NON-CONFIDENTIAL VERSION

FIRST SUBMISSION

TO

UK TRADE REMEDIES AUTHORITY

FROM

ST. BERNARD RENEWABLES LLC

HVO from USA : AD 0068 AND AS 0067

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This Submission sets out the comments of St. Bernard Renewables LLC, a Delaware, United States of America ("USA"), limited liability company (with its subsidiary, "SBR") in relation to the on-going investigations of the United Kingdom ("UK") Trade Remedies Authority ("TRA") into allegations of anti-dumping and anti-subsidy practices as covered by investigation Nos. AD0068 and AS0067. The Notices of initiation in Case Nos. AS0067 and AD0068, issued by TRA on March 17, 2025 ("Notice(s) of Initiation") clearly state that the "Goods Concerned" (as defined below) are hydrotreated vegetable oil ("HVO") from the USA, which may also be referred to as renewable diesel ("Renewable Diesel"). The proposed "Like Goods" (as defined below) proposed by the Renewable Transport Fuel Association (the "RTFA" or "Applicant") and adopted by the TRA includes fatty acid methyl ester biodiesel ("FAME") but not sustainable aviation fuel ("SAF").

In this submission we refer to the investigation or investigations to cover both investigations whereas specific comments are made in relation to the "Anti-Dumping Investigation" or the "Anti-Subsidy Investigation". References to "Trade Defence" are to both dumping and/or subsidy investigations.

EXECUTIVE SUMMARY

SBR has substantial concerns that TRA should not have initiated these investigations given the absence of a domestic industry producing HVO.

- TRA should have rejected the Applicant's proposal that HVO and FAME are Like Goods. In adopting this definition of Like Goods, TRA failed to apply UK legislation and regulations correctly and departed from its previous administrative practice of not investigating goods in trade defence cases which are not produced in the UK.

- As a result, TRA failed to comply with the legal requirement of ensuring that there is sufficient support from the UK Industry to initiate an investigation.

- FAME is not a Like Good for HVO. Substantial differences in production, chemical composition, operational properties, and final use mean that FAME has little or no ability to replace HVO in final biodiesel products.

- As both FAME and HVO are intended as replacements for mineral diesel it is their ability to be used interchangeably in this product which should determine whether they are Like Goods. UK Standard BS EN 590 imposes an absolute cap of 7% FAME used in biodiesel. HVO is a 100% replacement for mineral diesel.

- HVO is closer in terms of production methods and chemical composition to SAF, which TRA has already decided to exclude from this investigation.

- The fact that the European Union ("EU") has initiated trade defence cases against FAME and HVO is of little relevance here as the EU does have domestic production of both FAME and HVO.

If the TRA nevertheless continues with these investigations, TRA faces substantial obstacles which may prove insurmountable in relation to making the injury and causation calculations under its applicable UK Regulations (as defined below).

- Without any UK HVO production, Product Control Numbers ("PCN"s) cannot provide any comparison between USA and UK products. SBR therefore has real and substantial concerns that TRA will not be able to make fair comparisons between imports of HVO and corresponding production in the UK.

- The scope of the investigation into imports seems inappropriately wide – being the same or wider in terms of customs classifications covered that the TRA's investigation into FAME and HVO. The TRA should limit its consideration of data on FAME to only those products which have the ability to be used under Renewable Transport Fuel Obligation ("RTFO") up to that 7% limit under UK EN590.

- TRA also needs to exclude consideration of the impact of imports of product concerned on industrial uses of FAME for which HVO cannot be used.

- In the absence of any continuing Biodiesel and Renewable Diesel Blender's Tax Credit ("BTC"), the TRA should terminate AS0067 without measures. In relation to the AS0067, the USA BTC measures were withdrawn definitively at the end of 2024.

- New and completely different measures were adopted in 2025 which slashed the value of the financial support in the USA and excluded such support being applied to product made using non-USA feedstock.

Finally, it cannot be in the interests of the UK as a whole – already a country facing consumer anger over very high energy prices - to impose further price increases on imports of USA HVO – a product which is not produced in the UK – which will inevitably result in price increases on HVO and potentially FAME which will then translate directly to prices at the fuel pumps. With no UK domestic production and an impossibility to use FAME beyond the 7% under UK EN 590, the result of any final measures would be to swap imports from USA for imports from other third countries. Either way there will be no benefit to UK Industry to off-set the additional costs imposed on UK users and consumers.

For the above reasons, SBR requests that the UK uses its powers to reconsider its position and use its powers to terminate both investigations.

1. INTRODUCTION TO SBR

St. Bernard Renewables LLC ("SBR") is a 50/50 joint venture between PBF Energy Inc. ("PBF") and Enilive Sustainable Mobility S.p.A. ("Eni"), SBR's biorefinery is operated by PBF affiliate, Chalmette Refining, L.L.C. ("CRC") formed to develop and operate a large-scale biorefinery adjacent to PBF's Chalmette refinery facility in Louisiana, USA. Corporate services are provided to SBR through PBF. Management, commercial, regulatory, and other business services are provided by seconded employees from PBF and Eni. Eni is a joint stock company incorporated under the laws of Italy. CRC is Delaware limited liability company, and a subsidiary of PBF. The biorefinery is designed to process about 1.1 million tonnes per year (roughly 300 million gallons) of HVO and other low-carbon fuels.

The venture combines PBF's U.S. petroleum-refining infrastructure and Eni's bio-refining and supply-chain expertise, as part of a broader shift toward decarbonised transport fuels.

