



Trade Remedies
Authority

Recommendation to the Secretary of State

Case TS0005

**Transition review of countervailing duties 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 statement sets out 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 countervailing amount; and
- include the following information:
 - the countervailing amount;
 - the goods to which the countervailing amount applies; and

- the period for which the countervailing amount is to apply.

A2. About this review

6. This UK measure gives effect to the European Union (EU) Commission Implementing Regulation (EU) 2015/1519 of 14 September 2015.¹ This recommendation is in respect of a transition review of a United Kingdom (UK) trade remedies measure under regulation 97 of the D&S Regulations.
7. This review concerns countervailing duties 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).

¹ [COMMISSION IMPLEMENTING REGULATION \(EU\) 2015/ 1519 - of 14 September 2015 - imposing definitive countervailing duties on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 18 of Council Regulation \(EC\) No 597/ 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 countervailing amount is necessary or sufficient to offset the importation of subsidised goods

16. Under regulation 99A(1)(a) of the Regulations, we are required to consider whether the application of the countervailing amount is necessary or sufficient to offset the importation of the subsidised 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 importation of the subsidised goods subject to review.
18. Additionally, without data from the import of the subsidised goods, we do not consider it appropriate to recalculate the countervailing 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 importation of the subsidised goods subject to review would occur if the measures were no longer applied.

B4. Likelihood of subsidised imports assessment

21. In accordance with regulations 99A(2)(a)(iii) of the Regulations, we assessed the likelihood that importation of the relevant subsidised goods would occur if the measures were no longer applied (the likelihood of subsidised imports assessment). We determined that:
- it is likely, on the balance of probabilities, that importation of subsidised FAME would occur if the countervailing amount were no longer applied; and
 - it is likely, on the balance of probabilities, that importation of subsidised HVO would occur if the countervailing amount 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 countervailing 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 countervailing amount on FAME were no longer applied; and
 - it is likely, on the balance of probabilities, that injury would not occur if the countervailing amount on HVO 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 countervailing 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 countervailing amount in relation to HVO under 100B of the Regulations. The countervailing amount in relation to HVO will be revoked from 30 January 2021 in accordance with regulation 100B(2) of the Regulations.

25. As it has not been possible to recalculate the countervailing amount, we recommend maintaining the countervailing 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 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 importation of subsidised FAME from the US and consigned from Canada would occur if the countervailing 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 countervailing amount were no longer applied.
 - The application of the countervailing amount on FAME meets the EIT.
 - It is likely, on a balance of probabilities, that importation of subsidised HVO from the US and consigned from Canada would occur if the countervailing 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 countervailing amount were no longer applied.
31. In reaching this recommendation we considered the current and prospective impact of the countervailing amount.

SECTION C: Background

C1. Initiation of the transition review

32. The UK chose to transition 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 countervailing duty on biodiesel originating in the US 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 countervailing 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 countervailing duties on imports of biodiesel originating in the US by implementing [Council Regulation \(EC\) No.598/2009](#) on 7 July 2009. Annex 3 lists the duty rates 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 countervailing 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.598/2009 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 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 countervailing duties applicable to imports of biodiesel originating in the US and consigned from Canada were maintained by the Commission for an additional five 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 Inc., requesting exemption from the extended measures. Following the review, the exemption was granted by the Commission.
42. The most recent [expiry review](#) was initiated by the Commission on 14 September 2020 and concluded on 29 July 2021. The Commission maintained the existing countervailing measures.

C3. Our transition review process

C3.1 The transitioned measure

43. 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 countervailing amount.
44. The transitioned measure applies to biodiesel from the US and consigned through Canada. The rate of countervailing 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

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

C3.2.2 US Exporters

47. 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
48. 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.
49. 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

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

- Greenergy
- Valero
- Green Power Fuels Ltd

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

C3.2.4 Foreign Governments

52. 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

53. 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 RTFA completed a questionnaire and filed additional submissions in relation to product scope. The information received is detailed in Annex 9.

54. 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

55. 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.

56. 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.

57. 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.

58. 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.

59. 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.
60. 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.
61. 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.
62. We published the SEF on 15 December 2021 pursuant to regulation 62 of the D&S 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.

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](#)
62. Greenergy Fuels Limited and Argent Energy Limited both requested that the RTFA submissions be accepted as their responses to the SEF.
63. Valero and Diamond Green Diesel submitted a joint response to the SEF. The TRA will refer to Valero when responding to this joint response.
64. 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.

65. 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

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

Government of Canada

68. 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.
69. 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.
70. 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.
71. For the reasons outlined in paragraph 70, 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

72. 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.
73. 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.
74. 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.
75. 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.
76. Valero commented that the TRA's decision that FAME and HVO are comparable products is based solely on end use but 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.
77. 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.
78. Valero commented that para 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.
79. 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.
80. 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.

81. 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.
82. 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.
83. 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.
84. 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.
85. 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.
86. Valero states that the TRA should compare the US HVO price with a reconstructed UK HVO price, not with the price of FAME.
87. 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.
88. 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.
89. 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.

90. 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.
91. 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.
92. 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.
93. 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.
94. Valero state that blending mandates will lead to increased demand for HVO rather than a stable demand as concluded by the TRA.
95. 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.
96. Valero state that there is increasing market demand for HVO from sectors seeking to decarbonise such as high emitters, steel and aggregate producers.
97. 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.
98. 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.
99. 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.

100. 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.
101. 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.
102. 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.
103. 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

104. 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.
105. 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.
106. The RTFA state the findings and margins of the EU investigations. The TRA notes this.
107. The RTFA state that non-cooperation by US exporters means the recommendation has been based on minimal facts available.

108. 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.
109. 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.
110. 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.
111. 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.
112. 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.
113. 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.
114. 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.
115. 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.
116. 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 110 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.

117. 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.
118. 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.
119. The RTFA challenge the TRA's decision to separate the analysis of FAME and HVO.
120. 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.
121. 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.
122. However, the TRA 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.
123. The RTFA state that higher blend FAME is still a niche market but is the part of the market presenting future opportunities.
124. 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
125. The RTFA state that DGD made several statements which are not true and which misled the TRA.

126. 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.
127. The RTFA provide a report from Zemo Partnership to demonstrate that competition already exists in the market between HVO and higher-blend FAME.
128. 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.
129. 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.
130. 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.
131. The RTFA state that the TRA's the 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.
132. 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.
133. 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.
134. 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.

135. 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.
136. 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.
137. 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.
138. The price adjustment requested by the RTFA is speculative and not occurring. 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.
139. 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.
140. 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.
141. 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.²

142. 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.
143. 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.
144. 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.
145. 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.
146. 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 138 in respect of adjustments.
147. 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.
148. The RTFA state that proposed changes in US blending mandates will lead to reduced demand and additional spare capacity causing an increase in imports.
149. 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 –

² The analysis is based on data available from PRIMA's subscription service.

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.

150. However, the RTFA³ and Valero⁴ 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.
151. 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.
152. 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.
153. 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.
154. 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.
155. The TRA rejects this and finds that the data is based on speculation and variables which are not reflective of the actual market situation.
156. 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

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

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

2022 blending requirements. The TRA did not find this new data changed its conclusions.

157. 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.
158. 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.
159. 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”.
160. 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.
161. 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.
162. 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).
163. The RTFA’s confidential third party provides a pricing formula in appendix 4 to demonstrate that HVO can complete with UK FAME on price.
164. 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.

165. 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.
166. The TRA refers to paragraph 158 in respect of increased capacity.

SECTION D: The Goods

D1. Introduction

167. '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."*

168. 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.

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

D2. Assessment of the goods

170. 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.

171. We received submissions regarding scope from Diamond Green Diesel 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.

