AD0068
AS0067
United States Government
Submission of Comments
NON-CONFIDENTIAL
June 6, 2025

COMMENTS BY THE UNITED STATES GOVERNMENT

Investigations No. AD0068 and AS0067

Non-Confidential

I. INTRODUCTION

1. The United States welcomes the opportunity to provide comments on the Trade Remedies Authority's ("TRA") anti-dumping and anti-subsidy investigations into the alleged dumping and subsidization of hydrotreated vegetable oil diesel ("HVO") from the United States (the "Investigations"). The TRA initiated these Investigations on April 23, 2025 pursuant to paragraph 9(5) of Schedule 4 to the Taxation (Cross-border Trade) Act 2018 (the "UK Act"), based on an application (the "Application") filed by the Renewable Transport Fuel Association and named member companies ("Applicants").[1]

2. As addressed below, by initiating these Investigations, the TRA appears to have adopted and compounded the incorrect reasoning set forth in the Applicants' Application – specifically, the incorrect analysis of like goods detailed in the UK's Transition Reviews of the European Commission's antidumping and countervailing duty orders on HVO and Fatty Acid Methyl Ester (FAME) from the United States and Canada ("Biodiesel Transition Reviews").[2] Specifically, the TRA appears to have relied on an incorrect analysis to conclude that Applicants represent a sufficient threshold of UK industry and have adequate standing, resulting in an improper initiation of the Investigations. Because these Investigations were improperly initiated, the United States requests for the TRA to terminate the Investigations, consistent with section 64 of the Trade Remedies (Dumping and Subsidization) (EU Exit) Regulations 2019 (the "UK Trade Regulations").

3. If, however, the TRA chooses to proceed with these Investigations, the United States requests for the TRA to evaluate the incorrect analysis from the Biodiesel Transition Reviews, relied upon by Applicants, when assessing any potential injury to UK industry.

[1] *See* Anti-Dumping and Anti-Subsidy Application, Jan. 27, 2025.

[2] UK Trade Remedies Authority, *TD0004 - Biodiesel from United States and Canada* (*TD0004*), Final Determination, Section G, available at: www.trade-remedies.service.gov.uk/public/case/TD0004/submission/58471eb0-72c7-4e12-9190-b145b48f15e5/; and Trade Remedies Authority, *TS0005 - Biodiesel from United States and Canada* (*TS0005*), Final Determination, Section G, available at: www.trade-remedies.service.gov.uk/public/case/TS0005/submission/f76c7919-a587-46e0-b85b-97252d8ab494/.

II. THE INVESTIGATIONS SHOULD BE TERMINATED BECAUSE APPLICANTS LACKED ADEQUATE STANDING

4. As discussed below, the Application relies upon the Biodiesel Transition Reviews, which incorrectly assessed FAME and HVO to be like goods.[3] By initiating these Investigations, the TRA appears to have adopted and compounded this prior incorrect analysis to determine that there was sufficient UK industry support to meet standing requirements. Therefore, the United States requests the TRA to promptly terminate these Investigations pursuant to section 64 of the UK Trade Regulations.

A. Domestically-Produced FAME and Imported HVO are Not Like Goods

5. In these Investigations, the TRA has identified the product under consideration as follows:

> 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.[4]

6. Paragraph 7(1) of Schedule 4 of the UK Act defines "like goods," as:

> (a) goods which are like those goods in all respects, or
>
> (b) if there are no such goods, goods which, although not alike in all respects, have characteristics closely resembling those of the goods in question.[5]

---

[3] *See, e.g.,* Biodiesel Transition Review (TS0005), para. 87 ("The TRA considers that HVO and FAME are like goods, and that the price of US HVO is comparable with UK FAME."); Biodiesel Transition Review (TD0004), para. 90.

[4] *See* Notice of Initiation: Hydrotreated vegetable oil (HVO) imported into the United Kingdom originating in the United States of America (US) Initiation of an Investigation into Alleged Subsidisation, (Mar. 17, 2025).

[5] Taxation (Cross-border Trade) Act 2018, Sched. 4, at Art. 7(1). Similarly, the World Trade Organization *Agreement on Subsidies and Countervailing Measures* ("ASCM") and *Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* ("ADA") define the domestic "like product" as:

> "a product which is identical, i.e., alike in all respects to the product under investigation, 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."[5]
>
> ADA, Art. 2.6; ASCM, Art. 15.1,n. 46.

