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HVO originating in the United States of America

Case AS0067

Statement of Essential Facts

Reply by

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I. Preamble

St. Bernard Renewables LLC ("**SBR**") respectfully files this response to the Statement of Essential Facts, dated November 28, 2025 ("**SEF**") in the Anti-subsidy investigation No. AS0067 (the "**Investigation**") of the United Kingdom ("**UK**") Trade Remedies Authority ("**TRA**") into hydrotreated vegetable oil ("**HVO**") originating in the United States of America ("**US**").

SBR reserves its rights to respond to any further developments or information received after the date of this submission.

1. EXECUTIVE SUMMARY

SBR's objections to the SEF are based: first and foremost, on a series of fundamental errors of assessment which would individually and collectively justify termination of the investigation and then, secondly on a series of procedural errors which would require the TRA to revise and re-issue a second version of the SEF if it intends to proceed with this investigation.

SBR is concerned that the TRA appears increasingly to be pursuing an investigation into Fatty acid methyl esters ("**FAME**") and HVO whereas this investigation is clearly initiated solely in relation to HVO. IF TRA rejects SBR's arguments on "Like Goods," then any involvement of FAME should be limited only to those instances and applications where it is actually capable of being used as a substitute for HVO.

We set out the following summary of arguments by issue:

With regard to HVO and FAME being like goods:

- As there is no UK domestic production of HVO, this investigation should not have been initiated and should now be terminated immediately.
- The TRA has incorrectly determined that Fatty acid methyl esters FAME are to be considered as like goods to HVO for the purposes of this investigation.
- In order to conclude that FAME and HVO are like goods, the TRA has been forced to reach an unjustified conclusion that these two products are interchangeable and therefore can act as substitute products.
- All of the evidence points clearly to technical and chemical differences in FAME causing the lack of interchangeability and only very limited substitutability.
- The TRA has focused on EN590 to identify substitutability. EN590 provides the standard for retail diesel sold at UK petrol stations. EN590 specifically requires that FAME cannot be used in retail diesel beyond 7% by volume. This 7% limit does not apply to HVO.
- For unknown or unjustified reasons, the SEF confirms that the TRA has sought to reduce the scope of the investigation to consider only transport related uses of HVO and principally retail transport uses under the EN590 B7 standard.
- The SEF is deficient in that it fails to consider or address the impact of measures on the clearly growing reliance of UK industry on HVO. Excluding these issues and concerns undermines the validity of the conclusions reached in the SEF.

- The TRA incorrectly assumes that purchasers of biodiesel are generally motivated by price, when it is clear that whether commercial users or retail customers are looking for higher levels of environmental compliance than can be offered by B7 and by products incorporating FAME.

With regard to the subsidy assessment conveyed in the SEF:

- SBR does not consider that the TRA has sufficiently identified why US Blenders Tax Credit ("**BTC**") payments made in 2024 are to be considered as subsidies.
- TRA's actual proposed calculations on subsidy amount take no account of the end of the BTC program in US and the introduction of a radically revised new program, the Clean Fuel Production Credit ("**CFPC**").
- In the absence of BTC, TRA is required to implement a similar analysis to determine if CFPC is a subsidy and if so assess the value of the benefits conferred. Only with this evidence and information can TRA determine what (if any) is the appropriate level of duty to impose on future US origin HVO imports.
- Current evidence suggests that CFPC will provide only a small fraction of the payments made under BTC. The TRA is obliged to determine what measures would be appropriate to countervail current and future levels of US subsidy which under CFPC, at best, would be a fraction of the amounts conferred under BTC.
- In the absence of a complete analysis of the subsidy issues, TRA's proposal to impose measures is both unreasonable and unjustified. These errors further undermine the conclusions reached by the TRA in relation to Injury, Causation and UK Economic Interest.

With regard to the injury assessment:

- The TRA's injury submission provides further clear evidence that FAME and HVO are not like goods.
- The injury evidence demonstrates no correlation between imports of US HVO and injury to UK FAME producers.
- Injury suffered by UK FAME producers is clearly linked to their high dependence on UK export sales – around four times higher than their domestic UK sales - with the TRA's own evidence showing that any injury to the UK FAME producers arose from 2021 onwards when their export sales turned unprofitable and then collapsed.
- There is therefore no or insufficient evidence to show that imports of US HVO caused injury to UK FAME producers.
- The TRA has clearly misdirected itself and reached a conclusion that is not supported by its own findings. For this reason alone the investigation should be immediately terminated.

With regard to the UK Economic Interest assessment:

- The TRA appears to take an overly narrow and restricted approach to the meaning of Economic Interest which appears to imply that whatever the cost to UK industry measures are always in the UK's interests.
- In essence TRA is proposing to impose measures on imports of US HVO when the UK has no domestic production of HVO and FAME is clearly not an actual substitute. The effect of the measures would be to increase prices to all users substantially and ensure

that this price increase is paid to producers in other third countries with virtually no benefit accruing to UK industry.

- The TRA records the potential for significant levels of negative welfare loss with costs to UK ranging from GBP£ 32 million up to GBP£339 million but with benefits to UK FAME producers being limited to less than GBP £ 3 million but not exceeding GBP £ 14.7 million. And yet the TRA still finds that these measures would be in the UK's economic interests.
- The TRA fails to recognise and quantify the role and value that HVO plays to UK decarbonisation strategy and the increasing reliance placed on it by UK industry.
- The TRA fails to assess environmental impacts as an independent and mandatory consideration, despite explicit statutory authority to do so under the "other relevant matters" limb.

Collectively each of these elements provide grounds in themselves for the termination of this investigation without the imposition of measures. In the light of the above, SBR continues to maintain that the TRA should have refused to initiate this investigation from the outset but should now terminate it without measures, as soon as possible.

SECTION D: THE GOODS CONCERNED AND LIKE GOODS

2. INTRODUCTION

2.1 At Section D of the SEF the TRA concludes that FAME constitute "like goods" for HVO and are interchangeable substitutes in direct competition with each other.

2.2 This finding is critical to the investigation because in the absence of any domestic industry producing HVO, if FAME is not considered to be "like goods," then the investigation should not have been initiated or should now be terminated.

2.3 For the reasons set out below, SBR considers that the TRA's conclusion that FAME is like goods for HVO is legally and factually incorrect and that all of the evidence points to the fact that FAME is not at all a substitute for HVO in almost all of the end-uses for which HVO is demanded.

3. LEGAL FRAMEWORK

3.1 Paragraph 7 of Schedule 4 to the UK Taxation (Cross-border Trade) Act 2018 provides that:

> "*For the purposes of this Schedule, "like goods", in relation to goods, means:*
>
> (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.*"

3.2 FAME is very clearly not like HVO in all respects. Thus, the TRA correctly seeks to make a determination under the "*closely resembling*" test. This test should however be interpreted narrowly – as too wide an interpretation would allow for an overbroad application resulting in too many products being deemed like goods due to some form of substitutability.

3.3 At SEF paragraph 86, the TRA confirms that this assessment will be based on considerations of the following elements: (a) physical likeness, including physical characteristics; (b) commercial likeness, including competition and distribution channels; (c) functional likeness, including end-use or interchangeability of the goods; (d) similarities in production, including method of production and inputs; and (e) other relevant characteristics.

3.4 In SBR's view, the draft SEF shows that in applying these criteria, the TRA has failed to make an appropriate assessment of these factors leading to the erroneous conclusion that HVO and FAME are like products. More specifically, the TRA has failed to give sufficient weight (not equal weight) in its analysis of those factors that determine whether in a trade defence investigation a fair and meaningful comparison can be made between imported goods and domestic production.

3.5 From the very start of this investigation, it has been clear that the most important factors are those which determine whether a fair comparison can be made between the products of exporting producers and those of the domestic industry. SBR considers that these are: criterion (d) methods of productions, following criterion (a) physical likeness and then criterion (c) functional likeness. The other criteria should only become relevant in the event that it is determined that there is sufficient similarity in these criteria to enable a fair comparison to be made.

3.6 The TRA's conclusions on like goods seem to ignore the technical and chemical facts which permanently separate HVO from FAME. No amount of further analysis can escape the conclusion that the TRA's findings on like goods are unjustified and unreasonable.

4. DETAILED ANALYSIS OF WHY FAME IS NOT LIKE GOODS FOR HVO

4.1 The TRA's conclusion that FAME and HVO are like goods cannot be sustained because:

4.1.1 FAME is subject to a hard regulatory blending cap (7%) under EN 590, whereas HVO is not.

4.1.2 FAME cannot be substituted for HVO in higher-blend, drop-in, or premium diesel applications as well as in non-road transport applications.

4.1.3 Market evidence demonstrates segmentation, not direct competition, between FAME and HVO.

4.1.4 Physical, chemical and production differences are material, not incidental, to competition and cost comparability.

4.1.5 The TRA's own Processor Control Number ("**PCN**") and injury analysis confirms the absence of direct comparability.

4.2 The TRA's finding that FAME and HVO are like goods rests on an incorrect substitution analysis, an overly narrow focus on B7 compliance blending, and a failure to account for binding regulatory and market realities. SBR requests that the TRA reconsiders and revises its like-goods determination.

5. SBR COMMENTS ON SECTION D

5.1 SEF Paragraphs 84–85: Incorrect Reliance on prior determinations

5.1.1 The TRA states that its conclusion mirrors TD0004 and TS0005 and that there are "no material changes" from the conclusions reached in these cases.

5.1.2 This approach is procedurally inappropriate. Whilst consistency between cases is an element of consideration, a "like goods" analysis must be conducted on the basis of actual market conditions in the current investigation and not on the basis of historic determinations.

5.1.3 SBR sets out below actual market evidence that since 2022, the commercial deployment of high-blend HVO products has expanded materially, as demonstrated in particular by new retail formulations relying on HVO and by growth in non-transport use.

5.2 SEF Paragraph 86: There is NO UK Production of HVO

5.2.1 To date all parties to the investigation, including the applicant that prompted the subsidy investigation (the "**Applicant**") have accepted that there is no domestic production of HVO in the UK. This has been the position throughout of SBR and SBR maintains this position.

5.2.2 SBR therefore noted the rather different formulation used by the TRA at SEF paragraph 86, as it now states that there is no "large scale production of HVO

within the UK". The clear implication being that there is some non-large-scale production.

5.2.3 SBR considers that insofar as this statement implies that there is UK production of HVO, this statement is incorrect and that whether large or small scale, SBR has seen no evidence of any standalone production of HVO in the UK.

5.2.4 If TRA maintains its position that there is some production, then it would be necessary to consider how this conclusion so late in the investigation should impact the procedural aspects and decision-making process to initiate and pursue the investigation.

5.3 **SEF Paragraphs 90–91: FAME is clearly not like goods for HVO. Both in technical and commercial terms HVO has much wider usage where FAME is neither interchangeable nor in competition.**

5.3.1 The TRA concludes that because both fuels may appear in B7 diesel, "HVO and FAME compete directly with each other".

5.3.2 This conclusion is factually incorrect.

(a) B7 imposes a maximum cap on FAME, not a requirement to use FAME.

(b) EN 590 prohibits the use of FAME above 7%, whereas HVO may be used well beyond that threshold.

(c) There are a growing number of examples of B7 products produced with high percentages of HVO well above the 7% cap for FAME.

(d) In addition, in both transport use and non-transport power generation there is significant evidence of HVP 100 use, where FAME is technically excluded from such applications.

<u>UK standards place significant limitations on FAME being used in place of HVO</u>

5.3.3 The TRA correctly identifies the different standards that apply to the production of HVO (EN 15940) and FAME (EN 14214). The fact that these two products have different product standards is itself an indicator that they cannot be considered to be like goods.

5.3.4 The UK applies its own regulations on the quality of fuel – which are in effect transpositions of the former European Union ("**EU**") legislation. The applicable standard for diesel fuel in general is EN 590.

5.3.5 EN 590 provides a detailed set of rules on the composition requirements for diesel. No specific provisions are included in the standard for HVO. In other words, HVO can be used in general in EN 590 diesel provided that the overall blend meets the composition requirements for diesel. In relation to FAME, however, there is a mandatory maximum amount of 7% FAME that is permitted in a diesel blend. This maximum is imposed as a result of the compositional differences of FAME (presence of oxygen and therefore moisture) and the negative impact that this can have on standard (non-modified) diesel engines above the 7% limit.