172. The following observations have been made regarding physical, chemical, and technical likenesses of FAME and HVO.

D2.1 Production process

173. 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

174. 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

175. 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

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

D2.5 Commercial likeness

177. 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.

D.2.5.1 End Use and Interchangeability

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

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

180. 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.

181. 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

182. DGD also submitted that the selling price of HVO is higher than FAME, providing data indicating an average selling price for HVO of GBP 1,073 mT during the POI, compared to GBP 810 mT for FAME.

183. 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 than FAME, but still remains significantly more expensive than FAME.

184. 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 Road Transport Fuel Obligation (RTFO).

D.2.6 Conclusion

185. 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.
186. Despite these likenesses, 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. Overview

187. 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.
188. 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.

E1.1 Market Size and Structure

189. 1.41 million metric tonnes (mT) of biodiesel were sold on the UK market during 2019. UK producers accounted for approximately 36% of this production.⁵
190. Biodiesel is a commodity good, with demand generated by legislative mandates such as the RTFO, 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.
191. 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.

E1.2 Competition in the Market

192. UK production competes with biodiesel imported into the UK market, blended with mineral diesel into road fuel.

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

193. 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.
194. Imports from the US and Canada are small compared to imports from other countries. Imports account for 64%⁶ 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.

E1.3 Conclusion

195. 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.

⁶ See note 3

SECTION F: Necessary or Sufficient Assessment

F1. Introduction

196. Under regulation 99A(1)(a) of the Regulations, we are required to consider whether the application of the countervailing amount is necessary or sufficient to offset the subsidy of the relevant goods to the UK (the necessary or sufficient assessment).
197. 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.
198. Due to such low levels of imports, we are unable to determine definitively whether the measure is necessary or sufficient to offset the subsidy of the goods subject to review.
199. Additionally, without imports of the goods subject to review, we do not consider it appropriate to recalculate the countervailing amount under regulation 99A(2)(a)(i) of the Regulations.

F2. Conclusion

200. In light of the low levels of imports of the goods subject to review from the US, we are unable to determine definitively whether the application of the countervailing amount is necessary or sufficient to offset the subsidy of the relevant goods to the UK.
201. 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.
202. Under regulations 99A(2)(a)(iii) and 70(6) of the Regulations, we have also considered the likelihood that importation of the subsidised goods subject to review would occur if the measure were no longer applied.

SECTION G: Subsidy Likelihood Assessment

G1. Introduction

203. In accordance with regulations 99A(2)(a)(iii) and 70(6) of the Regulations we have assessed the likelihood that the import of subsidised 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 countervailing amount, as required under regulation 100A(2) of the Regulations.
204. We have considered the likelihood of subsidy 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.
205. Information obtained from secondary sources was used in accordance with the Regulations where primary data was not available.
206. The assessment considered:
- whether subsidised imports to the UK have continued whilst the measure has been in place;
 - whether subsidy programmes are still in place or likely to be put in place in the exporting country;
 - whether relevant subsidised goods are exported to third countries;
 - whether the UK market is attractive to exporters; and
 - whether exporters have previously or habitually circumvented the effects of the trade remedy measure.
207. We conducted this assessment to inform our recommendation as to whether the measure should be varied or revoked.

G2. Have subsidised imports continued whilst the measure has been in place?

208. There have been low levels of 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 importation of subsidised goods from the US and consigned from Canada has not continued during the POI.

G2.1 FAME

209. The TRA has been unable to find reliable publicly available information on US FAME exports to the UK and the total UK imports of all biodiesel is explained in paragraph 101.

G2.2 HVO

210. 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.

G2.3 Conclusion

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

G3. Are subsidy programmes still in place or likely to be put in place in the exporting country?

212. In order to establish whether subsidy programmes are still in place and likely to continue, we have analysed the Federal and State subsidy schemes shown in Table G.1. In general, these subsidies are paid at the point of blending. The majority of exported fuel is blended and the monetary benefit therefore passes to the importer in the price of the fuel.

213. We have considered the subsidy schemes that are in place. The schemes listed in Table G.1 were found to still be in place.

Table G.1: The Federal and State subsidy schemes used to calculate the countervailing amount in 2009 and analysed in the 2015 expiry review

No.	Subsidy type	Programme name
Federal Schemes		
1	Tax Credit	The Biodiesel Mixture Credit (under Title 26, Section 40A (b) (1) of the US Code (USC))
2	Tax Credit	The Biodiesel Credit (under Title 26, Section 40A (b) (2) of the US Code (USC)).
3	Tax Credit	Small Agri-biodiesel Producer Income Tax Credit (under Title 26, Section 40A (b) (4) of the US Code (USC))
4	Tax Credit	Credit for Production of Cellulosic Biofuel
5	Grant	USDA Bioenergy Programme for Advanced Biofuels (BPAB)
State Schemes		
6	Grant	Missouri qualified biodiesel producer incentive fund
7	Grant	Texas fuel ethanol and biodiesel production incentive programme
8	Tax Reduction/ Exemption	Washington State biofuels production tax Exemption
9	Tax Credit	Florida Biofuels Investment Tax Credit
10	Tax Refund	Iowa Biodiesel Producer Tax Refund
11	Grant	Kansas Qualified Biodiesel Fuel Producer Incentive
10	Tax Credit	Kentucky Biodiesel Production Tax Credit

G3.1 Previously identified Subsidy Schemes

214. We have considered the following previously identified subsidy schemes:

G3.1.1 Federal Schemes

G3.1.1.1 The Biodiesel Mixture Credit (under Title 26, Section 40A (b) (1) of the US Code (USC))

215. This programme provides a credit of USD 1.00 for each gallon of biodiesel used to create a mixture of biodiesel and diesel fuel that is sold as fuel. The subsidy has been in place in the US Federal legislation since 2005, and this tax credit

was due to expire on 31 December 2009. The Further Consolidated Appropriations Act 2019 retroactively reinstated this subsidy scheme until 31 December 2022.⁷

216. For the purpose of the biodiesel mixture credit, FAME and HVO are treated the same.⁸

217. We consider that this programme is likely to continue.

G3.1.1.2 The Biodiesel Credit (under Title 26, Section 40A (b) (2) of the US Code (USC))

218. This programme provides a credit of USD 1.00 per gallon for all types of unmixed (neat) biodiesel used as fuel. The subsidy has been in place in the US Federal legislation since 2005, and this tax credit was due to expire on 31 December 2009. The Further Consolidated Appropriations Act 2019 retroactively reinstated this subsidy scheme until 31 December 2022.

219. This subsidy can be claimed as a credit against excise or income tax liability or as a direct cash payment.⁹ For the purpose of the biodiesel mixture credit, FAME and HVO are treated the same.

220. We consider that this programme is likely to continue.

G3.1.1.3 Small Agri-biodiesel Producer Income Tax Credit (under Title 26, Section 40A (b) (4) of the US Code (USC))

221. The subsidy provides a credit of USD 0.10 per gallon, up to 15 million gallons, of agri-biodiesel produced by small producers.¹⁰ The subsidy scheme has been in place in the US Federal legislation since 2005 and has been repeatedly reinstated with retroactive effect. Recently, the Further Consolidated Appropriations Act 2019 retroactively reinstated this subsidy scheme, until 31 December 2022.¹¹ FAME qualifies for the Small Agri-biodiesel Producer Income Tax Credit and HVO does not.

222. We consider that this program is likely to continue.

⁷ <https://www.law.cornell.edu/uscode/text/26/40A> (accessed: 5 August 2021)

⁸ Title 26, Section 40A of the US code, link as above

⁹ Title 26, Section 40A of the US code, link as above

¹⁰ Defined generally as persons whose agri-biodiesel production capacity does not exceed 60 million gallons per year.

