-statistics](https://www.gov.uk/government/organisations/departments-for-transport/series/road-traffic-statistics)

<sup>48</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf)

<sup>49</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1001880/targeting-net-zero-next-steps-for-the-renewable-transport-fuels-obligation-government-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001880/targeting-net-zero-next-steps-for-the-renewable-transport-fuels-obligation-government-response.pdf)

<sup>50</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1001880/targeting-net-zero-next-steps-for-the-renewable-transport-fuels-obligation-government-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001880/targeting-net-zero-next-steps-for-the-renewable-transport-fuels-obligation-government-response.pdf)

356. Production of FAME by UK producers has increased during the IP. At the same time consumption of biodiesel within the UK has increased largely due to the increase in blend rates required under the UK's RTFO.
357. Sales and output have grown while UK producer market share has fallen, as production has not risen as quickly as consumption, leaving the gap to be filled by imports, largely sourced from Europe.
358. Increased demand for cleaner vehicles and a push towards electric cars, together with the regulated ban on new diesel cars in 2030,<sup>51</sup> means that the UK market and its producers are aware of a finite period of demand for FAME.
359. UK producers have limited ability to increase production levels beyond current output without significant investment. Production is close to capacity and the increase in consumption will largely be met through increased imports to compensate for UK producers' inability to meet demand within the UK market.

### **H3. Undercutting/underselling of UK industry**

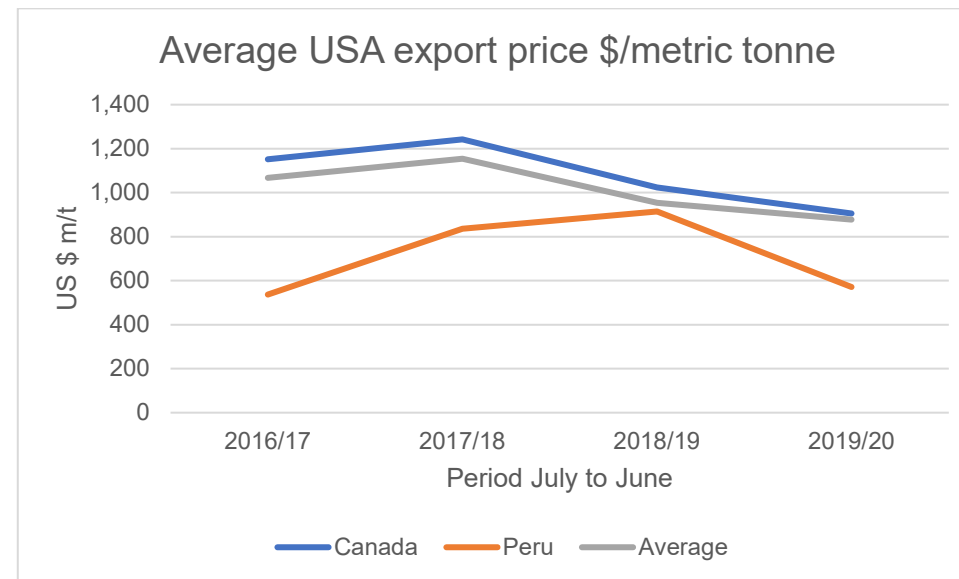
#### **H3.1 FAME**

360. Section G7. shows that US producers have the ability and the incentive to undercut UK producers in order to capture market share.
361. The USITC data in Table G.5 indicates that four of the top five markets to which US producers exported had an average price below the US domestic price in the POI. Further, data from the USITC (Figure H.1) shows that the US continued to export to Peru despite anti-dumping tariffs being imposed in 2015. Despite anti-dumping duties, the US continues to export to Peru at dumped price levels, although it is possible that this is in part to absorb the duty imposed.

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<sup>51</sup> <https://www.gov.uk/government/news/government-takes-historic-step-towards-net-zero-with-end-of-sale-of-new-petrol-and-diesel-cars-by-2030>

**Figure H.1: US trade data showing exports price to Canada, Peru, Average in \$ m/t, biodiesel CN 38260000**



Source: [USITC](#)

### H3.2 HVO

362. Section G2.2 shows that US exporters would need to sell HVO at a dumped price in order to compete with UK FAME on price. However, the incentive to sell at dumped prices to compete with UK FAME market prices is low. Confidential pricing data presented by contributors show that US exporters obtain a price in excess of the UK market price in other export markets. In addition other users for HVO means that it does not need to compete with UK FAME on price. The TRA has found no evidence that HVO has been dumped in third countries.

### H3.3 Conclusion

363. The TRA considers it likely that US producers would sell FAME in the UK market at a dumped price, undercutting UK producers. USITC data indicates that four of the top five US export markets had an average price below the US domestic price as calculated by the TRA.
364. The TRA does not consider it likely that US producers would undercut UK FAME with HVO.

## **H4. Are US exporters able to export to the UK market quickly and at volume?**

### **H4.1 FAME**

365. Our analysis of US production, capacity, and stocks (as shown in sections G4, G5 and G6) shows that US producers have the ability and may have the incentive to sell significant volumes of FAME into the UK market.

#### **H4.1.1 FAME - Conclusion**

366. The TRA is satisfied that the US has stock that would allow it to move quickly, spare capacity in its production facilities to allow it to expand production to meet an export demand, and an incentive to export to FAME to the UK.

367. The TRA is satisfied that, on the balance of probabilities, if the measures were removed US exporters would be able to and would have an incentive to export to the UK at short notice, and in increasing volumes were there an economic advantage for them to do so.

### **H4.2 HVO**

368. Our analysis of US production, capacity and stocks shows that US producers have the ability and may have the incentive to sell significant volumes of HVO into the UK market.

369. The regulated market of the UK is an attractive proposition for a potential new exporter due to the known increased biofuel content rises in road fuels and the high demand for diesel as a road fuel. We therefore consider that there is incentive for US biodiesel producers to export to the UK.

#### **H4.2.5 Conclusion - HVO**



370. The TRA is satisfied that the US has stocks of HVO that would allow it to move quickly, spare capacity in its production facilities, and an expectation of significant increase in its capacity in the forthcoming years, to allow it to expand production to meet an export demand, and an incentive to export HVO to the UK.
371. The TRA is satisfied that, on the balance of probabilities, if the measures were removed US exporters would be able to and would have an incentive to export in increasing volumes to the UK at short notice.

## **H5. Conclusions and findings – Likelihood of Injury Assessment**

372. The current measures have been protecting UK industry (which produces FAME) from injury caused by dumped goods. UK producers have increased production and capacity utilisation.
373. The TRA expect that the increased demand for biodiesel will only continue to rise in the short term with the expectation that demand will level off and slightly contract from 2026. UK producers are not able to meet that demand and the shortfall is met by imports.
374. US imports of dumped FAME would have the potential to undersell or undercut the UK industry and could cause a price suppression or depression in the UK market as a consequence. It is likely that dumped US FAME would displace not only EU imports but equally across the whole market. The injury is likely to manifest through reduction in margins as companies attempt to compete, as well as an expectation of loss of market share.
375. There is a lower risk of dumped HVO imports underselling or undercutting the UK industry.
376. US exporters of FAME and HVO would be able to and would have an incentive to export to the UK's regulated and attractive market, were there an economic advantage to them.
377. The TRA's analysis of pricing data indicates that in relation to FAME, US exporters and producers have the ability to enter the UK market at UK market prices. Research shows that exports to third countries have been sold at prices below US market

price on a consistent basis (dumped prices) and therefore it is likely that in order to compete and obtain market share, US producers would undercut the UK price by dumping.

378. The risk of injury from HVO is considered low. The significant positive price difference between US HVO and UK FAME, and the ability of the US exporters to sell HVO into third countries at a higher price than UK FAME means that dumping at a price level that would cause injury to UK FAME producers is unlikely. The TRA does not find it likely that such dumped HVO goods would not injure the UK industry.
379. Considering these factors, on the balance of probabilities, we consider there to be a likelihood of injury to the UK industry by dumped imports of FAME originating from the US, if the current measures were to be removed.
380. We do not consider there to be a likelihood of injury to the UK industry by dumped imports of HVO originating from the US if the current measures were to be removed.

## SECTION I: Economic Interest Test

### I.1 Introduction

381. The aim of the Economic Interest Test (EIT) is to determine whether our recommendation to vary the measure and apply an anti-dumping amount on the goods subject to review imported from the US and consigned from Canada is in the wider economic interest of the UK. This test is presumed to be met unless we are satisfied that the application of the remedy is not in the economic interest of the UK.
382. In accordance with paragraph 25 of Schedule 4 to the Taxation (Cross-Border Trade) Act 2018, the EIT is met in relation to the application of an anti-dumping remedy if the application of the remedy is in the economic interest of the UK.
383. In order to recommend maintaining the measure under regulation 100A(4)(b) of the Regulations and amending the description of the goods to which the measure applies under regulation 99A(2)(a)(ii) of the Regulations, we must be satisfied that the application of the anti-dumping amount meets the EIT in accordance with regulation 100A(2) of the Regulations.
384. In line with paragraph 25 of Schedule 4 to the Act, the TRA has taken account of the following in conducting the EIT:
- the injury caused by the dumping of the goods to the UK industry, and the benefits to that UK industry in removing that injury;
  - the economic significance of affected industries and consumers in the UK;
  - the likely impact on affected industries and consumers in the UK;
  - the likely impact on particular geographic areas, or particular groups, in the UK;
  - the likely consequences for the competitive environment, and for the structure of markets for goods, in the UK; and

- such other matters as the TRA considers relevant.