5.3.6 The B7 blend does not require FAME to be included at all, simply that it cannot be used beyond the 7% limit. Thus, it would be incorrect to conclude that FAME can be used in the place of HVO because above 7% FAME is not a permitted component of B7 diesel.

CURRENT MARKET DEVELOPMENTS IN RETAIL ROAD TRANSPORT APPLICATIONS

5.3.7 There is growing evidence of the commercialisation of retail products with high percentages of HVO offered to consumers who wish to purchase higher environmentally friendly fuel products. SBR sets out details of two such products:

(a) **Esso's retail launch of 25% Renewable Diesel in the UK**

Esso Ethos™ 25% Renewable Diesel is a UK-marketed diesel fuel containing a minimum of 25% renewable content, with the renewable component supplied by HVO derived from Renewable Fuel Transport Obligation ("**RTFO**") compliant used cooking oil ("**UCO**"). The product is sold as a drop-in fuel suitable for all diesel engines approved for B7 fuel, with no engine modification required. Its ability to exceed the 7% FAME limit while remaining EN 590 compliant is only possible with higher levels of HVO. Esso reports that the product delivers approximately 15% lower lifecycle greenhouse gas ("**GHG**") emissions compared with conventional diesel. (See full details at Schedule 1).

(b) **Volkswagen's EU deployment of R33 renewable diesel**,

Volkswagen's R33 BlueDiesel is an EU-tested diesel fuel containing approximately 33% renewable content, achieved through a combination of around 26% HVO and 7% FAME. The fuel was extensively tested by Volkswagen, requires no engine or infrastructure modifications, and complies with EU fuel standards notwithstanding the 7% regulatory cap on FAME. Volkswagen reports CO_2 emissions reductions of at least 20% compared with conventional diesel. The R33 example demonstrates that higher-blend renewable diesel applications depend on HVO and that at these higher percentages FAME is for technical reasons not a substitute. (See full details at Schedule 2).

CURRENT MARKET DEVELOPMENTS IN NON-RETAIL ROAD TRANSPORT APPLICATIONS

5.3.8 Road transport use is not limited to retail sales only. In non-retail sales, HVO can be supplied in a HVO100 formulation - i.e., a pure drop-in replacement for standard mineral diesel.

5.3.9 There is some evidence that this use is particularly important to large groups and public sector bodies, in particular UK bus companies. Bus companies are focussing primarily on achieving their emissions reductions targets by moving to fully electric buses generally by 2035. In the meantime, they can obtain significant environmental and emissions benefits for their remaining diesel fleet by using HVO100 – which can be implemented without the need for any re-engineering of their bus fleet.

CURRENT MARKET DEVELOPMENTS IN NON-ROAD TRANSPORT APPLICATIONS

5.3.10 By focussing predominantly on retail B7 road transport applications, TRA has failed to identify the significant growing reliance on HVO in other power generation uses.

5.3.11 This desire is clearly in evidence in the statements made at SEF paragraph 102, where the TRA reports on the intervention made by the UK Construction Plant Hire Association which effectively points out that FAME is not a realistic substitute product above the 7% blend limit.

5.3.12 The TRA merely states at the end of SEF paragraph 102, that "These issues are addressed in D4.3 and D4.2 respectively."

5.3.13 UK Construction Plant Hire Association provides direct factual evidence pointing clearly to the lack of interchangeability between FAME and HVO. It is factually and procedurally inappropriate for the TRA to exclude these considerations.

5.3.14 Rather than artificially limiting consideration of evidence of substitutability to the below 7% component of B7, the TRA should be ensuring that it provides a statement of facts for each of the following uses:

(a) All non-road uses of HVO and FAME where it is able to compete with HVO;

(b) All road transport uses of HVO and FAME where blends above B7 are used by commercial operators within the overall retail context;

(c) All road transport uses of HVO and FAME where blends above B7 are used by commercial operators who purchase outside the formal retail market – including therefore companies who have made adaptations to their diesel engines to accept higher levels of FAME; and

(d) Other uses of HVO not covered by the above.

5.3.15 Building on these comments, SBR sets out further detail of specific examples of the importance of non-transport uses of HVO (for which FAME is simply not a potential substitute) starting with comments on the static power generation sector.

(a) Independent industry sources confirm that Rolls-Royce Power Systems (mtu) has long approved its diesel genset product lines for use with HVO, because it is a drop-in renewable diesel substitute without the need for engine modification and with equivalent performance and emissions benefits to mineral diesel[1].

(b) Market reporting further indicates that AVK and Rolls-Royce sold over 500 HVO-powered mtu generators in 2024, representing approximately 1.3 GW of standby capacity deployed in mission-critical applications such as data centres, with additional units ordered[2].

(c) Finally, broader market research notes the certification of diesel gensets for HVO use across major OEMs, including Rolls-Royce, supporting the

[1] https://www.mtu-solutions.com/na/en/pressreleases/2022/milestone-towards-net-zero--mtu-gensets-from-rolls-royce-approve.html.

[2] https://www.turbomachinerymag.com/view/rolls-royce-avk-hit-generator-milestone-selling-over-500-hvo-powered-units.

conclusion that HVO deployment is a commercially accepted and technically validated practice in the generator market[3].

5.4 **SEF Paragraphs 93–96: Functional likeness and interchangeability**

5.4.1 At SEF paragraph 94, the TRA explains that it has considered whether and, if so, to what extent, HVO and FAME are considered to be the same and therefore interchangeable by consumers. Further at SEF paragraph 96, the TRA seeks to discount from this analysis actual evidence that consumers do recognise that HVO and FAME are not interchangeable in certain non-road transport applications.

5.4.2 At SEF paragraph 95, the TRA seems to conclude that its functional likeness assessment is limited to use in B7 retail diesel and that it bases its assessment on the fact that FAME can be used instead of HVO in B7 detail up to 7% of the total blend. As already stated above, this fails to address the drop-in usage of HVO above the FAME 7% cap. SBR considers that this conclusion of the TRA is both wrong and unreasonable.

5.4.3 No explanation is given as to why the like goods assessment is limited to only those parts of the B7 formula where FAME is a substitute for HVO.

5.4.4 It is clear from the Esso Ethos and VW R33 products that consumers do recognise substantial differences between FAME and HVO both as regards end use and the fact that HVO is a drop in replacement but FAME is not and more significantly the substantial additional environmental benefits that arise for consumers using higher values of HVO in the diesel.

5.4.5 SBR considers that the TRA's conclusions on consumer views are manifestly incorrect and not supported by actual current market developments.

5.4.6 At SEF paragraph 97 the TRA notes that UK RTFO rules apply equally to HVO and to FAME. Whilst correct the RTFO rules leave compliance with annual obligations to fossil fuel companies and they determine purchasing based on performance of the relevant inputs. This statement merely underlines that RTFO commitments drive the market in road transport fuel replacements. They do not determine which replacements compete with each other. Like goods analysis must focus on other issues such as technical capability, substitutability in use and ultimately, consumer choice.

5.5 **SEF Paragraphs 98–99: Production methods and inputs**

5.5.1 The TRA accepts that production methods differ but downplays their relevance.

5.5.2 It is, however, clear that fundamental production differences exist and such differences are so significant that this should be a red flag for the TRA indicating that for trade defence purposes FAME cannot be considered to be like goods for HVO.

5.5.3 Differences in cost structures, capital requirements, and output characteristics diverge fundamentally and prevent any fair comparison being made between imports of US HVO and UK produced FAME.

[3] https://bisresearch.com/insights/why-are-data-centers-switching-to-hvo-for-backup-power.

5.6 **SEF Paragraphs 122–127: Conclusion on likeness**

5.6.1 The TRA nevertheless concludes that despite such fundamental differences, the goods "closely resemble" each other.

5.6.2 This conclusion seems clearly factually incorrect and therefore irrational as it is also contradicted by the TRA's own downstream analysis:

(a) No PCN matches exist between UK and imported goods.

(b) Price differences are structural, not marginal.

(c) Artificial adjustments are required to force comparability.

5.6.3 Each of these factors on its own is a clear indication that the products under consideration cannot be considered to be like goods.

6. CONCLUSION ON LIKE GOODS DETERMINATION

6.1 SBR confirms again that the technical evidence shows that FAME has only very limited ability to be used in place of HVO. Statements that FAME is interchangeable with HVO are misleading and incorrect. The TRA's conclusion at SEF paragraph 91 that "HVO and FAME compete directly with each other for customers" is, in SBR's view, factually incorrect.

6.2 Having made this fundamental error of assessment that FAME can be used interchangeably with HVO, the subsequent determinations and conclusions of TRA are all equally incorrect and must be set aside.

6.3 SBR notes here that the TRA seems determined to restrict the scope of analysis of like goods diesel sales. As SBR has shown above, even here there is real and distinct evidence that FAME is not a like good for HVO.

6.4 Restricting the scope of the investigation to this issue only is not compatible with the intention to initiate an investigation into the imports of HVO – in all of its uses. In this sense the end-use restriction is neither permitted under the scope of the investigation nor does it make any sense in terms of assessing the impact of HVO imports or the implementation of measures.

6.5 What SBR can agree on is that the TRA has implicitly decided to restrict its consideration to those applications of FAME where no further adaptation of the vehicle or engine are required. This benchmark is then correctly identified as the B7 diesel standard.

6.6 SBR notes that the TRA should also be considering:

6.6.1 All road transport uses of HVO where blends above B7 are used by commercial operators within the overall retail context

6.6.2 All road transport uses of HVO where blends above B7 are used by commercial operators who purchase outside the formal retail market

6.6.3 Other non-road uses of HVO not covered by the above – e.g., residential heating and uses as identified by the UK Construction Plant Hire Association (see at SEF para 102).

SECTION E: THE UK INDUSTRY AND MARKET

7. UK FAME PRODUCERS ARE MAJOR PURCHASERS OF US HVO.

7.1 At SEF paragraph 141, the TRA confirms that UK FAME industry producers were also significant purchasers and importers of US origin HVO during the Period of Investigation ("**POI**").

7.2 This raises two questions:

7.2.1 First, if FAME and HVO really are like goods as the TRA maintains, then why would any of the UK FAME producers be purchasing US HVO?

7.2.2 Secondly, as a purchaser of US HVO, the TRA will need to explain in its Injury analysis how it proposes to address and exclude the impact of these imports which provide evidence of self-inflicted injury.

7.3 The SEF does not provide answers to either of these questions and so SBR considers the SEF to be deficient in these aspects and requests that the TRA reviews both issues and provides further explanations in a future version of the SEF.

SECTION F: SUBSIDY

8. IS THE BTC A COUNTERVAILABLE SUBSIDY?

8.1 The SEF makes a number of assumptions that the BTC arrangements are automatically to be considered as a subsidy which is countervailable under the terms of Schedule 4 of the UK Taxation (Cross-border Trade) Act 2018. In relation to CFPC, the TRA appears to have completed no detailed analysis of the program that was in operation when this investigation was initiated.

References to "Regulation" in this section are, unless otherwise expressly provided, to provisions of Schedule 4 of the UK Taxation (Cross-border Trade) Act 2018.

8.2 To be countervailable the TRA must show that there is:

8.2.1 A financial contribution by a foreign authority;

8.2.2 A benefit conferred;

8.2.3 The benefit is specific; and

8.2.4 Is granted directly or indirectly for manufacture, production, export or transport of goods.

8.3 Failure on any one of these four criteria results in the payment not being considered to be a subsidy for the purposes of the UK anti-subsidy investigation.

9. NO QUALIFYING FINANCIAL CONTRIBUTION

9.1 The BTC operates as an integral feature of the US fuel tax system, offsetting excise liability on qualifying fuel mixtures. While the SEF characterises the BTC as "government revenue

foregone", it does not establish the appropriate benchmark against which such revenue is said to be foregone.

9.2 The credit is:

9.2.1 automatically available, applied through the ordinary tax system; and

9.2.2 functions primarily as a structural adjustment to fuel taxation rather than a transfer of public funds.

9.3 The SEF fails to address these issues. It is for the TRA to demonstrate why the BTC is not a tax design measure, but rather a financial contribution conferring government resources within the meaning of paragraph 3(3) of Schedule 4.