SBR commenced production of HVO at the Chalmette facility in June 2023. It was an exporter of HVO outside USA and reasonably believes that some of SBR's exported HVO was finally imported into the UK during the period of this investigation, which is calendar year 2024.

2. LEGAL FRAMEWORK

The relevant legislative and procedural rules for UK anti-dumping and anti-subsidy investigations are to be found in:

- Taxation (Cross Border Trade) Act 2018 ("the UK Act")
- The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 ("the UK Regulations")

We also make reference to legislation and rules applicable to implementing trade defence investigations in the EU insofar as these rules are relevant to understanding the context within which this investigation is being implemented. We do not consider that these EU rules would be binding on the TRA, but could be considered to be persuasive or indeed highly persuasive.

Finally, we also refer to the rules applicable to members of the World Trade Organisation ("WTO") on the grounds that the UK is a member of the WTO and its trade defence legislation, rules and procedures and therefore investigations are intended to and should comply with its international obligations under the WTO. The relevant WTO provisions are found: for dumping in Article VI GATT 1994 and the Agreement on Implementation of Article VI of GATT 1994 and for subsidy investigations in Article XVI of the General Agreement on Tariffs and Trade ("GATT") and the Agreement on Subsidies and Countervailing Measures ("ASCM").

3. SCOPE OF THE INVESTIGATION

The Notices of Initiation defines the scope of the investigation both as to product and to origin. The Notices of Initiation in these proceedings was originally issued on 17 March but then updated on 23 April 2025. The Notices state that the allegations of dumping and subsidy concern imports of HVO from USA.

In relation to the Goods Concerned, the Notices state as follows:

> *The goods subject to investigation (the Goods Concerned) are: Biodiesel (or paraffinic diesel fuel / gasoil) obtained from synthesis or hydrotreatment of oils and fats of non-fossil origin, in pure form or as included in a blend, originating in the United States of America (US). This biodiesel is commonly known as hydrotreated (hydrogenated) vegetable oil diesel (HVO), renewable diesel or green diesel. Synthetic paraffinic kerosene (also known as sustainable aviation fuel (SAF)) is excluded from this description of biodiesel.*

Like Goods is defined as:

> *Fatty-acid mono-alkylesters (FAME) from non-fossil origin, in pure form or as included in a blend, excluding sustainable aviation fuel,*

and

> *Biodiesel (or paraffinic diesel fuel / gasoil) obtained from synthesis or hydrotreatment of oils and fats of non-fossil origin, in pure form or as included in a blend, originating in the UK or Rest of World (RoW). This biodiesel is commonly known as hydrotreated (hydrogenated) vegetable oil diesel (HVO), renewable diesel or green diesel. Synthetic paraffinic kerosene (also known as sustainable aviation fuel (SAF)) is excluded from this description of biodiesel.*

The Notices then set out around sixty (60) customs classifications – covering three Classification Chapters - that can be used when Like Products are imported into the UK.

To be clear our understanding of the scope of the investigation is that:

- The Goods Concerned are HVO from the USA.
- The Like Goods are HVO of all origins save that of the USA and FAME originating from all over the world.
- These definitions raise a number of issues which are addressed further below. However, two immediate points arise:

    1. First as a matter of fact it is accepted by all parties that there is no HVO production in the UK. Therefore, the scope of the Like Product determination for HVO becomes HVO from all countries except the USA and the UK.

    2. Secondly, there is an inherent contradiction in the definitions. Currently, according to the Notice, HVO from the USA exported to the UK is considered to be Goods Concerned, whilst FAME exported from the USA to the UK is considered to be Like Goods. If the TRA considers HVO and FAME to be closely resembling products, then FAME exported from the to the UK has to be considered to be Goods Concerned.

Allowing USA origin FAME to be treated as if part of the Goods Concerned would turn this into an investigation into FAME and HVO imports from USA, i.e. the same product scope as the transitional review investigation completed in November 2022. As a result of the transitional review, Trade Defence measures are already in place in relation to FAME from USA, whilst HVO was excluded from the final measures.

The only alternative is that FAME from USA needs to be excluded from the scope of the definition of Like Product. TRA should then also exclude imports of FAME from all third

countries which have current measures or current investigations which will result in measures prior to the adoption of final measures in this investigation. This would then exclude Argentina, Indonesia and China. Crucially, it would also exclude FAME manufactured in the UK.

4. STANDING AND PROCEDURAL VALIDITY OF THE INITIATION

The UK Regulations provide in Regulations 41(1)–(3) that:

> *"The TRA must not initiate an investigation unless it is satisfied that the application is made by or on behalf of the UK industry".*

The application is "on behalf of the UK industry" if:

- It is supported by UK producers whose combined output represents more than 50 % of the production of like goods produced by those producers that express either support or opposition; and
- The supporting producers represent not less than 25% of the total production of the like goods produced by the UK industry.

These are the same 25%/50% thresholds that are set out in Article 5.4 of the WTO ADA.

The UK Regulations set out the following definitions for UK industry and like goods:

> *3.*
>
> *(1) In these Regulations, "UK industry", in relation to any goods, means:*
>
> *(a) UK producers as a whole of the like goods, or*
>
> *(b) those UK producers whose collective output constitutes a major proportion of the total domestic production of those goods,*
>
> *except that:*
>
> *(i) where producers are related to exporters or importers of the allegedly dumped or subsidised goods, or are themselves importers, they may be excluded from the UK industry; and*
>
> *(ii) "like goods" means goods which are identical to the goods subject to investigation, or, where no identical goods exist, goods which, although not alike in all respects, have characteristics closely resembling those goods.*

The WTO Agreement on Article VI confirms at article 2.6 that

> *"Throughout this Agreement the term "like product" ("produit similaire") shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration."*

As noted above, in order for an investigation to be initiated, it must be supported by 50% of the UK Industry, i.e., the UK producers of Like Goods who made representations in relation

to the initiation provided that those supporting the initiation represent not less than 25% of the UK production.