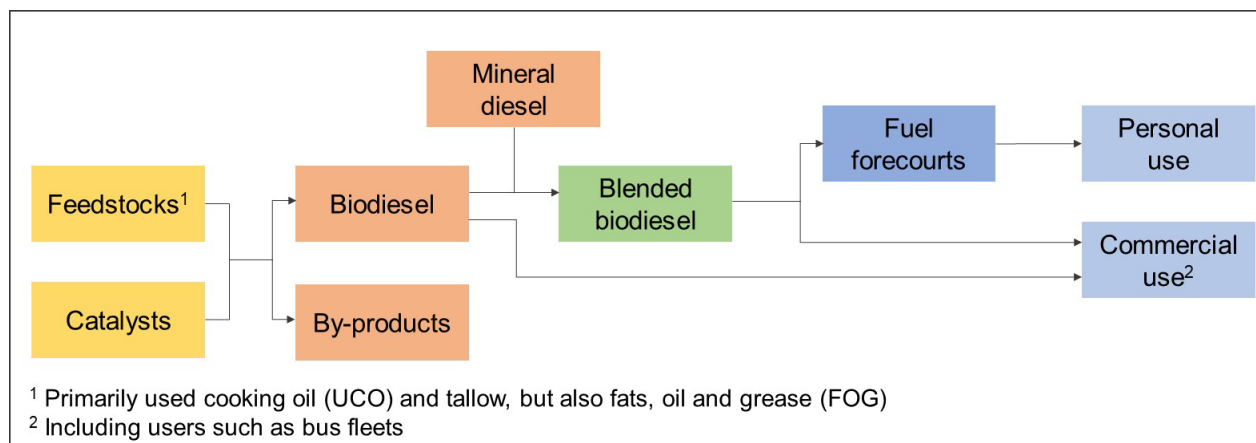
385. The injury likelihood analysis in Section H concluded that it was unlikely that US exports of HVO would pose a risk of injury to UK biodiesel producers if the measure were revoked. As a result, the proposed measure does not cover HVO so HVO is not part of the EIT analysis that follows.

## I.2 Supply chain overview

386. Biodiesel can be made from a variety of feedstocks and through a number of different processes. Figure I.1 provides a simplified supply chain for biodiesel sold in the UK. UK producers make FAME, primarily from UCO and tallow as well as fats, oils, and greases (FOG). This is blended with mineral diesel by fuel suppliers to meet RTFO requirements for sale at forecourts or sold unblended to some commercial users.

387. Imported biodiesel includes both FAME, which generally requires blending and is used for vehicles, as well as HVO, which can be used unblended in vehicles but may also be used in small quantities for domestic heating. Only the supply chain relating to FAME is considered in our analysis.

**Figure I.1: Biodiesel supply chain for the proposed variation of the measure**



388. Around one-third of the UK biodiesel market is supplied by UK production, with imports supplying the remainder. There are three domestic producers: Greenergy, the largest and also an importer of biodiesel, Argent and Olleco.
389. Feedstocks are sourced domestically and imported. They are the most significant input to biodiesel production (representing over 75% of production costs). Other inputs include catalysts and methanol, which are understood to be widely available. Glycerine and potassium sulphate are produced as by-products; methanol is distilled and re-used. Glycerine is sold for technical purposes including as a performance enhancer for anaerobic digestion, while potassium sulphate is used for fertilisers.<sup>52</sup>
390. For most end uses, FAME is blended with mineral diesel. Greenergy blends its biodiesel and has 25 supply locations and a haulage operation in the UK to distribute to customers. Argent is also a blender and distributor.

### **I.3 Evidence base**

391. Our primary evidence sources were the questionnaire responses and written submissions received from interested parties and contributors. The following provided information that was particularly relevant to the EIT assessment:
- Two domestic producers, Argent and Greenergy.
  - One importer, Valero.
  - One trade body representing UK renewable transport fuel manufacturers including all major biodiesel producers, the RTFA.
  - Three upstream businesses that supply UCO to biodiesel producers, Marston's PLC, Sodexo, and The Restaurant Group.

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<sup>52</sup> <https://argentenergy.com/index.php?p=co-products>, accessed 5 November 2021

- One upstream trade body representing the tallow industry, the Foodchain and Biomass Renewables Association (FABRA UK), which represents 9 entities.
- One trade body representing businesses involved in the import and downstream segments of the supply chain, the UK Petroleum Industry Association (UKPIA).
- One trade body representing businesses in the downstream segment of the HVO supply chain, the Oil Firing Technical Association Ltd (OFTEC), representing 57 members in the heating and cooking industries. Their questionnaire response included an EIT submission related specifically to HVO. While included here for completeness, the evidence does not relate to FAME so has not formed part of this assessment.
- One contributor, DGD (a US producer of HVO that has never exported to the UK).
- One contributor, Gunvor Intl, a commodities trader that sells like goods into the UK.

392. For further details see the earlier section ‘participation in the review’.

393. The TRA has supplemented these submissions with background research and collated additional information. We have also conducted research relating to parties that have not participated in this review, including upstream and downstream industries as well as importers.

394. The sections that follow assess each of the factors of the EIT in turn.

#### **I.4 Injury caused by dumping and benefits to the UK industry in removing injury**

395. Sections F and H discuss the results of the necessary or sufficient consideration and injury likelihood assessment.

396. In the necessary or sufficient consideration, the TRA determined that it is not appropriate to recalculate the anti-dumping amount for the US, in the absence of transaction-by-transaction data from foreign exporters, and without any alternative credible data available. On the basis of a lack of data, no recalculations of anti-dumping amounts or injury margins were made.

397. The injury likelihood assessment concluded that injury to UK industry would be likely to occur, were the measures to no longer apply to FAME. Section G established that US imports would be able to meaningfully compete on the UK market, charging lower prices than currently prevail, and that owing to spare capacity the US has the ability to export in large volumes in the short-term. Given the significant price differential between FAME and HVO, the injury likelihood assessment concluded it was unlikely (a probability of less than 50%) that US exports of HVO would pose a risk of injury to UK biodiesel producers if the measures on HVO were revoked. As a result, EIT analysis of the proposed variation of the measure only considers imports of FAME from the US.

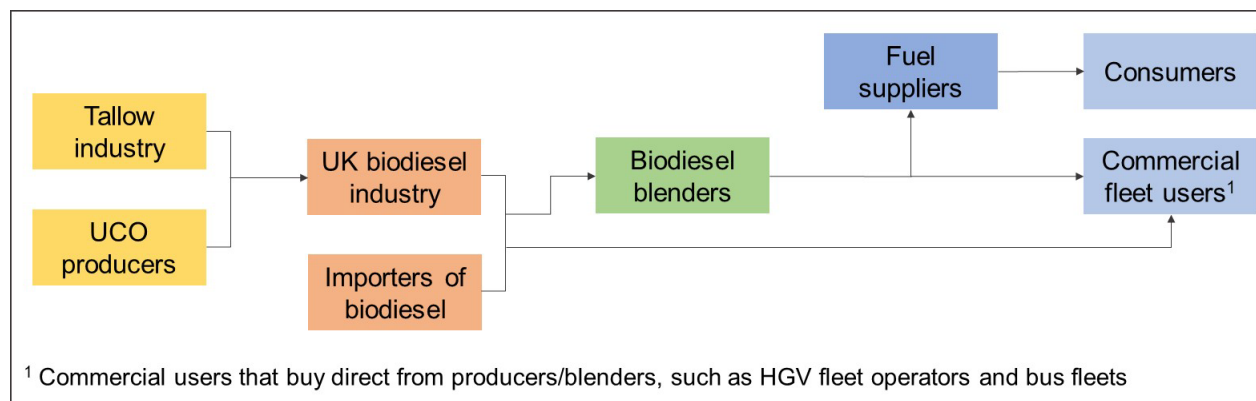
### **I.5 Economic significance of affected industries and consumers in the UK**

398. This section considers the relative economic significance of the relevant industries and consumers within the biodiesel supply chain. From the available evidence, the following UK groups have been identified as potentially being affected by the measure:

- **upstream businesses:** suppliers of tallow and UCO;
- **producers of like goods:** UK producers of biodiesel;
- **importers:** importers of biodiesel, whether the goods subject to review from the US or like goods from other countries;
- **downstream businesses:** blenders and suppliers of biodiesel; and
- **end users,** including household consumers and commercial fleet operators.

399. Figure I.2 provides a simplified diagram of how these groups relate to one another. In reality, some businesses span different groups such as importing, blending, and supplying fuel or importing as well as producing biodiesel.

#### **Figure I.2: UK groups likely to be affected by the measure**



## I5.1 Upstream businesses

400. The main upstream component of the biodiesel supply chain are the producers of feedstocks, particularly UCO and tallow. UK producers have cited UCO and tallow as their main feedstocks. Other sources include brown grease and FOG (fats, oils, and greases); generally, from the sewer network. Feedstocks, particularly UCO, are also imported for biodiesel production.

### I5.1.1 UCO suppliers

401. We are aware of between 20-30 suppliers of UCO to UK biodiesel producers. Three submissions were received from suppliers with own food preparation operations (The Restaurant Group has over 650 restaurants and Marston's has around 700 pubs supplying UCO<sup>53</sup>). For these businesses, UCO supply is not their primary business activity and represents a small proportion of their revenues. This is not the case for some of the other known suppliers, who offer waste disposal services by collecting UCO and fats from restaurants or factories. These suppliers are likely to be smaller in terms of their economic significance than restaurant chains, but their operations may be far more dependent on the biodiesel supply chain.