10. NO BENEFIT DEMONSTRATED TO EXPORTERS

10.1 The SEF assumes that the nominal value of the credit constitutes a benefit equal to USD 1 per gallon. This approach is mechanical and incomplete and does not satisfy Regulation 21.

10.2 In particular:

10.2.1 the BTC is claimed by blenders, as well as HVO producers or exporters;

10.2.2 the SEF does not establish that:

(a) the credit is retained by exporters, rather than competed away through pricing or absorbed elsewhere in the supply chain; and

(b) only limited costs of compliance are deducted, notwithstanding Regulation 24(3)(a), which requires deduction of all costs necessarily incurred to obtain the measure.

10.3 Absent an analysis of pass-through, allocation, and net economic effect, no benefit to the exporters concerned has been demonstrated.

11. THE BTC IS NOT SPECIFIC

11.1 Eligibility for the BTC is determined solely by objective product characteristics, namely the blending of qualifying fuel. It is:

11.1.1 nationwide,

11.1.2 automatic,

11.1.3 non-discretionary, and

11.1.4 available to any entity meeting the statutory criteria.

11.2 The measure is therefore product-based rather than enterprise- or industry-based and does not favour certain enterprises within the meaning of Regulation 3(2). The SEF does not examine de facto specificity, nor does it identify any limitation in practice on access to the BTC.

11.3 Accordingly, it is for the TRA to provide further argument to show that the BTC is specific.

12. THE BTC MAY BENEFIT FROM PROTECTION AS AN ENVIRONMENTAL MEASURE

Finally, as clearly a measure of environmental policy and protection, the BTC may be eligible for protection under Article XX of the GATT 1994 World Trade Organization ("**WTO**") Members to justify certain trade-restrictive measures on environmental grounds, notably under paragraphs (b) (measures necessary to protect human, animal or plant life or health) and (g) (measures relating to the conservation of exhaustible natural resources). Where applicable, such measures must also satisfy the chapeau of Article XX, ensuring they are not applied in a manner constituting arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Article XX applies directly to obligations under the GATT, such as non-discrimination or market-access rules.

13. THE SEF DOES NOT DEMONSTRATE THAT THE BTC IS A SUBSIDY

For the reasons set out above, there are clear issues for TRA to consider further in relation to the nature of the BTC. SBR requests that the TRA provides further clarification on these points.

14. US CLEAN FUEL PRODUCTION CREDIT

14.1 It is agreed and accepted by the TRA that the alleged subsidy program, the BTC, operated during the POI and expired at the end of fiscal year 2024.

14.2 A new and materially different program was introduced for 2025, the CFPC, a U.S. federal tax incentive created under Internal Revenue Code Section 45Z. Just as for the BTC it is for TRA to demonstrate that benefits under CFPC are also countervailable subsidies. SBR's position is that arguments in favour of CFPC not being a countervailable subsidy are even stronger than those for the BTC and that the SEF provides no substantive analysis of the nature of CFPC as a subsidy - without which measures cannot be imposed.

14.3 Without prejudice to this conclusion, SBR will now address the limited conclusions made by the TRA on the CFPC and in particular the statement made at paragraph 318 as follows:

> "At this time, the TRA considers that as the CFPC is a replacement subsidy program, it potentially has similar benefits to the BTC although acknowledging the programs are not identical. Therefore, the TRA considers the CFPC to be a replacement program for the BTC meaning that there is a continuing subsidy beyond the POI and given that, it is appropriate to use the verified data of the BTC to calculate the subsidy margins."

14.4 SBR strongly objects to these conclusions because they are factually wholly incorrect and inaccurate. More specifically, as demonstrated below, CFPC does not provide "similar benefits to the BTC" and as a result it would be incorrect for TRA to use the BTC data to calculate the amounts of subsidy received. Instead, we consider that the TRA is required to assesses what would be the appropriate level of duty to impose based the expected benefits to be conferred under CFPC.

14.5 TRA had ample opportunity – and still has ample opportunity to determine these values from US producers as well as from the US Government. At paragraph 215, TRA states that it "has not been able to obtain any verifiable data on the benefit the CFPC provides, and it has not been taken into account when calculating the subsidy margin within the POI."[4]

[4] TRA Statement of Essential Facts, Issued 28 Nov 2025.

14.6 SBR would like to note that during the Verification process there was ample opportunity for the TRA to raise questions about the impact of the CFPC. These discussions were not requested and were purposefully limited because it did not directly impact the POI. It is SBR's position that the topic should have been formally included in the TRA's Verification process, if at the very least, to allow TRA to do more than just take 'the existence' into consideration when calculating duty rates.

14.7 In addition, as the US government is participating in the investigation it would have been open – and still is – for the TRA to ask it to confirm the nature of all differences. Finally, there is substantial industry reporting on the application of CFPC and its commercial impact.

14.8 It is well established under the WTO Agreement on Subsidies and Countervailing Measures ("**SCM**") that countervailing measures are remedial, not punitive. Measures are only permitted to offset the effects of actual subsidisation as it exists or is likely to exist but must not sanction historical payments. At the WTO level, the Appellate Body has consistently emphasised that trade remedies must be justified by reference to current and prospective conditions, rather than mechanically extrapolating past findings into the future (see US – Countervailing Measures on Certain EC Products; US – Countervailing Duty Investigation on DRAMS).

14.9 In cases such as this, where a subsidy program operative during the POI has been repealed and replaced, a national authority must consider whether subsidisation is likely to continue at comparable levels in the future. Failure to do so risks imposing measures that no longer correspond to economic reality. Investigating authorities may consider post-investigation legislative or policy changes when those changes are structural and directly relevant to the question of whether subsidisation will persist (see US – OCTG (Korea); EU – Biodiesel (Argentina)). Where, as here, a putative subsidy program is replaced by a new program that is set out in law and clearly documented, showing that it is structurally different in design and operation, such change constitutes objective evidence that must be taken into account. It is in effect essential that the TRA determines whether the "replacement" program in fact confers comparable benefits (US – Countervailing Measures on Certain EC Products).

14.10 The CFPC is not a replacement program for the BTC. The TRA already acknowledges that it is "not identical" to the BTC but then states that the absence of certain guidance on its operation entities is to default to the historical and accepted outdated data provided by the verification of the BTC program. This has resulted in TRA proposing measures that exceed those that may be necessary to counteract BTC subsidization. This is unreasonable and unacceptable in terms of UK's international commitments under the WTO. The result of the TRA's determination in the SEF, instead, would impose countervailing measures which exceed the levels of the actual putative subsidisation.

14.11 It is simply inappropriate for the TRA to state that the absence of a definitive set of guidelines should prevent it from making a determination of the extent to which CFPC differs from BTC and therefore allow it to maintain the subsidy calculations for BTC as the proposed measures to be implemented.

14.12 The TRA will be aware that there are many other guidelines adopted by US Administration (notably the US Internal Revenue Service ("**IRS**") and joint guidance issued by ISA the US Department of Treasury ("**Treasury**")).

14.13 The IRS also maintains an official CFPC overview that outlines eligibility and registration requirements and has issued specific guidance notices on registration (Notice 2024-49), draft regulatory guidance (Notice 2025-10), and initial emissions rate guidance (Notice 2025-11). Additionally, the instructions for IRS Form 7218 provide operational details on how the CFPC

is claimed and calculated. The underlying statute (26 U.S.C. § 45Z) also expressly requires the Secretary of Treasury to issue guidance on implementation, including emissions factor methodology.

14.14 SBR therefore submits that there is already sufficient substantial guidance for the TRA to determine the precise nature of the CFPC program.

14.15 To return to statement of the TRA at SEF paragraph 318:

"that as the CFPC is a replacement subsidy program, it potentially has similar benefits to the BTC although acknowledging the programs are not identical."

The following table depicts the precise differences between the BTC and the CFPC:

Program Feature	BTC	CFPC	CFPC Notes
Is claimed by the fuel blender	Yes	No	Is a Producer only credit
Is $1/gallon (minimum value)	Yes	No	$1/gallon is the base rate maximum value but no current feedstock pathways for HVO could achieve this rate
Is available for HVO and FAME only	Yes	No	Is available for sustainable aviation fuel, or "SAF," and non-SAF Transportation fuels, including ethanol, petrol and renewable natural gas
Can be claimed for imports	Yes	No	Imported fuels cannot qualify for the CFPC
Can be claimed for foreign feedstocks used in production of the finished fuel	Yes	No	2025 excludes foreign UCO, 2026 forward excludes foreign UCO and animal fats
Has a value tied to modelled GHG emissions	No	Yes	
Has reduced rates if certain Prevailing Wage and Apprenticeship requirements are not met	No	Yes	
Requires independent verifications	No	Yes	
Is implemented by the Internal Revenue Service	Yes	Yes	

14.16 It is directly apparent from this table that there are significant differences between the two programs which directly impact the value of any CFPC credit that could be received on US produced HVO imported into the UK. In the light of this information, it is directly clear that TRA cannot base any decision to impose measures on the historic levels of BTC credits.

14.17 It also follows that there will be potentially large volumes of HVO exported to the UK for which no CFPC credit will be conferred due to the use of non-US feedstock. Any final measures will need to be drafted in a way which enables these products to access the UK market without the imposition of a countervailing duty.

14.18 In this regard, as TRA is aware, imports of US HVO are almost entirely produced from UCO, and that this UCO will need to be certified under an approved sustainability program, such as International Sustainability and Carbon Compliance ("**ISCC**") program. This could form the basis of a suitable mechanism to prove origin of the feedstock and therefore eligibility under CFPC.

14.19 Thus, if TRA wishes to pursue the imposition of measures, it will need to identify the correct level of subsidy which would be credited under CFPC on imports of US origin HVO into the UK. The old BTC data will need to be revised to take account of two major differences: first

in terms of volume, only US origin feedstock will be eligible for CFPC credits and second in terms of value, even for HVO, CFPC credits will never reach the US$ 1.00/gallon as per BTC.

14.20 In terms of volume, SBR has calculated that if the CFPC restriction on US origin feedstock had applied during 2024, the volume of US origin HVO eligible for CFPC credits would not have r exceeded 1.6% of the total of US HVO exports to UK. This is based on the 2024 RTFO statistics which show that:

- a total of around 788 million litres of HVO were consumed in UK during the investigation period,
- of which only 5 million litres originated from US-Origin-Raw-Materials (UCO), and
- S&P Global data reports that total US exports of HVO into UK were around 315 million litres in 2024.

14.21 In terms of value, CFPC credits vary depending on the feedstock used – from US 0.20 for soybean oil to US$0.60 where US origin UCO is used. The actual final value depends on the carbon intensity of the feedstock used. As already noted, US exports of HVO to the UK are almost always produced from certified UCO. Thus, the potential maximum credit under CFPC would be US$0.60.

14.22 Based on its current understanding of how CFPC is applied in practice, SBR would expect that only a very small amount of CFPC eligible HVO would be produced and exported to the UK. As a result, the credits available under CFPC would be between [ ] lower than those that would have been received under BTC. In other words, going forward SBR would expect to receive only between [ ] of the credits it would have received under BTC.

14.23 While SBR firmly maintains that this investigation should be terminated without the imposition of measures, if the TRA determines to proceed to recommend the imposition of measures, it can only do so by making a realistic estimate of the value and volume of subsidies to be paid under CPFC. Its current proposal to assume subsidy benefits continuing at US$1/gallon are factually incorrect.

14.24 Given the radical reduction in the potential level of credits payable under CFPC, SBR notes here the rules applicable to determining material impact of subsidized imports:

> "A dumping margin is minimal if it is less than 2% of the export price. A subsidy amount is minimal where it is less than 1% (2% for developing countries)."

14.25 SBR submits that the above information alone is more than sufficient for the TRA to conclude that CFPC is not a replacement for what TRA views as the putative subsidy program of the BTC. It follows that TRA is obliged to consider what elements of the 2024 subsidy amount would be expected to be conferred during the period when measures (if any) are imposed.

14.26 SBR then further submits that only imports of HVO made from US UCO would be eligible to receive a subsidy. This limits the volumes in question to probably far less than 1% of imports and that therefore TRA needs to reconsider whether even if a subsidy is found to exist, that the value of the subsidy should be considered to be de minimis.

SECTION G: INJURY

15. SECTION G1.1 – IMPORT VOLUMES

15.1 Despite evidence that FAME is not a like product for HVO, SBR has nevertheless analysed the TRA's findings on injury purely on the basis of the data as set out in the SEF.

