



ER0083

Expiry Review of subsidised biodiesel products originating in the USA (including biodiesel products consigned from Canada)

Comments to the United States Trade Representative (USTR)'s response to subsidy questionnaire and to USTR's additional submission

Submitted by the Renewable Transport Fuel Association ("RTFA")

OPEN VERSION

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I. INTRODUCTION

1. On 3 April 2026, the Office of the U.S. Trade Representative (“USTR”) provided a response to the Foreign Government Anti-Subsidy Questionnaire and an additional submission, in the context of the ER0083 ongoing expiry review investigation on biodiesel imports from the United States of America (“U.S.”).
2. In these two documents, the USTR alleges that the countervailing measures should be discontinued for the following reasons:
 - There would be no subsidisation of biodiesel producers during the POI. Accordingly, the USTR alleges that the TRA should conclude that subsidisation will not continue or be likely to recur if the countervailing measures expire.
 - If the TRA were to determine that countervailable subsidies were provided, those subsidies would provide far less benefit than those calculated in the original transition review due to the expiration of several subsidy schemes. Accordingly, the USTR alleges that the TRA should decrease the subsidy margin in the present case, rather than relying on the subsidy margin calculated in the transition review.
 - There is no basis to determine that subsidies (if any) would impact biodiesel production, the prices of biodiesel, or the export of biodiesel to the UK, as U.S. exports of biodiesel declined significantly during the POI. In the same vein, the circumstances of the U.S. are such that any injury caused by U.S. subsidised biodiesel is not likely to continue or recur if the countervailing measure expires, as global U.S. exports of biodiesel declined significantly during the POI.
3. The RTFA submits that all USTR’s arguments are misleading and unfounded. As will be demonstrated below:
 - It is completely misleading to affirm that there is no longer any subsidisation of the U.S. biodiesel industry during the POI, and onwards. The USTR itself has provided information on a number of subsidy schemes that are still in place and provided benefits to U.S. biodiesel producers **(II)**;
 - The USTR is deliberately refusing to share with the TRA, on a strictly confidential basis, the benefits received by U.S. biodiesel producers from the main tax credits (namely the Blender’s Tax Credit, the Clean Fuel Production Credit, the Small Agri-biodiesel Producer Tax Credit, and the Alternative Fuel Tax Credit) during the POI. Since this information is essential to assess the level of the subsidisation of the U.S. biodiesel industry – and to assess the accuracy of the two key arguments submitted by the USTR in the present case – the TRA should conclude that the USTR fails to properly cooperate in the present case and apply ‘best facts available’, namely the information and data provided by the Applicant in its expiry review requests and its submissions **(III)**;
 - None of the U.S. biodiesel producers are cooperating with the TRA in the present anti-dumping and countervailing expiry review investigations. In the absence of cooperation, the TRA should base its findings on ‘facts available’ and reconduct the trade remedy measures for another five-year period, without any modification to their original levels; **(IV)**
 - The RTFA has gathered public information showing that U.S. biodiesel producers have received significant subsidies during the POI. It is also misleading to affirm that the Blender Tax Credit has been terminated without any possibility that it will be reinstated in the future, due to its history of systemic retroactive reinstatement. Due to massive subsidisation of the

U.S. biodiesel industry, the RTFA is convinced that subsidisation will continue and will cause severe injury, should the trade defence measures be discontinued (V).