¹¹ <https://www.law.cornell.edu/uscode/text/26/40A> (accessed: 5 August 2021)

G3.1.1.4 Credit for Production of Cellulosic Biofuel

223. The program has existed from 1 January 2009 and was established by the Food, Conservation, and Energy Act of 2008 and is administered by the Internal Revenue Service. It is codified under Title 26, Section 40 (b)(6) of the US Code. The subsidy was extended by the Further Consolidated Appropriations Act 2021 until 1 January 2022.¹²
224. Biodiesel producers are eligible for this scheme, which provides for USD 1.01 per gallon non-refundable general business income tax credit to second generation biofuel. HVO qualifies for the Credit for Production of Cellulosic Biofuel and FAME does not.
225. We consider that this programme is likely to continue.

G3.1.1.5 Advanced Biofuel Payment Program

226. This scheme is administered by the US Department of Agriculture (USDA) and is governed by Title IX, Section 9005 of the Farm Security and Rural Investment Act of 2002. The programme was scheduled to expire in 2012 but has been extended until 31 December 2023, most recently through the Agriculture Act 2018.
227. The Advanced Biofuel Payment Program provides quarterly payments to producers of advanced biofuels based on actual production volumes. For the purpose of the Advanced Biofuel Payment Program FAME and HVO are treated the same.
228. This program has been repeatedly reinstated with retroactive effect and we consider that this program is likely to continue.

G3.1.2 State Schemes

229. The following state subsidy schemes have previously been identified as countervailable, but have now expired.
- Missouri Qualified Biodiesel Producer Incentive Fund (2009 review)
 - Washington State Biofuels Production Tax Exemption (2009 review)
 - Florida Biofuels Investment Tax Credit (2015 review)
 - Kansas Qualified Biodiesel Fuel Producer Incentive (2015 review)

¹² <https://www.congress.gov/bill/116th-congress/house-bill/133/text> SEC 140, Second Generation Biodiesel Producer Credit

230. We have also considered the following state subsidy schemes that were previously identified as countervailable and active. In the absence of data provided to the contrary, the TRA has concluded that US exporting producers benefited from these state schemes.

G3.1.2.1 Texas Fuel Ethanol and Biodiesel Production Incentive Program

231. This scheme is offered by the Texas Economic Development and Tourism Office under Chapter 16 of the Texan Agriculture Code. Registered producers are entitled to USD 0.10 for each gallon of biodiesel produced. For the purpose of the Texas Fuel Ethanol and Biodiesel Production Incentive Programme FAME and HVO are treated the same.
232. The Texas Fuel Ethanol and Biodiesel Production Incentive Program is still in force. We therefore consider that this programme is likely to continue.

G3.1.2.2 Iowa Biodiesel Producer Tax Refund

233. This scheme is operated by the Iowa Department of Revenue under Section 423.4(9) of the Iowa Code since 2011. The scheme was scheduled to expire on 1 January 2015 but has been extended until 31st December 2024. The scheme provides a refund of USD 0.02 per gallon of biodiesel produced in Iowa, limited to the first 25 million gallons produced at each facility. For the purpose of the biodiesel producer tax refund, FAME and HVO are treated the same.
234. This tax refund scheme is still in force and has been repeatedly reinstated. We consider it likely that this scheme will be extended following the expiry date.

G3.1.2.3 Kentucky Biodiesel Production Tax Credit

235. This scheme started on 18 March 2005 and is operated by Kentucky Department of Revenue under the 2019 Kentucky Revised Statutes. It offers a tax credit for biodiesel produced in Kentucky based on gallons produced. For the purpose of the biodiesel producer tax credit, FAME and HVO are treated the same.
236. There has been a history of extensions to this scheme, and we therefore consider it likely that this scheme will be extended following the expiry date. We consider that this programme is likely to continue.

G3.1.2.4 Additional schemes from questionnaire response

237. The following schemes cannot be reviewed as part of this transition review as they were not transitioned from the original review:
- USDA Higher Blends Infrastructure Incentive Programme (HBIIIP)

- North Dakota Biodiesel and HVO Blender Tax Credit
- North Dakota Biodiesel and HVO Sales Equipment Tax Credit
- North Dakota Biodiesel and Renewable Production and Blending Equipment Tax Credit
- North Dakota Agriculturally Derived Fuel Production Facility Loan Guarantees and North Dakota Advanced Biofuel Incentives

G3.2 Conclusion

238. The subsidies relevant to this review mainly derive from the Biodiesel Mixture Credit and Biodiesel Credit scheme. These subsidies are still active. They have been continuously extended and are now active until at least 31 December 2022. It is likely that these programmes will continue beyond the expiration date, as they have consistently been extended.

239. In view of the findings above, the TRA considers that US biodiesel producers have continued to benefit from federal and state subsidy schemes. Due to lack of data it has not been possible to identify which schemes/programmes individual producers have specifically benefited from.

240. The existence of the subsidies make it possible for US producers to sell competitively in overseas markets, including the UK.

G4. Exports of subsidised goods to third countries

G4.1 FAME exports and price analysis

241. 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.

242. 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.¹³

¹³ <https://www.census.gov/foreign-trade/reference/guides/tradestatsinfo.html>

243. Table G.2, below, compares the average sales price in US dollars per metric Tonne (mT) with the average domestic price in the US for the top 5 countries (outside the UK) to which the US exports.

Table G.2: Top 5 US export destinations of FAME and mixtures for the POI (commodity code 3826.00.00)

Country	Volume of US exports	Quantity (mT)	Value (USD millions)	Average value (USD) per mT	Average value (GBP) per mT	Average US biodiesel domestic price (GBP) per mT
Canada	89.4%	391,981	354.87	905.32	718.65	724.19
Netherlands	3.2%	13,888	9.92	714.30	567.02	724.19
Peru	3.1%	13,388	7.65	571.44	453.61	724.19
China	2.8%	12,363	6.18	499.77	396.72	724.19
Norway	0.8%	3,500	3.31	945.00	750.15	724.19

Source: USITC Data Web

244. Table G.2 shows that US producers sold at prices below their domestic sales prices to four out of the top five countries they exported to during the POI.

245. 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 mT.

246. This means that US exporters would need to sell at a price below GBP 810.62 per tonne to enter the UK market. The higher price of biodiesel in the UK market compared to other countries would likely incentivise US producers to divert exports of the subsidised goods from other countries to the UK, if measures were removed.

G4.1.1 FAME production and export

247. 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 metric tonnes.¹⁴ This exceeds the annual UK consumption of like goods, which for the POI was 1.5 million mT.¹⁵

¹⁴ <https://www.eia.gov/totalenergy/data/monthly/#renewable>

¹⁵ <https://www.gov.uk/government/statistics/hydrocarbon-oils-bulletin>

248. The TRA has established that there was 32% excess capacity in the US in the POI.¹⁶ 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.
249. The USDA¹⁷ stated that in 2019 waste based biodiesel accounted for 13% of all biodiesel produced, with the remainder produced from virgin stocks (primarily corn oil). Applying this split to the spare capacity indicates that approximately 20% of UK annual consumption is represented by the spare capacity in recycled/waste feedstock biodiesel.
250. The data also shows US exporters export biodiesel to other countries whilst the US continues to be a net importer of biodiesel.¹⁸ We consider that it is likely that US producers will continue to prioritise exporting going forward.
251. Spare production capacity increases both the incentive and the ability of US producers to export to the UK in the future, as having spare capacity is financially inefficient and potentially unsustainable. 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 HVO

252. We have not been able to obtain sufficient information on US HVO exports to conduct an analysis as part of the likelihood assessment.