15.2 Section G.1 of the SEF analyses various factors to determine whether the UK industry has suffered injury. Having analysed a number of economic factors, the TRA concludes in SEF paragraph 443 that there were declines in sales volumes, production output and capacity utilisation, stock levels, net operating profits, return on investments and employment figures.

15.3 In SEF paragraph 445, the TRA concludes that "the UK industry is suffering injury".

15.4 SBR has reviewed the information in the SEF on injury, extracted the data and, where necessary, made its own analysis. The data referred to in this section of the response is provided as Schedule 4.

15.5 As a preliminary point, SBR notes that the TRA has analysed data at the 10 digit level for all in-scope commodity codes, as well as for commodity codes 2710194329 and 2710194339 only (the two specific codes), which are said to cover the main codes for HVO exported to the UK.

15.6 As noted by the TRA, all in-scope codes also include mineral diesel and that this "may have inflated the data trends". Table 12.1 of the SEF highlights this problem. In the POI, imports under all in-scope codes represented 320-345% of total UK consumption. Once UK production and other third country imports are added, it is clear that the volumes of all in-scope codes exceed UK total consumption many times over. Assuming that the vast majority of these goods are not simply exported outside the UK, the data presented for all in-scope codes is of little to no use in analysing the UK market, as it is overrepresented by mineral diesel volumes.

15.7 As there were no imports of US origin HVO in 2021, SBR's review of the data will principally focus on the years 2022 to 2024 (the POI) for the two specific codes, as US HVO cannot have caused any injury to the UK industry in 2021.

IMPORT VOLUMES

15.8 SEF Paragraphs 340 – 362 deal with imports of HVO in both absolute terms and relative to UK production of FAME, as well as of share of the UK market. Tables 11 and 12 provide the raw data in indexed form.

15.9 Between 2022 and the POI imports of US HVO rose nearly 4,000%. However, this was from a low base. The share of all imports rose from 3-8% in 2022 to 56-56% in the POI.

15.10 From these figures, SBR was able to calculate the index for total volume of imports for the two specific codes, using 2022 US imports as the reference point:

	2022	2023	POI
Import volume (US) Indexed	100	1,821	3,934
Total import volume (all countries) Indexed	1,150 - 3,233	3100 - 5182	2,118 - 3,091

15.11 As there is an overlap in the ranges over the three years, it is possible that imports increased (e.g. from 1,150 to 3,091), decreased (e.g. 3,233 to 3,091), or remained stable (e.g. 3,000 to 3,000). Whilst US imports may have increased relative to other imports, the lack of clarity means there is no evidence that the UK market experienced any increase in absolute imports of HVO.

15.12 Over the same period, US HVO imports increased from 2-3% to 101-125% of UK production and from 0-2% to 24-32% of UK consumption. However, as will be analysed in greater detail below, there is no evidence that the UK industry suffered any loss of market share as a result of these apparently large increases (see Schedule 4 Table 20 Tab). As with, absolute import volumes, it seems that any increase of the UK market for HVO was at the expense of other third country imports.

UNDERCUTTING

15.13 SEF Paragraphs 364 – 376 deal with undercutting.

	2022	2023	POI
Undercutting (two specific codes)	31%	-9%	21%
Undercutting (all in-scope codes)	42%	37%	35%

Source: Tables 13 and 13.1 of the SEF

15.14 Undercutting (the difference between the import price and the UK industry's sales price) for the two specific codes was consistently lower than the undercutting for all in-scope codes. Once data the two specific code is stripped out of the all in-scope data, then that difference will be even greater. In no year did the highest undercutting by US HVO (31% in 2022) exceed the lowest undercutting by all in scope product (35% in the POI).

15.15 SBR has already acknowledged the difficulties with the product mix in the all-scope codes, but question why no attempt has been made to try to analyse undercutting by either FAME or other third country HVO imports. This is the more important as there was no undercutting by US HVO imports in 2023. The TRA may say at SEF paragraph 376 that the "TRA acknowledges that there was an absence of undercutting in year three and has taken this into account"; but there is no information on how this was done, and what account was taken. As it stands, there is greater undercutting by products other than US HVO.

15.16 In the absence of further analysis, the data as presented points to imports of FAME and third country HVO being the principal source of any injury.

PRICE DEPRESSION

15.17 SEF Paragraphs 377 – 387 deal with price depression, i.e., when the UK industry is forced to reduce its domestic sales prices to compete on its domestic market. From the data in Table 14 and 14.1 of the SEF, it is possible to make the following analysis:

	2022	2023	POI
US import price/ UK Price % (two specific codes)	68%	108%	72%
US import price/ UK Price % (all in-scope codes)	58%	63%	58%

Source: Tables 14 and 14.1 of the SEF

15.18 As with undercutting, the trend for price depression shows different results for US HVO compared with all in-scope codes. Over the three years, UK industry prices increased as a percentage of US HVO and were 8% below US prices in 2023. By comparison all in-scope import prices were lower than UK industry prices over the whole period and did not show

any reduction in the difference over the three years. If anything, prices followed the trend for costs and not import prices. This point will be further addressed under the analysis of profits.

15.19 In SEF paragraph 387, the TRA finds that "UK producers were having to reduce their domestic sales prices in order to remain competitive within the domestic market". However, SBR notes that whilst UK industry sales prices fell around 30% between 2022 and the POI (index 146 to index 102), the cost of production fell 33% over the same period.

15.20 If there is any price depression, it would seem it cannot be attributed to US HVO and was caused either by other in-scope products, or by imports from other third countries. More likely it was linked to a decreasing cost of production.

PRICE SUPPRESSION

15.21 SEF Paragraphs 388 – 391 deal with price suppression, i.e., when the UK industry is unable to increase its domestic sales prices by a reasonable degree.

15.22 Unlike other injury indicators involving import volumes and values, no data is provided in the SEF of any price suppression for US HVO. Only data for all in-scope codes is provided. SBR asked the TRA for clarification on this point, and by an email of 19th December were advised that the "data is confidential in nature and commercially sensitive". Firstly, the data is indexed; and secondly, SBR does not understand why data for all in-scope codes is not sensitive, whilst for the two specific codes it is. The TRA is asked to reconsider this point and to provide fuller information.

15.23 SBR also notes that the TRA does not identify any level by which the UK industry might be able to increase its prices. The TRA does find at paragraph "The UK industry has been unable to increase its sales price beyond its costs of production, because of lower priced imports of the goods concerned throughout the injury period". This conclusion is flawed in two ways. Firstly, as SBR has already explained, there is no information on any price suppression by the goods concerned. Secondly, the UK industry was able to sell in the POI with a profit margin of 3% (cost 67 indexed, average price 69 indexed).

15.24 The SEF should be amended to reflect this error, and to then explain why moving from losses in 2022 and 2023 to profit in the POI, as imports of US HVO increased, is evidence of price suppression.

SALES

15.25 SEF Paragraphs 396 – 400 deal with domestic sales of the UK industry. Between 2022 and the POI, UK industry volumes fell 3% in absolute terms, whilst income fell 40%.

15.26 SBR recalls that over the same period, US HVO imports increased from 0-2% to 24-32% of the UK market (see SBR's comments on imports volumes above). Against this increase in relative imports of US HVO, UK industry sales were stable at 4-9% of the UK market. SBR analysed market shares later but note for now that any increase in US HVO imports must have been at the expense of other imports as it did not impact the market share of the UK industry.

15.27 In light of them maintaining market share whilst turning losses in 2021-2023 to a profit in the POI, the 40% fall in sales revenue is not an indicator of injury to the UK industry.

15.28 SEF Paragraphs 401 – 402 deal with export sales of the UK industry. Between 2022 and the POI, UK industry volumes fell 23% in absolute terms, whilst income fell 51%. Export sales were consistently above 80% of total sales between 2022 and the POI.

15.29 The UK's industry's sales fell much more dramatically on its export market than it did on its domestic market both in terms of volume (-23% compared to -3%) and total income (-51% compared to -40%).

15.30 As the UK industry's export sales are more than four times the volume of its domestic sales between 2022 and the POI, any injury is a result in a collapse of export sales and not as a result of increased US HVO imports to the UK.

15.31 SEF Paragraphs 403 – 405 deal with all sales of the UK industry, both domestic and export. Given the importance of export sales to the UK industry, the trends for all sales are much closer to the trends for export sales than for domestic sales.

15.32 At SEF paragraph 403, the TRA finds that UK industry total sales volumes fell 21 percentage points, concurrent with a UK consumption increase of 13 percentage points. However, referencing domestic and export sales trends combined with domestic market consumption trends only is not a like-for-like comparison. SBR does note that between 2022 and the POI, UK consumption of HVO and FAME combined actually fell 8% whilst consumption of HVO increased 300%.

15.33 At SEF paragraph 404, the TRA finds that the UK industry "aims to sell primarily in the UK domestic market", and "when it is unable to compete with imports on price, it is forced to consider the export market". Both statements are factually untrue. US HVO didn't appear on the UK market until 2022. In that year, the UK industry saw 81-86% of its sales going for export. As US HVO imports increased, exports sales were at 80-85% in the POI. Export sales were continually several times the level of domestic sales, and there was no diversion to export sales as US imports of HVO increased.

15.34 To conclude on this section, the UK industry is driven by its exports performance, and that performance was significantly worse that its domestic performance between 2022 and the POI. This at a time when US HVO imports were increasing. There is, therefore, no link between increasing imports of US HVO imported to the UK and the downturn is sales of the UK industry.

NET PROFIT

15.35 SEF Paragraphs 406 – 410 deal with the net profit of the UK industry. At SEF paragraph 407, the TRA finds that net profits fell 167 percentage points over the period, from profits in 2021 to losses in the other three years. These profits are at a company level and include all sales, both domestic and export.

15.36 Conversely, by taking data from Table 15 of the SEF, one can see that as imports of US HVO into the UK increased, so did the profitability of the UK industry.

	2021	2022	2023	POI
Average UK Profit %	-24	-2	1	3

Source: Schedule 4 Tab 19.

15.37 The divergent performance of the UK industry on its domestic market is more evidence that any problems it faces is a result of its much more dominant and poorer performing export market.

MARKET SHARE

15.38 SEF Paragraphs 411 – 414 deal with the UK industry's share of its domestic market. Although Table 20 is said to provide data on UK consumption of HVO, the TRA has clarified that this is for both HVO and FAME.

15.39 In 2021, when there were no imports of US HVO, the UK industry held 7-10% of the market. That means other third country imports of HVO and FAME held 90-93% of the market, a clearly dominant position. SBR will address this further under third country imports.

15.40 Between 2022 and 2024, imports of US HVO increased nearly 4,000%. Over the same period, the UK industry market share was unchanged at 4-9%. There is, therefore, no evidence that imports of US HVO caused the UK industry to lose any share of the UK market.

UK INDUSTRY - OTHER FACTORS

15.41 In SEF paragraphs 415 – 445, the TRA analyses a number of other factors and found declines in production output and capacity utilisation, stock levels, return on investments and employment figures; whilst the trend for wages was inconclusive.

15.42 All of these indicators are for the UK industry as a whole and do not differentiate between domestic and export sales, nor between the two-specific codes and all in-scope codes. Again, any negative trends must principally be a result of the much more dominant and poorer performing export performance.

THIRD COUNTRY IMPORTS

15.43 SEF paragraphs 449 – 471 deal with third country import volumes and values.

Table 26.1 of the SEF provides indexed data on US and third country import volumes for the two specific HVO commodity codes. From the data one can calculate:

	2021	2022	2023	POI
Total All inc. US Index	12,291	15,828	5,538	5,585
Total Others ex US Index	12,291	15,728	3,717	1,651

Source: Schedule 4 Tab 26

15.44 Between 2021 and the POI total imports of HVO fell 6,706 points, whilst third country imports fell 10,640 points. The US increase of 3,834 points was dwarfed by the fall in other third country imports. Whilst US HVO imports replaced other HVO imports to a certain extent, there is no evidence that they took UK industry sales volumes of FAME.

15.45 Table 27.1 of the SEF provides indexed data on US and third country average import prices for the two specific HVO commodity codes. In the POI, average US prices were 71% higher than China prices in 2021 and 10% higher than in 2022 and based on much lower volumes. US prices were less than 3% higher than Netherlands prices in the POI.