II. THERE IS STILL MASSIVE SUBSIDISATION OF THE U.S. BIODIESEL INDUSTRY

4. It is completely misleading to affirm that there is no longer any subsidisation of the U.S. biodiesel industry during the POI.
5. At the outset, the RTFA recalls that the USTR's repeated assertion that individual programmes have been "terminated" deliberately answers the wrong legal question. The legal test in an expiry review is not whether a given programme paid out during the POI, but whether subsidisation would be likely to continue or recur should the countervailing measures be allowed to lapse; the analysis in this respect is prospective.¹
6. In any event, as demonstrated below, subsidisation did continue throughout the POI, as laid out by the U.S. Government's own evidence. Thus, in its response to the subsidy questionnaire, the USTR confirmed that several subsidy schemes are still in place and provided benefits to U.S. biodiesel producers as follows:
 - The USTR explained that the Blender Tax Credit was terminated. While it is true that such subsidy scheme has expired, it is not excluded it is retroactively reinstated, due to its history of systemic retroactive reinstatement. In addition, the RTFA notes that in its response to the subsidy questionnaire, the USTR **refused** to disclose the amount of subsidies received by each U.S. biodiesel producer under this subsidy scheme on the ground that "*this information is non-disclosable pursuant to 26 U.S.C. 6103*".²
 - The Small Agri-biodiesel Producer Credit provides for a tax credit of 10 cents per gallon for up to the first 15 million gallons of agri-biodiesel produced and sold (or used) during the tax year. The USTR indicated that subsequent legislation increased the credit to 20 cents per gallon, from June 30, 2025 and is available from January 1, 2006, to December 31, 2026. The USTR also clarified that the Small Agri-biodiesel Producer Credit can be stacked with the 45Z Clean Fuel Production credit, allowing eligible producers to simultaneously claim both credits for each gallon of agri-biodiesel. However, the USTR refused to disclose to the TRA, on a confidential basis, the amount of subsidies received under this subsidy scheme during the POI, by claiming that "*this information is non-disclosable pursuant to 26 U.S.C. 6103 [..]. Further, no 2025 tax credit information is available at this time because taxpayers generally file for 2025 income tax credits in 2026 and the filings have not yet been made*".³
 - The USTR explained that the Clean Fuel Production Credit provides credit values that increase as carbon-intensity approaches zero, but cannot exceed \$1.00 per gallon (or \$0.20 per gallon for producers that do not meet prevailing-wage and apprenticeship requirements). The USTR clarifies that the credit applies to qualifying fuel sold after December 31, 2024 and before January 1, 2030. However, to TRA's request to provide the benefit received by US biodiesel producers under this subsidy scheme during the POI, the USTR responded that "*This information is non-disclosable pursuant to 26 U.S.C. 6103 (Exhibit USA-14). Further, the 2025 benefit information is not available at this time because taxpayers generally file for 2025 income tax credits in 2026 and the filings have not yet been made*".⁴

¹ Article 70(5)-(6) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019; Appellate Body Report, US – Carbon Steel (India), WT/DS436/AB/R, 8 December 2014, para. 4.530. See RTFA Comments of 6 May 2026, paras. 6-11.

² See page 22 of USTR's response to the AS questionnaire.

³ See page 26 of USTR's response to the AS questionnaire.

⁴ See page 30 of USTR's response to the AS questionnaire.

- With respect to the Advanced Biofuel Payment Programme, the USTR explained that this subsidy scheme is in force through fiscal year (FY) 2031 and that no changes are expected at this time. The USTR provided the payments under this subsidy schemes which amounted to \$830.234,91 according to USTR Exhibit USA-25. However, the USTR makes it clear that the payment reported in this Annex are based on the payment provisions in Section 4288.131. The payments will be adjusted based on a series of criteria as explained by the USTR in page 36 of its questionnaire's response. This means that the amounts reported in Exhibit USA-25 may not be definitive and in the absence of cooperation from U.S. biodiesel exporters, the TRA cannot have a clear understanding of the final amount of subsidies provided to each US biodiesel producer under this subsidy scheme.
- The USTR's response further confirms that numerous state subsidy schemes were live during the POI and will run for years beyond it, including: Kentucky (USD 1,00 per gallon of biodiesel produced or blended, subject to a shared annual cap of USD 10 million); Iowa (a refundable credit of USD 0,04 per gallon produced in-state, with a sunset of 1 January 2028); North Dakota (a blender credit of five cents per gallon, in force since 1 January 2005 and of indefinite duration, whose express statutory objective is "*to encourage biodiesel or green diesel production*");⁵ Illinois (a sales/use tax exemption for biodiesel and renewable diesel blends running until 31 December 2030); and Missouri (a producer credit running until 2028, a programme which the U.S. Government itself volunteered as missing from the TRA's list, confirming that the list of subsidies in the Application is not even exhaustive).⁶ The U.S. Additional Questionnaire Response, moreover, contains quantified admissions of the scale of this support: for the Alabama Biofuel Production Jobs Tax Credit alone, the U.S. Government discloses that 95 taxpayers received USD 49.956.058 in tax credits for the 2024 tax year, and for the Illinois exemption, 1.189 retailer accounts reported deductions associated with biodiesel or renewable diesel sales totalling USD 174,8 million in 2025 alone.⁷