402. As we have limited information, we have grouped all UCO suppliers together in our analysis. Direct employment and GVA associated with UCO supply activities is unknown; the three contributors employ over 65,000 people in total across their

<sup>53</sup> [www.trgplc.com/](http://www.trgplc.com/), accessed 8 October 2021 and Marstons non-confidential response.



diverse activities. One contributor provided information about their UCO sales revenues however this was confidential and would not be representative of UCO suppliers as a whole so is not presented.

### **I5.1.2 Tallow suppliers**

403. Tallow is categorised according to the health risk it poses. Category 3 tallow has a variety of other uses including for pet food and oleochemicals. Category 1 is the highest risk and must be disposed of at approved facilities – generally it would be incinerated or used for combustion instead of gas if not used to produce biodiesel.
404. From FABRA's website, we are aware of 9 renderers producing tallow (some of which are groups, each with a number of entities or sites), and FABRA also advised us of one further non-member. Some tallow suppliers are large, diversified businesses while others are smaller and specialise in animal by-product recycling and rendering. Companies House information was used to assess significance and it was not possible to breakdown the operations of the larger businesses. The estimated GVA for tallow suppliers is £467m,<sup>54</sup> but this over-estimates the significance of tallow. One company represents over 75% of the total and undertakes a variety of unrelated activities such as manufacture of food products.

### **I5.2 UK producers of biodiesel**

405. There are three known domestic producers of biodiesel. Based on production levels, Greenergy is the largest followed by Argent and Olleco, whilst Argent also has distribution operations of high biodiesel blends directly to domestic fleet operators, alongside operating a biodiesel production plant in the Netherlands. Argent provided a response to our questionnaire and Greenergy responded to an abridged questionnaire. Combined, they are estimated to represent more than 80% of known domestic biodiesel production. Additionally, Olleco also operate a UCO refinery, UCO biodiesel plant and an Anaerobic Digestion plant; all operating within Liverpool.
406. Estimated GVA from the UK production of biodiesel is approximately £14m and direct employment in domestic biodiesel production was around 400 people during the POI. GVA estimates use publicly available Companies House data as above while the employment estimates are based on questionnaire responses.

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<sup>54</sup> GVA estimates are based on publicly available Companies House data on operating profit, employment costs, depreciation, and amortisation over the injury period.

### **I5.3 Importers of biodiesel**

407. Two importers registered their interest in the case: Valero and Greenergy. Greenergy imports around twice as much biodiesel as it produces in the UK. The estimated number of current biodiesel importers is 11, based on publicly available HMRC information. These importers are all diversified energy suppliers including BP, Esso and Shell. While only Greenergy is involved in UK biodiesel production, all the importers are involved in downstream elements of the supply chain as well as wider fuel supply activities. To avoid double-counting, the importers have been grouped with downstream businesses for the significance assessment.

### **I5.4 Downstream businesses**

408. As noted above the downstream stages of the supply chain are closely integrated, with biodiesel producers and importers also involved in downstream stages such as blending and distribution. A study for the UKPIA estimated total GVA for downstream businesses and importers to be £9.2bn in 2016 (in current prices; or £8.6bn as originally published), while up to 120,000 people were estimated to be employed.<sup>55</sup>

#### **I5.4.1 Biodiesel blenders and wholesalers**

409. The majority of biodiesel produced in the UK will be blended before it is sold for final use. Both Argent and Greenergy have their own blending and distribution operations, but they also sell to fuel suppliers for their own blending and sale. Once biodiesel has been blended, it effectively joins the road diesel supply chain. The biodiesel may be supplied to forecourts for retail sale or sold direct to customers such as commercial or public transport fleets and industrial users.

#### **I5.4.2 Fuel forecourts**

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<sup>55</sup> Estimate for 2016 from 'The economic contribution of the UK downstream oil sector', a study by Oxford Economics commissioned by UKPIA, 2019 available at: [www.ukpia.com/media/1005/the-economic-contribution-of-the-downstream-oil-sector-evidence-paper.pdf](http://www.ukpia.com/media/1005/the-economic-contribution-of-the-downstream-oil-sector-evidence-paper.pdf). Inflated to current prices from assumed 2019 base year using GDP deflators at [www.gov.uk/government/collections/gdp-deflators-at-market-prices-and-money-gdp](http://www.gov.uk/government/collections/gdp-deflators-at-market-prices-and-money-gdp), accessed 4 November 2021. Price base year assumed to be 2019, the year of publication.

410. Fuel forecourts supply diesel blended with the required level of biodiesel to end consumers. Commercial fleets may use separate facilities. According to the Petrol Retailers Association, in 2020 there were 8,380 petrol stations across the UK operated by 24 major brands as well as minor brands and unbranded locations.<sup>56</sup> Tesco, BP, Shell, Esso and Sainsbury's are the top five suppliers based on forecourt sales (with market shares ranging from 15.9% for Tesco to 10.2% for Sainsbury's). BP, Esso, and Shell have the greatest number of outlets, each representing between 13% and 14.7% of the total with over 1,000 locations each.<sup>57</sup>

#### **I5.4.3 Direct commercial users**

411. We are aware from interested parties that some commercial users buy biodiesel directly from biodiesel producers for their fleets. Some commercial vehicles will need to be adapted to run on higher blends of biodiesel, so direct sales are understood to represent a small proportion of the market.

412. Where users supply UCO and obtain the resulting biodiesel this creates a 'closed loop' recycling process. For instance, McDonalds supplies its UCO to Olleco and uses Olleco's biodiesel in its fleet.<sup>58</sup> Given the distinct 'closed loop' supply chain for this biodiesel, we do not consider this group in detail within the EIT analysis. It is understood that environmental and sustainability considerations motivate the model used, suggesting that such users are unlikely to be influenced by price changes to switch to other (imported) biodiesel.

#### **I4.4 Summary table**

413. Table I.1 presents evidence in relation to the economic significance of the potentially affected industries. Based on the available evidence, it appears that the upstream and downstream businesses have greater employment and GVA than the biodiesel producers. However, the estimates are not directly comparable since UK producer data is biodiesel-specific while upstream and downstream estimates are broader than activities directly linked to the biodiesel supply chain. We believe that biodiesel is a significant product for UK producers and upstream tallow suppliers but is less important for upstream UCO suppliers (with the exception of those for whom UCO supply is their primary business) and downstream businesses.

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<sup>56</sup> [www.ukpra.co.uk/assets/documents/market-review-pra-2021.pdf](http://www.ukpra.co.uk/assets/documents/market-review-pra-2021.pdf); accessed 20 September 2021

<sup>57</sup> Information taken from Petrol Retailers Association, reference as above

<sup>58</sup> [www.olleco.co.uk/sustainability/biodiesel](http://www.olleco.co.uk/sustainability/biodiesel); accessed 20 September 2021

**Table I.1: Significance metrics for the industries potentially affected by the proposed measures**

	Upstream		Like goods and goods subject to review		Downstream	
	UCO	Tallow	Producers	Importers	Blenders and wholesale	Fuel forecourts
Number of known businesses, of which:	20-30	10	3	11 <sup>59</sup>	14	Over 24 <sup>60</sup>

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<sup>59</sup> HMRC UKTradeInfo.

<sup>60</sup> Market review 2021', Petrol Retailers Association, 2021 [www.ukpra.co.uk/assets/documents/market-review-pra-2021.pdf](http://www.ukpra.co.uk/assets/documents/market-review-pra-2021.pdf)

Registered interest	2	1 trade body <sup>61</sup>	3 plus 1 trade body <sup>62</sup>	2	1 trade body <sup>63</sup>
Questionnaire responses/ submissions	3	1 trade body	2 plus 1 trade body	1	1 trade body
GVA (£m), current prices	Redacted	467 <sup>64</sup>	14 <sup>65</sup>	9,200 <sup>66</sup>	
Number of employees	Over 65,000	Over 12,000	Around 400	13,000 – around 120,000 <sup>67</sup>	

Source: unless otherwise stated, data has been collated from questionnaire responses, Companies House data and information on known companies’ websites (all accessed September 2021).

Due to data limitations, only the estimates of GVA and the number of employees for biodiesel producers are specific to biodiesel. For other groups the numbers represent total known activity which is broader than their contribution to the biodiesel supply chain. Some double counting between producers and the importer/downstream numbers is possible.

## 15.5 Consumers

<sup>61</sup> FABRA, representing 9 members

<sup>62</sup> The RTFA, representing the 3 UK biodiesel producers plus other biofuel companies.

<sup>63</sup> UKPIA, with 8 member companies representing 6 major coastal and inland refineries and over 1,200 domestic filling stations.

<sup>64</sup> Average over the injury period, based on Companies House data

<sup>65</sup> Estimate for 2016 from 'The economic contribution of the UK downstream oil sector', a study by Oxford Economics commissioned by UKPIA, 2019 [www.ukpia.com/media/1005/the-economic-contribution-of-the-downstream-oil-sector-evidence-paper.pdf](http://www.ukpia.com/media/1005/the-economic-contribution-of-the-downstream-oil-sector-evidence-paper.pdf). Original estimate assumed to be in 2019 prices and uplifted to current prices.

<sup>66</sup> Ibid.

