

**ADDITIONAL U.S. GOVERNMENT COMMENTS
TO ANTI-SUBSIDY QUESTIONNAIRE**

Expiry Review ER0083

NON-CONFIDENTIAL

I. INTRODUCTION

1. The United States welcomes the opportunity to provide comments to the Trade Remedies Authority (“TRA”) on issues pertinent to its review of the request for an expiry review of the anti-subsidy measures applicable on imports of U.S. biodiesel originating in the United States of America. As addressed below, the TRA should find that any subsidization of or injury caused by imports of U.S. biodiesel would not be likely to continue or recur were the countervailing measure at issue to expire.

II. U.S. COMMENTS ON INJURY

2. As discussed in detail below, an evaluation of the likely volume, likely price effects, and likely impact of biodiesel imports from the United States indicates that any injury caused to the U.K. industry by U.S. biodiesel imports would not be likely to continue or recur were the countervailing measure to expire.

A. LIKELY VOLUME ANALYSIS

3. With respect to likely volume, the United States submits that the volume of subject imports from the United States during the period of review of January 2022 through June 2025 (“POR”) was minimal. Applicants characterize this volume as “marginal” during the POR.¹ Moreover, while the TRA’s analysis of “whether U.S. exporters are able to export to the U.K market at volume” will focus on U.S. production, capacity, and stocks during the POR,² it should also consider these datapoints in the context of the overall attractiveness of the UK market to subject producers.

4. Certain factors emphasized by the Applicants in their request for expiry review, namely apparent U.K. consumption, which declined by 45 percent during the POR, sales values, which declined by 23 percent in this period, and the emergence of low-priced non-subject imports from China that, according to Applicants, had “a dramatic impact” on the domestic industry’s profitability, have resulted in a market with diminished appeal to U.S. exporters.³ An objective analysis of the likely volume of subject imports from the United States based on positive

¹ Expiry Application at 97, response to question 6 at para. 1.

² See the TRA’s Recommendation to the Secretary of State in TS0005 (Nov. 10, 2022) (“Transition Review”) at 60, paras. 347-348.

³ Expiry Application at 91, para. 16, 92-93, paras. 19-20, and 93, para. 20.

evidence would require the TRA to frame its examination of the subject industry's ability to export to the U.K. market at volume within the context of these factors, which are pertinent to subject producers' willingness to export to a declining market.

B. LIKELY PRICE EFFECTS ANALYSIS

5. The United States highlights the Applicants' contention that the lack of subject imports during the POR rendered it impossible to provide details of any price undercutting, price depression, or price suppression by reason of subject merchandise during the POR.⁴ Applicants instead purport to present an alternative price undercutting analysis based on "a theoretical import price" derived from data for U.S. exports to third-country destinations including Canada, Peru, and the EU, and a "constructed" domestic price purporting to show elevated underselling margins ranging between 91 and 123 percent.⁵ However, the resulting calculations are not credible (because they are not grounded in real market data) and well in excess of the likely undercutting margin calculated by the TRA in its November 2022 recommendation to the Secretary of State. Further, the calculations fall to account for the likely price effects of subject imports from the United States based on positive evidence.⁶

C. LIKELY IMPACT ANALYSIS

6. The United States observes that several of the U.K. industry's metrics improved during the POR, including with respect to sales volumes and market shares, which increased, and costs of production and inventories, which declined.⁷ Moreover, the declining trade and financial indicators emphasized by Applicants as proof of its vulnerability to injury appear to be driven by the domestic industry's export sales, which declined by 52 percent during the POR.⁸ The industry's declining export performance is unrelated to subject imports of biodiesel from the United States, which were marginally present in the U.K. market during this period.

7. With respect to non-attribution, the United States observes that a plain reading of the Application makes clear that the domestic industry experienced injury due to its declining export performance, coupled with declines to apparent U.K. consumption and competition from non-subject imports from China, which have also likely impacted the domestic industry's exports.⁹

8. Further, there is no basis to determine that any alleged subsidies would impact biodiesel production, the prices of biodiesel, or the export of biodiesel to the United Kingdom as Exhibit USA-10 shows global U.S. exports of biodiesel declined significantly during the POI.

⁴ Expiry Application at 97, response to question 6 at para. 1.

⁵ Expiry Application at 98, response to question 6 at para. 4.

⁶ See Transition Review at 58-59, paras. 330-337.