G4.3 Conclusion

253. US producers have the capacity to manufacture FAME, and this capacity significantly exceeds the size of the UK market for this product. There is also significant spare capacity in the US, despite the US being a net exporter of FAME. We consider it likely that US producers and exporters will continue to use this spare capacity for export sales rather than domestic production.
254. We have not been able to obtain sufficient information on US HVO exports in order to conduct an analysis of production and export of these goods.
255. We therefore consider it likely that importation of the relevant subsidised goods would occur if the measures were removed.

¹⁶ <https://www.eia.gov/totalenergy/data/monthly/#renewable>

¹⁷ <https://www.usda.gov/sites/default/files/documents/renewable-energy-trends-2020.pdf>

¹⁸ <https://www.eia.gov/todayinenergy/detail.php?id=47816>

G5. Attractiveness of the UK market to exporters

G5.1 UK regulatory environment

G5.1.1 The Renewable Transport Fuel Obligation

256. In 2008, the Department for Transport (DfT) placed an obligation on suppliers of transport fuels to demonstrate that a proportion of the fuel they supply comes from renewable sources. This obligation known as the Renewable Transport Fuel Obligation (RTFO), aims to reduce greenhouse gas emissions from vehicles, ultimately supporting the Government's target of net zero by 2050.

Table G.3: RTFO biofuel blending targets

Year	Percentage of biofuel within road transport diesel	Amended percentage of biofuel within road transport use diesel from January 2022
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
2027	11.4	15.056
2028	11.6	15.566
2029	11.8	16.083
2030	12	16.607
2031	12.2	17.138
2032	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 2018¹⁹, 15 April 2018 to 31 December 2018²⁰ and 1 January 2021 to 31 December 2021²¹ and SI published September 2021²²

257. Renewable fuel targets under the RTFO have increased over the POI and IP from 4.75% to 9.75% (see Table G.3). The RTFO target is to further increase to 12.4% by 2032,(17.676% by 2032 following an amendment to the RTFO).

G5.1.2 Conclusion

258. The mandated increases for biodiesel through the RTFO provide a stable demand for the good. This stable demand with its documented increases in biofuel content of road fuel is likely to be attractive to suppliers.

G5.2 Current UK Market Size and Growth

G5.2.1 Consumption

259. 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.
260. The TRA has established the UK consumption of biodiesel over the POI and IP using DUKES data, see table G.4 below.

¹⁹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604591/rtfo-guidance-part-1-process-guidance-year-10.pdf

²⁰

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/694277/rtfo-guidance-part-1-process-guidance-year-11.pdf

²¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952228/rtfo-guidance-part-1-process-guidance-2021.pdf

²² Statutory Instrument -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf

Table G.4: UK biodiesel consumption²³

	2016	2017	2018	2019	2020
Total UK biodiesel consumption mT	624,454	614,752	1,003,713	1,409,432	1,418,252
<i>Indexed (2016 = 100)</i>	100	98	161	226	227
Regulated increase in biofuel content	4.75%	4.75%	7.25%	8.50%	9.75%
<i>Indexed (2016 = 100)</i>	100	100	153	179	205

Compared to RTFO mandated blending of biofuel – Annual data Jan/Dec.²⁴

261. Table G.4 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 the closer to 2030, as the reduction in pure diesel car sales affects consumption. (See section H2.14.)

G5.2.2 Conclusion

262. 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.

G5.3.1 UK Production

263. 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.

²³ Data obtained from Digest of UK Energy Statistics (DUKES)

²⁴ <https://www.gov.uk/government/news/new-regulations-to-double-the-use-of-sustainable-renewable-fuels-by-2020>

Table G.5- UK FAME production, 2016-2019

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

Source: Data from DUKES. Links in table

G5.3.2 Conclusion

264. 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.
265. 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.
266. 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.

G5.4 Conclusion - overall attractiveness of the UK market

267. The regulation of the market for fuel brings stability to potential producers as there is known demand for the product, and the mandated increases in volume of biofuels in road fuel also means that there is a known increase in the demand for the good for future planning.
268. Historically US producers have found the EU market an attractive market. In addition, with the EU market continuing its anti-dumping and countervailing tariffs for another five years the options for US producers to export elsewhere in the world are narrowing.
269. Furthermore, UK production of FAME has not increased at the same level as UK consumption. We do not consider it likely that UK FAME production is likely to increase to close this gap, and therefore the UK will remain an attractive market to exporters.
270. The TRA has concluded that the attractiveness of the UK market makes it more likely that US exporters would export into the UK market.

G6. Whether exporters have previously or habitually circumvented or absorbed the effects of trade remedy measures

271. Following the imposition of trade remedy measures in 2009 by the EU on biodiesel imports from the US, it has been observed that US exporters were circumventing these measures through transshipment through Canada or through imports of biodiesel below 20% blend level.
272. Following a circumvention request from the EBB, the EU undertook a circumvention review which led to measures being imposed on biodiesel consigned from Canada and imports of biodiesel below the 20% blend level originating in the US.
273. Based on this historical behaviour and the fact that through the application of the RTFO as a stable base for demand, the UK remains an attractive market for exporters, (as detailed in section G5.: [Attractiveness of the UK market](#)). This indicates an increased likelihood that US exporters would export subsidised goods to the UK if measures were removed.

G7. Conclusion

G7.1 FAME

274. The data shows that there has been no significant history of direct imports into the UK of the goods subject to review during the IP. Further, it is unlikely that significant amounts of US biodiesel were being indirectly exported to the UK during the injury period via Canada.
275. The two largest subsidy schemes remain in place (the Biodiesel Mixture Credit and the Biodiesel Credit). The Small Agri-biodiesel Producer Income Tax Credit and the Texas Fuel Ethanol and Biodiesel Production Incentive Programme are still in place. On the balance of probabilities, it is likely that these programmes will continue.
276. On the balance of probabilities, the US FAME producers have continued to benefit from federal and state schemes.
277. Relevant subsidised goods are exported to third countries consistently over the POI and the IP. Furthermore, Peru and the EU have countervailing measures against some or all relevant goods. Therefore, this indicates that subsidised imports may occur if the measures were removed.

278. There is both significant production capacity in the US for manufacturing FAME, and significant spare capacity. This spare capacity raises the likelihood that US producers and exporters will sell their products into export markets, and there is a historical preference for doing so.
279. Overall, the evidence indicates that the UK would be an attractive market for US FAME exports should the measure be revoked. The impact of the measures being removed would likely be that US producers would export subsidised goods into the UK market and compete with UK producers.
280. Exporters have previously circumvented the EU countervailing measures imposed in 2009. This indicates an increased likelihood that they would export subsidised goods were the measures removed.
281. Considering these factors, it is likely that importation of FAME would occur if the countervailing amount were no longer applied.

G7.2 HVO

282. The two largest subsidy schemes from the original 2009 EU investigation are still in place (the Biodiesel Mixture Credit and the Biodiesel Credit). The Small Agri-biodiesel Producer Income Tax Credit and the Texas Fuel Ethanol and Biodiesel Production Incentive Programme are still in place. On the balance of probabilities, it is likely that these programmes will continue.
283. On the balance of probabilities, it is likely that US HVO producers have continued to benefit from federal and state schemes.
284. There is significant production capacity in the US for manufacturing HVO, and this is forecast to increase with the building of new plants. As a result, there will continue to be significant spare capacity in the US market. This spare capacity raises the likelihood that US producers and exporters will look to sell their products into export markets, and there is a historical preference for doing so.
285. Overall, the evidence indicates that the UK would be an attractive market for US HVO exports were the measures no longer applied.
286. Exporters have previously circumvented the EU countervailing measures imposed in 2009. This indicates an increased likelihood that they would export subsidised goods were the measures no longer applied.
287. Considering these factors, it is likely that the importation of HVO would occur if the countervailing amount were no longer applied.