15.46 Over the whole period, other third country volumes were higher and average prices significantly lower compared to US imports of HVO.

CONCLUSION ON INJURY

15.47 From the analysis of the injury, SBR either does not find evidence of injury, or does not find any causal link to imports of US HVO into the UK.

15.48 As US imports of HVO increased, the UK industry's market share remained stable, whilst it turned losses in 2021 to 2023 into a profit in the POI. Rather, the increase of US HVO imports was partially, but not totally, at the expense of other third country imports.

15.49 Export sales by the UK industry, over the whole period, were around 4 times the level of its domestic sales. Unlike for its domestic sales, export sales went from being profitable in 2021 to loss making in the following three years. It was the collapse of these sales in both volume and prices that are the principal cause of any injury to the UK industry.

15.50 Not only did US HVO not cause any injury, the differences in trends is further evidence that FAME is not a like product for HVO.

SECTION I: ECONOMIC INTEREST TEST

16. OVERVIEW: TRA ERRS IN ITS ASSESSMENT OF LIKE GOODS, INJURY AND CAUSATION

16.1 SBR believes that its submission has demonstrated clear evidence of why imposing measures cannot be in the UK's Economic Interests. The incorrect approach to the definition of Like Goods, the overly restrictive focus on retail transport uses for the like goods, a failure to identify the real causes of injury to UK FAME producers and a complete failure to take into account the importance of other non-retail transport uses of HVO all serve to undermine the Economic Interest Test even before one starts to consider the points actually made in the SEF.

16.2 In addition, there can be no utility to imposing trade defence measures in cases where the UK "producer" industry cannot benefit from the protective measures imposed. Retail and industrial consumers might understand a need for measures leading to increased prices if a UK industry is to benefit from trade protection - but there can be no possible understanding of why measures are imposed which would result in UK industrial and retail consumers being deprived of access to the most cost effective supplies of goods available internationally in order simply to impose requirements on users to source the same product from more expensive producers in other third countries.

16.3 In this instance the consequences of Brexit work in favour of UK consumers – as trade measures should not be imposed where there is no domestic industry who can benefit from being offered such temporary protection.

16.4 This report concludes that the TRA's Economic Interest Test is legally deficient because it:

- Treats the Economic Interest Test ("**EIT**") as a narrow welfare-balancing exercise, rather than a full assessment of the UK's economic interests as required by Schedule 4.
- Acknowledges but then neutralises severe downstream and higher-blend impacts, including impacts on decarbonisation-critical uses, without lawful justification.
- Finds the EIT to be met despite identifying net welfare losses and adverse competitive effects, relying excessively on the statutory presumption.
- Does not engage with UK climate, energy, and fuel-transition policy objectives, even where evidence of conflict is clearly before it.

- Fails to assess environmental impacts as an independent and mandatory consideration, despite explicit statutory authority to do so under the "other relevant matters" limb.

As a result, SBR considers that the TRA has misdirected itself in law and reached a conclusion that is not supported by its own findings.

17. LEGAL FRAMEWORK FOR THE ECONOMIC INTEREST TEST

17.1 Under paragraph 25 of Schedule 4 to the UK Taxation (Cross-border Trade) Act 2018, the TRA must determine whether the application of a measure is in the economic interest of the UK.

17.2 The legislation requires consideration of:

- injury removal benefits;
- economic significance of affected industries and consumers;
- likely impacts on those groups;
- geographic and group-specific impacts;
- competitive effects; and
- "such other matters as the TRA considers relevant."

While the test is presumed to be met, that presumption does not displace the duty of TRA to conduct a lawful, rational, and complete assessment.

18. STRUCTURAL FLAWS IN THE TRA'S APPROACH TO THE EIT

18.1 Before considering the analysis of the TRA, SBR underlines that this analysis is based on the incorrect determination by the TRA that not only are HVO and FAME to be considered as like goods but that they are in economic terms: interchangeable and substitutable. In addition, the focus on HVO/FAME use in retail transport results in the welfare loss for alternative – sometimes critical infrastructure uses – has not been taken into account. Finally, it is based on an incorrect assessment of injury data which SBR has demonstrated is not the result of imports of US HVO.

18.2 At SEF paragraph 548, the TRA states that "Higher-blend users are likely to more actively consider their biodiesel consumption and are also more likely to prefer HVO which is easier to use than FAME at higher blends." When the TRA says that HVO "is easier to use" than FAME at higher blends, what it really means is that FAME cannot be used like HVO – as a drop in replacement - because at higher blends FAME requires that the user invests in re-engineering their engines. Concepts of inter-changeability and substitutability do not include situations in which a user is required to make changes to its engines to run FAME instead of HVO nor to envisage the use of other additives to make up technical shortfalls in the performance of FAME.

18.3 The TRA again states at SEF paragraph 565 that "as FAME and HVO are not perfect substitutes at the highest-blend ratios" switching from HVO to FAME will be more difficult for higher blend users. This is, of course, only partially correct because at higher blend rates FAME is simply not a substitute for HVO.

18.4 SBR therefore fundamentally disagrees with the way in which the TRA has interpreted the terms substitute and interchangeable when referring to the relationship and end use of FAME in place of HVO.

18.5 The summary question for the EIT analysis is simply how can it be in the UK's economic interest to close off supplies of a product which is not made by UK industry when the nearest locally produced alternative is not technically capable of replacing almost all of the uses in which the imported product can be used and where the logical outcome of measures (as determined by the TRA) is that supply of the product from US will be closed off and the only available alternative supplies will be locally EU produced products.

18.6 Thus, in SBR's view, because the EIT is based on incorrect definitions and assumptions, it is wildly inaccurate and threatens far worse outcomes for UK industry and consumers who already face some of the highest energy costs in Europe. The EIT is treated as a mechanical extension of the injury finding.

SBR further considers that this approach is flawed because:

- the EIT is a distinct statutory test, not merely a rubber stamping in cases where there has been a finding of injury.
- the presence of injury does not predetermine the economic interest outcome.
- the TRA's own modelling shows that downstream harms vastly exceed producer benefits.

18.7 **The TRA identifies but then dismisses net welfare loss**

The TRA's own modelling shows:

- net welfare losses in every scenario, including the "central" scenario (A2c);
- a central estimate of £32.3m annual net loss, and
- an average loss of £185.9m per year across scenarios.

Despite this, the TRA concludes that the there is no reason to override the presumption that measures are in the Economic Interest of the UK.

This creates an internal contradiction:

- welfare loss is the primary quantitative expression of economic harm;
- no explanation is given as to why such losses are not economically significant;
- the presumption is used to override, rather than test against, the evidence.

19. FAILURE TO CONSIDER ENVIRONMENTAL IMPACTS AS A RELEVANT MATTER

19.1 **Environmental impacts are legally relevant and expressly permitted**

The TRA has clear statutory authority to consider environmental impacts under the "other relevant matters" limb. In AS0020 (Ironing Boards from Türkiye), the TRA: explicitly assessed GHG emissions; monetised climate impacts; and treated environmental effects as part of the EIT. By contrast, in AS0067 the SEF indicates that: no environmental impact assessment is

conducted at all; no attempt is made to assess emissions consequences of reducing HVO availability; and no detailed consideration of the impact of imposing measures on achieving UK climate policy objectives was made.

Each of these are material omissions which impact the overall credibility of the EIT.

19.2 **The TRA's own findings trigger the need for a more detailed environmental assessment**

The TRA expressly finds that: higher- and highest-blend users prefer or require HVO; substitution to FAME is not possible in many uses; supply constraints and price increases are likely; and fails to recognise that off-grid and environmentally motivated users will be acutely impacted.

These findings directly imply: reduced use of high-blend and pure HVO; increased reliance on fossil diesel; and higher lifecycle GHG emissions.

Yet the TRA does not examine these consequences.

19.3 **Conflict with UK environmental and energy policy**

The TRA's analysis is silent on the impact of the proposed measures on: the UK's net-zero commitments; and the role of HVO as a drop-in decarbonisation solution and for many commercial and industrial organisations an important and immediate stepping stone to full decarbonisation through electric motors.

This is particularly serious given that

- the TRA recognises HVO's unique role at higher blends;
- measures risk pricing HVO out of the UK market; and/or
- downstream users may have no viable alternative biofuel.

An EIT that ignores these impacts cannot lawfully assess the UK's economic interest.

20. MISCHARACTERISATION OF DOWNSTREAM AND CONSUMER IMPACTS

20.1 **Acknowledged but discounted acute impacts**

20.1.1 The TRA acknowledges:

(a) disproportionate impacts on higher-blend users;

(b) risks of reduced choice and increased market concentration;

(c) supply insecurity if US HVO exits the market.

20.1.2 However, it then:

(a) treats these impacts as unavoidable;

(b) declines to give them decisive weight;

(c) relies on enforcement complexity to dismiss alternative measures.

20.1.3 This is not a lawful balancing exercise.

20.2 **Consumers motivated by environmental concerns are treated as marginal**

20.2.1 The TRA identifies distinct group of HVO users and supporters who would be adversely impacted by the imposition of measures, including:

(a) environmentally conscious consumers;

(b) off-grid users;

(c) public service and fleet operators; and

(d) other power generation providers such as stand by power generation sets.

20.2.2 It accepts they will be more severely impacted, yet:

(a) does not quantify their importance;

(b) does not consider their role in energy transition; and

(c) does not assess long-term economic or environmental costs of their displacement.

21. OVER-RELIANCE ON THE STATUTORY PRESUMPTION

21.1 The conclusion at SEF paragraph 618 relies heavily on the presumption that measures are in the UK's economic interest unless disproven.

21.2 However:

21.2.1 the presumption cannot cure omissions in analysis;

21.2.2 it does not permit ignoring relevant factors; and

21.2.3 it does not justify a conclusion contrary to the TRA's own evidence.

21.3 Where the TRA has identified:

21.3.1 net welfare losses;

21.3.2 reduced competition;

21.3.3 higher prices; and

21.3.4 adverse impacts on decarbonisation-critical users;

the presumption is rebutted on the face of the record.

22. CONCLUSIONS

22.1 The TRA's EIT in AS0067 is legally flawed because it:

22.1.1 Fails to consider environmental impacts as a relevant matter.

22.1.2 Reaches a positive EIT conclusion despite identified net economic harm.

22.1.3 Minimises severe downstream and decarbonisation impacts without justification.

22.1.4 Treats the statutory presumption as outcome-determinative rather than evidential.

22.1.5 Does not assess consistency with UK climate and energy policy.

22.2 The TRA is therefore requested to:

22.2.1 reopen and revise the EIT assessment;

22.2.2 expressly assess the environmental consequences of the proposed measures;

22.2.3 reconsider whether the measures can in any shape of form be in the economic interest of the UK.

23. SUMMARY AND CONCLUSIONS

SBR has presented its analysis, inquiries and challenges to the SEF, which support its position that the investigation should be terminated without measures. SBR has also outlined additional steps and considerations the TRA must take in the event it chooses to proceed.

In summary, SBR objects to the SEF, in its entirety, and is strongly opposed to TRA seeking to rely upon it in order to conclude the Investigation and make recommendations to impose measures. As demonstrated throughout this response document, implementing measures on US produced HVO based on the current findings is not an appropriate response to the application for protection from the UK FAME industry. It seems clear that if measures were adopted, the numerous procedural errors and omissions would result in detrimental impacts to the UK's HVO market. There is already growing commercial uncertainty surrounding future purchases of US origin HVO. SBR encourages TRA to reconsider its faulty premises and consequently erroneous conclusions to avoid further harm to a growing HVO market within the UK. Supporting access to affordable HVO not only aligns with UK's climate policy goals but supports consumer choice.

We are nevertheless grateful for the opportunity to file these comments and welcome further engagement on any of the comments and issues raised herein.

SCHEDULE 1 – Esso Ethos 25% Renewable Diesel

Below is a copy of the full webpage description of the Esso Ethos product.

The Esso Ethos™ 25% Renewable Diesel product demonstrates the commercial availability and real-world use of higher-blend diesel fuels incorporating HVO in the UK market, beyond the regulatory B7 limit applicable to FAME.