7. Paragraph 7(1) of Schedule 4 of the UK Trade Act thus states that the first step of determining "like goods" is to consider whether there is a domestic product/good that is alike "in all respects" – therefore, identical – to the product under investigation. However, there is no domestic HVO production in the United Kingdom, meaning that the first step of a "like goods" analysis is not met.[6]

8. In these circumstances, the second step of the "like goods" definition is to identify any domestic like products/goods that "although not alike in all respects, have characteristics closely resembling those of the [products or] goods in question."[7] Applicants are a trade association consisting of biodiesel producers that manufacture so-called fatty acid methyl ester ("FAME") biofuels,[8] which Applicants contend is "directly substitutable and interchangeable" with FAME biofuels.[9] However, as discussed below, HVO and FAME do not meet this second step because they do not satisfy the TRA's own industry guidance factors – meaning that they are not like goods.

9. The TRA's industry guidance document identifies the following five factors as guiding the TRA's "like goods" analysis: (1) physical likeness, focusing on physical characteristics; (2) commercial likeness, focusing on competition and distribution channels; (3) functional likeness, focusing on end-use and substitutability; (4) similarities in production, focusing on production-related methods and inputs; and (5) other relevant characteristics.[10] As set forth below, careful consideration of these factors compels the conclusion that FAME is neither alike nor bears characteristics closely resembling those of the imported goods, *i.e.*, HVO. Indeed, the TRA previously acknowledged the difference between HVO and FAME in the Biodiesel Transition Reviews when it analyzed the two products separately.[11]

[6] *See* Application at p. 30, para. 13.

[7] Taxation (Cross-border Trade) Act 2018, Sched. 4, at Art. 7(1).

[8] Application at p. 44.

[9] Application at p. 17.

[10] *See*, *e.g.*, Trade Remedies Authority, The UK trade remedies system: A guide for small and medium-sized businesses (issued on Feb. 7, 2023; updated on May 9, 2024), p. 11, available at: https://assets.publishing.service.gov.uk/media/664b2249b7249a4c6e9d3789/SME_Handbook_TRA.pdf.

[11] *See* Biodiesel Transition Review (TS0005), para. 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."); Biodiesel Transition Review (TD0004), para. 187 ("Nevertheless, we considered it appropriate to conduct separate analysis of FAME and HVO in this report as research, questionnaire replies, and information from verification confirmed that these products are traded as distinct commodities in the biofuels market.").

i. FAME Does Not Meet the "Physical Likeness" Factor

10. FAME is physically distinct from HVO. FAME contains oxygen, which impacts its stability, cold-flow properties, and shelf-life.[12] In contrast, HVO is oxygen-free, which results in a more stable fuel that is compatible with existing engines/infrastructure.[13] HVO has limited sulfur, such that it can be stored long-term without any deterioration of quality.[14] FAME may only be stored for up to six months in contrast.[15] Further, HVO is processed to be chemically the same as petroleum diesel, while FAME is not.[16]

11. The U.S. Department of Energy likewise makes clear that renewable diesel (i.e., HVO) and biodiesel (including FAME) are not the same fuel, stating:

> Renewable diesel, previously known as green diesel, is a hydrocarbon produced most often by hydrotreating and also via gasification, pyrolysis, and other biochemical and thermochemical technologies. It meets ASTM D975 specification for petroleum diesel. Biodiesel is a mono-alkyl ester produced via transesterification. Biodiesel meets ASTM D6751 and is approved for blending with petroleum diesel.[17]

There is, accordingly, no indication that FAME and HVO are alike or share common characteristics

12. The Applicants rely upon the TRA's finding in its Biodiesel Transition Reviews where the TRA recognized the physical distinctions between FAME and HVO outlined above, but

---

[12] Gerveni *et al*., "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, p. 2. *See also* Application at pp. 22-23, paras. 19-20; Biodiesel Transition Review (TS0005), para. 174; Biodiesel Transition Review (TD0004), para. 177.