7. This generous subsidy architecture is underpinned by an explicit government policy objective. The USTR's response cites Executive Order 14154, "Unleashing American Energy", of 20 January 2025, directed at unleashing American energy production towards the goal of achieving energy dominance.⁸ A stated government policy of expanding domestic energy and fuel production is irreconcilable with any reasonable suggestion that support to the US biodiesel industry will wind down if the UK measures lapse.

8. The examples provided above show that it is completely misleading to affirm that there is no longer any subsidisation of the U.S. biodiesel industry. Accordingly, the TRA should conclude that there is a likelihood of continuation of subsidisation, should the measures be allowed to expire. It is thus of critical important to renew the countervailing duties imposed on biodiesel imports originating in the U.S.

III. THE USTR REFUSES TO FULLY COOPERATE IN THE PRESENT INVESTIGATION WHICH MUST LEAD THE TRA TO APPLY BEST FACTS AVAILABLE

9. The USTR refuses to share with the TRA, on a strictly confidential basis, the benefits received by U.S. biodiesel producers from the main tax credits (namely the Blender's Tax Credit, the

⁵ See pages 80 (Kentucky), 75 (Iowa) and 127 (North Dakota) of USTR's response to the AS questionnaire.

⁶ See pages 165-166 of USTR's response to the AS questionnaire (Missouri); for the Illinois exemption, [pinpoint page reference to be confirmed before filing].

⁷ U.S. Additional Questionnaire Response, 1 May 2026, Annex A, Alabama Biofuel Production Jobs Tax Credit and Illinois Biofuels Tax Exemption.

⁸ See page 16 of USTR's response to the AS questionnaire.

Clean Fuel Production Credit, the Small Agri-biodiesel Producer Credit, and the Alternative Fuel Tax Credit) during the POI.