1. PRODUCT COMPOSITION AND REGULATORY CONTEXT

Esso Ethos™ 25% Renewable Diesel ("Esso Ethos") is a diesel fuel containing a minimum of 25% renewable content, of which the renewable component is hydrotreated vegetable oil (HVO) derived from RTFO-compliant used cooking oil. The product is marketed as compliant with existing diesel standards and is fully interchangeable with conventional diesel, requiring no engine modifications and being suitable for all diesel engines approved for B7 fuel.

2. ESSO UK 25%

The product is labelled and sold as B7 diesel because the FAME content remains within the 7% regulatory limit, with the additional renewable content above that threshold necessarily provided by HVO. This illustrates that HVO, but not FAME, can be used to exceed the B7 renewable content ceiling while maintaining fuel compliance.

3. FUNCTIONAL AND COMMERCIAL CHARACTERISTICS

The document confirms that Esso Ethos™ 25% Renewable Diesel:

3.1 is intended for the same applications as conventional diesel;

3.2 is marketed as a "drop-in" fuel, allowing seamless switching between conventional diesel and higher-renewable blends;

3.3 incorporates proprietary additives to ensure engine cleanliness, protection, and performance comparable to conventional fuels.

4. ENVIRONMENTAL PERFORMANCE

4.1 Esso states that the product delivers approximately 15% lower lifecycle greenhouse gas (GHG) emissions compared with conventional diesel, calculated on a "well-to-wheel" basis in accordance with RTFO lifecycle methodology. The document provides indicative comparisons showing materially lower CO_2-equivalent emissions per 50 litres of fuel consumed.

4.2 The environmental performance is presented as a key driver of consumer and fleet adoption, particularly for users seeking emissions reductions without transitioning away from diesel engines.

5. MARKET SIGNIFICANCE

The availability of Esso Ethos™ 25% Renewable Diesel at UK retail sites demonstrates that:

5.1 there is active demand for higher-blend renewable diesel;

5.2 such demand cannot be met by FAME due to regulatory and technical constraints;

5.3 HVO plays a distinct and non-substitutable role in enabling higher renewable content within diesel fuels.

Fuels

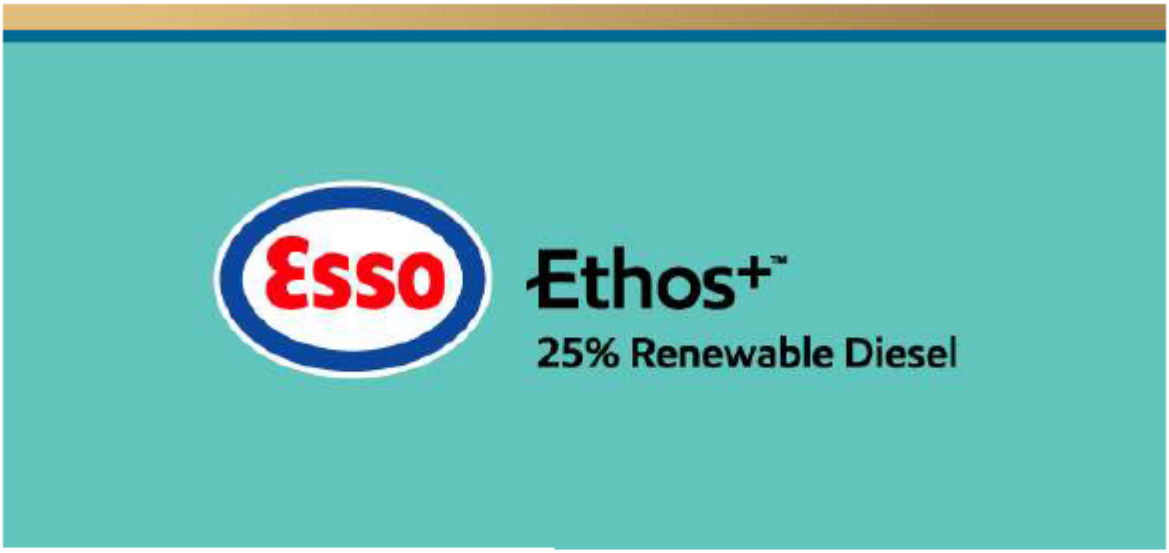
Menu

From cooking chips to powering trips.

Esso Ethos+™ 25% Renewable Diesel, made from used cooking oil.

We understand that you want help to reduce the impact of driving your car. And globally, we have exciting plans to increase the amount of lower emission fuels we offer(1). This is why we launched Esso Ethos+™ 25% Renewable Diesel, with 15% lower life cycle GHG emissions than our conventional diesel(2).

Currently available at select Esso stations in South East England, and suitable for all diesel engines without adjustments, it includes 25% premium renewable content, and our proprietary Esso Synergy additive.

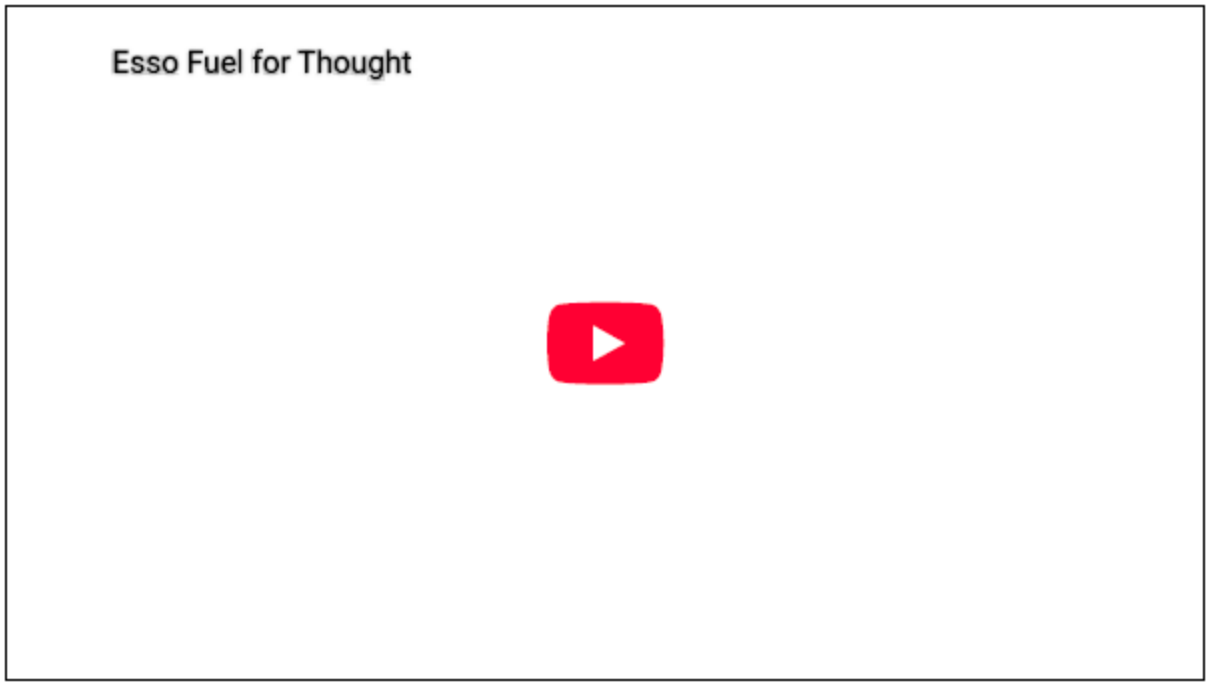


Introducing Esso Ethos+™ 25% Renewable Diesel

Say hello to Esso Ethos+™ 25% Renewable Diesel, with 15% lower life cycle GHG emissions than our conventional diesel[(2)]. Formerly known as Esso Supreme 25% Renewable Diesel, our latest diesel includes 25% premium renewable content and our proprietary Esso Synergy additive.

Find your nearest station

Fuel for Thought



Esso Ethos+~ 25% Renewable Diesel: Benefits

Renewable

Esso Ethos+~ 25% Renewable Diesel is made with a minimum of 25% premium hydrotreated vegetable oil (HVO) which is made from independently verified, RTFO(4) compliant used cooking oil.

Quality

Used cooking oil is refined into a high-quality fuel component and blended with conventional diesel and Esso Synergy additive, delivering great protection and cleaning power for engines.

Performance

Containing Esso's proprietary Synergy additive, the fuel has been designed to help clean vital parts of your engine. A cleaner engine means better performance.

15% Lower Emissions

The fuel has 15% lower life cycle greenhouse gas emissions (GHG) than our conventional diesel[2]. If you use 50 litres of Esso Ethos+™ 25% Renewable Diesel, the lifecycle GHG emissions associated with fuelling your vehicle will on average be 25 kg less than if you had used 50 litres of Esso Synergy diesel[3].

Two round trips from London to Edinburgh of emissions prevented

15% lower lifecycle GHG emissions means that for the average UK diesel car driver, using Esso Ethos+™ 25% Renewable Diesel instead of conventional diesel can prevent approximately 1,410 miles worth of lifecycle emissions associated with fuelling that vehicle per year[2]. That is equivalent to over two round trips from London to Edinburgh[5].

Compatible

A drop-in alternative fuel to diesel, so it is suitable for use in all diesel engines marked as compatible with B7 fuel. Fully interchangeable with conventional diesel.

1. What is Esso Ethos+™ 25% Renewable Diesel?

Esso Ethos+™ 25% renewable diesel is the new name for Esso Supreme 25% Renewable Diesel. Esso Ethos+™ 25% Renewable Diesel is a high quality diesel fuel made with a minimum of 25% premium renewable content - hydrotreated vegetable oil (HVO). The HVO we use is made from used cooking oil that is refined into a high quality fuel component and blended with conventional diesel and our proprietary Esso Synergy additive. It is intended for use in the same applications as conventional diesel. Esso Ethos+™ 25% Renewable Diesel has 15% lower life cycle greenhouse gas (GHG) emissions than our conventional diesel [1].

2. Why is Esso piloting an alternative diesel?

3. Where and when will we be able to find this product?

4. When will it be available in my area?

5. What kind of product is it?

6. What is a renewable fuel?

7. Why did you call this Esso Ethos+™ 25% Renewable Diesel?

8. How do you calculate that the new fuel produces 15% lower life cycle greenhouse gas (GHG) emissions?

9. What are life cycle GHG emissions? Why do renewable fuels have lower life cycle GHG emissions?

10. How do the lifecycle emissions of Esso Ethos+™ 25% Renewable Diesel compare to conventional diesel?

11. What are the benefits of the product?

12. What is a drop-in fuel? Can I switch between this and other diesels?

13. Is Esso Ethos+™ 25% Renewable Diesel suitable for all engines? Will it impact my warranty? Do I need to modify my engine at all?

14. Will it change the miles per gallon I get from my car? Will it change my fuel economy?

15. Why is Esso Ethos+™ 25% Renewable Diesel labeled B7?

16. Will Esso Ethos+™ 25% Renewable Diesel clean my engine?

17. Does Esso Ethos+™ 25% Renewable Diesel contain additives?

18. What is HVO? Is HVO actually made from cooking oil?

19. Does Esso Ethos+™ 25% Renewable Diesel contain palm oil?

20. Are there any disadvantages of the product?

21. Why does Esso Ethos+™ 25% Renewable Diesel cost more than conventional diesel?

22. Why is Esso Supreme+ Diesel no longer available at my service station?

23. Where will I be able to buy Esso Ethos+™ 25% Renewable Diesel?

24. This is great, but what else can I do?

(1)for more information please refer to Advancing climate solutions progress report (exxonmobil.com)

(2)Comparison is versus regular Esso Synergy Diesel. Esso Ethos+™ 25% Renewable Diesel contains a minimum of 25% renewable diesel. Choosing Esso Ethos+™ 25% Renewable Diesel instead of regular Esso Synergy Diesel results in 15% lower greenhouse gas emissions when comparing the emissions over the life cycle of each fuel. Fuels vary both in their total life cycle emissions (i.e. from production to use or "well to wheel") and in how the emissions are distributed throughout that life cycle. The methodology for calculating life cycle emissions and emissions reduction follows that outlined in the Renewable Transport Fuel Obligations Order 2007 (SI 2007/3072) as amended ("RTFO"). Actual results may vary. For more details about the product and full details of the calculation including assumptions and emission factors visit https://www.esso.co.uk/en-gb/hvo-faqs.

