

5 May 2026,

Re: AS0067: Note on present subsidisation of the Blender's Tax Credit and the introduction of H.R. 8497

1. This note supplements the RTFA's principal Reg 40 response and addresses, in particular, the implications for the TRA's present-subsidisation analysis of H.R. 8497, the *SEED Bill / Biodiesel Tax Credit Extension Act of 2026*, introduced in the House of Representatives on 27 April 2026.
2. The Bill is additional evidence that US federal support for HVO production is on a trajectory of continuity and expansion rather than termination; and reinforces the conclusion that the conditions for the imposition of definitive countervailing measures are met.

1 Background

3. By its Notice issued under Regulation 40 dated 12 March 2026, the Trade Remedies Authority (the "TRA") indicated its intention to make a final negative determination on the basis that the Blender's Tax Credit ("BTC") "*no longer offers present subsidisation to US HVO exporters*" and "*effectively ended by 15 October 2025*".¹
4. The Renewable Transport Fuel Association ("RTFA") respectfully submits that this conclusion is, on the present record, unsustainable. The present submission complement arguments already submitted in the previous submission.

2 Requirement of present subsidization is met

5. The RTFA reiterates its principal submission that present subsidisation falls to be assessed by reference to the Section 45Z Clean Fuel Production Credit ("CFPC"), the BTC's statutory replacement. The subsidy **programme is present and significant**. US exporters already benefit from the CFPC, as evinced by their financial reports.² Further, the US Joint Committee on Taxation projects that the budgetary cost of the CFPC will rise from USD 2,1 billion in 2025 to USD 10,6 billion by 2029.³
6. Even if the TRA were to confine its assessment to the BTC alone (*quod non*), it could not properly conclude that this subsidy has been terminated within the meaning of paragraph 11(8) of Schedule 4 to the Taxation (Cross-border Trade) Act 2018. The TRA's conclusion that the BTC "*no longer offers present subsidisation*" rests on a static reading of US tax law that is contradicted by (i) bipartisan legislation pending in the 119th Congress and (ii) the credit's settled twenty-year pattern of expiry and retroactive reinstatement.
7. On 27 April 2026, the bipartisan bill H.R. 8497, the *Strengthening Economic and Energy Development (SEED) Act / Biodiesel Tax Credit Extension Act of 2026*, co-sponsored by both Republicans and Democrats was introduced,⁴ and endorsed by the principal trade associations

¹AS0067 Notice under Regulation 40, dated 12 March 2026 (the "Reg 40 Notice").

² E.g. DGD Holdings LLC, Consolidated Financial Statements, 2025. Available online: <https://www.sec.gov/Archives/edgar/data/916540/000091654026000008/ex991dgdffy2025fin.htm>.

³ JCT, Estimates of Federal Tax Expenditures for Fiscal Years 2025–2029. Available online: <https://www.jct.gov/publications/2025/jcx-45-25/>.

⁴ Strengthening Economic and Energy Development (SEED) Act / Biodiesel Tax Credit Extension Act of 2026, H.R.8497 — 119th Congress (2025-2026), Available online: <https://www.congress.gov/bill/119th-congress/house-bill/8497/text/ih>.

of the US biodiesel and trucking sectors.⁵ In a Press Release, dated 27 April 2026, David Fialkov, Executive Vice President of Government Affairs for NATSO (America's travel centers and truck stops) and SIGMA (America's Leading Fuel Marketers) applauds this initiative since “*The Biodiesel Blenders' Tax Credit is a tried and true, consumer-oriented policy with tangible benefits that include lower operating costs for businesses*”.⁶