G7.3 Conclusion on subsidy likelihood

288. Considering these factors, it is likely that the importation of relevant subsidised goods would occur if the countervailing amount were no longer applied.

SECTION H: Likelihood of injury assessment

H1. Introduction

289. 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 countervailing amount was no longer applied (the likelihood of injury assessment).

290. In order to conduct the likelihood of injury assessment, we considered:

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

H2. The current state of the UK industry

H2.1 Production

291. Domestic producers comprised 33.5% of the UK market during the POI. The 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 production of the UK consumption of B100	Percentage of UK production of B100
UK consumption	1,387,000 ²⁵	1,576	100%	
UK production	505,000 ²⁶	573	36%	100%
Total production of Greenergy/Argent /Olleco	496,000	562	34%	98%

Source: BEIS and TRA questionnaire responses.

²⁵ Table 6.2 of [BEIS data](#). BEIS data is in litres; this is a converted figure based on 1133.79L/mT

²⁶ BEIS data is in litres; this is a converted figure based on 1133.79L/mT

292. 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

293. The UK market for biodiesel is regulated by the UK government via DfT, which operates the RTFO. Data obtained from the Department for Business, Energy and Industrial Strategy (BEIS), and the Office of National Statistics shows consumption of biodiesel in table G.4.

294. 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.

295. Consumption of HVO was proportionally low in comparison, with 5,975 mT consumed in the UK in 2019.²⁷

H2.3 Sales

Table H.2: Index of UK FAME production domestic sales value

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

296. 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

297. 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 of the companies as they produce other products in addition to the goods subject to review.

298. 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 still rose against the previous year. The TRA has not been provided with industry wide data in respect of profits.

²⁷ <https://www.gov.uk/government/statistics/renewable-fuel-statistics-2019-final-report>

299. The fall in profits during the IP was accounted for by reduced turnover and increased expenditure on capacity utilisation.

H2.5 Output

300. The UK industry increased output over the IP. Annual data from the DUKES report shows an increase of 49% over the total period (table G.4).

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

302. 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

303. 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.

304. The market share of the UK producers fell between 2016 and 2019 although production increased, Table H.3. Production increased from 338,631 mT to 503,989 mT in the IP, however consumption has risen faster than UK production.

305. 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
2016	338,631	54%	46%
2017	460,890	75%	25%
2018	470,565	47%	53%
2019	503,989	36%	64%

Source: [DUKES statistics 2017-2020](#)

*The table above is based on annual data January to December and produced by the ONS from DfT data.

H2.7 Productivity

306. 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 (relative to the other costs of production) of the final costs of production, at approximately 9% to 14%.
307. 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

308. Capacity of UK producers has increased over the IP, as table H.4 details from DUKES data. Verification of the UK industry has shown that the trend indicated by DUKES is correct.

Table H.4 – FAME Capacity of UK industry

UK Biodiesel estimates	Estimated UK FAME capacity mT
2016	475,843
2017	601,620
2018	572,595
2019	606,018

Source: DUKES data. Links in table

309. 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

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

H2.10 Inventories

311. 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

312. 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.
313. 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 306 Accordingly, a small increase in employee numbers can significantly affect the total indexed amount.

Table H.5: Employment from selected verified UK producers

Total number of employees from financial statements*B	2016	2017	2018	2019
Indexed total	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

314. 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.
315. 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 countervailing duty is removed.

H2.13 Other causes of injury

316. 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

317. 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.
318. 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.
319. 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.
320. Greenergy informed the TRA that they are now subject to a 6.5% import tariff on UK produced biodiesel imported back into the UK from Netherlands. The

TRA has not verified the producers' assessments of the withdrawal from the EU.

H2.13.2 COVID–19 Pandemic

321. 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 5 November 2020, however demand recovered thereafter.
322. 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

323. While there has been a fall in UK demand for new diesel vehicles²⁸ in 2019 and 2020,²⁹ 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,³⁰ expected to come into force on 1 January 2022).
324. It is expected that the long-term decline 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 2026.³¹ 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,³² as reducing diesel vehicle sales are offset at first by the increasing bio content in road fuel.

²⁸ <https://www.gov.uk/government/statistical-data-sets/veh02-licensed-cars> - table VEH0203

²⁹ www.gov.uk/government/organisations/departments-for-transport/series/road-traffic-statistics

³⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015511/draft-si-the-rtfo-amendment-order-2021.pdf

³¹ 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

³² 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

H2.15 Conclusion

- 325. The UK industry is currently in a stable position, due to the protection it has had from subsidised goods from the current trade remedy in place.
- 326. 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.
- 327. 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.
- 328. Increased demand for cleaner vehicles and a push towards electric cars, together with the regulated ban on new diesel cars in 2030,³³ means that the UK market and its producers are aware of a finite period of demand for FAME.
- 329. 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

- 330. The USITC data in Table G.2 indicates that US producers exported to four out of their top five export destinations at an average price below US domestic price in the POI.
- 331. Section G4., paragraphs 241-246 shows that US producers have the ability and the incentive to undercut UK producers with subsidised goods in order to capture market share.
- 332. The TRA has calculated an average export price of USD 877.50 per metric tonne. 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.
- 333. Using the POI USD to GBP conversion rate of 0.794, this equates to GBP 696.73 per metric tonne.

³³ <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>

334. This export price is a FAS price to which ocean freight and insurance costs need to be added to calculate a CIF price.
335. To calculate costs in relation to freight and insurance, we have relied on information obtained from secondary sources, including the most recent EU expiry review.³⁴ This information has been used in accordance with the requirements set out in the Regulations.
336. 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.
337. The TRA has calculated the CIF price to be GBP 785.08 mT for FAME, which is lower than the UK market price of GBP 810 mT for FAME . This demonstrates that US producers have the ability to undercut UK market price with subsidised FAME.

H3.2 HVO

338. In considering the market price for HVO entering the UK from the US, the same approach has been taken. With no UK production of HVO, we have used the UK market price of GBP 810 mT for FAME as a comparison.
339. 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 mT for the POI.
340. In order to enter the UK market, the price should also include the insurance costs, customs duty and ocean freight costs which would be applied to HVO, which have been calculated as GBP 41.29.
341. We applied the customs duty for commodity code 27101943 to this calculation, however this amounts to a customs duty of GBP 0 per mT.
342. The TRA has calculated the CIF price to be GBP 1,114 mT for HVO.
343. HVO sells both in third countries and in the US at a higher price than UK FAME. This price is approximately 38-45% higher. The risk of injury from underselling or undercutting is therefore low in respect of HVO, due to a positive price difference, GBP 304mT.

³⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1266&from=EN> page 8, (55)

344. US exporters would need to reduce the US HVO market price by GBP 304 mT to compete with the UK market price of GBP 810 mT. Confidential pricing data presented by contributors show that US exporters can obtain a price in excess of the UK market price in other export markets. It is therefore not likely that they would sell HVO in the UK market at a price undercutting UK producers.

H3.3 Conclusion

H3.3.1 FAME

345. USITC data (shown in section G2.) indicates that four of the top five markets where US producers exported to had an average export price below US domestic price as calculated by the TRA. It is likely that US producers would be able to sell FAME in the UK market at a price undercutting UK producers if the measure is removed.

H3.3.2 HVO

346. The TRA has no evidence to support the potential for price undercutting of UK FAME by US HVO. The TRA does not consider it likely that price undercutting or underselling of HVO due to US subsidies would occur.

H4. Are US exporters able to export to the UK market at volume?

H4.1 FAME

347. 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 FAME into the UK market.