10. By way of illustration, and as set out in Section II above, the USTR refused to identify the beneficiaries and to quantify the benefits conferred during the POI under each of the four main federal tax credits, responding in identical terms for the Blender's Tax Credit, the Small Agri-biodiesel Producer Tax Credit, the Clean Fuel Production Credit and the Alternative Fuel Tax Credit that "*this information is non-disclosable pursuant to 26 U.S.C. 6103*".⁹ In its Additional Questionnaire Response of 1 May 2026, the USTR went as far as asserting, in relation to the North Dakota blender credit, that State confidentiality law prevents the disclosure of the information, not only to the TRA but even to the USTR itself.¹⁰
11. Section 6103 of the U.S. Internal Revenue Code is a confidentiality rule of U.S. domestic law, addressed to U.S. federal officers and employees, which governs the disclosure of tax returns and return information. It does not bind the TRA, and it cannot relieve the U.S. Government of its evidentiary burden in a trade remedy investigation conducted under UK law. A responding government cannot rely on its own domestic legislation to withhold information that is indispensable to the proper conduct of a foreign trade remedy investigation.
12. In any event, the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (the "2019 Regulations") contains a comprehensive confidentiality regime. Under Regulation 45 of the 2019 Regulations, information may be submitted to the TRA on a strictly confidential basis, accompanied by a non-confidential summary, and the TRA is required to treat such information accordingly. Nothing therefore prevented the USTR from providing the requested data to the TRA on a confidential basis to allow the proper conduct of the present investigation. Moreover, section 6103 protects taxpayer-identifying information; it does not prevent the provision of aggregate programme expenditure or official tax-expenditure estimates, which are routinely published in the United States.
13. The USTR's confidentiality posture is also selective. The USTR disclosed full beneficiary lists and amounts for the USDA Bioenergy Programme for Advanced Biofuels (Exhibits USA-25 and USA-26) and for the Iowa Renewable Fuel Infrastructure Program (Exhibit IA-6) and expressly confirmed that the amounts granted under the North Dakota loan and grant programmes are publicly available and require no redaction. The USTR is thus disclosing the data it considers favourable, while withholding any quantification of the largest federal tax credits, which constitute the core of the subsidisation of the U.S. biodiesel industry.
14. The same lack of credibility affects the USTR's answers concerning its involvement in the manufacture, sale, purchase or acquisition of biodiesel products and of the main inputs used in their production. The USTR asserted that these are private sector commercial activities conducted on market terms and that "*the U.S. federal government does not maintain information on these activities in the ordinary course*".¹¹ This assertion is simply wrong. The U.S. federal government maintains, and publishes, extensive information on precisely these activities in the ordinary course. The USDA Economic Research Service maintains, jointly with the U.S. Energy Information Administration, a "Biofuels Data Sources" compendium of U.S. Government market data on the supply, use and prices of biofuels, biofuel feedstocks and competing petroleum products.¹² The USDA Agricultural Marketing Service publishes weekly biodiesel (B100) prices, together with the prices of the main biodiesel feedstocks (crude soybean oil,

⁹ See pages 47-48 of USTR's response to the AS questionnaire.

¹⁰ U.S. Additional Questionnaire Response, 1 May 2026, Annex A, North Dakota Biodiesel and HVO Blender Tax Credit.

¹¹ See page 15 of USTR's response to the AS questionnaire (Section B1, question 2).

¹² Exhibit 1 – USDA Economic Research Service and U.S. Energy Information Administration, Biofuels Data Sources.

tallow, choice white grease and yellow grease), in its National Weekly Ag Energy Round-Up.¹³ The Energy Information Administration publishes data on U.S. biodiesel production, capacity, feedstock inputs, consumption and stocks; indeed, the tables set out in the present submission are based on that official U.S. data.¹⁴ The USTR's own response elsewhere relies on publicly available production, capacity and credit-volume information for the Iowa biodiesel industry.¹⁵ The assertion that the U.S. federal government holds no information on the manufacture and sale of biodiesel and its raw materials is thus contradicted by official U.S. data.

15. In these circumstances, the refusal to provide, even on a strictly confidential basis, information that is indispensable to the proper conduct of the TRA's investigation to assess the continuation or recurrence of subsidisation of the US biodiesel industry, amounts to a **failure to cooperate** within the meaning of Regulation 49 of the 2019 Regulations and falls squarely within Article 12.7 of the SCM Agreement, which applies where an interested Member "*refuses access to, or otherwise does not provide, necessary information*".¹⁶
 16. The Appellate Body has made clear that Article 12.7 "*is intended to ensure that the failure of an interested party to provide necessary information does not hinder an agency's investigation*".¹⁷ The USTR's refusal cannot, therefore, be allowed to paralyse the TRA's assessment of the likelihood of continuation or recurrence of subsidisation and the level of subsidisation. The TRA should accordingly base its findings on "facts available", selecting the information and data provided by the Applicant in its expiry review request and its submissions as the reasonable replacement for the information withheld by the USTR.¹⁸
 17. In doing so, the TRA may also rely on information from secondary sources: the Appellate Body has confirmed that the facts available "*may include information from secondary sources*", and WTO panels have held that there is no rule in the SCM Agreement that prevents an investigating authority from taking into account information from all sources, including press reports.¹⁹ The studies, financial disclosures and market reporting relied upon by the RTFA in the present submission constitute precisely such facts available.
- IV. NONE OF U.S. BIODIESEL PRODUCERS ARE COOPERATING WITH THE TRA, WHICH MUST LEAD THE TRA TO CONCLUDE THAT MEASURES SHOULD BE RECONDUCTED AT IDENTICAL LEVELS**
18. As already mentioned in previous submissions, there is **absolutely no cooperation from U.S. FAME biodiesel exporting producers** in the present expiry review investigations.
 19. In the case of Valero, the cooperating company is the UK legal entity of the U.S. company Valero Energy Corporation. Valero – which is alleging that measures should be discontinued – is not even an importer of the product concerned in the present case, nor is it anyhow related to an U.S. exporting producer.