⁷ See generally Expiry Application at 90-94.

⁸ Expiry Application at 95, para. 27.

⁹ See generally Expiry Application at 90-95.

Accordingly, the TRA should conclude that the circumstances of the United States are such that any injury caused by the subsidized goods is not likely to continue or recur if the countervailing measure expires.

9. Lastly, Applicants alleged in their Application and their recently filed anti-dumping and anti-subsidy applications concerning hydrotreated vegetable oil (“HVO”) from the United States that out-of-scope imports of HVO were the cause of material injury experienced by the industry during the period examined.¹⁰ An objective analysis of the likely impact of subject imports from the United States based on positive evidence would require the TRA, in any affirmative likelihood of injury determination, to carefully explain how subject imports of biodiesel from the United States are likely to injure the domestic industry in circumstances where domestic producers have concurrently attributed the cause of their injury to non-subject merchandise from China and out-of-scope HVO merchandise from the United States.

III. U.S. COMMENTS ON ALLEGED FEDERAL SUBSIDY PROGRAMS

10. The United States, in its questionnaire response and arguments below, makes clear that there is no subsidization of biofuel producers during the POI. As such, the TRA should conclude that subsidization will not continue or be likely to recur if the countervailing measure expires. Further, to the extent the TRA were to determine that there were countervailable subsidies being provided, those subsidies would provide far less benefit than those calculated in the original transition review. Accordingly, if the TRA were to incorrectly conclude that there were countervailable subsidies being provided, the TRA should assign a revised subsidy rate to those programs rather than rely on the subsidy rate imposed in the transition review that was largely based on programs that have since expired.

11. **Biodiesel Mixture Credit:** As the United States explained in the questionnaire response, the Biodiesel Mixture Credit, otherwise referred to as the Blender’s Tax Credit, expired on December 31, 2024. Accordingly, the program is no longer in effect and did not exist during the POI. In the “Note to public file” dated March 12, 2026 in its Anti-subsidy investigation into Hydrotreated Vegetable Oil (HVO) originating in the United States of America (Case AS0067), the Trade Remedy Authority correctly concluded that, “Without present subsidisation the TRA cannot recommend implementing measures.” Since this program has been withdrawn and is no longer providing benefits, subsidization would not continue or likely to recur if the countervailing measure expires.

12. **Small Agri-biodiesel Producer Income tax credit:** As the United States explained in the questionnaire response, the Small Agri-biodiesel Producer Income tax credit expires on December 31, 2026.¹¹ Further, for the first six months of 2025, the small agri-biodiesel producer

¹⁰ See, e.g., Expiry Application at 88-89, paras. 3-7.

¹¹ 26 U.S.C. § 40A(g) (Exhibit USA-20).

income tax credit program was only available as a tax credit of 10 cents per gallon for up to the first 15 million gallons of agri-biodiesel produced and sold during the tax year. For the final six months of 2025, the tax credit increased to 20 cents per gallon. However, the total U.S. production of biodiesel in 2025 was 1,150,000,000 gallons.¹² Therefore, any benefit provided to biodiesel under this program would likely be well below *de minimis*. Accordingly, subsidization under the program would be unlikely to impact UK biodiesel if the countervailing measure expires.

13. **Clean Fuel Production Credit:** While the CFPC went into effect on January 2, 2025, no payments were issued during the POI as taxpayers generally file for 2025 income tax credits in 2026 and filings have not yet been made. As such, because there were no payments made during the POI, there was no countervailable subsidy during the POI. Further, once payments are made, the CFPC provides credit values tied to the carbon intensity (CI) *only* for fuels achieving a CI less than 50 kg CO₂e/MMBtu.¹³ To claim a credit of \$1.00 per gallon under the CFPC, the fuel's net CI would have to be zero (carbon neutral). The credit amount is calculated by multiplying the applicable rate by the fuel's percentage emissions-reduction score as determined under the U.S. Department of Energy's 45ZCF-GREET lifecycle model.¹⁴ However, several production pathways would have a CI value of more than 50 kg CO₂e/MMBtu.¹⁵ And no production pathways would have a CI value of zero.¹⁶ Therefore, no production of biodiesel will be able to claim the maximum credit of \$1.00 per gallon, and several production pathways are ineligible for the CFPC. Accordingly, if the TRA were to consider the CFPC as a countervailable subsidy within the POI – which, for the reasons discussed above, it should not – any benefit would be significantly smaller than what was previously calculated under previous programs.