The members of RTFA: Greenergy Fuels Limited (Company number 04058825), Argent Energy Limited (Company number 05455240), and Olleco (Company number 05878742), are all producers of FAME. We understand that none of these companies produce HVO or SAF.

If the relevant UK Industry is the industry producing HVO, there could be no investigation initiated as there is no industry to support (or oppose) the initiation.

Initiation is then only possible if it is accepted that FAME forms part of the Like Goods. If it does the investigation can be initiated. If it does not, then the investigation becomes invalid under the terms of the UK Act and the UK Regulations.

The accuracy of the definition of Like Goods therefore becomes critical to the legality of this investigation.

5. DEFINITION OF LIKE GOODS

As the Goods Concerned are HVO, the question is whether FAME sufficiently resembles HVO so as to be included in the definition of Like Goods is to be applied on a narrow and restrictive basis. To do otherwise would enable completely different goods to be considered as Like Goods because the sale of the Goods concerned has an impact on their sales. In addition, the TRA needs to take care to ensure that the proposed definitions of Like Goods are not proposed in order to engineer a UK investigation in cases where normally there should be none.

SBR submits that this restrictive interpretation is to be applied rigorously in cases where otherwise there is no UK industry i.e. the definition of closely resembling should not be used as a means of enabling an investigation to be initiated in circumstances where it would otherwise not be permitted.

The TRA has stated[1] that it will apply five criteria when considering the determination of a like product:

- *"physical likeness, such as physical characteristics;*
- *commercial likeness, including competition and distribution channels;*
- *functional likeness, such as end-use or if the goods can be substituted for each other;*
- *similarities in production, such as method and inputs;*
- *other relevant characteristics."*

It is our submission that in relation to HVO, FAME meets none of these five criteria.

[1] Extract from the TRA Guide "The UK trade remedies system A guide for small and medium-sized businesses" (see at: https://assets.publishing.service.gov.uk/media/664b2249b7249a4c6e9d3789/SME_Handbook_TRA.pdf)

5.1 The Decision to Exclude SAF

The TRA applied these criteria when it decided to exclude SAF from this investigation. If the TRA excluded SAF when compared to HVO, then to be consistent it should also exclude FAME.

In other words, unless TRA excludes FAME, it will be applying a double standard of assessment because unlike FAME, SAF and HVO are closely related. The close relationship comes from the identical production and technical aspects of the two products and the very close similarities in chemical composition.

- Chemical and Production Similarities between SAF and HVO

  Both HVO and SAF are synthetic paraffinic hydrocarbon fuels derived from renewable biological feedstocks such as vegetable oils, animal fats, or used cooking oil ("UCO"). Their production relies on catalytic hydrogenation (hydrotreating), a process that removes oxygen, sulphur, and nitrogen from the feedstock and converts triglycerides into paraffinic hydrocarbons. Unlike FAME, which contains oxygen and retains an ester structure, both HVO and SAF are composed of straight-chain and isomerised paraffins with chemical properties equivalent to fossil fuels.

  The resulting fuels are entirely deoxygenated, non-polar, and exhibit high thermal and oxidative stability. Depending on refinery configuration, the same hydrotreating and isomerisation units can be tuned to produce either diesel-range hydrocarbons (C15–C22) corresponding to HVO, or jet-range hydrocarbons (C8–C16) corresponding to SAF.

  In technical terms, HVO and SAF can be produced within the same integrated biorefinery using the same feedstocks and catalytic processes, differing primarily in the fraction of hydrocarbons distilled and the downstream product specification . Physical and Performance Characteristics.

  HVO and SAF share very similar physical properties owing to their common hydrocarbon structure. Both have high energy density (approximately 43 MJ/kg), excellent cold flow behaviour, and very low sulphur and aromatic content. Each exhibits a high cetane or combustion index, clean burning characteristics, and long storage stability. They are both hydrophobic and chemically inert, allowing for direct substitution in existing infrastructure without modification.

  The key distinction lies primarily in the hydrocarbon chain-length distribution and the corresponding specification: HVO is optimised for diesel engines (boiling range around 200–360°C), while SAF targets jet fuel standards with a narrower boiling range (150–300°C) and stricter freeze point requirements (−47°C or below). Despite these specification differences, both fuels are drop-in replacements for their fossil counterparts and indistinguishable in chemical composition and combustion behaviour.

- End Use and Market Overlap

  While HVO is primarily marketed for road and non-road diesel applications, and SAF for aviation, their technological and production foundations are convergent. Refineries producing HVO can often adapt their process conditions or blending strategy to generate SAF, and many major renewable fuel producers operate flexible units capable of shifting output between the two products.

Both fuels also respond to similar policy incentives—such as the UK RTFO and the forthcoming UK SAF Mandate—and both contribute to the decarbonisation of the transport sector through lifecycle greenhouse gas savings that may exceed 80% relative to fossil fuels.

5.2 The Decision to Include FAME with HVO

FAME and HVO are both renewable diesel-range fuels, but they belong to fundamentally different chemical families and exhibit sharply contrasting technical, chemical, storage, and operational properties. While HVO is a fully drop-in diesel replacement, FAME is a blend component that can only be used in limited concentrations due to its chemical composition and impact on standard engine systems.