[13] *See* U.S. Department of Energy, Alternative Fuels Data Center, Renewable Diesel, p. 1, available at: https://afdc.energy.gov/fuels/renewable-diesel; Cummins, Inc., Frequently Asked Questions on HVO Fuel (2023), available at: https://www.cummins.com/sites/default/files/2023-12/hvo-fuel-faq-2023.pdf. *See also* Application at pp. 22-23, paras. 19-20; Biodiesel Transition Review, (TS0005), para. 174; Biodiesel Transition Review (TD0004), para. 177.

[14] Cummins, Inc., Frequently Asked Questions on HVO Fuel (2023), available at: https://www.cummins.com/sites/default/files/2023-12/hvo-fuel-faq-2023.pdf. *See also* Biodiesel Transition Review (TS0005), para. 174; Biodiesel Transition Review (TD0004), para. 177.

[15] Romano & Sorichetti, *Dielectric Spectroscopy in Biodiesel Production and* Characterization, Chapter 2, Green Energy and Technology, DOI, 2011, p. 8, available at: https://www.canr.msu.edu/uploads/files/biodiesel_production.pdf.

[16] Gerveni *et al*., "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023.

reduced these acknowledged physical differences to differences in "feedstock sources, and the corresponding quality of the feedstock."[18] However, given the various physical distinctions between FAME and HVO, an objective and impartial review of the physical characteristics cannot stand merely on the use of overlapping feedstock. Indeed, many different products can be made from the same ultimate feedstock or input without them being like products. For example, used cooking oil can also be used as a feedstock or input for products such as soaps and beauty products, pet food, industrial lubricants and oil for lamps.[19] Because these products almost certainly would not be considered "like" to HVO on the basis of used cooking oil as an input, FAME should not be considered a like good on this basis either.

ii. FAME Does Not Satisfy Commercial Likeness and Substitutability

13. FAME and HVO do not satisfy commercial likeness. First, FAME and HVO are subject to different conditions of competition in the UK market. UK-produced FAME is typically blended with diesel once its volume exceeds seven percent of the relevant blend. FAME is subject to strict blend walls, "limit[ing] the proportion of FAME to a maximum of 7 vol-%, whereas for HVO there is no blending wall whenever the specification of EN 590:2022 standard is fulfilled." [20] Indeed, because there is no blending wall for HVO, the product can be sold directly to road diesel suppliers without the need for any prior blending.[21] Therefore, because FAME needs to be blended with diesel while HVO does not, FAME is not directly substitutable for HVO without further processing.[22] Further, renewable diesel "meets the ASTM D975 specification for petroleum in the United States but not the minimum density requirement of 0.820 kg/m3 in the EN 590 petroleum diesel standard in Europe.[23]"

14. Further, the Applicants rely upon the TRA's finding in the Biodiesel Transition Review that commercial likeness between these products is based on the fact "these products all compete in the biofuels market to replace (either in part or whole) mineral diesel as a road transport fuel

[17] U.S. Department of Energy, Alternative Fuels Data Center, Renewable Diesel, p. 1, available at: https://afdc.energy.gov/fuels/renewable-diesel

[18] Application at p. 23, paras. 24-25.

[19] DAR PRO Solutions, "Partner with the industry leader in repurposing used cooking oil," Sept. 24, 2024, available at: https://www.darlingii.com/media/blogs/partner-with-the-industry-leader-in-repurposing-used-cooking-oil.

[20] Application at p. 25, para. 33.

[21] *See* Biodiesel Transition Review (TS0005), para. 191; Biodiesel Transition Review (TD0004), para. 192 ("There is a physical blend wall of 7% for the use of FAME in road fuel, beyond which vehicles must be specially modified for the use of the fuel.").

[22] The United States observes that the TRA did not engage with this issue in its Biodiesel Transition Review, opting to combine its discussion of the distribution operations of importers with those of the domestic FAME producers in order "to avoid double counting". *E.g.,* Biodiesel Transition Review (TS0005), para. 394.

[23] *See* U.S. Department of Energy, Alternative Fuels Data Center, Renewable Diesel, available at: https://afdc.energy.gov/fuels/renewable-diesel

with environmental benefits."[24] However, the mere fact that two products are alternatives to the same product does not make those products "like" amongst themselves. Otherwise, this analysis is akin to saying that apples and oranges are like products because they compete in the market to replace potato chips as a snack food with health benefits.