(3)Esso Ethos+™ 25% Renewable Diesel has 15% lower life cycle greenhouse gas (GHG) emissions than our conventional diesel (1). Calculations indicate that every 50 litres of Esso Ethos+™ 25% Renewable Diesel used would, on average emit 133.7 kg of GHG emissions (expressed in CO2 equivalents, or CO2e) over the total lifecycle of that product. This compares with 50 litres of Esso Synergy conventional diesel (B7), which would emit 159.1kg CO2e over its total lifecycle.

(4)RTFO: Renewable Transport Fuel Obligations Order 2007 (SI 2007/3072) as amended ("RTFO").

(5)Based on the estimated UK average annual mileage of 9,400 for diesel cars. Source: National Travel Survey 2019. One way trip from London to Edinburgh is 332 miles.

SCHEDULE 2 – Volkswagen R33 Bleu Diesel

The Volkswagen R33 BlueDiesel document set out below provides independent OEM evidence of commercial deployment of higher-blend renewable diesel fuels in the EU, demonstrating that HVO enables renewable content well above the regulatory FAME limit while remaining fully compatible with existing diesel vehicles and infrastructure.

1. PRODUCT COMPOSITION AND REGULATORY CONTEXT

1.1 R33 BlueDiesel is a diesel fuel containing approximately 33% renewable content, comprised of:

1.1.1 around 26% hydrotreated vegetable oil (HVO) (classified as an advanced biofuel), and

1.1.2 7% fatty acid methyl ester (FAME), with the remainder being fossil diesel.

1.2 The document explains that the EU Fuel Quality Directive and EN 590 standard limit FAME content to 7%, and that the higher renewable content in R33 is achieved specifically through the use of HVO, which is not subject to the same technical or regulatory cap.

2. VW COMPLETES R33 TESTING IN THE…

2.1 Technical compatibility and functional use

2.1.1 Volkswagen reports that R33 BlueDiesel:

(a) was subjected to extensive in-house testing over a nine-month period at its Wolfsburg facilities;

(b) was used exclusively by VW employees during the test phase;

(c) requires no engine modifications, no changes to vehicle certification, and no changes to filling station infrastructure;

(d) is suitable for standard diesel vehicles.

2.1.2 Following successful testing, the fuel was introduced for ongoing use at VW filling stations and trialled at additional sites, demonstrating operational readiness and scalability.

3. VW COMPLETES R33 TESTING IN THE…

3.1 Environmental performance

The document states that R33 BlueDiesel delivers at least 20% CO_2 emissions savings compared with conventional diesel, attributable to its high HVO content and use of waste-based feedstocks such as used cooking oil. These emissions reductions are presented as a material driver of adoption for corporate fleets seeking to meet climate objectives.

4. VW COMPLETES R33 TESTING IN THE…

4.1 Market significance

4.1.1 The Volkswagen R33 example demonstrates that:

(a) higher-blend renewable diesel fuels are already deployed by major automotive OEMs in the EU;

(b) HVO is essential to achieving renewable content above the FAME blending ceiling;

(c) FAME alone cannot deliver comparable renewable content or emissions performance within regulatory limits;

(d) higher-blend fuels are being adopted by diesel-dependent fleets seeking near-term decarbonisation solutions.

4.1.2 This evidence supports the conclusion that HVO serves a distinct functional and commercial role, separate from and not substitutable by FAME.

BIOENERGY INTERNATIONAL

Biofuels & Oils

Volkswagen completes testing of R33 BlueDiesel

23 December 2018 by Bioenergy International

In Germany, automaker Volkswagen AG has been testing the newly developed R33 BlueDiesel fuel at its in-house filling station in Wolfsburg since January 2018. The new fuel enables carbon dioxide (CO_2) savings of at least 20 percent compared to conventional diesel thanks to the use of biofuels. It also enables major customers to achieve climate protection goals with their fleets.

Volkswagen (VW) has been testing the newly developed R33 BlueDiesel fuel at its in-house filling station in Wolfsburg, Germany since January 2018 (photo courtesy Volkswagen).

According to a statement, an extensive trial involving the R33 BlueDiesel concept has been successfully completed. Over a period of nine months, employees at Volkswagen in Wolfsburg filled company vehicles exclusively with the R33 diesel.

Following the successful test phase, the fuel is now being used at the German automaker's filling stations in Wolfsburg. A test operation has begun at the Volkswagen plant in Salzgitter.

One-third renewable diesel composition

The R33 concept was jointly developed by Volkswagen, Coburg University and other project partners. The current supplier since January 2018 is Shell Global Solutions in cooperation with biodiesel producer Tecosol GmbH and renewable fuel producer Neste Oyj, who supply

Diesel R33 contains 26 percent renewable diesel (HVO, classified as advanced biofuels) produced by Neste. It also contains 7 percent conventional biodiesel (FAME) manufactured by other partners, as well as 67 percent fossil diesel.

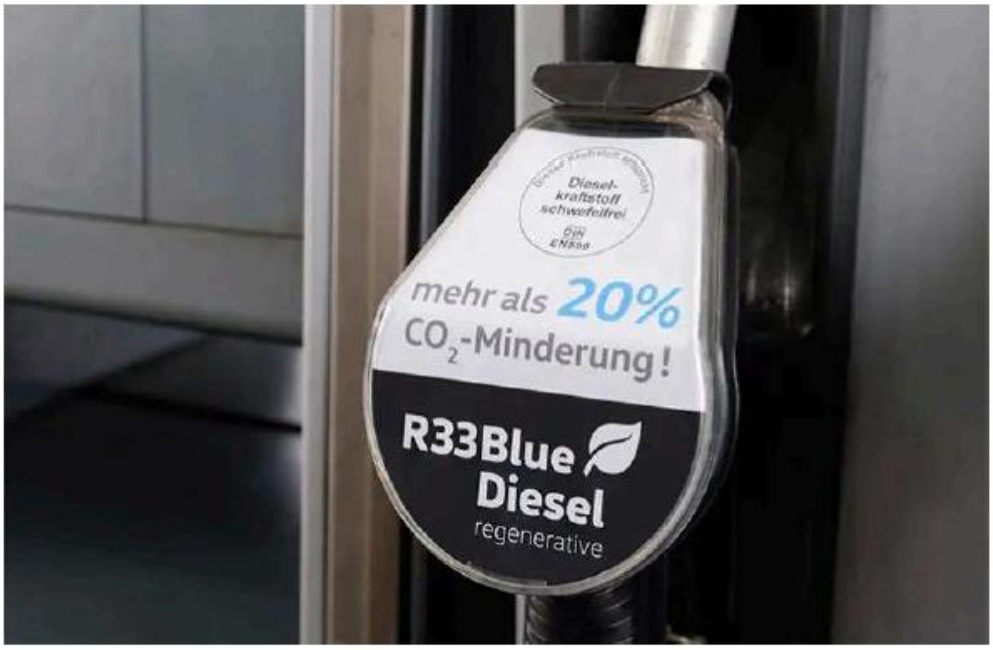
Due to its 26 percent share of HVO-type diesel, the new blend offers by far the highest biofuel content of any diesel blend fulfilling and exceeding the requirements for diesel fuels used in the European Union (EU).

The maximum limit for adding FAME-type biofuel to fossil fuel under the EU's Fuel Quality Directive (FQD) and the DIN EN 590 diesel standard is 7 percent. The fuel has a 33 percent renewable composition, hence the R33 in its name.

A way to help attain climate goals

> Diesel R33 is an easy solution that doesn't need any additional certification on the automotive side or a change in legislation. This blend does not require modifications to be made to the car's engines or to the filling stations that choose to offer it, said Markku Honkanen, Head of Technical Services, Oil Products & Renewable Products, Neste.

The renewable part of Diesel R33 comes mainly from waste and residues, such as used cooking oil (UCO) from potato chip fryers, that has been filtered and cleaned. The second part of converting cooking fat into fuel is to process it into a paraffin mixture. This is added on top of the regular fuel, on a one-to-three ratio.



The new fuel contains 7 percent biodiesel and 26 percent HVO. According to Volkswagen (VW), the new enables carbon dioxide (CO2) savings of at least 20 percent compared to conventional diesel (photo courtesy Volkswagen).

Following the successful test phase, R33 BlueDiesel is now being used permanently at Volkswagen's filling stations in Wolfsburg, and a test operation has also been started at the Volkswagen plant in Salzgitter. Introduction at further locations is planned.

Project manager Professor. Thomas Garbe from Volkswagen's Development department has a positive outlook for the fuel.

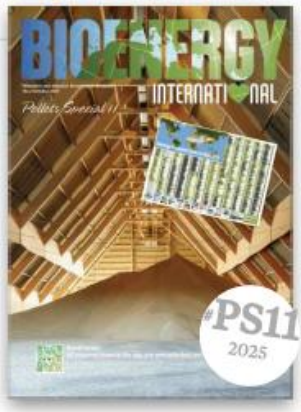
> The response to R33 BlueDiesel is very encouraging for Volkswagen and its project partners. R33 BlueDiesel is particularly suitable for companies that rely on diesel vehicles due to their long fuel ranges and still want to achieve their environmental goals. We are preparing for a significant

BIOENERGY INTERNATIONAL

Gevo joins San Francisco International Airport consortium to push biojet fuel

Åland transportation companies switch to renewable diesel

Neste investing EUR 1.4 billion in Singapore biorefinery capacity expansion



23 December 2018 by Bioenergy International

Share:

Bioenergy International no. 2-2025

SCHEDULE 3 – Industry Evidence Supporting HVO Use in Diesel Generator Applications

Source (with link)	Key Statement / Evidence Supported	Relevance to AS0067
Milestone towards Net Zero: mtu gensets from Rolls-Royce approved for sustainable HVO fuel (Rolls-Royce Power Systems, 2022) https://www.mtu-solutions.com/na/en/pressreleases/2022/milestone-towards-net-zero--mtu-gensets-from-rolls-royce-approve.html	Confirms that mtu generator sets are approved by the manufacturer for operation using HVO as a drop-in fuel, with no engine modification required.	Demonstrates OEM technical approval and functional equivalence of HVO to diesel.
Rolls-Royce's mtu gensets approved for use with sustainable fuels (Electric & Hybrid Marine Technology, 2022) https://www.electrichybridmarinetechnology.com/news/environmental/rolls-royces-mtu-gensets-approved-for-use-with-sustainable-fuels.html	Independently reports Rolls-Royce's approval of mtu gensets for HVO and similar EN15940 fuels, describing them as drop-in replacements.	Corroborates OEM claims with third-party industry reporting.
Rolls-Royce's mtu large engines now approved for HVO (BioBased-Diesel.com, 2024) https://www.biobased-diesel.com/post/rolls-royce-s-mtu-large-engines-now-approved-for-hvo-imo-iii	Confirms approval of large mtu engines for HVO, including engines used in stationary and high-power applications.	Supports argument that HVO approval extends to large-scale, critical infrastructure engines.
Rolls-Royce and AVK strengthen partnership – five years of guaranteed capacity for emergency power generators (Rolls-Royce Power Systems, 2025) https://www.mtu-solutions.com/lasa/en/pressreleases/2025/Rolls-Royce-and-AVK-strengthen-partnership.html	Confirms a five-year framework agreement with AVK, guaranteed production capacity for mtu Series 4000 gensets, and focus on sustainable technologies including HVO compatibility.	Demonstrates commercial scale deployment and long-term industry commitment.
Rolls-Royce secures long-term generator capacity for expanding data centre demand (East Midlands Business Link, 2025) https://www.eastmidlandsbusinesslink.co.uk/mag/featured/rolls-royce-	Reports independently on the AVK–Rolls-Royce agreement and demand from the data centre sector, highlighting reliability and sustainability drivers.	Confirms market acceptance and real-world use in mission-critical environments.