- Chemical Composition and Production

Feature	FAME	HVO
Production process	Transesterification of oils/fats with methanol.	Catalytic hydrotreating and hydroisomerisation of oils/fats under hydrogen.
Molecular structure	Oxygenated esters (10–12% oxygen).	Paraffinic hydrocarbons (no oxygen or aromatics).
Polarity & reactivity	Polar and hygroscopic (absorbs water).	Non-polar, hydrophobic, chemically stable.
Stability	Oxidises and degrades over time.	Highly stable; long storage life.

HVO is chemically almost identical to fossil diesel, whereas FAME's oxygenated nature leads to poorer storage stability, higher water absorption, worse cold flow performance and potential microbial growth in tanks and pipelines.

- Physical and Performance Properties

Property	FAME	HVO
Energy density (MJ/kg)	~37	~43 (same as diesel)
Cold flow plugging point ("CFPP")	Poor (0°C to +5°C)	Excellent (−20°C or lower)
Viscosity / volatility	Higher; risk of injector deposits.	Optimised for diesel engines.
Lubricity	High (natural).	Standard diesel additives used.
Oxidation stability	Moderate; prone to polymerisation.	High; inert and stable.

Material compatibility	Can attack seals and rubbers.	Fully compatible.

FAME's physical properties limit its usability in cold climates and in modern high-pressure fuel systems. HVO behaves identically to fossil diesel, ensuring full compatibility with existing infrastructure and vehicles.

- End Use and Engine Compatibility

Aspect	**FAME**	**HVO**
Primary end use	Blending component limited to 7% under EN 590 for retail sales.	Direct diesel substitute - up to 100% under EN 15940.
Typical market fuels	B7 (7% FAME blend).	HVO100 or blends with fossil diesel.
Engine approval	Limited to B7 for unmodified engines.	Fully OEM-approved for 100% use.
Infrastructure	Requires dedicated handling; absorbs water.	Compatible with diesel infrastructure.
Emission profile	Reduces PM/CO but may raise NOx.	Reduces PM, CO, HC, and NOx vs fossil diesel.

HVO is a drop-in fuel suitable for all diesel engines, whereas FAME must be limited to small blend ratios to avoid operational and maintenance issues.

- Regulatory and Fuel Standard Context

Criteria	**FAME**	**HVO**
Applicable standard	EN 14214 / EN 590 (≤7%).	EN 15940 is the FAME free EU standard (up to 100% HVO permitted).
Legal blending limit (UK retail diesel)	7% v/v under EN 590.	No limit.
UK RTFO eligibility	Eligible if sustainable; double RTFCs for waste FAME.	Fully eligible; can also double count.
Market application	First-generation biodiesel.	Advanced renewable diesel; premium low-carbon fuel.

The impact of the UK standard EN 590 for bio-diesel is frankly dramatic for FAME - it limits the use of FAME in UK retail bio-diesel to a maximum of 7% of the final product. In other words, this cannot be supplied using FAME alone.

EN 15940 confirms that HVO is not subject to blending limits and can be marketed as 100% renewable diesel.

In trade defence terms 7% is in all practical meanings of the term not a close substitute and means that FAME cannot be considered to be a product that closely resembles HVO.

- Commercial Issues

In addition to the different market segment served by FAME, one of the over-riding commercial differences between FAME and HVO is the significantly higher price point for HVO. This remains the position even if due to various external factors this price difference narrowed significantly during part of 2024.

This price decrease was due to a number of short-term factors affecting prices for HVO in EU, UK and worldwide, including a combination of: weak demand (especially due to low certificate/blend value), weak conventional fuel price baseline, regulatory/policy uncertainty, and competition from cheaper alternatives from third parties.

Post 2024, as supply tightened, government rules/market incentives for renewable fuel use became more valuable, reviving HVO demand and prices, and specific disruptions (production outages) occurred, the price began to rebound.

	ARGUS **HVO** (hydrotreated vegetable oil) fob ARA range (Class II) USD/t monthly avg prompt, London close, midpoint, **USD/t**, fob. Feedstock UCO	ARGUS **Biodiesel UCOME** (used cooking oil) RED ARA range barge fob average month 1, London close, midpoint, **USD/t**, barge. Feedstock UCO
31-Jan-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
29-Feb-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
28-Mar-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
30-Apr-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
31-May-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
28-Jun-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
31-Jul-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
30-Aug-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
30-Sep-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
31-Oct-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED

	ARGUS **HVO** (hydrotreated vegetable oil) fob ARA range (Class II) USD/t monthly avg prompt, London close, midpoint, **USD/t**, fob. Feedstock UCO	ARGUS **Biodiesel UCOME** (used cooking oil) RED ARA range barge fob average month 1, London close, midpoint, **USD/t**, barge. Feedstock UCO
29-Nov-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
31-Dec-2024	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
31-Jan-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
28-Feb-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
31-Mar-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
30-Apr-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
30-May-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
30-Jun-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
31-Jul-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
29-Aug-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
30-Sep-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED
31-Oct-2025	THIRD PARTY PROPRIETARY	INFORMATION REMOVED

5.3 Other Industrial Uses for FAME

Although the focus of the Applicant and this investigation has been the use of FAME as a substitute for HVO for transport purposes, the section on customs classification (see below) highlights the potential alternative uses of FAME.

Our understanding is that the core chemical differences between HVO and FAME translate into a very different picture of alternative industrial uses for these products. In simple terms, the absence of oxygen in HVO stops it being used in most industrial applications, but that FAME's different chemical composition ensures that it has a wider variety of alternative industrial uses.