14. **USDA Bioenergy Programme for Advanced Biofuels (BPAB)/Advanced Biofuels Payment Program:** As the United States makes clear in its submission, the total amount

¹² https://www.eia.gov/totalenergy/data/monthly/pdf/sec10_8.pdf

¹³ 26 U.S.C. § 45Z(b)(1)(A)(i) (Exhibit USA-18).

¹⁴ 26 U.S.C. § 45Z(b)(1)(B) (Exhibit USA-18). The 45ZCF-GREET Model calculates an estimated carbon intensity (CI) score for biodiesel produced via various production processes (i.e., pathways) and via various feedstocks. The net CI score is based on an analysis of the full life cycle from production through end use of the biofuel including all inputs to growing the feedstock (including emissions from fertilizer production and use), harvesting, transportation to a production facility; all of the energy inputs at the production facility, including natural gas, electricity and the carbon intensity of the grid where the facility is located; plus any emissions associated with transporting the fuel to the point of use, and emissions from combusting the fuel (i.e., tailpipe emissions from a heavy duty vehicle or aircraft in the case of aviation fuel).

¹⁵ See U.S. Environmental Protection Agency, Lifecycle Greenhouse Gas Results, Graphic entitled “Lifecycle GHG Emissions by Feedstock and Fuel Type,” <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/lifecycle-greenhouse-gas-results>. The CI score calculated under the 45ZCF-GREET Model will be unique to each specific biodiesel production based on a variety of factors. Regardless, even under other methodologies, including the U.S. Environmental Protection Agency's Lifecycle Greenhouse Gas Analysis, it is evident that biodiesel production generally is not zero, and therefore will not likely achieve the maximum \$1.00 per gallon credit from the CFPC.

¹⁶ *Id.*

provided to all biodiesel producers under this program in 2025 is \$830,234.91. The total U.S. production of biodiesel in 2025 was 1,150,000,000 gallons.¹⁷ As such, the maximum benefit to biodiesel provided under this program would have been \$0.0007/gallon or well below *de minimis*. Accordingly, subsidization under the program would be unlikely to impact UK biodiesel if the countervailing measure expires.

15. **Advanced Research Projects Agency-Energy (ARPA-E):** As the United States makes clear in its submission, the ARPA-E programs did not provide any subsidies to biodiesel production in the POI. Because there were no subsidies provided by this program, the TRA should conclude that no benefit was provided, and there is no countervailable subsidy during the POI.

16. **Alternative Fuel Refueling Property Credit:** The Alternative Fuel Refueling Property Credit is a property tax credit that is only available to certain qualifying property. As the United States notes in its questionnaire response, qualified alternative fuel vehicle refueling property generally includes any depreciable property and that is: (1) for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or (2) for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged. As such, the Alternative Fuel Refueling Property Credit would not benefit the production of biodiesel for export to the United Kingdom. The TRA should therefore conclude that this credit did not provide a countervailable subsidy to biodiesel producers.

17. **USDA Higher Blends Infrastructure Incentive Programme (HBIIP):** As the United States makes clear, the alleged program has terminated and did not provide any benefit during the POI. Further, even when the program was in effect the program was unrelated to the production of biodiesel. Accordingly, the TRA should conclude that this credit did not provide a countervailable subsidy to biodiesel producers and any subsidization under this program will neither continue nor likely recur if the countervailing measure expires.

18. **Rural Energy for America Programme Renewable Energy Systems & Energy Efficiency Improvement Guaranteed Loans & Grants (REAP):** As the United States makes clear, no grants to producers of biodiesel were made under this program during the POI. The TRA should therefore conclude that this program did not provide a countervailable subsidy to biodiesel producers.

¹⁷ https://www.eia.gov/totalenergy/data/monthly/pdf/sec10_8.pdf

IV. COMMENTS ON ALLEGED STATE LEVEL SUBSIDY PROGRAMS

19. **Missouri qualified biodiesel producer incentive fund:** This program is expired. As the TRA correctly concluded in its Statement of Essential Facts for its investigation of HVO from the United States (AS0067), “the awarding of grants stopped on 31 December 2009.”¹⁸ Accordingly, the TRA should conclude that subsidization under this program will neither continue nor likely recur if the countervailing measure expires.