¹³ Exhibit 2 – USDA Agricultural Marketing Service, National Weekly Ag Energy Round-Up.

¹⁴ Exhibit 3 – US Energy Information Administration, Petroleum and Other Liquids, Statistics.

¹⁵ See page 78 of USTR's response to the AS questionnaire (citing publicly available information from the Iowa Biodiesel Board on plant numbers, capacity, production and credited volumes).

¹⁶ Article 12.7 of the SCM Agreement. See also Panel Report, EC – Countervailing Measures on DRAM Chips, WT/DS299/R, para. 7.245.

¹⁷ Appellate Body Report, Mexico – Anti-Dumping Measures on Rice, WT/DS295/AB/R, para. 293.

¹⁸ Panel Report, US – Anti-Dumping and Countervailing Duties (Korea), WT/DS539/R, para. 7.41 (Article 12.7 "*requires investigating authorities to select those facts available that constitute reasonable replacements for the missing 'necessary' information*").

¹⁹ Appellate Body Report, Mexico – Anti-Dumping Measures on Rice, WT/DS295/AB/R, para. 295; Panel Report, EC – Countervailing Measures on DRAM Chips, WT/DS299/R, para. 7.249.

20. The fact that none of the U.S. FAME biodiesel producers are currently cooperating in the present expiry review investigations confirms that these producers refuse to share data and information with the TRA that would allow it to properly conduct its expiry review investigation. It also confirms that these U.S. companies are not interested in the outcome of this investigation.
21. Under these circumstances, the TRA is required to apply “facts available” in the present case, which are data and information provided by the Applicant in its expiry review requests and during the investigation, or any public information that may help it to reach its conclusions.
22. More importantly, in the absence of cooperation from U.S. biodiesel producers, it is impossible for the TRA to calculate subsidy margins. Consequently, the TRA should reconduct the countervailing duties without modifying the margins originally found.
23. This is precisely the approach followed by the TRA in the transition review TS0005. In that review, due to the low level of imports and the absence of cooperation from the sampled U.S. exporters, the TRA found that it was unable to recalculate the countervailing amount, and accordingly recommended maintaining the countervailing amount under regulation 100A(4)(b) of the 2019 Regulations.²⁰ The amounts thereby maintained give effect to the duties established by Council Regulation (EC) No 598/2009, under which the Blender’s Tax Credit was countervailed at ad valorem rates of up to 41,1%.²¹ The same approach applies *a fortiori* in the present expiry review, where the absence of cooperation from U.S. biodiesel producers again makes any recalculation of the subsidy margins impossible.