<sup>67</sup> Lower bound estimate based on Business Register and Employment Survey (BRES), provides by the Office for National Statistics for 2019, SIC 46711 (wholesale of petroleum and petroleum products); upper bound based on estimates for 2016 from 'The economic contribution of the UK downstream oil sector', a study by Oxford Economics commissioned by UKPIA, 2019 [www.ukpia.com/media/1005/the-economic-contribution-of-the-downstream-oil-sector-evidence-paper.pdf](http://www.ukpia.com/media/1005/the-economic-contribution-of-the-downstream-oil-sector-evidence-paper.pdf). Upper bound includes fuel for aviation and rail/maritime as well as petrochemicals.

414. Consumers buying diesel at forecourts will be buying a blend of mineral diesel and biodiesel. While 'B7' labelling at the pump identifies the use of biodiesel, many consumers may be unaware that they are buying blended diesel.
415. According to DfT statistics, at the end of 2020 there were almost 12.5m diesel cars registered in the UK, representing 38% of total registered cars.<sup>68</sup> We did not receive or find any information about the proportion of the pump price of diesel that is attributable to biodiesel. The wholesale fuel price represents around 30% of the diesel pump price<sup>69</sup> so it will be a proportion of that. Based on biodiesel's 7% contribution to the fuel by volume, at a minimum it would represent 2% of the total pump price. As biodiesel is more expensive than diesel the proportion is expected to be greater than this.
416. The demand for diesel is price inelastic because consumers cannot readily switch to other forms of fuel, such as petrol, and may have a limited ability to switch to other modes of transport. Consumers can be vocal about fuel price increases, with protests having previously led to panic buying and fuel shortages.

## **I6. Likely impact on affected industries and consumers**

417. This section assesses how prices and quantities along the biodiesel supply chain may change under two scenarios, one where the measure is varied as proposed and one where it is revoked. The possible impacts for affected industries and consumers are then considered. The outcomes under the two scenarios are then compared to provide an assessment of the possible net impact of the measure for affected industries and consumers.
418. We have not been able to quantify these impacts because of the limited amount of data and quantifiable evidence available, but we have assessed the possible impacts as comprehensively as possible based on the evidence available to us. We have also had regard to the factors outlined in the Secretary of State's guidance on the EIT.<sup>70</sup>

### **I6.1 Prices and quantities if the measure were varied as proposed**

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<sup>68</sup> Department for Transport, car vehicle statistics VEH0203, published 15 July 2021 [www.gov.uk/government/statistical-data-sets/veh02-licensed-cars](https://www.gov.uk/government/statistical-data-sets/veh02-licensed-cars), accessed 20 September 2021.

<sup>69</sup> The RAC Foundation, [www.racfoundation.org/data/uk-daily-fuel-table-with-breakdown](https://www.racfoundation.org/data/uk-daily-fuel-table-with-breakdown), accessed 29 October 2021.

<sup>70</sup> [www.gov.uk/guidance/trade-remedies-investigations-directorate-trid-dumping-and-subsidisation-investigations-guidance/economic-interest-test](https://www.gov.uk/guidance/trade-remedies-investigations-directorate-trid-dumping-and-subsidisation-investigations-guidance/economic-interest-test)

419. If the measure was varied as proposed, we do not expect any significant changes to prices and quantities to result. However, the mandated increases in biodiesel consumption mean that quantities consumed are expected to increase over the short-to-medium term. In the longer term, however, a transition towards greener means of transport is expected, with the sale of new petrol and diesel cars and vans ending in 2030. As such, the importance of biodiesel for road transport may decrease beyond the short-to-medium term.
420. Current levels of domestic production are expected to remain largely constant given constraints in domestic production capacity, especially in the short-term, so imports are likely to meet the increased demand resulting from the higher RTFO mandates.
421. Whilst the COVID-19 pandemic led to decreased demand during the first lockdown period in 2020, during verification UK producers reported they did not expect the pandemic to have ongoing impacts on demand or production. The COVID-19 pandemic has increased global shipping prices, which may affect the relative competitiveness of biodiesel sourced from different markets.
422. Table I.2 below summarises the expected impacts on the various components of the supply chain if the measure were to be varied as proposed, considering current and anticipated future trends. As the EIT analysis is of the impacts of the proposed measure, the impacts below apply to FAME. Additionally, no evidence was provided to suggest any significant potential impact on the market for by-products of biodiesel if the measure were varied or revoked.

**Table I.2: Expected impacts on prices and quantities of affected products if the measure were varied**

Products	Prices	Quantities
Upstream products	No change	No change
UK biodiesel	No change	No change

<b>Imported biodiesel</b>	No change	Increase based on previous trends whereby biodiesel is increasingly imported to meet rising demand.
<b>Downstream products</b>	No change	No change

## **I6.2 Prices and quantities if the measure were revoked**

423. If the current measures were revoked, US biodiesel imports would become cheaper, likely by an amount up to the value of the current measures (the current rate for all companies unless otherwise specified is £144.10/mT). As discussed in the dumping likelihood assessment, there is available US production capacity that could be used to supply the UK market. The UK is likely to be an attractive market for US exports and the injury likelihood assessment also found that US imports of FAME have the potential to undercut current domestic prices.
424. As discussed in the dumping likelihood assessment, the available production capacity could be used to supply the UK market if the measures were revoked. The assessment found that imports of FAME from the US have the potential to undercut domestic prices, posing a threat of injury to UK producers.
425. The overall demand for biodiesel in the UK is not expected to change if the measure were revoked (beyond the increases expected due to increasing RTFO mandates). The RTFO mandates and overall demand for diesel determine biodiesel demand, and demand is likely to be relatively insensitive to changes in price.
426. If US exporters started undercutting domestic producers, other suppliers would need to reduce their prices to remain competitive. Their ability to do so would be constrained by feedstock prices, which heavily influence biodiesel prices. According to UK producers, cheap imports from the US would make the domestic market unviable for biodiesel produced domestically. In the short term it is expected that rather than reducing production they would increase exports to the EU, which producers identified as a possible course of action, should measures be revoked. EU biofuels policy ensures demand for biodiesel, and the EU's decision to maintain measures against US biodiesel means the market is shielded from potential cheaper US imports. The price and quantity of imports from the US would determine the extent to which UK producers



switched from supplying the UK market to the EU market. It is less clear what would happen in the longer term, when it is possible UK production would fall with operations relocating to the EU.

427. If UK producers sought to compete with US imports and continued supplying the UK market, this could put pressure on the upstream feedstock suppliers to decrease their prices. However, as there is a global market for UCO, we consider that there would be limited potential for UK producers to reduce their feedstock costs and it is expected that, in the short term, biodiesel production would continue for export to the EU. Impacts on upstream prices and quantities would be limited in this scenario. In contrast, if domestic biodiesel production were to reduce or stop, there could be some impacts on upstream suppliers. There is global demand for UCO suggesting it could be sold elsewhere: one interested party suggested that UCO could be exported to the EU if domestic demand fell. However, factors including increased transport costs would lead to decreased sales revenues.
428. With imports representing a large share of the market, the response of third country imports to competition from US imports will be an important determinant of the resulting market price. If US imports displace domestic biodiesel, importers' sales could increase overall, while if they displace imports from other countries the impact on importers is less clear. The ability for imports from third countries to compete on price with cheap US imports is unknown because no evidence about it was received from importers, so the overall impact on imports is uncertain.
429. If the measure were revoked, the downstream parts of the supply chain would be expected to benefit from any reductions in the price of biodiesel. Where biodiesel is sold in blended form the price reductions will be less significant as a proportion of purchase price. Competition between forecourts means that any upstream reductions in price would be expected to be passed through the supply chain (see Section I6.3.5). This would not be expected to affect quantities significantly, however, given the relative price inelasticity: users' demand is for diesel, driven by transportation needs, and they will have a limited (if any) ability to switch away from biodiesel without changing their vehicle or mode of transport.
430. Table I.3 below summarises the impact upon the various components of the supply chain as a result of the measure being revoked.

**Table I.3: Expected impacts on prices and quantities of affected products if the measure were revoked**

Products	Prices	Quantities
<b>Upstream products</b>	Downward pressure on prices is possible, however overall prices expected to remain similar.	Limited change to quantities expected if domestic producers continue production for export markets, sustaining demand for feedstocks.
<b>UK-produced biodiesel</b>	UK biodiesel prices could decrease if attempting to compete with cheaper imports, but they may instead stop supplying the domestic market.	If producers compete with imports expect some reduction in quantities and UK market share. If in short-term switch to supplying the EU market, production quantities could remain similar.
<b>Imported biodiesel</b>	Cheap imports from the US would lead to fall in average import price. Unknown whether imports from third countries would respond and compete on price.	Increase in imports from the US. Could mean overall increase in quantities imported if UK biodiesel is displaced. Impact less clear if imports from third countries are displaced.
<b>Downstream products</b>	Price reductions expected to be passed through, although effects muted where biodiesel limited to 7% of overall diesel volume sold at forecourts.	No change/negligible due to price inelasticity of demand.

### I6.3 Likely impact on affected industries and consumers

### **I6.3.1 Upstream businesses**

431. If the measure were varied as proposed, demand for upstream inputs is not expected to change as domestic production would be unlikely to significantly change. Prices and quantities of feedstocks are therefore expected to remain stable.
432. If the measure were revoked and UK biodiesel production were to fall, there could be a reduction in the quantities of feedstocks demanded, potentially creating pressure to reduce feedstock prices. If instead UK producers switched to supplying the EU market (at the expense of reduced margins, due to higher transport costs associating with exporting to Europe relative to supplying domestically) this could maintain demand for feedstocks, reducing the risk of negative impacts on upstream industries.