348. The TRA is satisfied that the US has stock of FAME 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 FAME to the UK.

H4.2 HVO

H4.2.1 Capacity

349. The TRA has minimal non-confidential primary data evidencing the capacity or production of US producers for HVO³⁵ and has relied on data provided in the

³⁵ <https://www.eia.gov/todayinenergy/detail.php?id=48916>

ADI Analytical Report. Table H.6, 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 H.6: US HVO planned increased capacity

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

Source: Public data that supports the Confidential report³⁶

350. The above data is supported by recent publications in Reuters³⁷ 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.

H4.2.1.1 Conclusion

351. 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.

³⁶ [Regulations to drive U.S renewable diesel capacity growth through 2025 - ADI Analytics \(adi-analytics.com\)](https://www.adianalytics.com/regulations-to-drive-u-s-renewable-diesel-capacity-growth-through-2025)

³⁷ <https://www.reuters.com/markets/commodities/us-epa-unveil-biofuel-mandate-cuts-boost-pandemic-hit-refiners-sources-say-2021-12-07/>

H4.2.2 Production

352. In the POI, US production of HVO didn't meet consumption. The US imported 0.7 million mT of HVO, however US domestic producers exported 0.4 million mT of Biomass based diesel which is a mix of both FAME and HVO, 54% of the volume imported. US government departments do not break this down further. The TRA has had sight of confidential data that supports US government data of HVO exports, despite the US being a net importer of HVO.
353. Estimated production of HVO was 1.7 million mT for the POI.
354. While US capacity is set to increase after the POI it is not know what expected production is likely to look like. There is potential that HVO increased production may take away feedstock from FAME production, and as a globally marketed commodity there is possibility it could affect global prices /demand. In addition to this all biofuels are competing for feedstock, including aviation fuels and other development fuels.

H4.2.3 Inventory levels

355. HVO stocks held by the US represent a smaller percentage of UK consumption (of biodiesel) in the POI compared to 2016/2017. While HVO stocks shows a downward trend in stock held. In the period for July 2019 / June 2020 the US held stocks of HVO of 0.7 million mT, representing approximately 45% of UK consumption of biodiesel for the period 2019/2020.

Table H.7: US ending stocks of HVO from 2016-2020

Period (July-June)	US ending stocks of HVO mT	Percentage of UK biodiesel consumption
2016/17	783,186	129%
2017/18	696,934	94%
2018/19	758,218	66%
2019/20	714,213	49%

Source:

https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=m_epoord_sae_nus_mbbf&f=m

356. The difference in storage volumes/mass of FAME against HVO may be partly due to the storage lifecycle of the two products, with FAME having a maximum storage life of 6-12 months compared to HVO having a storage life of 10 years in ideal conditions.

H4.2.4 Incentive

357. DGD and Valero have made submissions to the TRA for the HVO to be removed from the scope of the investigation, to allow them to import without a duty. Valero own Pembroke Refinery one of the largest deep port refineries in Europe, based on the South Wales coast. DGD are a partner of Valero in the USA, for renewable fuels. This is compelling evidence to support the desire to enter the UK market by US producers.

H4.2.5 HVO - Conclusion

358. The TRA is satisfied that the US has stock 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 to HVO to the UK.

359. 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

360. The current measures have been protecting the UK industry (which produces FAME) from injury caused by subsidised goods. UK producers have increased production and capacity utilisation.

361. The TRA expect that the increased demand for biodiesel will only continue to rise in the short term, but is likely to level off and slightly contract from 2026. UK producers are not able to meet that demand and the shortfall will likely be met by imports.

362. US imports of subsidised FAME biodiesel 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.

363. 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 doing so for them.

364. The TRA's analysis of pricing data indicates that for FAME US producers and exporters have the ability to enter the UK market at UK market prices due to subsidies received. Research shows that exports to third countries have been consistently sold at below UK market price and therefore it is likely that in order to compete and obtain market share that US producers would undercut the UK price.

365. Considering these factors, on the balance of probabilities, it is likely that injury to the UK domestic industry would be caused by subsidised imports of FAME originating from US if the current measures were to be removed.

366. There is a lower risk of subsidised HVO imports causing injury by underselling or undercutting the UK industry. The significant positive price difference between US HVO and UK FAME, and the market available for HVO in third countries which have a stronger price than UK FAME means that any subsidised HVO goods would not adversely impact the UK industry.

SECTION I: Economic Interest Test

I1. Introduction

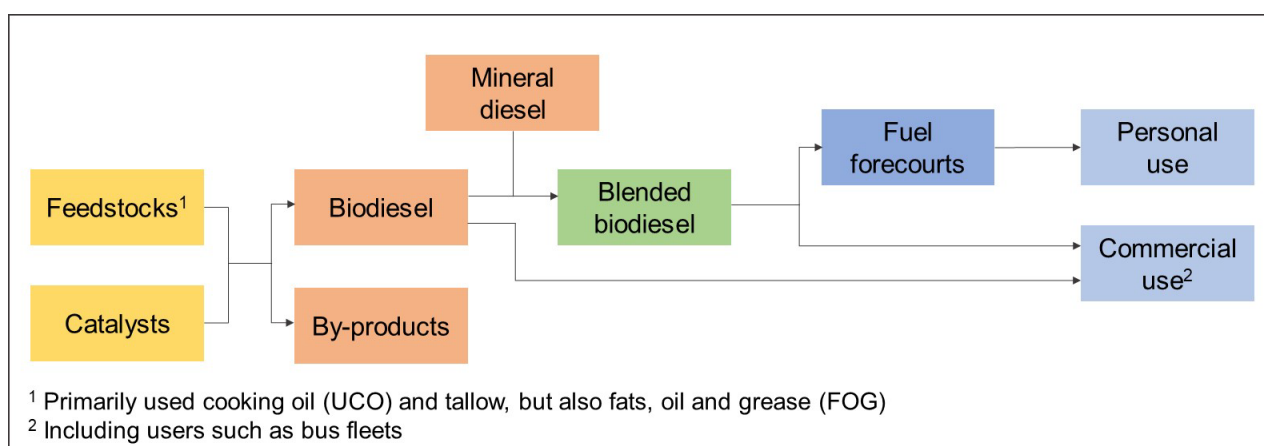
367. The aim of the Economic Interest Test (EIT) is to determine whether our decision to vary the measure and apply a countervailing amount on the goods subject to review imported from the United States and consigned from Canada is in the wider economic interest of the UK. This test is presumed to be met unless we are satisfied that the application of the remedy is not in the economic interest of the UK.
368. 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 a countervailing remedy if the application of the remedy is in the economic interest of the United Kingdom.
369. In order to recommend maintaining the measure under regulation 100A(4)(b) 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 countervailing amount meets the EIT in accordance with regulation 100A(2) of the Regulations.
370. 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 importation of subsidised 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.
371. The injury likelihood analysis in Section H concluded that 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 measure were revoked. As a result, the

proposed measure does not cover HVO so HVO is not part of the EIT analysis that follows.

12. Supply chain overview

372. 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.
373. 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



374. 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.
375. Feedstocks are sourced domestically and imported and 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.³⁸

³⁸ <https://argentenergy.com/index.php?p=co-products>, accessed 5 November 2021

376. 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.

13. Evidence base

377. 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.
- 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 International BV, a commodities trader that sells like goods into the UK.

378. For further details see the earlier section 'participation in the review'.

379. 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.

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

I4. Injury caused by subsidised imports and benefits to the UK industry in removing injury

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

382. In the necessary or sufficient consideration, the TRA determined that it is not appropriate to recalculate the countervailing 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 countervailing amounts or injury margins were made.