V. EVIDENCE SHOWS THAT U.S. BIODIESEL PRODUCERS HAVE CONTINUED TO RECEIVE SUBSIDIES

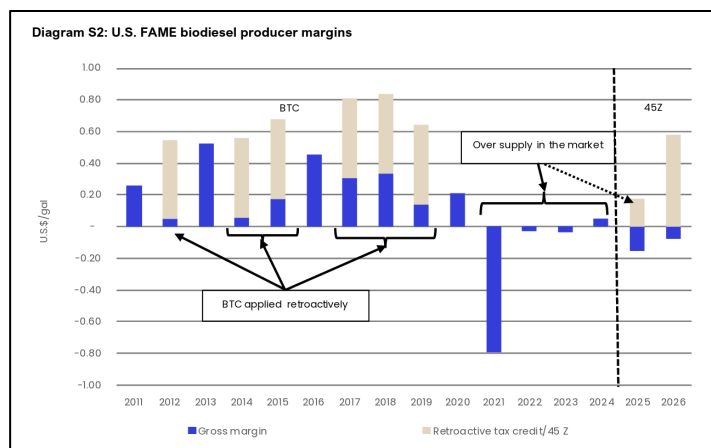
(i) Evidence of subsidies received in 2025 onwards

24. The RTFA has gathered public information showing that U.S. biodiesel producers have received significant subsidies during the POI, notably under the Clean Fuel Production Credit.
25. First, a study published in April 2026 and commissioned by the main associations of U.S. fuel retailers (NATSO, SIGMA and NACS) confirms that U.S. biodiesel producers monetised the CFPC during the POI. The study compares the distribution of the benefit along the value chain under the Blender’s Tax Credit and under the 45Z credit. It finds that, whereas under the Blender’s Tax Credit producers were able to keep 30-50% of the credit value, with 50-70% flowing to blenders and consumers, under the 45Z credit producers retain 60-80% of the credit value in normal years and, importantly, that for U.S. biodiesel produced from qualifying feedstocks, producers have retained 80-100% of the tax credit value.²² The study shows that in 2025 onwards, U.S. biodiesel producers received subsidies under the tax credit/45Z:

²⁰ TS0005, Recommendation to the Secretary of State, Transition review of countervailing duties applying to biodiesel originating in the United States of America and consigned from Canada, paragraphs 17-18 and 25.

²¹ Council Regulation (EC) No 598/2009 of 7 July 2009 imposing a definitive countervailing duty on imports of biodiesel originating in the United States of America, OJ L 179, 10.7.2009, p. 1.

²² Exhibit 4 – Impacts of Tax Credits on U.S. Biofuel Markets, Public Summary, April 2026.



Source: Global data- Tax credit impact on US biofuels – Summary

26. Second, the University of Illinois study of 19 March 2026 on biodiesel production profits and tax credits, models the 2025 profitability of a representative U.S. FAME biodiesel plant by including the benefit of three subsidies received by producers during the POI: the 45Z CFPC (which the study itself describes as the replacement of the former USD 1,00 per gallon credit), the Small Agri-biodiesel Producer Credit and the Iowa biodiesel production tax credit. The very design of the study confirms that these credits were received and accounted for by U.S. FAME biodiesel producers in 2025.²³
27. The RTFA believes that the level of subsidisation to the U.S. biodiesel industry today **is at least equivalent to, and likely greater than, the level found previously:**
- First, the CFPC provides up to USD 1,00 per gallon, the same nominal maximum as the Blender's Tax Credit countervailed in the original investigation.
 - Second, unlike under the Blender's Tax Credit, the CFPC can be stacked with the Small Agri-biodiesel Producer Credit, doubled mid-POI to USD 0,20 per gallon, and combines with live state credits of up to USD 1,00 per gallon (Kentucky).²⁴
 - Third, and as mentioned above, a recent study commissioned by the main associations of U.S. fuel retailers shows that US biodiesel producers using qualifying feedstocks have retained 80-100% of the 45Z credit value, compared with a producer retention of only 30-50% of the credit value under the Blender's Tax Credit; the producer-level benefit per gallon is thus higher under the CFPC than under the countervailed Blender's Tax Credit.²⁵
 - Fourth, The U.S. Joint Committee on Taxation projects that the budgetary cost of the CFPC will rise from USD 2,1 billion in 2025 to USD 10,6 billion by 2029.²⁶ The One Big Beautiful Bill Act has, moreover, extended the CFPC through 2029 and removed the indirect land-use change penalty from the lifecycle emissions calculation, thereby increasing the per-gallon credit value for crop-based feedstocks such as soybean oil, the principal feedstock of U.S. FAME biodiesel.²⁷ ADM, one of the largest U.S. biodiesel producers, accordingly