20. **Texas Fuel Ethanol, Renewable Methane, Biodiesel and Renewable Diesel Production Incentive Programme:** As the United States makes clear, the Texas Fuel Ethanol, Renewable Methane, Biodiesel and Renewable Diesel Production Incentive Program is not operational due to legislative inconsistencies. Since the program is effectively non-operational and therefore did not provide any funding during the POI, the TRA should conclude that subsidization under this program will neither continue nor likely recur if the countervailing measure expires.

21. **Washington State Biofuels Production Tax Exemption:** The Washington State property and leasehold tax exemption for biofuels has long since expired, as applicants were required to submit applications for the exemption by December 31, 2015. Accordingly, there were no benefits provided under this exemption during the POI. Indeed, the TRA correctly concluded in its investigation of HVO from the United States (AS0067) that, “The exemption program is no longer in operation, expiring on 31 December 2015, applications were required to be submitted by that date.”¹⁹

22. **Iowa Biodiesel Producer Tax Refund:** Data for 2025 is not yet available. Further, The United States would note that while there were 196.6 million gallons of biodiesel production that received the Iowa State Biodiesel Production Tax Credit in 2024 this provided only \$4,303,000 in aggregate tax credit redemptions, or \$.022 per gallon of production or well below *de minimis*. Therefore, subsidization under the program would be unlikely to impact UK biodiesel if the countervailing measure expires. Further, this tax credit is available to both production of FAME and HVO, and therefore any calculation would need to be reduced to account for the proportion of tax credits received for the production of HVO.

23. **Kentucky Biodiesel Production Tax Credit:** As noted in the United States’ questionnaire response, during the POI, this aggregate tax credit was subject to a maximum value of \$10,000,000, which was applicable to all biodiesel producers, blenders, renewable diesel producers, and renewable chemical producers. Because the \$10,000,000 acts as a maximum, the TRA would need to account for the proportion of tax credits received for the production of biodiesel.

¹⁸ Statement of Essential Facts (AS0067), para 232.

¹⁹ Statement of Essential Facts (AS0067), para. 238.

24. **Kansas Qualified Biodiesel Fuel Producer Incentive:** This program has expired and no benefit was provided during the POI. As the TRA correctly concluded in its statement of essential facts in the investigation of HVO from the United States, “As set out under Kansas State Legislature 79-34-159 this incentive expired on July 1, 2016. Kansas State Legislature makes no provision for carry over of this incentive.”²⁰ Accordingly, the TRA should conclude that subsidization under this program will neither continue nor likely recur if the countervailing measure expires.

25. **Kansas Biofuel Blending Equipment Tax Exemption:** As the United States makes clear in its submission, this program was only effective for tax years commencing after December 31, 2006 and before January 1, 2012. As such the program has expired and no benefit was conveyed during the POI. Accordingly, the TRA should conclude that subsidization under this program will neither continue nor likely recur if the countervailing measure expires.

26. **Alabama – Biofuel Production Jobs Tax Credit:** This is part of the broader Alabama Jobs Act, which is available to a wide variety of producers in various industries beyond manufacturing. Because this program is widely available and not specific, it is therefore not a countervailable subsidy.

27. **Illinois – Biofuels Tax Exemption:** As the United States highlights in our questionnaire responses, this is a point-of-sale sales tax exemption. Therefore, it is unlikely for producers of biodiesel to receive benefits under this program. Accordingly, the TRA should conclude that this program is not providing a benefit to the product under review. However, if the TRA were to determine that this alleged program provides a benefit to producers of biodiesel, it should reduce any total benefit provided by the proportion of the benefit attributable to HVO since HVO is not within the scope of the investigation.

28. **Iowa – Renewable Fuel Infrastructure Program:** As the United States makes clear in our submission, the purpose of this program is to assist retail operators of fueling stations with installing, replacing, or converting eligible infrastructure to expand the use of renewable fuels. Because any benefit provided under this program goes to retail sites and terminal facilities, it is not provided to producers of biodiesel. Accordingly, the TRA should therefore conclude that this program is not providing subsidies to producers of biodiesel.

29. **Michigan – Incentive Program for In-State Sale and Production Biodiesel:** As the TRA correctly concluded in its statement of essential facts in the investigation into exports of HVO of the United States “On 27 June 2023, House Bill (HB) 4847 was introduced, which would provide incentives for the sale and production of biodiesel in Michigan. HB 4847 was referred

²⁰ Statement of Essential Facts (AS0067), para. 243.

to the Tax Policy Committee, however has not moved past this stage.”²¹ Because this law was never enacted and never entered into force, there is no program in effect and no benefits being provided. Accordingly, the TRA should conclude that subsidization under this program will neither continue nor likely recur if the countervailing measure expires.