FAME can be used for several non-transport applications that HVO cannot, mainly because FAME contains oxygen and has a polar ester structure, making it chemically reactive and an effective solvent. These properties allow FAME to be used as a biodegradable industrial cleaner and degreaser, as a chemical feedstock for producing polymers, surfactants, and fatty alcohols, and as a lubricity additive in low-sulphur fuels. HVO, by contrast, is a fully de-oxygenated paraffinic hydrocarbon, meaning it is chemically inert, has poor solvency, and cannot be used in these industrial or chemical processes.

This provides further evidence that FAME is not a Like Good for HVO but also requires that, if TRA continues with this investigation, that it identifies these industrial uses and traces them to supplies and prices stripping them out from consideration of its Injury and Causation analysis.

In summary, although both fuels are derived from renewable feedstocks, FAME and HVO are not functionally comparable. HVO replicates fossil diesel chemistry and performance while FAME, as an ester-based biodiesel, differs fundamentally in chemical structure, physical behaviour, and engine performance. FAME can be blended only in low concentrations, while HVO can be used neat as a fully drop-in fuel. The relevant UK standard limits FAME to a maximum use of 7% in retail biodiesel when HVO is a 100% drop-in replacement for mineral diesel.

The decision of TRA to exclude SAF from this investigation in effect requires the TRA to exclude HVO given its very substantial similarities to SAF.

Accordingly, for the purposes of these trade defence investigations, it would be incorrect and unreasonable to take one decision to exclude SAF from the investigation and then take a second to include FAME as Like Goods. In order to remain consistent with its original decision to exclude SAF, the TRA must now decide to exclude FAME from the definition of Like Goods.

5.4 UK TRANSPORT DECABONISATION POLICY

An increasingly important factor in determining sales of “biodiesel” in the UK is the impact of the UK regulations establishing the UK RTFO.

RTFO is a UK government policy mechanism designed to encourage the supply of renewable fuels — such as biodiesel, HVO (Hydrotreated Vegetable Oil), and SAF (Sustainable Aviation Fuel) — for transport use.

In brief, under the UK RTFO Order 2007 (as amended) and associated Technical Guidance (2025), renewable fuels qualify for Renewable Transport Fuel Certificates (RTFCs) only if they achieve defined greenhouse gas (GHG) savings and meet sustainability criteria relating to land use, feedstock sourcing, and verification.

5.5 **Conclusion on Like Goods**

On further consideration, we can see that the approach of the TRA to Like Goods in this investigation is essentially identical to the approach used in the Transitional Review cases which were first and foremost cases investigating imports of FAME. The decision in these cases to remove SAF from the scope of the Like Goods definition could be easily understood as merely following previous UK and EU cases.

In these cases, TRA needs to determine the extent to which FAME can functionally meet the criteria of assessment to be a Like Good for HVO i.e. be used in place of HVO. The above analysis provides real reasons why reaching this conclusion cannot meet any test of consistency or reasonableness.

SBR believes that even at this late stage in the investigation, TRA should review its decision to include FAME as part of the Like Goods definition even if this means that this investigation should then be closed immediately as it would not comply with the initiation requirements of the UK Act and Regulations.

6. CUSTOMS CLASSIFICATION OF BIODIESEL

It is increasingly clear that whereas there was an original single type of biodiesel, FAME, over the years new technology and production methods have been identified which improve the energy efficiency and performance of the final product. At present we can see from the customs classification side that there are a number of different types of biodiesel each of which is given its own classification and which should be considered to form its own Like Product segment.

6.1 Characteristics for Customs Classification

HVO (Hydrotreated Vegetable Oil) is a renewable diesel made by hydrotreating vegetable oils or animal fats, removing oxygen to produce a stable, paraffinic fuel similar to mineral diesel. It contains no oxygen, sulphur, or aromatics and performs well in cold weather with drop-in compatibility.

FAME (Fatty Acid Methyl Ester) is a first-generation biodiesel made via transesterification of oils/fats with methanol. It contains around 11% oxygen, is less stable, absorbs water, and degrades over time—typically shelf-stable for up to six (6) months. Higher blends may require engine approval.

FAMAE (Fatty Acid Mono-Alkyl Esters) includes FAME (Methyl Ester) but also includes any ester derived from fatty acid which incorporates a single (mono-) alkyl group (Ethyl-, Propyl-, Butyl- etc.). These may also be called FAME (e.g., c12 FAME – dodecyl ester)).

SAF (Sustainable Aviation Fuel) is biofuel made from non-petroleum sources, such as UCO, agricultural waste, and municipal solid waste, that can be blended with conventional jet fuel. SAF must conform to the ASTM D7566 specification, which ensures that SAF is certified to meet the same quality and safety standards as conventional jet fuel. For the EU and UK SAF is classified in 2710.19.21.10 if and only if it meets the ASTM D7566 specification. SAF is a highly specialised form of HVO. SAF may also be FAME but its classification is specific to its specification and intended use.

6.2 Available Classification Headings

If we now turn to the issue of classification, looking at the general international World Customs Organisation Harmonised System of Classification ("HS") which harmonises classification to the six-digit level, we find the following headings are used in relation to the classification of biodiesel:

- **1516** Animal, vegetable or microbial fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared.

- **1518** Animal, vegetable or microbial fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal, vegetable or microbial fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included.

- **2710** Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils. Synthetic petroleum and oils which are

derived from non-bituminous sources may nevertheless be classified in Heading 2710 under the terms of Note 2 to Chapter 27.