²³ Exhibit 5 – University of Illinois, Department of Agricultural and Consumer Economics, Biodiesel Production Profits and Tax Credits, farmdoc daily, 19 March 2026.

²⁴ See page 24 of USTR's response to the AS questionnaire (stacking of the small agri-biodiesel producer credit with the CFPC) and page 80 (Kentucky Biodiesel Production Tax Credit).

²⁵ Exhibit 4 – Impacts of Tax Credits on U.S. Biofuel Markets, Public Summary, April 2026.

²⁶ Exhibit 6 – JCT, Estimates of Federal Tax Expenditures for Fiscal Years 2025-2029, JCX-45-25, Table 1 (3 December 2025), p.35.

²⁷ OBBBA, Pub. L. 119-21, § 70521.

states in its FY2025 Form 10-K that “*the total benefits available under 45Z will be higher in future periods primarily due to changes enacted in the OBBBA*”.²⁸

28. Accordingly, should the TRA consider any adjustment of the countervailing amounts, the evidence on the record would justify an increase of those amounts, certainly not a reduction.

(ii) Evidence that the Blender’s Tax Credit could be retroactively reinstated

29. It is misleading for the USTR to present the Blender’s Tax Credit as simply “terminated” while omitting that this credit has, throughout its twenty-year existence, been characterised by repeated cycles of expiry and retroactive reinstatement: retroactively for 2012 and 2013 by the American Taxpayer Relief Act of 2012; retroactively for 2014 by the Tax Increase Prevention Act of 2014; retroactively (and one year forward) by the Protecting Americans from Tax Hikes Act of 2015; retroactively for 2017 by the Bipartisan Budget Act of 2018; and most recently through 31 December 2024 by the Inflation Reduction Act of 2022, itself adopted after a further lapse. Each reinstatement has been retroactively operationalised by the IRS through dedicated claim windows.²⁹ Every nominal expiry of the Blender’s Tax Credit over more than fifteen years has thus been followed by retroactive reinstatement.
30. That historical pattern has already begun to repeat itself. On 27 April 2026, the bipartisan bill H.R. 8497, the Strengthening Economic and Energy Development (SEED) Act / Biodiesel Tax Credit Extension Act of 2026, was introduced in the House of Representatives, proposing to reinstate the Section 40A Blender’s Tax Credit at USD 1,00 per gallon, with retroactive effect and running through 31 December 2029, with eligible taxpayers electing between the restored Blender’s Tax Credit and the 45Z credit in respect of the same fuel.³⁰ The Bill is endorsed by the principal trade associations of the US fuel retail and trucking sectors, whose representative described the credit as a “*tried and true*” policy.³¹ In a letter urging Congress to reinstate the credit, those associations described it as “*one of the fastest, most direct tools available*” to provide relief to consumers in a context of rising diesel prices.³²
31. The context of this legislative initiative is revealing. As shown by the April 2026 study referred to above, the benefits of the Blender’s Tax Credit were spread across the value chain (50-70% flowing to blenders and consumers), whereas the 45Z credit concentrates the benefit with the producers (60-80% retention, and 80-100% for biodiesel produced from qualifying feedstocks).³³ Downstream operators are therefore lobbying for the reinstatement of the Blender’s Tax Credit alongside the 45Z credit, while U.S. biodiesel producers seek to maximise their benefits under the 45Z credit. In other words, the debate currently taking place in the U.S. is not whether federal subsidisation of the biodiesel sector will continue, but under which legal instrument it will be delivered and how its benefit will be distributed along the value chain.
32. Should H.R. 8497 be enacted, U.S. biodiesel producers would have access to two parallel federal subsidy streams from which to elect the more favourable. Under either scenario, the

²⁸ Exhibit 7 – ADM, 2025 Annual Report on Form 10-K, p. 30.