### **I6.3.2 Biodiesel producers**

433. If the measure were varied it is likely that UK biodiesel producers would not be impacted, as their circumstances would not change. If variation of the measures, combined with the increasing RTFO mandate, enabled investment and expansion of capacity there could be positive impacts in the longer term in the form of increased production.
434. If the measure were revoked and lower priced imports from the US increased this would likely have a negative impact on domestic producers. With limited ability to compete on price it is possible that their quantities would reduce. However, production could continue if producers could export to the EU but would still be negatively impacted with reduced profitability. Respondents also noted the potential for negative impacts on investment, which could further harm competitiveness over the longer term.

### **I6.3.3 Biodiesel importers**

435. Importers of FAME are unlikely to be impacted if the measure were varied as the circumstances for them would not change.
436. Imports from the US would be expected to increase if the measure were revoked. This could have a positive impact on some importers if they were able to increase their sales by selling more competitively priced biodiesel. However, it is uncertain

whether imports from third countries would be able to compete on price with US biodiesel. If not, imports from third countries could decrease making the overall impact on importers less clear.

437. It is noted that, compared to the current situation, importers of HVO will benefit from being able to import from the US. This benefit would be the same whether the measure is varied as proposed or revoked, and as HVO is not covered by the proposed measure it is outside the scope of our assessment.

#### **16.3.4 Downstream businesses**

438. If the measure were varied, there is unlikely to be an impact on downstream businesses.

439. The expected reduction in price if the measure were revoked could have a positive impact on downstream businesses. Technical constraints (the blend wall) would limit the extent to which demand could increase in response to the reduction in price, but downstream businesses would benefit from reduced costs. It is expected that cost reductions would be passed on to final consumers, which could also limit the benefits to downstream businesses.<sup>71</sup>

#### **16.3.5 Consumers**

440. If the measure were varied, it is not expected that consumers would be impacted as prices and quantities would continue with their current trends.

441. If the measure were revoked, it is expected that the reduced cost of biodiesel would be passed on to final consumers. The impact on price paid at the pump would depend on the extent of US import penetration and how much it reduced the domestic market price of biodiesel. The assumption of cost pass-through is consistent with DfT analysis, so is considered reasonable. According to the RAC there can be a two-week lag while changes in price work through the supply chain<sup>72</sup>; and the

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<sup>71</sup> DfT analysis of the RTFO assumes there is full cost pass-through to the motorist, so a similar assumption is considered suitable here. Source: DfT (2021), 'Annex A: cost-benefit analysis for next steps for the Renewable Transport Fuels Obligation', accessed 15 September 2021. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1012779/annex-a-cost-benefit-analysis-for-next-steps-for-the-renewable-transport-fuels-obligation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012779/annex-a-cost-benefit-analysis-for-next-steps-for-the-renewable-transport-fuels-obligation.pdf)

<sup>72</sup> RAC, [www.rac.co.uk/drive/advice/fuel-prices/what-affects-the-price-of-fuel/](http://www.rac.co.uk/drive/advice/fuel-prices/what-affects-the-price-of-fuel/), accessed 6 December 2021.

organisation has recently highlighted how price reductions have not been passed on to consumers in a timely manner.<sup>73</sup> Benefits to consumers from revoking the measure would be lower if reduced costs were not passed on in full.

442. Insufficient evidence has been provided to enable us to develop robust estimates of the possible price impact for consumers, but vehicle and fuel consumption statistics can provide an indication of the possible scale of impact. There were 11.9m diesel cars on the road at the end of 2020<sup>74</sup>, and in 2018 (the most recent data available) diesel consumption by cars and taxis totalled 10.8 million tonnes (12.2bn litres)<sup>75</sup>. On average this means diesel consumption of around 1,000 litres per car each year. Even a small difference in the price per litre could aggregate to a significant cost impact overall – for example, over one year a 1p/litre change would be equivalent to just £10 per car (0.8% of the estimated average total spend of £1,263 per year),<sup>76</sup> but across all cars would total around £120m.
443. While it is therefore possible that impacts on consumers could be significant overall, the impact on individual consumers is not expected to be significant. This is supported by the fact that none of the submissions received have suggested that impacts on consumers are a concern. Publicly available analysis of the RTFO by DfT was considered for further information on the costs of biodiesel to consumers, but no biodiesel-specific price impacts were found. DfT consulted on proposed amendments to the RTFO in March 2021, including an increase in the RTFO main obligation. According to the government response to the consultation,<sup>77</sup> 81 out of 84 respondents supported an increase to the main obligation, with three thinking it should stay the same and none saying it should decrease. While the RTFO is a separate policy with its own objectives, we could infer from this that the overall cost of biodiesel to motorists is not a wider concern, which suggests the possible benefit to consumers if the measure were revoked may not be significant.

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<sup>73</sup> RAC press release 3 December 2021, 'Retailers take drivers for a ride by hiking petrol prices another 3p in November while wholesale prices fall', <https://media.rac.co.uk/pressreleases/retailers-take-drivers-for-a-ride-by-hiking-petrol-prices-another-3p-in-november-while-wholesale-prices-fall-3148526>, accessed 6 December 2021.

<sup>74</sup> DfT Vehicle Licensing Statistics: cars, table VE0203. Accessed 7 October 2021. Available at: [www.gov.uk/government/statistical-data-sets/veh02-licensed-cars](http://www.gov.uk/government/statistical-data-sets/veh02-licensed-cars)

<sup>75</sup> DfT Energy and Environment data tables, table ENV0101, accessed 7 October 2021. Available at: [www.gov.uk/government/statistical-data-sets/energy-and-environment-data-tables-env](http://www.gov.uk/government/statistical-data-sets/energy-and-environment-data-tables-env)

<sup>76</sup> Based on average fuel prices during the POI, published by BEIS at [www.gov.uk/government/statistical-data-sets/oil-and-petroleum-products-weekly-statistics](http://www.gov.uk/government/statistical-data-sets/oil-and-petroleum-products-weekly-statistics), accessed 29 October 2021

<sup>77</sup> DfT, 'Targeting next zero – next steps for the Renewable Transport Fuel Obligation: government response', July 2021. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1020709/targeting-net-zero-next-steps-for-the-renewable-transport-fuels-obligation-government-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1020709/targeting-net-zero-next-steps-for-the-renewable-transport-fuels-obligation-government-response.pdf), accessed 15 September 2021

**Table I.4: Expected impacts on affected groups if the measures were to be varied as proposed rather than revoked**

<b>Group</b>	<b>Expected impacts</b>
<b>Upstream businesses</b>	<b>Overall small positive impact.</b> The demand for upstream inputs is derived from the demand of biodiesel produced within the UK. Varying the measure as proposed would therefore preserve the upstream market.
<b>UK biodiesel industry</b>	<b>Overall positive impact.</b> Varying the measure would protect domestically produced biodiesel from likely undercutting by cheaper US biodiesel. Domestic production, sales and profits would be sustained.
<b>Biodiesel importers</b>	<b>Overall small negative impact.</b> Importers would not benefit from being able to source cheaper imports from the US.
<b>Downstream businesses</b>	<b>Small negative impact overall.</b> Downstream suppliers would not be able to benefit from cheaper biodiesel.
<b>Consumers</b>	<b>Negative impact, potentially sizeable overall.</b> Consumers would not be able to benefit from lower costs. Individual impact might not be significant (since biodiesel only 7% of the fuel bought by diesel drivers) but on aggregate impacts could be sizeable.

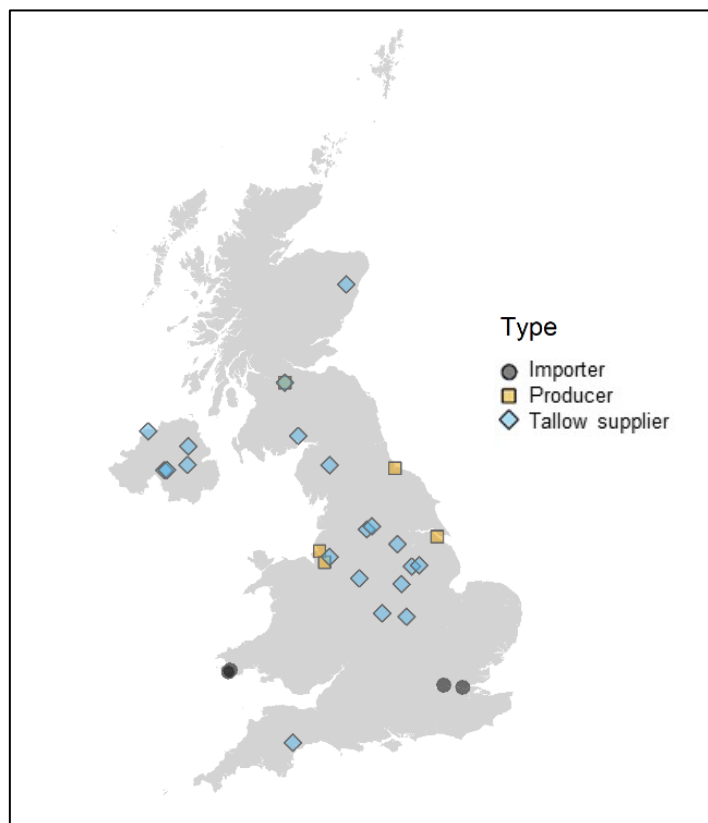
## **I7. Likely impact on particular geographic areas or particular groups**

444. The previous section assessed the overall impacts of the proposed measures. This section looks at how these impacts are distributed. The TRA considers how impacts are likely to be distributed by geography and whether any particular groups might be disproportionately impacted.

