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ECO BIOCHEMICAL TECHNOLOGY (ZHANGJIAGANG) COMPANY LIMITED AND ECOCERES LIMITED ("ECOCERES")

Anti-dumping proceeding concerning biodiesel imported into the United Kingdom from the People's Republic of China (AD0058)

Request for exclusion of SAF from the scope of the investigation

Non-Confidential

28 June 2024

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1 INTRODUCTION

1. The present submission is lodged on behalf of ECO Biochemical Technology (Zhangjiagang) Company Limited ("Eco BioTech") and its related company EcoCeres Limited ("Eco HK") (jointly referred to as "EcoCeres").

2. This submission is filed pursuant to the Trade Remedies Authority ("TRA)'s Notice of Request for Information concerning scope published on 14 June 2024 in the framework of the United Kingdom ("UK") anti-dumping investigation concerning imports of biodiesel from China.

3. EcoCeres is deeply concerned about the apparent inclusion in the scope of the investigation of a type of biofuels produced by EcoCeres, namely Sustainable Aviation Fuel ("SAF"), a second-generation biofuel exclusively used in the aviation sector as an alternative to traditional jet fuel (kerosene). EcoCeres considers that SAF should be excluded from the scope of the present investigation as it is manifestly different from, and not interchangeable with the other products covered by the present anti-dumping investigation, namely Fatty Acid Methyl Esters ("FAME") and Hydrotreated Vegetable Oil ("HVO"). In addition to physical and technical characteristics, the conclusive evidence is that SAF can only be used in jet engines, and is categorically not for use as a biodiesel in diesel engines.[1] Hence, SAF is clearly not a biodiesel, regardless of the fact that it is covered by the same customs description and HS codes.

4. EcoCeres would like to take the occasion of this submission on the scope of the biodiesel investigation to also submit that, should the TRA consider that SAF should be included in the product scope, *quod non,* the TRA should in any event assess the substantive conditions for imposing duties on imports of this product separately from FAME and HVO. Doing so will certainly lead to the conclusion that injury cannot be established, given the absence of a domestic SAF industry.

5. EcoCeres also considers that any trade remedies on imports of SAF would severely negatively impact the UK's decarbonization efforts in the aviation industry and would

[1] EcoCeres considers that not only SAF, but also HVO, should be excluded from the scope of the present investigation. However, the present submission focuses on SAF, in line with the TRA's aforementioned Request for Information. EcoCeres will address the reasons as to why HVO should not be included in this investigation in its response to the Pre-Sampling Questionnaire.

therefore be against the UK's momentum to move forward on its green agenda. In this framework, it is important to note that the UK government has assigned a key role to SAF in its Jet Zero Strategy which aims at ensuring net-zero UK aviation emissions by 2050. The SAF Mandate forms an integral part of this Strategy, especially given that SAF is the most important approach to decarbonize the aviation industry. The UK's SAF Mandate will lead to an increase in demand for SAF in the UK, seeing the annual SAF target increasing year-on-year to reach a 10% by 2030, and 22% by 2040. The availability of SAF supply not catching up with the mandated SAF demand is the key concern for airlines, as recently pointed out by the International Air Transport Association ("IATA"). In the UK, such unavailability is particularly concerning given that there is no sizeable domestic production of SAF.

2 PRODUCT SCOPE: SAF TO BE EXCLUDED FROM THE PRODUCT SCOPE OF THIS INVESTIGATION

6. The present investigation covers goods exported from the People's Republic of China, described as "fatty-acid mono-alkylesters or paraffinic gasoils obtained from synthesis or hydrotreatment of non-fossil origin, in pure form or as included in a blend".

7. FAME, HVO and SAF appear to fall under the above description. Specifically, the first part of the description ("fatty-acid mono-alkylesters") covers FAME, whereas the second part of the description (referring to "paraffinic gasoils") covers HVO and arguably also SAF. EcoCeres considers, however, that SAF has accidentally been included in the present investigation, because of the pre-existing product description, which was created at a time that SAF was inexistent.

8. As explained more in detail below, EcoCeres considers that SAF should be excluded from the scope of the present investigation. The key reason is that SAF is used for jet engines, whereas FAME (and HVO) are used for diesel engines. SAF has thus an entirely different end-use. This is also reflected in the different physical and technical characteristics. There is thus no interchangeability between FAME (and HVO) on the one hand and SAF on the other hand. Of note, there are only very few producers worldwide who are able to produce SAF. FAME producers cannot produce SAF, and most HVO producer cannot either. There is thus no supply substitutability neither.

2.1 Description of SAF

9. SAF is a second-generation biofuel exclusively for aviation. [Confidential - Information about EcoCeres]. HEFA is currently the only commercially viable technology to produce SAF, although other technologies are being developed.