30. **Montana – Biodiesel Tax Exemption:** As the United States makes clear in its submission, there are no producers of biodiesel in Montana, and therefore there are no benefits being provided under this program. Accordingly, the TRA should conclude that subsidization to biodiesel producers will neither continue nor likely recur if the countervailing measure expires.

31. **Montana – Refund for Taxes Paid on Biodiesel By Distributor Or Retailer:** As the United States makes clear in its submission, there are no producers of biodiesel in Montana, and therefore there are no benefits being provided under this program. Accordingly, the TRA should conclude that subsidization to biodiesel producers will neither continue nor likely recur if the countervailing measure expires.

32. **New Mexico – Biodiesel Blending Facility Tax Credit:** As the United States makes clear in the questionnaire response, this tax credit was repealed in 2025. Further, no benefits were provided during the POI. Since this program has been withdrawn and did not provide benefits during the POI, the TRA should conclude that subsidization under this program will neither continue nor likely recur if the countervailing measure expires.

33. **North Dakota Biodiesel and HVO (HVO) Blender Tax Credit:** As the United States makes clear in the questionnaire response, to date no credits under this program have been claimed for 2025. As such, to the best of our knowledge, there was no benefit provided under this program in the POI.

34. **North Dakota Biodiesel and HVO (HVO) Sales Equipment Tax Credit:** As the United States makes clear in the questionnaire response, to date, no credits under this program have been claimed for 2025. As such, to the best of our knowledge, there was no benefit provided under this program in the POI.

35. **North Dakota Agriculturally Derived Fuel Production Facility Loan Guarantees and North Dakota Advanced Biofuel Incentives:** As the United States makes clear in its submission, no funding was provided under the program was provided in 2025. As such, there was no benefit provided under this program in the POI.

36. **North Dakota – Clean Sustainable Energy Authority:** Based on our understanding of beneficiaries of this program, there are no beneficiaries of this program engaged in the

²¹ Statement of Essential Facts (AS0067), para. 244.

production of biodiesel. As such, there was no benefit provided to subject merchandise under this program in the POI.

37. **North Dakota – Biofuel Loan/PACE Programme:** As the United States makes clear in its submission, no funding was provided under the program in 2025. As such, there was no benefit provided under this program in the POI.

38. **Oregon Production Property Tax Exemption (as part of the Rural Renewable Energy Development RRED Zone):** As the United States notes in its submission, no benefits were provided to producers of biodiesel under this program. Accordingly, the TRA should conclude that subsidization to biodiesel producers will neither continue nor likely recur if the countervailing measure expires.

39. **South Dakota – Biodiesel Blend Tax Credit:** As the United States makes clear in its submission, there are no licensed biodiesel producers in the state, and therefore no biodiesel producer is benefitting from this program. Accordingly, the TRA should conclude that subsidization to biodiesel producers will neither continue nor likely recur if the countervailing measure expires.

40. **South Dakota – Biodiesel Tax Reduction:** As the United States makes clear in its submission, there are no licensed biodiesel producers in the state and therefore no biodiesel producer is benefitting from this program. Accordingly, the TRA should conclude that subsidization to biodiesel producers will neither continue nor likely recur if the countervailing measure expires.

41. **South Dakota – Tax Refund for Methanol Used in Biodiesel Production:** As the United States makes clear in its submission, there are no licensed biodiesel producers in the state and therefore no biodiesel producer is currently benefitting from this program. Accordingly, the TRA should conclude that subsidization to biodiesel producers will neither continue nor likely recur if the countervailing measure expires.

42. **Missouri Biodiesel Producer Tax Credit:** This program is only available to producers in Missouri. There is no evidence on the record to demonstrate that any tax credits provided under this program would impact the price of biodiesel or exports of biodiesel from the United States to the United Kingdom.

V. CONCLUSION

43. In conclusion, the United States thanks the TRA for providing an opportunity to address issues pertinent to its analysis of whether any subsidization of or injury cause by U.S. biodiesel imports would be likely to continue or recur if the countervailing measure at issue were to expire. We appreciate the TRA's careful consideration of these issues, and urge the TRA to find that the countervailing measure should expire.