## 17.1 Likely impact on particular areas

445. Figure I.3 below shows the locations of the known upstream, production and import biodiesel entities. This shows there is distribution across the UK, with numerous upstream businesses in the Midlands and Northern Ireland. Downstream entities are omitted from the graph given a lack of information and the number and nationwide distribution of fuel forecourts.

**Figure I.3: Map illustrating geographical locations of entities within the biodiesel supply chain.**



Sources: questionnaire responses and FABRA UK website, [www.fabrauk.co.uk/our-members](http://www.fabrauk.co.uk/our-members), accessed 28 October 2021

## 17.2 Upstream businesses

446. As UCO is sourced from across the UK (for instance, 700 of Marston's pubs supply UCO) we do not expect any particular geographic impacts related to this group.
447. Based on the locations listed on FABRA's website, tallow producers operate across 19 local authority areas, with locations in England, Scotland, and Northern Ireland. Mid Ulster is the only local authority with more than one producer. Comparing local authority working age population data to Companies House data for the listed producers suggests that tallow producers are not a significant source of local employment, representing less than 1% of the total working age population across all locations for which data was available.<sup>78</sup> This represents an upper bound estimate because not all employment will be linked to biodiesel and some suppliers have other food processing/production operations. As such, regional impacts are expected to be limited.

## 17.3 UK producers

448. UK producers operate across six local authorities. Across all areas, the employment linked to biodiesel is significantly less than 1% of the local working age population. This suggests that significant geographic impacts for this group are unlikely.
449. Some biodiesel production sites are in relatively more deprived areas. Considering economic activity and unemployment rates as well as average earnings, four of the locations fall within the bottom 20% of local authorities on at least one of these statistics, which were North Lanarkshire and Liverpool for economic activity, North Lanarkshire and Stockton-on-Tees for the unemployment rate and North East Lincolnshire for average earnings.<sup>79</sup> Therefore, while overall biodiesel employment in each area is not significant, it is noted that job losses in these areas could be more damaging than if they were to occur in less deprived areas as it could be harder to find new employment opportunities.

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<sup>78</sup> Based on data sourced from NOMIS, <https://www.nomisweb.co.uk/>. Working age population data not available for Northern Ireland.

<sup>79</sup> Based on data sourced from NOMIS, <https://www.nomisweb.co.uk/>



## **17.4 Importers**

450. We have limited data on importers of biodiesel owing to limited participation in the case. We are aware of three local authorities in which they are based, one of which is for a London-based headquarters which means there could be operations elsewhere.
451. Local authorities where importers operate are not typically within the bottom 20% of UK local authorities. From this, we expect that these local authorities are less likely to experience geographic impacts.

## **17.5 Downstream businesses**

452. We have limited information on regional impacts for this part of the supply chain. However, considering that downstream entities include fuel suppliers such as fuel forecourts, we expect downstream stakeholders to be distributed across the UK. As such, downstream geographical impacts are expected to be limited.

## **17.6 Overall geographic impacts**

453. The potential cumulative impacts have also been considered, noting that there could be multiple entities across the supply chain located within the same area. Only two instances of this have been identified:
- Two tallow producers in Mid Ulster
  - One biodiesel producer and one tallow producer in North Lanarkshire
454. For North Lanarkshire, the combined employment was found to be significantly less than 1% of the total working age population. This suggests that cumulative impacts would not be expected to have any significant regional impacts. Cumulative employment data for Mid Ulster was unavailable.
455. The available evidence does not suggest that there are areas where a significant proportion of local employment is likely to be affected by the proposed measure. Some upstream tallow producers and biodiesel producers are located in regions that are

relatively deprived. As such any job losses in these locations could have a greater impact than in areas that are relatively less deprived.

## **I8. Likely impact on particular groups**

456. The TRA considered the likely impact on particular groups including those with protected characteristics as defined by the Equality Act 2010.

457. No party provided any evidence with respect to potential impacts on any particular groups, either as workers or consumers. There is nothing in the available evidence to suggest that any particular groups will be affected by the extension, revocation, or variation of the measure.

## **I9. Likely consequences for the competitive environment**

458. The assessment of likely consequences for the competitive environment and structure of the UK biodiesel market considers the impact on the:

- number or range of biodiesel suppliers,
- ability of biodiesel suppliers to compete,
- incentives to compete vigorously, and
- choices and information available to consumers.

### **I9.1 Background**

459. The RTFO effectively guarantees a certain level of demand for biodiesel by making consumers' demand for biodiesel a derived demand based on the demand for diesel.

460. The TRA has estimated market shares for the UK biodiesel market using production and sales data verified from questionnaires, supplemented by biodiesel consumption statistics<sup>80</sup>. UK production is estimated to represent around one-third of UK biodiesel consumption, with the remainder supplied by imports. The difference between market shares across producers is substantial, with Greenergy a significantly larger producer than Argent and Olleco. Greenergy also imports around twice as much biodiesel as it produces in the UK, making it the biggest player in the market with a significant overall share of the UK market.

## **19.2 The impact on the number or range of suppliers**

461. In addition to the three domestic producers, we are aware of 11 importers during the injury period based on HMRC's UKTradeInfo. DfT identifies a total of 34 suppliers<sup>81</sup> operating in the renewable fuels market in 2019. As biodiesel is just one segment of this market, the estimate of 34 firms is considered to represent an upper-bound of the number of biodiesel suppliers.

462. If the existing measure were varied, it is expected that the number and range of suppliers would remain largely constant, especially within the short-term. Over time, it is likely that the number or range of suppliers will evolve: DfT statistics show that 4 new renewable fuel suppliers entered the market between 2018 and 2019.<sup>82</sup> As biodiesel is a developing market some changes are to be expected over time regardless of whether the current measure is varied or not. Additionally, barriers to entry within the biodiesel industry do exist, including in the form of technological barriers, alongside technological and regulatory restrictions.

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<sup>80</sup> DfT, RTFO Statistics, [www.gov.uk/government/statistics/renewable-fuel-statistics-2019-final-report](http://www.gov.uk/government/statistics/renewable-fuel-statistics-2019-final-report), Table RF\_0101, accessed 7 September 2021. It should be noted that we only have UK consumption data on a provisional basis for 2020 but this has been used alongside final 2019 data in our analysis and we do not expect any revisions to affect our analysis.

<sup>81</sup> Department for Transport (2020): Renewable Fuel Statistics 2019 Final Report. Accessed 6 July 2021. Available from [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/932933/renewable-fuel-statistics-2019-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932933/renewable-fuel-statistics-2019-final-report.pdf)

<sup>82</sup> As above.

463. If the measure were revoked the number of suppliers could increase, with US suppliers better able to enter the market and compete. However, a revocation of the measure may drive domestic producers out of the UK market, who have stated that they may be forced to export production to the EU.

### **19.3 Impact on the ability of suppliers to compete**

464. Interested parties have stated that the UK biodiesel market is competitive, with prices following EU and internationally set prices. This seems to be supported by the number of suppliers in the market, and although it is noted that Greenergy has a significant market share, international competition means the competitive forces could be greater than indicated by the number of suppliers and their market shares.
465. We found no evidence to suggest that if the measure were varied as proposed it would impact the ability of suppliers to compete compared to the current competitive environment. Varying the measure is expected to continue to limit supply of US biodiesel to the UK market.
466. Revoking the measure could increase competition by enabling US biodiesel to enter the market. However, if UK producers left the market this could offset some of the increases in competition. With technological and regulatory barriers to entry it is considered more likely that existing suppliers would buy US biodiesel, rather than new entrants joining the market.

### **19.4 Impact on the incentives to compete vigorously**

467. The TRA has received no evidence that varying the measure would impact on suppliers' incentives to compete vigorously. Producers stated within their submissions to the TRA that the UK biodiesel market is highly competitive. The higher price point of HVO could act as an upper bound for FAME prices, providing some price pressure for suppliers of FAME to maintain competitive pricing. While Greenergy has a sizeable market share the market still appears to be competitive because all fuel suppliers have to compete in a global market for the biodiesel they import.
468. If the measure were revoked and there was an increase in imports from the US at competitive prices it can be anticipated that the incentive to compete vigorously could increase further.

## **I9.5 Impact on the choices and information available to consumers**

469. We found no evidence to suggest that the information available to consumers would be affected if the measure were to be varied as proposed, compared to the current competitive environment. Similarly, if the measure were revoked, it is not expected that the information available to consumers would be impacted. Under both scenarios, imports of HVO from the US could become more readily available, which could increase the choices available to consumers – including those who could use HVO for heating as well as users of it for transportation.

## **I10. Other factors/such other matters as we consider relevant**

470. As part of the EIT assessment, the TRA has to consider any other factors that may be relevant in concluding whether the proposed trade remedy measures are in the economic interest of the UK.

471. Considering environmental arguments raised by interested parties and contributors during this transition review, renewable transport fuels deliver approximately 33% of the Government's carbon emissions reductions targets,<sup>83</sup> whilst the creation of an economic market for upstream inputs, including UCO, prevents the disposal of such in an environmentally adverse manner, which may create fatbergs within the sewerage system, with resulting long-term economic costs.