8. The Bill proposes to reinstate the Section 40A BTC at USD 1,00 per gallon, retroactively from 2024 through 31 December 2029; **eligible taxpayers would elect either the restored BTC (Section 40A credit) or the CFPC (Section 45Z credit). The goal is to ensure that producers would receive at least the same level of support as in the BTC, unless the CFPC is more favourable.** The
9. The legislative history, provided by the US exporters, itself records that the BTC has, throughout its **twenty-year existence**, been characterised by repeated cycles of expiry and retroactive reinstatement: retroactively for 2012 and 2013 (*American Taxpayer Relief Act of 2012*); retroactively for 2014 (*Tax Increase Prevention Act of 2014*); retroactively (and one year forward) by the *Protecting Americans from Tax Hikes Act of 2015*; retroactively for 2017 (*Bipartisan Budget Act of 2018*); and most recently through 31 December 2024 by the *Inflation Reduction Act of 2022*, itself adopted after a further lapse. Across more than fifteen years, every nominal expiry of the BTC has been followed by retroactive reinstatement.⁷ Notably, even amendments to IRS forms that remove the ability to claim a specific tax benefit are entirely reversible. The BTC has historically been retroactively operationalised through implementing IRS Notices opening dedicated retroactive claim windows.⁸ The historic **20-year cycle of expiry and retroactive reinstatement creates a ‘legitimate expectation’ for US producers**, influencing their production and export pricing strategies today, even during nominal lapses
10. The Bill proposes that the BTC **complement** the existing CFPC. Producers would be precluded from simultaneously claiming credits under Section 40A (BTC) and Section 45Z (CFPC) in respect of the same fuel, which presupposes that the two credits are functionally interchangeable. The Bill confirms that demonstrates that **the BTC and the CFPC are not distinct, unrelated programs, but rather a coordinated, multi-layered federal support structure designed to ensure a guaranteed 'floor' of subsidisation for US exporters.**
11. If the Bill gets enacted, **US HVO producers would have access to two parallel federal subsidy streams from which to elect the more favourable**; the trajectory of US federal support is therefore one of continuity and expansion, not termination.

⁵Endorsed: NATSO/SIGMA/NACS, “Fuel Retailers Applaud Legislation to Extend Biodiesel Blenders’ Tax Credit”, PR Newswire, 27 April 2026. Available online: <https://www.prnewswire.com/news-releases/fuel-retailers-applaud-legislation-to-extend-biodiesel-blenders-tax-credit-302754885.html/> and “Carey Introduces Bill to Reinstates Biodiesel Tax Credit Through 2029, Biomass Magazine, 29 April 2026, Available online: <https://biomassmagazine.com/articles/carey-introduces-bill-to-reinstates-biodiesel-tax-credit-through-2029>.

Further endorsement: Press Release, Office of Representative Mariannette Miller-Meeks, “Miller-Meeks, Carey Lead Bill to Restore Biofuel Tax Credits”, 28 April 2026, Available online: <https://millermeeks.house.gov/media/press-releases/miller-meeks-carey-lead-bill-restore-biofuel-tax-credits>.

⁶ NATSO/SIGMA/NACS, “Fuel Retailers Applaud Legislation to Extend Biodiesel Blenders’ Tax Credit”, PR Newswire, 27 April 2026. Available online: <https://www.prnewswire.com/news-releases/fuel-retailers-applaud-legislation-to-extend-biodiesel-blenders-tax-credit-302754885.html/>.

⁷E.g. DGD Non-Confidential Exporter Questionnaire Response in AS0067 (filed 7 June 2025), p. 37.

⁸ Latest: IRS Notice 2022-39 (Inflation Reduction Act of 2022). Available online: <https://www.irs.gov/pub/irs-drop/n-22-39.pdf>.

12. Hence, the RTFA respectfully submits that while the TRA’s March notice was based on the legislative snapshot available at that time, the introduction of H.R. 8497 on 27 April represents a material change in the factual record that renders the ‘termination’ conclusion obsolete.

3 Conclusion

13. For the foregoing reasons, US federal support for HVO production has not terminated. The record now shows a **dual-track subsidy strategy**: the transition to the Section 45Z CFPC (which is already operational and expanding) and the active, bipartisan legislative path to reinstate the Section 40A BTC via **H.R. 8497**.
14. The TRA’s previous ‘static’ determination of termination is no longer supported by the evidence. The trajectory of US support is clearly one of **consolidation and expansion**. To prevent immediate and irreparable injury to the UK industry, the TRA should impose definitive countervailing measures based on the present subsidisation established in the Statement of Essential Facts. Any future uncertainty regarding the final enactment of H.R. 8497 can be addressed through the appropriate mechanism of an interim review, rather than a premature and dangerous negative determination today.

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