15. Therefore, contrary to the Applicants' reliance on the TRA's analysis in the Biodiesel Transition Review, conditions of competition and end-use customers demonstrate that HVO and domestically-produced FAME do not meet the commercial likeness factor.

iii. FAME Lacks "Functional Likeness" To HVO

16. FAME and HVO lack the requisite functional likeness. HVO aligns more closely with petroleum diesel in terms of performance and storage, which distinguishes it from FAME.[25] HVO is a direct "drop-in" fuel that can be used in existing engines/infrastructure to replace conventional diesel without the prior need for blending.[26] In contrast, FAME, due to its chemical properties, typically requires blending with diesel before "drop in."[27] Relatedly, engines operating purely on HVO do not need to be retrofitted with specialized equipment.[28] Engines that run purely on FAME biofuels, in contrast, require the use of filters and heaters to avoid clogging during cold weather periods.[29] Further, the oxygen content of FAME can limit the length of time it can be stored due to oxidation that causes corrosion and its chemical composition can make it more susceptible to microbial fouling when poor storage tank management is present, which may result in the corrosion of storage tanks and clogging of fuel lines.[30] Lastly, FAME has a relatively high temperature where it will begin to freeze and form

[24] Application at p. 25, para. 29.

[25] Gerveni et *al.*, "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023.

[26] Gerveni *et al.,* "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, pp. 3-4. *See also* Application at p. 18, para. 7; p. 22, para. 19.

[27] Gerveni *et al*., "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, pp. 2-4. *See also* Application at p. 18, para. 7; p. 22, para. 19.

[28] *See* U.S. Department of Energy, Alternative Fuels Data Center, Renewable Diesel, p. 2, available at: https://afdc.energy.gov/fuels/renewable-diesel. *See also* Application at pp. 22-23, para. 19.

[29] U.S. Department of Energy, Alternative Fuels Data Center, Biodiesel, available at: https://afdc.energy.gov/fuels/biodiesel-basics. *See also* Application at pp. 22-23, para. 20.

[30] Gerveni *et al.*, "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, p. 2.

visible crystals.[31]

17. Applicants agree with the TRA's finding in the Biodiesel Transition Review, where the TRA acknowledged that "HVO has uses for which FAME is not appropriate."[32] However, the TRA, in its transition review, confined its analysis to niche applications 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."[33] This discussion fails to fully acknowledge the lack of functional likeness between HVO and FAME as conventional automotive biofuels.

18. The Applicants' reliance on the TRA's Biodiesel Transition Review is misplaced because the Biodiesel Transition Review did not fully assess the different functionality of FAME and HVO. Therefore, in the context of these Investigations, the TRA should reevaluate this limited analysis and correctly consider that HVO and FAME do not meet the threshold for lack of functional likeness to be considered like goods.

iv. FAME and HVO Have Substantial Differences in Production

19. FAME and HVO are produced differently, and thus have substantial differences in production.[34] FAME is produced through the transesterification of vegetable oils or animal fats with an alcohol, typically methanol.[35] FAME production produces glycerin, a naturally occurring alcohol, as a by-product.[36] FAME production also requires other reagents, and can be produced without the need for industrial scale equipment or processes.[37]

---

[31] Gerveni *et al.,* "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, p. 2.

[32] Application at p. 25, para. 29.

[33] Biodiesel Transition Review (TS0005), para. 180.

[34] *Compare* U.S. Department of Energy, Alternative Fuels Data Center, Biodiesel, available at: https://afdc.energy.gov/fuels/biodiesel-basics *with* U.S. Department of Energy, Alternative Fuels Data Center, Renewable Diesel, available at: https://afdc.energy.gov/fuels/renewable-diesel. *See also* Gerveni *et al.,* "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023.

[35] Gerveni et al., "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, p.1. *See also* Biodiesel Transition Review (TS0005), para. 173.

[36] Gerveni et al., "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, pp. 1-2; U.S. Department of Energy, Biodiesel. *See also* Application at p. 27, para. 7; Biodiesel Transition Review (TS0005), para. 173.

[37] Romano & Sorichetti, *Dielectric Spectroscopy in Biodiesel Production and* Characterization, Chapter 2, Green Energy and Technology, DOI, 2011, p. 22-23, available at: https://www.canr.msu.edu/uploads/files/biodiesel_production.pdf. *See* Biodiesel Transition Review (TS0005), para. 173.