472. Biodiesel has a lower carbon emissions impact than mineral diesel, and biodiesel produced from sustainable sources can have other environmental benefits, such as diverting waste oils to productive streams. Indeed, FAME, as produced in the UK from UCO, is more environmentally friendly relative to US-produced SME given reduced land, water, and energy use. It is recognised that the UK biodiesel market, through the RTFO, is intended to increase uptake of sustainable low carbon fuels. We have not been able to assess the economic impacts arising from environmental considerations in further detail based on the available evidence.

## **I11. Form of measure**

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<sup>83</sup> Renewable Transport Fuel Association Questionnaire Response

473. Within the EIT, we have also considered the most appropriate form of measure to recommend, in particular whether any changes to the length or scope of measure would best minimise the negative impacts of the measure on some parties while retaining the overall benefits.
474. When measures on biodiesel originating from the US were originally imposed, the European Commission considered a specific duty to be most appropriate for effective implementation given that the measures would apply to biodiesel in different blends.
475. We found no evidence suggesting that a different form of measure than the variation we intend to propose would be more appropriate. The recommended form of measure remains a specific duty with a duration of five years.

## **I12. Conclusions**

476. In accordance with paragraph 25 of Schedule 4 to the Act, the EIT is met in relation to the application of an anti-dumping remedy if the application of the remedy is in the economic interest of the UK. This test is presumed to be met unless we are satisfied that the application of the remedy is not in the economic interest of the UK.
477. Following the likelihood assessments, our recommendation is to vary the measure on imports of biodiesel from the US, remaining in place at the same level for the reduced scope of goods and extending the duration for five years. In this section we have considered whether this would be in the economic interest of the UK.
478. In the injury section, we concluded that it would be likely that UK producers would incur injury if the measure were to be revoked. Section G established that dumped US imports would be able to meaningfully compete on the UK market, charging lower prices than currently prevail, and that owing to spare capacity the US has the ability to export in large volumes in the short-term.
479. In the significance section, we found that the biodiesel industry contributes around £14bn in GVA to the UK economy. The analysis also found that the downstream industry (including importers) is relatively more significant than the upstream industry and domestic producers, although biodiesel-specific data was only found for the producers, so statistics are not like-for-like. Biodiesel production provides a revenue stream for the waste products used as feedstocks that in many cases would not

otherwise have a market. This supports wider sectors such as the restaurant and hospitality industries. Biodiesel forms part of the downstream oil supply chain, which is highly integrated. As such the downstream sectors are economically significant but much of this is not directly attributable to biodiesel.

480. Within the impacts section, we found that varying the anti-dumping measure for FAME is likely to benefit domestic producers and upstream industries. Varying the measure would enable producers to maintain their market shares and domestic sales. This would ensure a continued market for the upstream feedstock industries, as it has been established that the demand for upstream inputs is generated by domestic biodiesel production. In contrast, revoking the measure could lead to cheaper US biodiesel imports displacing UK producers. UK production could fall or be exported to Europe, reducing profitability. The downstream industry could benefit from cheaper imports, however impacts are not expected to be significant due to the breadth of the downstream industry and because price changes are expected to be passed through to consumers. Consumers would benefit from lower prices if the measure were revoked, and although the price impact is unknown it is recognised that a large number of drivers would be affected. As the demand for biodiesel is derived from the demand for diesel (which is relatively price inelastic) through the RTFO, quantities demanded of biodiesel are not expected to be affected whether the measure is varied or revoked.
481. In the section assessing the likely impacts on particular geographic areas and particular groups, we did not find that there were likely to be any substantial geographic impacts from varying or revoking the measure. Employee numbers were found to be low relative to the local area in all cases suggesting regional impacts would be unlikely. We found no evidence to indicate that particular groups, including those with protected characteristics as defined within the 2010 Equality Act, would be impacted.
482. In the competition assessment, we found that the biodiesel market is relatively concentrated in terms of fuel suppliers but relies on imports for which there is global competition. If the measure were varied as proposed, no significant impacts on the competitive environment and structure of the UK market are expected. Revoking the measure would mean US imports could compete at lower prices, making it difficult for domestic producers to compete. It is uncertain whether imports from third countries could compete on price. While the source of biodiesel is expected to change if the measure were revoked, it would likely be the existing importers and suppliers who would switch toward buying US biodiesel rather than new entrants joining the market.

483. In accordance with regulation 100A(2)(a) of the Regulations, we must be satisfied that any application of an anti-dumping or anti-subsidy remedy meets the EIT. This test is presumed to be met unless we are satisfied that the application of the remedy is not in the economic interest of the UK.

484. We have identified the following key positive impacts of varying the measure, as compared to revoking it:

- Benefits to UK biodiesel producers from removing the likelihood of injury, enabling them to maintain their market shares and revenues. Revocation could entail potential job-losses resulting from the closure of the UK's biodiesel production facilities. The RTFA stated within their questionnaire response that an estimated 1,675 jobs are directly associated with the biodiesel industry and production is located in economically disadvantaged areas. The RTFA also expressed concern that revocation of the measure could deter future investments in new renewable fuel production facilities. Furthermore, a domestic producer has also stated that a revocation of the measures would negatively impact investment appetite for waste-based biodiesel production in the UK.
- Benefits to upstream feedstock suppliers whose income from feedstock sales would fall if the UK biodiesel producers suffered injury.

The key negative impacts of varying the measure are:

- Importers and the downstream supply chain would not be able to benefit from cheaper biodiesel from the US, although with price changes expected to be passed through to consumers benefits are considered unlikely to be significant.
- Consumers would not benefit from any lower prices resulting from cheaper US imports. While no evidence was provided on how much biodiesel costs the consumer, even small individual price impacts could be large on aggregate. However, the impact on prices if the measure were revoked is also uncertain, and they might not reduce by the amount of the measure, for instance if domestic supply fell and wasn't replaced by cheaper imports or if savings weren't fully passed-through.

485. Considering how the costs and benefits of varying the measure might compare, it is possible that the aggregate costs for consumers could be greater than the benefits of addressing the injury to UK industry because almost 12m diesel cars are owned in the UK. However, none of the submissions received suggested impacts on consumers were a concern, and our



consideration of publicly available sources did not identify any evidence suggesting consumers could be disproportionately impacted, or that they have been impacted by the current measures which have been in place since 2009. It is also noted that in DfT's recent consultation on the RTFO, 81 of 84 respondents supported an increase to the main obligation which would increase costs for consumers, which could suggest the overall cost of biodiesel to motorists is not a major concern.

486. Without evidence of the possible consumer price impacts, it is uncertain how the potential negative impacts on consumers compare to the benefits to producers and upstream suppliers. As the default presumption is that the EIT is met, we only consider the test not to be met if the negative impacts on the UK economy are disproportionate to the need to remove injury to the UK industry. More complete evidence on the impacts on consumers of varying the measure would have helped this assessment. Based on the information identified, and in the absence of more complete evidence, costs do not appear disproportionate to the need to remove the injury to UK industry.

487. Based on the evidence available and having considered all of the factors listed in the legislation, under the default presumption we conclude that the Economic Interest Test is met for the proposed variation of the anti-dumping duties.

## **SECTION J: Findings and Final Recommendation**

### **J1. Findings**

- It is likely, on the balance of probabilities, that dumping of FAME from the US and consigned from Canada, would occur if the anti-dumping duty were no longer applied.
- It is likely on the balance of probabilities, that injury to the UK industry would occur from importation of FAME from the US and consigned from Canada if the anti-dumping duty were no longer applied.
- It is likely, on the balance of probabilities, that dumping of HVO from the US and consigned from Canada would occur if the anti-dumping duty were no longer applied.
- It is likely on, the balance of probabilities that injury to the UK industry would not occur from importation of HVO from the US if the anti-dumping duty were no longer applied.
- The application of the anti-dumping duty meets the EIT.

### **J2. Final Recommendation**

488. Our recommendation is to vary the application of the anti-dumping amount under regulation 100A of the Regulations in relation to the goods subject to review, with the exception of HVO, and revoke the application of the anti-dumping amount in relation to HVO under 100B of the Regulations. The anti-dumping amount in relation to HVO will be revoked from 30 January 2021 in accordance with regulation 100B(2) of the Regulations.
489. As it has not been possible to recalculate the anti-dumping amount, we recommend maintaining the anti-dumping amount in relation to the goods subject to review, with the exception of HVO, under regulation 100A(4)(b) of the Regulations for a period ending on 30 January 2026.
490. The measure will therefore be revoked in relation to HVO, which falls under the following commodity codes:

27 10 19 43 21  
 27 10 19 43 29  
 27 10 19 43 30  
 27 10 19 46 21  
 27 10 19 46 29  
 27 10 19 46 30  
 27 10 19 47 21  
 27 10 19 47 29  
 27 10 19 47 30

491. These goods will be removed from category 1 and 2 descriptions of the goods, so that the measure will apply to biodiesel as follows:

***“Category 1 Goods (biodiesel, pure or blend, greater than 20% biodiesel content)***

*Fatty-acid mono-alkyl esters (FAME) and/or paraffinic gasoil obtained from synthesis of non-fossil origin, commonly known as ‘biodiesel’. In a pure form or in a blend containing by weight more than 20%, fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis of non-fossil origin, originating in the United States of America and consigned from Canada.*

AND

***Category 2 Goods (biodiesel, blend, less than 20% biodiesel content)***

*Fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis of non-fossil origin, commonly known as ‘biodiesel’, in a blend containing by weight 20% or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis of non-fossil origin, originating in the United States of America.”*

492. The commodity codes to which the measures will be maintained and will continue to apply will be as follows:

15 16 20 98 21	27 10 20 11 21	38 26 00 10 20
15 16 20 98 29	27 10 20 11 29	38 26 00 10 29
15 16 20 98 30	27 10 20 11 30	38 26 00 10 50

15 18 00 91 21	27 10 20 16 21	38 26 00 10 59
15 18 00 91 29	27 10 20 16 29	38 26 00 10 89
15 18 00 91 30	27 10 20 16 30	38 26 00 10 99
15 18 00 99 21	38 24 99 92 10	38 26 00 90 11
15 18 00 99 29	38 24 99 92 12	38 26 00 90 19
15 18 00 99 30	38 24 99 92 20	38 26 00 90 30

493. Annex 1 and Annex 2 specifies the duties to be maintained and applied to the goods described or imported under the above UK tariff codes. The duties specified in Annex 1 will not apply to goods produced by an overseas exporter listed in Annex 3. In the absence of any data, we have maintained the form and levels of the original EU measures that are the subject of this review.