- **3824** Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils.

- **3826** Biodiesel and mixtures thereof, not containing or containing less than 70% by weight of petroleum oils or oils obtained from bituminous minerals. Note 7 to Chapter 38 defines biodiesel specifically for Heading 3826.

6.3 **Classification Analysis**

- HVO is classified under 1516 or 1518 based on feedstock origin, with subcategories according to the type of vegetable oils used.

- FAME and FAMAE (including non-methyl esters) are generally classified under 3826.00.10 (Fatty-acid mono-alkyl esters, containing by weight 96.5% or more of esters) regardless of source, when pure or nearly pure.

- Specific methyl ester blends used in detergents or personal care fall under subheadings like 3826.00.10.29 or .59:

  - 3826.00.10.29 (unless consigned from Canada) *Mixture of fatty acid methyl esters containing by weight at least:*

    - *65% or more but not more than 75% of c12 fame,*
    - *21% or more but not more than 28% of c14 fame,*
    - *4% or more but not more than 8% of c16 fame,*

  for use in the manufacture of detergents and home and personal care products

  - *3826.0010.59 Mixture of fatty acid methyl esters containing by weight at least:*

    - *50% or more but not more than 58% of c8-fame*
    - *35% or more but not more than 50% of c10-fame*

  for the manufacturing of high purity c8 or c10 fatty acid or fatty acid mixtures thereof or of high purity methylester of c8 or c10 fatty acid

- A German BTI ruling (eBTI DEBTI35740/24-1) classifies certain FAMAE blends under 3826.00.90:

  - 3826.00.90.*19 Blends containing by weight more than 20% of fatty-acid mono-alkyl esters or of a mixture of fatty-acid mono-alkyl esters and paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin*

  - *3826.00.90.33 Blends containing by weight 20% or less of fatty-acid mono-alkyl esters or of a mixture of fatty-acid mono-alkyl esters and paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin*

- *3826.00.90.90 Other (than the above).*

- FAME blends may also fall under 1516 or 1518 if chemically modified, but pure FAME is classified in 3826 as this is the most specific heading (GIR Rule 3(a)).

On the basis of the above, it is clear that for tariff classification purposes HVO is not considered to be the same as FAME.

Now if we look at the Notice of Initiation we find that the list of customs codes of Like Goods is not only essentially the same as in the Transitional Review into FAME and HVO, it is in fact bigger and includes more headings. This is principally because there are additional new 8-digit headings (e.g., 15180095, 27101942, 27101944, 27101948) in the HVO Notice and additional sub-headings included which are only included to the headings listed in the Transitional Review.

This cannot be right: the number of headings for an investigation into HVO being a longer and wider list of products than was included in an investigation into both FAME and HVO.

This suggests that TRA has not as yet completed its review to determine which of these FAME products could be considered to be a real replacement for HVO (and not the other way around). Clearly we would expect this to be addressed in detail by the TRA in its eventual disclosure and provisional decisions – failing which we would have to argue that the investigation had not complied with the limitations imposed by the rules on adding products other than the Goods Concerned to the definition of Like Goods.

6.4 Fair Comparison

In the absence of any domestic UK production of the Goods Concerned, HVO, we cannot see how the TRA can achieve the required objective and fair comparison of prices between imported HVO and domestic UK product.

According to the investigation questionnaires for exporting producers, the

> *"TRA uses Product Control Numbers (PCNs) to define and distinguish the different types of products that fall under the goods concerned description above. PCNs, which come in the form of an alphanumeric code, help to create a categorisation system so that comparisons can be made between goods produced in the domestic UK market and those produced in foreign markets."*

The TRA then provides a Table outlining the structure of the PCN for these investigations[2]:

Characteristic	Symbol	Description
Type	F	FAME (fatty-acid mono-alkyl esters)
	P	Hydrotreated vegetable oil (HVO) / Paraffinic Diesel Fuel / Gasoil
	1	Higher than +9

[2] Pages 5-6 of the anti-dumping questionnaire, and Page 9 of the anti-subsidy questionnaire.

CFPP in degrees centigrade to nearest degree	2	Higher than or equal to 0 but lower than or equal to +9
	3	Lower than 0 but higher than or equal to -9
	4	Lower than -9 but higher than or equal to -40
	5	Lower than -40
Feedstock	1	biodiesel from feedstocks subject to incentives (singled counted according to UK RTFO categories)
	2	biodiesel from feedstocks subject to incentives (double counted according to UK RTFO categories)
	0	other/special purpose sold without any certificate
Form	R(100)	Pure form
	B(XX)	XX equals percentage of biodiesel blended with mineral diesel (The nearest percentage rounded down to a whole number)

The examples given by the TRA in the Questionnaire are as follows:

- HVO, with a CFPP of –20C, made by UCO, and blended with mineral diesel at 7% would be: P42B07

- HVO, with a CFPP of –30C, made by UCO, and blended with mineral diesel at 99% would be: P42B99

The main purpose of the PCN table is to allow a fair comparison between the Goods Concerned and the Like Goods sold by the domestic industry. It is the basis for the calculation of the injury margin. The assumption which underlies the PCN procedure is that at the top level three is a common reference – from which adjustments can be made as needed for the various sub)-differences between Like Goods.

Here we have two top domain products – P for HVO and F for FAME.

Both PCN illustrations above are based on HVO and therefore start with P in accordance with the table. Indeed, all PCNs of the Goods Concerned will start with P as they are all sales of HVO. However, as is agreed, there are no producers of HVO in the UK. Therefore, all sales by the domestic industry are of FAME and will start with F. There can, therefore, be no matching between and sale of Goods Concerned with any sale of Like Goods.