20. HVO, on the other hand, is produced through a process of hydrotreatment, where hydrogen is used to convert fats and oils into hydrocarbons that are chemically similar to conventional mineral diesel.[38] Moreover, HVO production requires extensive refining equipment.[39] The hydrotreating process parallels the process used to "crack" crude oil into gasoline, diesel, and other petroleum products in a crude oil refinery.[40]

21. The Applicants acknowledge that in the Biodiesel Transition Reviews, the TRA acknowledged the substantial differences apparent in the production processes required to produce HVO versus FAME.[41] Specifically, the TRA considered that "[d]ue to the difference in production method, it is not possible to have a production plant that can produce both FAME and HVO."[42] It nevertheless determined to emphasize, once more, that "identical feedstocks can be used for both products and the end product is odourless."[43] In so doing, the TRA appears to have elevated the use of raw material inputs and a purported physical similarity over the substantial differences apparent in production processes.

22. In these Investigations, the TRA should reevaluate its incorrect conclusion in the Biodiesel Transition Reviews, and correctly consider that there are significant differences in production between FAME and HVO.

v. Other Relevant Characteristics Show that FAME and HVO Are Not Like Goods

23. Other relevant factors, including import treatment, are indicative of the different treatment of FAME and HVO in the UK market, further demonstrating that the TRA should not consider them to be like goods.

---

[38] U.S. Department of Energy, Alternative Fuels Data Center, Renewable Diesel; Gerveni et al., "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, p. 3. *See also* Biodiesel Transition Review (TS0005), para. 173.

[39] Gerveni *et al*., "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, p. 3.

[40] Gerveni *et al*., "Biodiesel and Renewable Diesel: What's the Difference", farmdoc daily, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 8, 2023, p. 3.

[41] Application at p. 27, para. 1.

[42] Application at p. 27, para. 1 (citing Biodiesel Transition Review (TS0005), para. 173; Biodiesel Transition Review (TD0004), para. 176).

[43] Application at p. 27, para. 1 (citing Biodiesel Transition Review (TS0005), para. 173; Biodiesel Transition Review (TD0004), para. 176).

24. There are notable differences in the tariff treatment of FAME and HVO. The TRA's final recommendation to revoke countervailing duties on HVO following its transition review indicates that HVO entered the UK market under seven tariff codes, all classified under HS heading 2710.[44] FAME, in contrast, enters the UK market under an additional 21 tariff codes, spanning HS headings 1516, 1518, 3824, and 3826.[45]

25. The narrower tariff treatment applicable to imports of HVO indicates that it is considered a biofuel distinct from FAME. The TRA likewise appeared to recognize this fact in the Biodiesel Transition Reviews, in determining it "appropriate to conduct separate analysis of FAME and HVO in this report as research, questionnaire replies, and information form verification confirmed that these products are traded as distinct commodities."[46]

vi. Because an Objective Examination of Positive Evidence Demonstrates that FAME and HVO Lack Sufficient Common Characteristics, the TRA Should Determine That FAME and HVO Are Not Like Goods

26. There is little indication that FAME and HVO share common characteristics beyond the use of common biogenic feedstock and their regulatory treatment. Accordingly, an evaluation of the respective products' characteristics demonstrates that FAME and HVO are not like goods. A finding otherwise would not reflect an objective examination of positive evidence.[47] Accordingly, the United States requests for the TRA to terminate the Investigations, consistent with section 64 of the Trade Remedies (Dumping and Subsidization) (EU Exit) Regulations 2019 (the "UK Trade Regulations").

27. Should these investigations proceed, however, the United States urges the TRA to reevaluate the analysis of like product and the domestic industry producing that product when evaluating injury. The TRA will be required to determine what domestically-produced product has "characteristics closely resembling those of" of HVO.[48] The collection and compilation of the relevant evidence for the record demonstrates that sustainable aviation fuel[49] and conventional diesel fuel, rather than FAME, are the domestic products most like HVO, and that

[44] Biodiesel Transition Review (TS0005), para. 477. Chapter 27 concerns "mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes."

[45] Biodiesel Transition Review (TS0005), para. 479. Chapter 15 concerns "animal, vegetable or microbial fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes," whereas Chapter 38 concerns "miscellaneous chemical products."