²⁹ American Taxpayer Relief Act of 2012; Tax Increase Prevention Act of 2014; Protecting Americans from Tax Hikes Act of 2015; Bipartisan Budget Act of 2018; Inflation Reduction Act of 2022, Pub. L. 117-169, § 13201. See, most recently, Exhibit 8 – IRS Notice 2022-39 (retroactive claim procedures following the Inflation Reduction Act of 2022).

³⁰ Exhibit 9 – H.R. 8497, 119th Congress (2025-2026), Strengthening Economic and Energy Development (SEED) Act / Biodiesel Tax Credit Extension Act of 2026, introduced 27 April 2026.

³¹ Exhibit 10 – NATSO/SIGMA/NACS, “Fuel Retailers Applaud Legislation to Extend Biodiesel Blenders’ Tax Credit”, PR Newswire, 27 April 2026

³² Exhibit 11 – NACS, “NACS Urges Congress to Reinstate the Biodiesel Blenders’ Tax Credit”, 26 March 2026.

³³ Exhibit 12 – NACS, “Tax Study: For Consumers, 40A Delivers”, 15 April 2026.

subsidisation of U.S. biodiesel producers continues, and its trajectory is one of continuity and expansion, not termination.

VI. CONCLUSIONS

33. For the reasons set out above, the USTR's own questionnaire responses confirm that substantial federal and state subsidisation of the U.S. biodiesel industry was in force throughout the POI and is scheduled to continue for years beyond it: the Clean Fuel Production Credit applies until 2030, the Small Agri-biodiesel Producer Credit was doubled mid-POI and stacked with the CFPC, and numerous state schemes remain live. The assertion that there is no longer any subsidisation in the U.S. biodiesel industry is therefore completely misleading.
34. At the same time, the USTR refuses to provide, even on a strictly confidential basis, the information necessary to quantify the benefits conferred under the main federal tax credits, and no U.S. biodiesel producer is cooperating in the present expiry reviews.
35. This double failure to cooperate makes any recalculation of the subsidy margins impossible and requires the TRA to base its findings on the best facts available, namely the information and data provided by the Applicant. Consistently with the approach followed in the transition review TS0005, the countervailing duties should be reconducted at levels no lower than the original amounts; if anything, the evidence on the record, including the stacking of the CFPC with other live credits, the higher producer retention of the 45Z credit value and the projected growth of CFPC expenditure to USD 10,6 billion by 2029, would justify an increase of those amounts.
36. Finally, the trajectory of U.S. government support is one of continuity and expansion: the CFPC is operational, monetised by producers, including by Valero itself, and projected to grow significantly, while the bipartisan bill H.R. 8497 proposes to reinstate the Blender's Tax Credit retroactively alongside the 45Z credit, consistent with that credit's twenty-year history of expiry and retroactive reinstatement. There is therefore a clear likelihood of continuation and recurrence of subsidisation of the U.S. biodiesel industry. Given the massive spare capacities of that industry, its loss-making domestic sales and its limited export opportunities, the discontinuation of the measures would lead to a renewed surge of subsidised U.S. biodiesel imports into the UK and to the recurrence of injury to the fragile UK biodiesel industry.
37. The RTFA therefore respectfully requests that the TRA disregard the USTR's arguments and concludes that all conditions are met to extend the countervailing measures on biodiesel imports from the U.S (including biodiesel consigned from Canada) for a further five-year period, at levels no lower than the current countervailing amounts.

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