383. 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

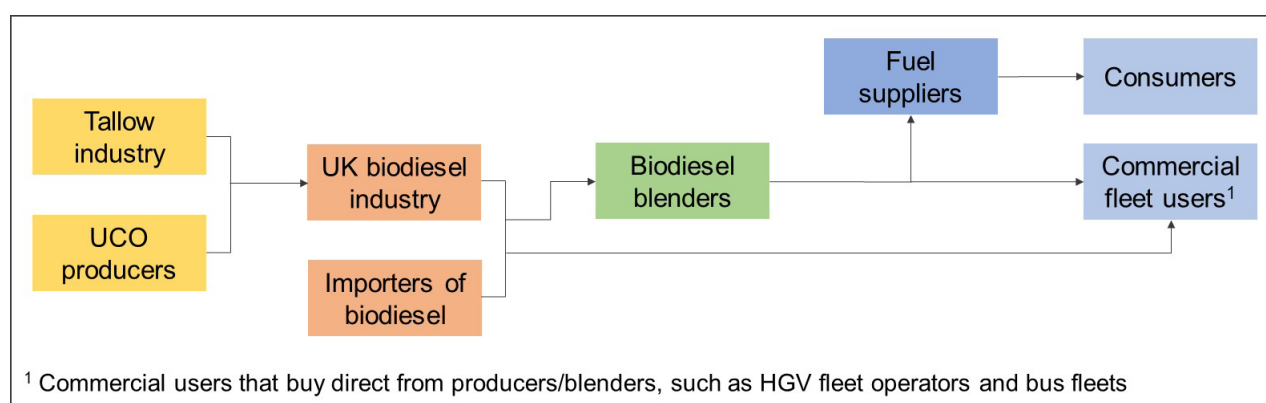
384. This section considers the relative economic significance of the relevant industries and consumers within the biodiesel supply chain. From the available evidence, the following UK groups have been identified as potentially being affected by the measure:

- **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.

385. 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

386. 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

387. 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 UCO³⁹). 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.

388. 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

³⁹ www.trgplc.com/, accessed 8 October 2021 and Marstons non-confidential response.

across their 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.

15.1.2 Tallow suppliers

389. 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.
390. 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 GBP467m⁴⁰, 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.

15.2 UK producers of biodiesel

391. 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.
392. Estimated GVA from the UK production of biodiesel is approximately GBP14m 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.

15.3 Importers of biodiesel

⁴⁰ GVA estimates are based on publicly available Companies House data on operating profit, employment costs, depreciation, and amortisation over the injury period.

393. 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.

15.4 Downstream businesses

394. 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 GBP9.2bn in 2016 (in current prices; or GBP8.6bn as originally published), while up to 120,000 people were estimated to be employed.⁴¹

15.4.1 Biodiesel blenders and wholesalers

395. 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.

15.4.2 Fuel forecourts

396. 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.⁴² 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.⁴³

⁴¹ 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. 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, accessed 4 November 2021. Price base year assumed to be 2019, the year of publication.

⁴² www.ukpra.co.uk/assets/documents/market-review-pra-2021.pdf; accessed 20 September 2021

⁴³ Information taken from Petrol Retailers Association, reference as above

I5.4.3 Direct commercial users

397. 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.
398. 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.⁴⁴ 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

399. 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.

⁴⁴ 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 ⁴⁵	14	Over 24 ⁴⁶
Registered interest	2	1 trade body ⁴⁷	3 plus 1 trade body ⁴⁸	2	1 trade body ⁴⁹	
Questionnaire responses/submissions	3	1 trade body	2 plus 1 trade body	1	1 trade body	
GVA (GBPm), current prices	Redacted	467 ⁵⁰	14 ⁵¹	9,200 ⁵²		
Number of employees	Over 65,000	Over 12,000	Around 400	13,000 – around 120,000 ⁵³		
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.						

⁴⁵ HMRC UKTradeInfo.

⁴⁶ Market review 2021', Petrol Retailers Association, 2021
www.ukpra.co.uk/assets/documents/market-review-pra-2021.pdf

⁴⁷ FABRA, representing 9 members

⁴⁸ The RTFA, representing the 3 UK biodiesel producers plus other biofuel companies.

⁴⁹ UKPIA, with 8 member companies representing 6 major coastal and inland refineries and over 1,200 domestic filling stations.

⁵⁰ Average over the injury period, based on Companies House data

⁵¹ 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. Original estimate assumed to be in 2019 prices and uplifted to current prices.

⁵² Ibid.

⁵³ 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. Upper bound includes fuel for aviation and rail/maritime as well as petrochemicals.

I5.5 Consumers

400. 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.
401. 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.⁵⁴ 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 price⁵⁵ 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.
402. 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

403. 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.
404. 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.⁵⁶

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

405. 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

⁵⁴ Department for Transport, car vehicle statistics VEH0203, published 15 July 2021

www.gov.uk/government/statistical-data-sets/veh02-licensed-cars, accessed 20 September 2021.

⁵⁵ The RAC Foundation, www.racfoundation.org/data/uk-daily-fuel-table-with-breakdown, accessed 29 October 2021.

⁵⁶ www.gov.uk/guidance/trade-remedies-investigations-directorate-trid-dumping-and-subsidisation-investigations-guidance/economic-interest-test

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.

406. 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.
407. 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.
408. 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
Imported biodiesel	No change	Increase based on previous trends whereby biodiesel is increasingly imported to meet rising demand.
Downstream products	No change	No change

16.2 Prices and quantities if the measure were revoked

409. 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 GBP198.33 per tonne). As discussed in the subsidy 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.
410. As discussed in the countervailing likelihood assessment, various US federal and state subsidisation programmes reduce prices within the biodiesel industry. These were considered to pose a threat of injury to UK producers if measures were revoked, given the available capacity which could be used to supply the UK market with subsidised exports.
411. 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.
412. 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.
413. 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.

414. 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.
415. 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.
416. 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
Upstream products	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.
UK-produced biodiesel	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.
Imported biodiesel	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.
Downstream products	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

417. 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.
418. 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

419. 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.
420. 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.

16.3.3 Biodiesel importers

421. Importers of FAME are unlikely to be impacted if the measure were varied as the circumstances for them would not change.
422. 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.
423. 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

424. If the measure were varied, there is unlikely to be an impact on downstream businesses.
425. 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.⁵⁷

⁵⁷ 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

16.3.5 Consumers

426. If the measure were varied, it is not expected that consumers would be impacted as prices and quantities would continue with their current trends.
427. 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 chain⁵⁸; and the organisation has recently highlighted how price reductions have not been passed on to consumers in a timely manner.⁵⁹ Benefits to consumers from revoking the measure would be lower if reduced costs were not passed on in full.
428. 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 2020⁶⁰, and in 2018 (the most recent data available) diesel consumption by cars and taxis totalled 10.8 million tonnes (12.2bn litres)⁶¹. 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 GBP10 per car (0.8% of the estimated average total spend of GBP1,263 per year⁶²) but across all cars would total around GBP120m.
429. 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

⁵⁸ RAC, www.rac.co.uk/drive/advice/fuel-prices/what-affects-the-price-of-fuel/, accessed 6 December 2021.

⁵⁹ 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.

⁶⁰ DfT Vehicle Licensing Statistics: cars, table VEH0203. Accessed 7 October 2021. Available at: www.gov.uk/government/statistical-data-sets/veh02-licensed-cars

⁶¹ 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

⁶² 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, accessed 29 October 2021

increase in the RTFO main obligation. According to the government response to the consultation⁶³, 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.