## Annex 1: Duty amount and additional TAP codes for category 1 goods

Foreign country or territory	Overseas exporter	Duty amount GBP (£) per tonne net	Additional TAP code
Canada	All overseas exporters (except those specified in Annex 3)	144.109	B999
United States	Archer Daniels Midland Company, Decatur	57.409	A933
	Cargill Inc., Wayzata	Nil	A934
	Green Earth Fuels of Houston LLC, Houston	59.083	A935
	Imperium Renewables Inc., Seattle	64.021	A936
	Peter Cremer North America LP, Cincinnati	165.7	A937
	World Energy Alternatives LLC, Boston	69.209	A939
	Overseas exporters specified in Annex 4	96.742	(per Annex 4)
	All other overseas exporters (residual amount)	144.109	A999
	Overseas exporters specified in Annex 5	144.109	(per Annex 5)

## Annex 2: duty amount and additional TAP codes for category 2 goods

Foreign country or territory	Overseas exporter	Duty amount GBP (£) per tonne net	Additional TAP code
United States	Archer Daniels Midland Company, Decatur	57.409	A933
United States	Cargill Inc., Wayzata	Nil	A934
United States	Green Earth Fuels of Houston LLC, Houston	59.083	A935
United States	Imperium Renewables Inc., Seattle	64.021	A936
United States	Peter Cremer North America LP, Cincinnati	165.7	A937
United States	World Energy Alternatives LLC, Boston	69.209	A939
United States	Overseas exporters specified in Annex 4	96.742	(per Annex 4)
United States	All other overseas exporters (residual amount)	144.109	A999
United States	Overseas exporters specified in Annex 5	144.109	(per Annex 5)

### Annex 3: exception to duty on category 1 goods for specified overseas exporter

Foreign country or territory	Overseas exporter	Additional TAP code
Canada	BIOX Corporation, Oakville, Ontario	B107
Canada	DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia	C114
Canada	Rothsay Biodiesel, Guelph, Ontario	B108

The exemptions granted to the companies in Annex 3 will be conditional upon presentation to the customs authorities of a valid commercial invoice. If no such invoice is presented, the countervailing duties imposed in Annex 1 will apply.

### Annex 4: Overseas exporters subject to £96.742 per tonne duty amount

Overseas exporter	Location	Additional TAP code
AC & S Inc.	Nitro	A941
AG Processing Inc.	Omaha	A942
Alabama Clean Fuels Coalition Inc.	Birmingham	A940
American Made Fuels, Inc.	Canton	A940
Arkansas SoyEnergy Group	DeWitt	A940
Arlington Energy, LLC	Mansfield	A940

Athens Biodiesel, LLC	Athens	A940
Beacon Energy	Cleburne	A940
Biodiesel of Texas, Inc.	Denton	A940
BioDiesel One Ltd	Southington	A940
BioPur Inc.	Bethlehem	A941
Buffalo Biodiesel, Inc	Tonawanda	A940
BullDog BioDiesel	Ellenwood	A940
Carbon Neutral Solutions, LLC	Mauldin	A940
Central Iowa Energy, LLC	Newton	A940
Chesapeake Custom Chemical Corp.	Ridgeway	A940
Community Fuels	Stockton	A940
Delta BioFuels, Inc.	Natchez	A940
Diamond Biofuels	Mazon	A940
Direct Fuels	Eules	A940
Eagle Creek Fuel Services, LLC	Baltimore	A940
Earl Fisher Bio Fuels	Chester	A940
East Fork Biodiesel, LLC	Algona	A940
ECO Solutions, LLC	Chatsworth	A940
Ecogy Biofuels, LLC	Tulsa	A940
ED & F Man Biofuels Inc.	New Orleans	A940
Freedom Biofuels, Inc.	Madison	A940
Freedom Fuels LLC	Mason City	A941
Fuel & Lube, LLC	Richmond	A940
Fuel Bio	Elizabeth	A940
FUMPA Bio Fuels	Redwood Falls	A940
Galveston Bay Biodiesel, LP (BioSelect Fuels)	Houston	A940
Geo Green Fuels, LLC	Houston	A940



Georgia Biofuels Corp.	Loganville	A940
Green River Biodiesel, Inc.	Moundville	A940
Griffin Industries, Inc.	Cold Spring	A940
High Plains Bioenergy	Guymon	A940
Huish Detergents, Inc.	Salt Lake City	A940
Incobrasa Industries, Ltd.	Gilman	A940
Independence Renewable Energy Corp.	Perdue Hill	A940
Indiana Flex Fuels	LaPorte	A940
Innovation Fuels, Inc.	Newark	A940
Integrity Biofuels	Morristown	A941
Iowa Renewable Energy, LLC	Washington	A940
Johann Haltermann Ltd.	Houston	A940
Lake Erie Biofuels, LLC	Erie	A940
Leland Organic Corporation	Leland	A940
Louis Dreyfus Agricultural Industries, LLC	Wilton	A940
Louis Dreyfus Claypool Holdings LLC	Claypool	A940
Memphis Biofuels, LLC	Memphis	A942
Middle Georgia Biofuels	East Dublin	A940
Middletown Biofuels, LLC	Blairsville	A940
Musket Corporation	Oklahoma City	A940
Natural Biodiesel Plant LLC	Hayti	A941
New Fuel Company	Dallas	A940
North Mississippi Biodiesel	New Albany	A940
Northern Biodiesel, Inc.	Ontario	A940
Northwest Missouri Biofuels, LLC	St. Joseph	A940
Nova Biofuels Clinton County, LLC	Clinton	A940
Nova Biosource	Senaca	A940

Organic Technologies	Coshocton	C482
Organic Fuels, Ltd	Houston	A940
Owensboro Grain Company LLC	Owensboro	A940
Paseo Cargill Energy, LLC	Kansas City	A940
Peach State Labs, Inc.	Rome	A940
Perihelion Global, Inc.	Opp	A940
Philadelphia Fry-O-Diesel Inc.	Philadelphia	A940
Piedmont Biofuels Industrial LLC	Pittsboro	A941
Pinnacle Biofuels, Inc.	Crossett	A940
PK Biodiesel	Woodstock	A940
Pleasant Valley Biofuels, LLC	American Falls	A940
Prairie Pride	Deerfield	A941
RBF Port Neches LLC	Houston	A940
Red Birch Energy, Inc.	Bassett	A940
Red River Biodiesel Ltd.	New Boston	A940
REG Ralston, LLC	Ralston	A940
Renewable Energy Products, LLC	Santa Fe Springs	A940
Riksch BioFuels LLC	Crawfordsville	A940
Safe Renewable Corp.	Conroe	A940
Sanimax Energy Inc.	DeForest	A940
Scott Petroleum	Itta Bena	A942
Seminole Biodiesel	Bainbridge	A940
Southeast BioDiesel LLC	Charlotte	A941
Soy Solutions	Milford	A940
SoyMor Biodiesel, LLC	Albert Lea	A940
Stepan Company	Northfield	A941
Sunshine BioFuels, LLC	Camilla	A940
TPA Inc.	Warren	A940
Trafigura AG	Stamford	A940

U.S. Biofuels, Inc.	Rome	A940
United Oil Company	Pittsborough	A940
Valco Bioenergy	Harlingen	A940
Vanguard Synfuels, LLC	Pollock	A940
Vinmar Overseas, Ltd	Houston	A938
Vitol Inc.	Houston	A940
Walsh Bio Diesel, LLC	Mauston	A940
Western Dubque Biodiesel, LLC	Farley	A940
Western Iowa Energy, LLC	Wall Lake	A940
Western Petroleum Company	Eden Prairie	A940
Yokaya Biofuels Inc.	Ukiah	A941

## **Annex 5: Overseas exporters subject to £144.109 per tonne duty amount**

<b>Overseas exporter</b>	<b>Location</b>	<b>Additional TAP code</b>
AC & S Inc.	Nitro	A941
BioPur Inc.	Bethlehem	A941
Freedom Fuels LLC	Mason City	A941
Integrity Biofuels	Morristown	A941
Natural Biodiesel Plant LLC	Hayti	A941
Piedmont Biofuels Industrial LLC	Pittsboro	A941

Prairie Pride	Deerfield	A941
Southeast BioDiesel LLC	Charlotte	A941
Stepan Company	Northfield	A941
Yokaya Biofuels Inc.	Ukiah	A941