Our understanding of the use of PCNs is that this means that no injury margin can be calculated. It is also a visible demonstration that the TRA agrees that FAME cannot be compared to HVO.

Whatever the Applicant might try to say, FAME and HVO are not comparable products. This is further highlighted by the difficulties the Applicant itself faced in trying to prepare its application.

In Section G.6 of the non-confidential version of the Application (Pages 127 and 128) the Applicant sets out details of its calculation of the alleged injury. Undercutting, the difference between the price of the Goods Concerned and the Like Goods, was calculated by comparing USA HVO with UCOME ("Used Cooking Oil Methyl Ester") prices FOB ARA ("**A**msterdam – **R**otterdam – **A**ntwerp region") from Argus quotes and adding 6.5% import duty, plus clearance, handling and storage charges.

Price Undercutting which exists when imported goods are sold at a lower price than the comparable domestic product in the importing country, is in this case being calculated by the Applicant by reference to a price which has nothing to do with the UK – because there is no price for domestically produced UK HVO.

If FAME and HVO are comparable products, the applicant could have simply used its own FAME EXW prices to compare with USA HVO landed prices.

TRA might have asked the Applicant to confirm what it should conclude as a result of the Applicant's decision not to do so.

7. INJURY ANALYSIS

We wait to see the provisional conclusions of the TRA in its forthcoming statements. However, the fundamental position of SBR is that none of the exports of HVO from USA are causing injury to UK producers – because there are no such producers in the UK.

If TRA decides nevertheless to pursue this investigation, there are clear and material difficulties ahead in reaching any conclusion on Injury and Causation of Injury:

- TRA would need to identify injury in relation to producers of a related product – which we argue is not a Like Good for HVO – caused by imports of HVO from the USA alone.

- It will need to exclude from this calculation any injury caused by the exports of FAME which only impact supplies of FAME and this we consider could not be done if TRA uses a definition of Like Goods covering all FAME products. Surely it would need to identify which types of FAME – if any - could potentially compete (even partially) and be used to replace HVO and then focus on evidence of injury in relation to these FAME products alone.

- Given that these products are likely produced primarily to comply with requirements of UK RTFO it seems difficult to see how USA imports could cause injury when the real drivers of price and choice on the UK market are driven by regulatory requirements.

- In addition, the TRA will need to exclude all injury caused by imports of FAME products from third countries and also in particular from those countries that are already subject to measures or will be subject to definitive measures by the time this investigation is completed. Chief among these countries is China.

8. ECONOMIC INTEREST CONSIDERATIONS

The final stage of a UK trade defence investigation is the determination of whether the imposition of measures is in the economic interest of the UK. In simple terms, even if dumping or subsidy is found, the TRA must assess whether measures would be economically justified and proportionate. Measures should not be imposed unless they are in the UK's economic interests, meaning that the measures will:

- Deliver a net benefit to the UK economy, and
- Avoid disproportionate harm to other sectors, consumers, or wider policy goals.

It may well be incompatible with the above requirements to consider imposing measures when there are no UK producers of the Goods concerned.

In other words, if HVO from USA is made subject to trade defence payments, there will be no UK production industry that can take advantage of this protection let alone increase its production to supply UK demand. The impact of the UK 7% rule for FAME means that any requirement to achieve a higher percentage of renewable diesel (e.g., a 14% target) would have to be met by other imports or higher priced USA imports. The UK FAME industry would not be able to benefit from such measures.

In addition, where the impact of the measures would likely have a direct and negative impact on both retail and commercial fuel prices and where to reduce the move to HVO from FAME to secure better and more speedy transition to decarbonising the UK transport industry.

The current position according to the Applicant is that there is no domestic production of HVO and no mention is made of any plans to create a UK HVO production facility which might be affected by the impact of third country imports.

Given this background, it seems hard to find any reasons to justify imposing additional trade defence measures on the UK economy and consumers.

These points will need to be addressed by the TRA, and we look forward to reviewing its conclusions and having the opportunity to comment on them in detail.

9. SUBSIDY ISSUES

The following comments are made without in any way prejudging the outcome of the TRA investigation into whether countervailable subsidies were conferred on USA producers during 2024.

At this stage SBR wishes only to underline that the alleged subsidy paid by the USA for HVO production and imports in 2024, the BTC, was abolished at the end of 2024. Instead of a flat BTC $1/gallon credit, the BTC was replaced in 2025 by the Clean Fuel Production Credit ("CFPC") by virtue of Section 45Z Clean Fuel Credit/ U.S. Inflation Reduction Act (IRA) of 2022. The CFPC is an entirely new regime with significantly lower value of interventions based on the carbon intensity ("CI") of the fuel relative to a baseline (50 kg CO_2e/mmBTU).

From 2025 onwards, neither SBR nor other USA producers will be receiving any alleged subsidy under the BTC.

The recent changes in U.S. rules and its international trade policy will significantly reduce exports of HVO to the United Kingdom. This is because:

- the 45Z CFPC, only applies to fuel produced in the USA using qualifying domestic feedstocks;
- it excludes eligibility for fuel produced using imported UCO and starting in 2026 all other imported waste feedstocks.

- in addition, from April 2025, USA introduced new tariffs of 10–50% on many imported lipid feedstocks. Duty drawback i.e., recovery of import duties paid on the re-export of goods, is only partially recoverable when finished HVO is exported.