Source (with link)	Key Statement / Evidence Supported	Relevance to AS0067
secures-long-term-generator-capacity-for-expanding-data-centre-demand/		
Rolls-Royce, AVK hit generator milestone, selling over 500 HVO-powered units (Turbomachinery Magazine, 2024) https://www.turbomachinerymag.com/view/rolls-royce-avk-hit-generator-milestone-selling-over-500-hvo-powered-units	States that AVK and Rolls-Royce have sold over 500 HVO-powered mtu generator sets, representing approximately 1.3 GW of standby capacity.	Strong evidence of scale, normal commercial practice, and non-experimental use.
AVK & Rolls-Royce deliver 1.3 GW of HVO power to data centres (Data Centre Magazine, 2025) https://datacentremagazine.com/news/avk-rolls-royce-deliver-1-3gw-of-hvo-power-to-data-centres	Confirms deployment of HVO-ready mtu generators in data centres, emphasising reliability and emissions reduction.	Supports functional equivalence and reliability in critical infrastructure.
Rolls-Royce Publishes Position Paper with Microsoft on the Use of Hydrotreated Vegetable Oil (HVO) (Rolls-Royce Power Systems, 2025) https://www.mtu-solutions.com/na/en/pressreleases/2025/rolls-royce-publishes-position-paper-with-microsoft-on-the-use-of-hydrotreated-vegetable-oil-hvo-for-the-singapore-data-centre-sector.html	Explains that HVO can significantly reduce lifecycle CO_2 emissions while being used in approved diesel generator systems without altering function.	Supports the position that emissions benefits arise from fuel substitution only, not a change in use.

A Rolls-Royce solution

EN > Milestone towards Net Zero: *mtu* gensets from Rolls-Royce approved for sustainable...

PRESS RELEASE POWER GENERATION

MILESTONE TOWARDS NET ZERO: *mtu* GENSETS FROM ROLLS-ROYCE APPROVED FOR SUSTAINABLE HVO FUEL

Posted on **May 11, 2022**

Images [2 Files, 1 MB]

A Rolls-Royce solution

Approval of ***mtu*** Series 1600 and Series 4000 gensets for EN15940 fuels, including HVO

Up to 90% well-to-wheel CO2 savings possible through operation with HVO (Hydrotreated Vegetable Oil)

Full performance without engine or system modifications

Rolls-Royce has taken a significant step towards meeting its net zero goals, set out last year, with the approval of its ***mtu*** Series 4000 and Series 1600 diesel engines for use with sustainable fuels in power generation applications.

Following successful trials on the test bench and in the field, Rolls-Royce business unit Power Systems has approved its Series 1600 and Series 4000 generator sets for use with EN15940 synthetic diesel fuels. In addition to GtL (Gas to Liquid) and CtL (Coal to Liquid), these fuels include also the sustainable fuels BtL (Biomass to Liquid), HVO (Hydrotreated Vegetable Oil) and PtL (Power to Liquid) such as e-diesel. They can all replace conventional diesel fuel, which is made from fossil petroleum. "There is already a lot of interest in HVO in particular from many customers in the energy industry and data center business who want to improve their carbon footprint," explained Tobias Ostermaier, President Stationary Power Solutions at Rolls-Royce Power Systems. "The results from pilot customers show a significant reduction in greenhouse gases, nitrogen oxide and

A Rolls-Royce solution

HVO use significantly reduces CO2, nitrogen oxide and particulate emissions

Waste vegetable and animal fats and used cooking oils can be used as base materials for HVO, which are converted into hydrocarbons by means of a catalytic reaction with the addition of hydrogen. Through this process, the fats and vegetable oils are adapted in their properties to diesel fuel and can supplement it as an admixture or replace it completely. The advantages of HVO are clean combustion with a reduction in particulate emissions of up to 80 percent, nitrogen oxide emissions by an average of eight percent and (depending on the manufacturing process and feedstock) CO2 emissions by up to 90 percent compared to fossil diesel. Because HVO fuel is produced from renewable raw materials, its production, transport, and combustion generate only about as many greenhouse gases as were absorbed by the plants during the growth of the biomass.

Convincing performance without engine and system modifications

The tests confirmed that ***mtu*** engines perform equally excellent when using HVO (as compared to diesel) in terms of maximum power, load acceptance and fuel consumption. HVO is a drop-in fuel, which means that there are no adaptions needed to the diesel plant infrastructure, hardware or software for its use. In addition, the storage stability of this synthetic fuel is significantly better than that of biodiesel, making it even more attractive to emergency power system operators.

Target: 35% greenhouse gas savings by 2030 with new fuels and *mtu* technologies

As part of its sustainability program, Rolls-Royce announced in the middle 2021 that it would realign its product portfolio so that by 2030, new fuels and ***mtu*** technologies can save 35 percent greenhouse gas emissions compared to 2019 levels. The company is now already

sustainable fuels.

For detailed testing results for ***mtu*** Series 4000 using HVO, please see our white paper: HVO Fuel proven to be effective for Diesel Generator Sets (mtu-solutions.com)

Learn more about our sustainable solutions on our website: Sustainable power that matters (mtu-solutions.com)

About Rolls-Royce Holdings plc

1. Rolls-Royce pioneers the power that matters to connect, power and protect society. We have pledged to achieve net zero greenhouse gas emissions in our operations by 2030 (excluding product testing) and joined the UN Race to Zero campaign in 2020, affirming our ambition to play a fundamental role in enabling the sectors in which we operate achieve net zero carbon by 2050.

2. Rolls-Royce Power Systems is headquartered in Friedrichshafen in southern Germany and employs around 9,000 people. The product portfolio includes ***mtu***-brand high-speed engines and propulsion systems for ships, power generation, heavy land, rail and defence vehicles and for the oil and gas industry as well as diesel and gas systems and battery containers for mission critical, standby and continuous power, combined generation of heat and power, and microgrids and is intensively engaged in the development of climate-neutral solutions.

3. Rolls-Royce has customers in more than 150 countries, comprising more than 400 airlines and leasing customers, 160 armed forces and navies, and more than 5,000 power and nuclear customers.

28 University Technology Centres, which position Rolls-Royce engineers at the forefront of scientific research.

5. Rolls-Royce Holdings plc is a publicly traded company (LSE:RR., ADR: RYCEY, LEI: 213800EC7997ZBLZJH69).

contact

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mtu is a product and solution brand of Rolls-Royce, providing world-class power solutions and complete life-cycle support.

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SCHEDULE 4 – Injury Analysis Excel Tables

Table 11 Imports Absolute :

Volume Analysis in absolute terms (HMRC 10-digit commodity codes 2710194329 and 2710194339)

		2021	2022	2023	2024
Raw Data	Import volume (US) Indexed	0	100	1,821	3,934
	Total import volume (all countries) Indexed	31	100	294	335
	US imports compared to total Range	0-6%	3-8%	26-37%	56-65%

Worked	Import volume (US) Indexed		100	1,821	3,934			
	Total import volume (all countries) Indexed		1,150 - 3,233	3,101 – 5,183	2,118 - 3,091	3233	5183	3091
	US imports compared to total Range		3-8%	26-37%	56-65%	1150	3101	2118

Table 11.1: Volume Analysis in absolute terms ((all in-scope HMRC 10-digit) commodity codes)

		2021	2022	2023	2024
Raw Data	Import volume (US) Indexed	47	100	252	345
	Total import volume (all countries) Indexed	87	100	89	85
	US imports compared to total Range	2-8%	6-12%	17-25%	30-38%

Worked	Import volume (US) Indexed		100	252	345			
	Total import volume (all countries) Indexed		733 - 1,567	756- 1,230	563 - 805	1567	1230	805
	US imports compared to total Range		6-12%	17-25%	30-38%	733	756	5623

Table 12 Imports Relative :

Volume Analysis in relative terms (HMRC 10-digit commodity codes 2710194329 and 2710194339)

		2021	2022	2023	2024
Raw Data	Import (US) to Production (UK) Indexed	0-2%	2-3%	40-47%	101-125%
	Import (US) to Consumption (UK) Indexed	0.00	0-2%	8-13%	24-32%

Table 12.1: Volume Analysis in relative terms ((all in-scope HMRC 10-digit) commodity codes)

		2021	2022	2023	2024
Raw Data	Import (US) to Production (UK) Indexed	132-146%	315-327%	825-834%	1,400-1,416%
	Import (US) to Consumption (UK) Indexed	55-60%	92-98%	205-214%	320-345%

Table 13 Undercutting : Undercutting over the injury period ((all in-scope HMRC 10-digit) commodity codes)

		2021	2022	2023	2024
Raw Data	Undercutting margin	57%	42%	37%	35%

Table 13.1: Undercutting over the injury period (HMRC 10-digit commodity codes 2710194329 and 2710194339)

		2021	2022	2023	2024
Raw Data	Undercutting margin	-	31%	-9%	21%

Table 14 Price Depression : Import price (all in-scope HMRC 10-digit commodity codes)

		2021	2022	2023	2024
Raw Data	US import price (£/l) Index	46	100	80	70
	Average UK sales price (£/l) Index	108	173	126	121

		2021	2022	2023	2024
Worked	US import price/ UK Price %	43%	58%	63%	58%

Table 14.1: Import price per litre (HMRC 10-digit commodity codes 2710194329 and 2710194339)

		2021	2022	2023	2024
Raw Data	US import price (£/l) Index	-	100	116	72
	Average UK sales price (£/l) Index	91	146	107	102

Worked	US import price/ UK Price %	-	68%	108%	71%

Table 15 Price Suppresion :

		2021	2022	2023	2024
Raw Data	Average UK cost of production Indexed	80	100	71	67
	Average UK sales price Indexed	61	98	72	69
	Average US sales price Indexed	26	57	45	40

		2021	2022	2023	2024
Worked	Average UK Profit %	-24	-2	1	3
	US to UK COP %	33	57	63	60
	US to UK Sales Price %	43	58	63	58

Table 16 UK Domestic Sales (like goods)

		2021	2022	2023	2024
Raw Data	Sales volume (l) (including biodiesel in blends) Indexed	159	100	65	97
	Sales value (£) (including biodiesel in blends) Indexed	99	100	47	60

Table 17 UK Export Sales (like goods)

		2021	2022	2023	2024
Raw Data	Export Sales volume (l) Indexed	91	100	100	77
	Export Sales value (£) Indexed	72	100	68	49
	Export Sales as a % of total sales	72-78%	81-86%	88-95%	80-85%

Table 18 Total Sales of all like goods

		2021	2022	2023	2024
Raw Data	Sales volume (l) Indexed	101	100	95	80
	Sales value (£) Indexed	76	100	65	51
Table 17	*Export Sales as a % of total sales*	*72-78%*	*81-86%*	*88-95%*	*80-85%*
Worked	Domestic Sales as a % of total sales	22-28%	14-19%	5-12%	15-20%

Table 19 Net Profit before tax for like goods

		2021	2022	2023	2024
Raw Data	Net profit (£) Indexed	223	100	77	56
	Net profit margin Indexed	312	100	37	-88
Table 15	*Average UK cost of production Indexed*	*80*	*100*	*71*	*67*
	Average UK sales price Indexed	*61*	*98*	*72*	*69*
Worked	Average UK Profit %	-24	-2	1	3

Table 20 Market Share and UK consumption of HVO

		2021	2022	2023	2024
Raw Data	UK Consumption Indexed	79	100	111	92
	Market share of UK industry	7-10%	4-9%	2-7%	4-9%

Table 26 US plus Top four third country imports (litres)

(all in-scope HMRC 10-digit) commodity codes)

		2021	2022	2023	2024
Raw Data	US Index	47	100	252	345
	PRC Index	109	186	264	171
	NL Index	42	33	33	32
	BE Index	6	9	9	6
	MY Index	5	13	10	11
Worked	Total Others Index	162	241	316	220

Table 26.1: US plus Top three third country imports (litres)

(HMRC 10-digit commodity codes 2710194329 and 2710194339) 2710194329 and 2710194339) commodity codes)

		2021	2022	2023	2024
Raw Data	US Index	-	100	1,821	3,934
	PRC Index	11,991	14,046	-	-
	NL Index	300	1,192	3,260	1,651
	BE Index	-	490	457	-
Worked	Total All inc US Index	12,291	15,828	5,538	5,585
	Total Others Index	12,291	15,728	3,717	1,651

Table 27 Third Country Value :

US plus Top four third country imports (£/l) (all in-scope HMRC 10-digit) commodity codes)

		2021	2022	2023	2024
Raw Data	US Index	46	100	80	70
	PRC Index	67	100	84	69
	NL Index	75	170	113	87
	BE Index	75	130	114	67
	MY Index	92	73	98	122

Table 27.1: US plus Top three third country imports (£/l) (HMRC 10-digit commodity codes 2710194329 and 2710194339) 2710194329 and 2710194339) commodity codes)

		2021	2022	2023	2024
Raw Data	US Index	-	100	116	72
	PRC Index	38	65	-	-
	NL Index	100	197	99	74
	BE Index	-	198	146	-