[46] Biodiesel Transition Review (TS0005), para. 186.

[47] *See, e.g.,* ADA, Art. 3.1; ASCM, Art. 15.1.

[48] *See* Taxation (Cross-border Trade) Act 2018, Sched. 4, at Art. 7(1).

[49] U.S. Department of Energy, Alternative Fuels Data Center, Sustainable Aviation Fuel, available at: https://afdc.energy.gov/fuels/sustainable-aviation-fuel.

the only similarity between HVO and FAME is with respect to the use of crude oils as feedstock.[50] Indeed, the Applicants admit that the physical and chemical characteristics of HVO are closer to conventional diesel than those of FAME.[51]

B. These Investigations Were Initiated on the Basis of a Wrongly Defined Industry

28. Section 52(2) of the UK Trade Regulations requires that the TRA refrain from initiating antidumping or countervailing duty investigations unless "the TRA determines that the application is supported by UK producers whose collective output constitutes at least 25 percent of *the total production in the United Kingdom of the like goods*, and is not opposed by other UK producers of the like goods whose collective output is greater than or equal to that percentage."[52]

29. Because the Applicants consist of producers of a product that is neither identical nor bears characteristics most closely resembling those of HVO, the Applicants lacked standing to file the Application in these Investigations. The United States considers that correcting the like product analysis to recognize that FAME and HVO are not like goods would result in a domestic industry vastly different in composition to the UK industry producing FAME biofuels, and thereby result in the correct conclusion that the Applicants lack the required standing.

30. The compounding incorrect analysis of like product and UK industry undermines the validity of initiation of these Investigations. We thus urge the TRA to promptly terminate these Investigations due to the Applicants' lack of standing pursuant to section 64 of the UK Trade Act.

III. SHOULD THE TRA CONTINUE WITH THE INVESTIGATIONS, IT SHOULD REMEDIATE PROCEDURAL CONCERNS

31. Without prejudice to the U.S. request for the TRA to terminate these Investigations, if the TRA elects not to terminate the Investigations, the United States urges to TRA to review non-confidential summaries for compliance with the confidentiality provisions of UK Trade Regulations at section 45, to ensure that they adequately summarize confidentially provided

[50] Gibon *et. al*., "Requirements and Solutions for Pretreatment of HVO Feedstocks," Biobased Diesel Daily (February 10, 2023), available at: https://www.biobased-diesel.com/post/requirements-and-solutions-for-pretreatment-of-hvo-feedstocks.

[51] Application at p. 24, para. 26.

[52] *See* section 52(2) of the UK Trade Regulations, implementing paragraph 9(1)(a)(i) of Schedule 4 to the UK Trade Act (emphasis added). Similar requirements are set forth in ADA, Art. 5.4 and ASCM, Art 11.4.

information.[53] The United States also respectfully requests that the TRA take into full consideration and address all arguments put forth by U.S. interested parties in this proceeding.[54]

IV. CONCLUSION

32. In conclusion, we thank the TRA for providing the United States the opportunity to address why the Application, and thus the TRA's initiation of the Investigations, were incorrect. We appreciate the TRA's careful consideration of these complex, critical issues, and we urge the TRA to immediately terminate the Investigations, consistent with section 64 of the UK Trade Regulations. Should the TRA choose to proceed with these incorrectly initiated Investigations, the United States urges the TRA to consider the U.S. procedural concerns outlined above.

[53] The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, section 45, requires that the TRA must thoroughly evaluate requests for confidential treatment of information. The TRA must also ensure that parties provide non-confidential summaries in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence or explain in detail the exceptional circumstances which prevent a public summary of the information.

[54] The U.S. concerns on this point specifically relate to the TRA's sampling decisions in these Investigations. On April 11, 2025, the TRA issued a notice announcing the proposed sample for the investigation, inviting interested parties to submit comments on the proposed sampling by April 22, 2025. One interested party timely filed comments on the proposed sample by the specified deadline, April 22, 2025. On April 23, 2025, the TRA published its final sample selection. However, the final sample published by the TRA appears to disregard the timely filed comments, as the concerns raised by the interested party were neither addressed nor acknowledged in the TRA's final sampling decision. Procedural fairness and transparency are critical in the sampling process, as representative sampling can significantly impact outcomes for affected stakeholders.