- Long-standing rules under the Renewable Fuel Standard (RFS) also remain unchanged: exported HVO does not generate RINs, and exported fuel cannot receive LCFS/CFS credits available in key U.S. domestic markets.

The impact of these new measures on imported certified UCO/feedstock are of critical importance to USA producers because demand for renewable diesel has outstripped the capacity of local USA supplies of UCO and related feedstock. The USA has now become a net importer of certified UCO.

Added to this the existing rule which ensured that RINs are not generated for export sales, the attractiveness of making export sales to the UK has been significantly reduced.

Pulling all of the above together the increase in costs of producing export-grade HVO and the increase in the relative profitability of selling into the U.S. domestic market, mean that export sales are much less attractive to producers.

In terms of the subsidy aspects the new rules significantly restrict the amount and circumstances in which support measures would be available for exported HVO.

In view of the above SBR reconfirms its views that the anti-subsidy investigation should be concluded without the imposition of any measures.

10. FINAL CONCLUSIONS

For the above reasons, SBR requests that the TRA reconsiders whether it can or should be pursuing both investigations.

The absence of any domestic industry and the fundamental objections to FAME being considered as a Like Good make it hard or impossible for the TRA to bend its rules and procedures sufficiently to complete a realistic and fair investigation.

Imposing measures in these circumstances would be unreasonable and far from providing support to a UK industry would penalise consumers and business and provide an additional damping effect on UK efforts to decarbonise the transport industry. Such artificial measures would also only serve to distort competition within the UK markets.

Given the substantial legal, practical and policy objections to pursuing these investigations SBR requests that TRA reviews their decisions to initiate and now concludes that termination of these investigations is the only appropriate action to take.

ANNEX 1 – TECHNICAL INFORMATION AND COMPARISONS ON FAME, HVO AND SAF

This section provides a detailed comparison between Fatty Acid Methyl Esters ("FAME") and Hydrotreated Vegetable Oil ("HVO"), the two primary renewable diesel substitutes. While both are derived from similar feedstocks such as vegetable oils and animal fats, their production processes, chemical structures, and physical properties differ significantly.

1. PRODUCTION PROCESS

	FAME (Biodiesel)	HVO (Renewable Diesel)	SAF (HEFA / Synthetic Aviation Fuel)
Process	Transesterification of vegetable oils or animal fats with methanol (catalyst: NaOH/KOH).	Hydrotreating / hydrogenation of similar feedstocks with hydrogen at high temperature & pressure.	Further hydroprocessing and isomerisation of HVO-type intermediates to meet aviation fuel standards.
Chemistry	Esterification converts triglycerides → methyl esters + glycerol.	Hydrogenation removes oxygen → straight-chain paraffinic hydrocarbons.	Hydroisomerisation and cracking create branched/cyclic paraffins suitable for jet fuel.

2. CHEMICAL COMPOSITION

	FAME	HVO	SAF (HEFA)
Molecules	Fatty acid methyl esters (contain oxygen).	Normal & iso-paraffins (pure hydrocarbons).	Isomerised paraffins and cycloparaffins (pure hydrocarbons).
Oxygen content	10–12 wt %	≈ 0 wt % (fully deoxygenated)	0 wt % (fully deoxygenated)
Carbon–hydrogen ratio	Lower (due to oxygen).	Higher (similar to fossil diesel).	Higher (similar to jet fuel).
Aromatics/sulphur	None.	None.	Typically <1% aromatics; no sulphur.

3. PHYSICAL PROPERTIES

	FAME	HVO	SAF (HEFA)
Density @15°C	0.86–0.90 kg/L	0.77–0.79 kg/L	0.75–0.78 kg/L
Viscosity @40°C	4–5 mm^2/s	2–3 mm^2/s	~1–2 mm^2/s

	FAME	HVO	SAF (HEFA)
Cetane / combustion	Cetane 50–65	Cetane 75–95	High combustion quality (jet fuel metrics)
Cold flow	0 to +5°C	as low as −30°C	Meets aviation freeze point (≈ −47°C)
Oxidation stability	Low	High	Very high
Lower heating value	44 MJ/kg	37 MJ/kg	~43 MJ/kg
Hygroscopicity	Absorbs water	Hydrophobic	Hydrophobic

4. Fuel Performance and Blending

	FAME	HVO	SAF (HEFA)
Compatibility	Blended up to 7% (B7) in EN 590 diesel.	Can be used up to 100% (HVO100).	Approved up to 50% blend under ASTM D7566.
Storage	Short shelf life (oxidation risk).	Long shelf life.	Highly stable; aviation-grade.
Emissions	Lower CO_2 lifecycle but can raise NO_x slightly.	Very low CO_2; NO_x neutral/reduced.	Very low CO_2; reduced particulates.

5. Summary

	FAME	HVO	SAF (HEFA)
Chemical family	Oxygenated esters	Paraffinic hydrocarbons	Isomerised paraffinic hydrocarbons
Engine compatibility	Limited blend	Drop-in diesel	Drop-in aviation (50% blend certified)
Cold flow / stability	Poor	Excellent	Exceptional
Production cost	Lower	Higher	Highest
Certification	Feedstock-dependent	Often advanced biofuel	Advanced aviation biofuel

In summary, FAME is a chemically modified oil (methyl esters) that offers a low-cost renewable fuel option but has blending and stability limitations. HVO, by contrast, is a hydrogen-refined renewable diesel composed of paraffinic hydrocarbons, offering superior performance, cold flow properties, and complete compatibility for existing vehicles and engines which were designed to use fossil diesel.