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

Group	Expected impacts
Upstream businesses	Overall small positive impact. 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.
UK biodiesel industry	Overall positive impact. Varying the measure would protect domestically produced biodiesel from likely undercutting by cheaper US biodiesel. Domestic production, sales and profits would be sustained.
Biodiesel importers	Overall small negative impact. Importers would not benefit from being able to source cheaper imports from the US.
Downstream businesses	Small negative impact overall. Downstream suppliers would not be able to benefit from cheaper biodiesel.
Consumers	Negative impact, potentially sizeable overall. 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.

17. Likely impact on particular geographic areas or particular groups

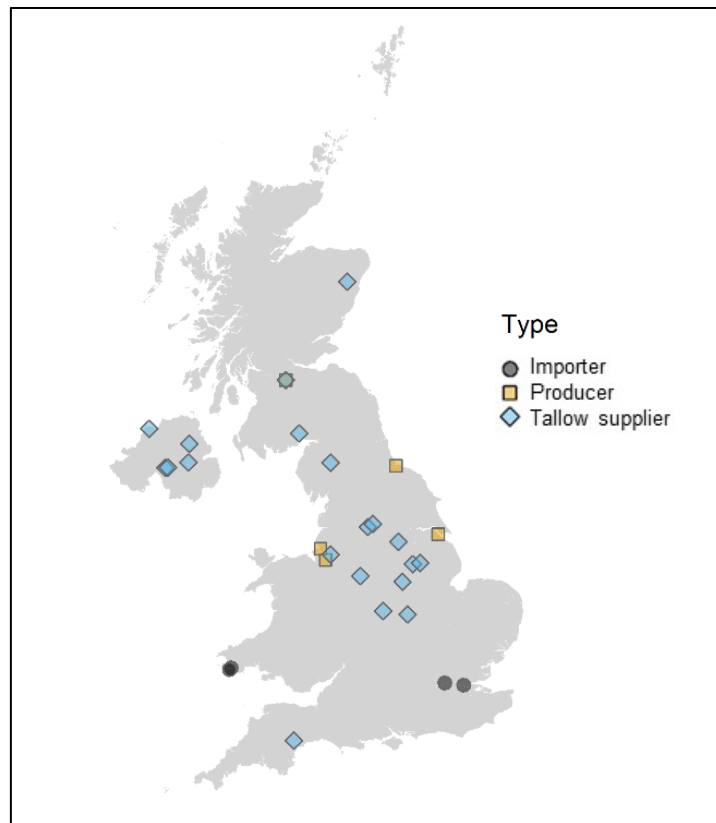
430. The previous section assessed the overall impacts of the proposed measures. This section looks at how these impacts are distributed. The TRA considers how impacts are likely to be distributed by geography and whether any particular groups might be disproportionately impacted.

17.1 Likely impact on particular areas

⁶³ 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, accessed 15 September 2021

431. 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, accessed 28 October 2021

Contains National Statistics data © Crown copyright and database right 2020 and 2021 and OS data © Crown copyright and database right 2020 and 2021

17.2 Upstream businesses

432. 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.
433. 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.⁶⁴ 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

434. 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.
435. 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.⁶⁵ 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.

17.4 Importers

436. 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.

⁶⁴ Based on data sourced from NOMIS, <https://www.nomisweb.co.uk/>. Working age population data not available for Northern Ireland.

⁶⁵ Based on data sourced from NOMIS, <https://www.nomisweb.co.uk/>

437. 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

438. 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

439. 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

440. 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.

441. 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.

18. Likely impact on particular groups

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

443. 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.

19. Likely consequences for the competitive environment

444. 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.

19.1 Background

445. 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.

446. The TRA has estimated market shares for the UK biodiesel market using production and sales data verified from questionnaires, supplemented by biodiesel consumption statistics⁶⁶. 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

447. In addition to the three domestic producers, we are aware of 11 importers during the injury period based on HMRC's UK Trade Info. DfT identifies a total of 34 suppliers⁶⁷ 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.

448. 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

⁶⁶ DfT, RTFO Statistics, 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.

⁶⁷ 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

show that 4 new renewable fuel suppliers entered the market between 2018 and 2019.⁶⁸ 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.

449. 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

450. 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.
451. 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.
452. 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

453. 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.

⁶⁸ As above.

454. 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

455. 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

456. 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.
457. 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 targets⁶⁹, 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.
458. 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

459. 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

⁶⁹ Renewable Transport Fuel Association Questionnaire Response

measure would best minimise the negative impacts of the measure on some parties while retaining the overall benefits.

460. 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.
461. 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.

112. Conclusions

462. In accordance with paragraph 25 of Schedule 4 to the Act, the Economic Interest Test is met in relation to the application of a countervailing 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.
463. Following the likelihood assessments, our intended 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.
464. 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 H established that subsidised 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.
465. In the significance section, we found that the biodiesel industry contributes around GBP14bn 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.
466. Within the impacts section, we found that varying the countervailing 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.

467. 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.
468. 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.
469. 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.
470. 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.

471. 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.

472. 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.

473. 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.

474. 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 countervailing duties.

SECTION J: Findings and Final Recommendation

J1. Findings

- It is likely, on the balance of probabilities, that importation of subsidised FAME from the US would occur if the countervailing 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 if the countervailing amount were no longer applied.
- It is likely, on the balance of probabilities, that importation of subsidised HVO from the US would occur if the countervailing amount 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 countervailing amount were no longer applied.
- The application of the countervailing amount meets the EIT.

J2. Final Recommendation

475. Our recommendation is to vary the application of the countervailing 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 countervailing amount in relation to HVO under regulation 100B of the Regulations. The countervailing amount in relation to HVO will be revoked from 30 January 2021 in accordance with regulation 100B(2) of the Regulations.
476. As it has not been possible to recalculate the countervailing amount, we recommend maintaining the countervailing 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.
477. The description of the goods to which the measure applies will be varied to exclude the goods known as “paraffinic gasoil obtained from hydro-treatment, of non-fossil origin” from the application of the measure, classified under the following UK general tariff 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

478. 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.”

479. The UK tariff 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

480. 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. These duties 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 amounts 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)	198.338	B999
United States	AG Processing Inc., Omaha	198.338	A942
	Archer Daniels Midland Company, Decatur	198.338	A933
	Cargill Inc., Wayzata	178.923	A934
	Green Earth Fuels of Houston LLC, Houston	178.588	A935
	Imperium Renewables Inc., Seattle	181.433	A936
	Memphis Biofuels LLC, Memphis	198.338	A942
	Peter Cremer North America LP, Cincinnati	176.747	A937
	Scott Petroleum, Itta Bena	198.338	A942
	Vinmar Overseas Limited, Houston	176.747	A938
	World Energy Alternatives LLC, Boston	176.747	A939
	Overseas exporter specified in Annex 4	183.609	(per Annex 4)
	All other overseas exporters (residual amount)	198.338	A999

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	198.338	A933
	Cargill Inc., Wayzata	178.923	A934
	Green Earth Fuels of Houston LLC, Houston	178.588	A935
	Imperium Renewables Inc., Seattle	181.433	A936
	Peter Cremer North America LP, Cincinnati	176.747	A937
	Vinmar Overseas Limited, Houston	176.747	A938
	World Energy Alternatives LLC, Boston	176.747	A939
	Overseas exporter specified in Annex 4	183.609	(per Annex 4)
	All other overseas exporters (residual amount)	198.338	A999

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
	DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia	C114
	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 £183.609 per tonne duty amount

Overseas exporter	Location	Additional TAP code
AC & S Inc.	Nitro	A941
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	Euless	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
GeoGreen 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	Claypool	A940
Louis Dreyfus Claypool Holdings LLC	Claypool	A940
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
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	Pittsburgh	A940
Valco Bioenergy	Harlingen	A940
Vanguard Synfuels, LLC	Pollock	A940
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