10. SAF serves as an up to 50% drop-in substitute for conventional fossil jet fuel (kerosene). As such, SAF is capable of significantly contributing to greenhouse gas ("GHG") reduction targets and climate change goals, in the UK and globally. Indeed, SAF is considered by the global aviation industry as well as policy makers (including the UK) as the key to achieving breakthroughs in the decarbonisation of air transport. Its use in aviation will be mandated in the UK as from 1 January 2025, with increasingly ambitious targets.[2]

11. SAF is produced through the conversion of waste-based biomass, i.e., inedible bio-grease as feedstock. [Confidential – Information about feedstock]

12. The global SAF industry is globally still at early stages of development, with industrial production yet difficult to achieve both in terms of technological and economic viability and there is not yet SAF production in the UK. [Confidential – Information about EcoCeres]

13. The following section will elaborate on the reasons why SAF should be excluded from the product scope of the present investigation.

2.2 Fundamental differences between HVO and FAME on the one hand and SAF on the other

14. There are fundamental differences between HVO and FAME on the one hand, and SAF on the other, in terms of their end-use and (lack of) interchangeability, basic physical and chemical characteristics, and product standards. EcoCeres addresses these key differences in the following sections.

[2] United Kingdom, HM Department for Transport, "Supporting the transition to Jet Zero: Creating the UK SAF Mandate".

2.2.1 Different end use and lack of interchangeability

15. In terms of their application, both FAME and HVO cannot be used as substitutes for conventional jet fuel, whereas SAF functions exactly and exclusively as such a substitute. Specifically, SAF can be blended into jet fuel up to 50%.

16. FAME and HVO, can only be used in a diesel engine (FAME up to 7% and HVO as a full substitute). They are used for road transport. Conversely, SAF cannot be used in a diesel engine.

17. The key element relating to this different end-use is the freezing point, related to the altitude and circumstances of usage of biofuels for aviation. SAF needs to have a freezing point below -40°C in order to maintain a good cold-flow performance in high altitude. [Confidential – Information about EcoCeres].

18. In addition, SAF is still very challenging to produce, as illustrated by the fact that only very few producers worldwide manage to produce it at industrial scale. This naturally means that these product types do not have *any* degree of interchangeability. This is particularly true since FAME producers cannot produce SAF. As regards HVO producers, the vast majority of them cannot manufacture SAF.

2.2.2 Different basic physical and chemical characteristics

19. In terms of the products' basic physical and chemical characteristics, FAME contains oxygen and double bonds in their ester-link, while SAF consists of pure paraffinic hydrocarbons that are often difficult to distinguish chemically from their fossil fuel counterparts. HEFA-SAF is a type of hydrocarbons that can be blended with jet-fuel and must meet strict requirements. The standard regulating the technical certification of SAF is ASTM D7566. This evaluates which technologies, under specific circumstances and characteristics, can be used for producing on specification neat SAF.[3]

20. The physical and chemical characteristics of HEFA-SAF completely different from those of FAME, and also different than those of HVO, as shown in the below table:

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[3] See IATA, Fact Sheet 2 - Sustainable Aviation Fuel: Technical Certification, available at https://www.iata.org/contentassets/d13875e9ed784f75bac90f000760e998/saf-technical-certifications.pdf (last accessed 21 June 2024).

[Confidential – Copyrighted information and information specific to EcoCeres]

2.2.3 Different product standards

21. EcoCeres notes that, as already briefly mentioned above, the standards used for SAF are very specific. [Confidential – Information on production and standards]

2.2.4 Entirely different prices

22. In the light of the foregoing differences, there is simply no competition between FAME or HVO, as substitutes for road transport fuels on the one hand, and SAF as substitute for aviation fuel on the other hand. This is also reflected in the significant price differences.

23. [Confidential – Sales data; please refer to PSQ]

2.2.5 Conclusion concerning difference between SAF and other products covered by the scope

24. The chart below summarises the differences between SAF, on the one hand, and HVO and FAME on the other. As already indicated, the key difference is the final use.

	FAME	HVO	SAF
Biodiesel	Yes	No	No
End uses	Diesel engine up to 7%	Diesel engine 100%	Jet engine
Markets and customers	Road transport	Road transport	Aviation
Physical and chemical characteristics	Contains oxygen and double bonds in their ester-link	Pure paraffinic hydrocarbons	Pure paraffinic hydrocarbons
Physical and chemical characteristics	Differences in terms of density, viscosity, flash point and other	Differences in terms of density, viscosity, flash point and other	Differences in terms of density, viscosity, flash point and other
CFPP / freezing point	Typically between 5°C and -20°C	Typically between 5°C and -34°C	Has to be below -40°C
Product standards	EN 14214	EN 15940	ASTM D7566 Annex 2

25. In this regard, EcoCeres also refers to the previous investigation by the TRA into biodiesel from the United States (TD0004). The purpose of that investigation was to review the EU measures on US biodiesel and assess whether these should be maintained in the UK post-

Brexit. In terms of the scope of that investigation, the TRA decided to include both FAME and HVO in the investigation, after concluding that the products "compete in the biofuels market to replace (either in part or whole) mineral diesel as a road transport fuel". Evidently, however, this conclusion is not applicable to SAF which, as explained above, has a completely different end use from HVO and FAME. It does not compete to replace mineral diesel as a road transport fuel, but serves exclusively as a jet fuel alternative.

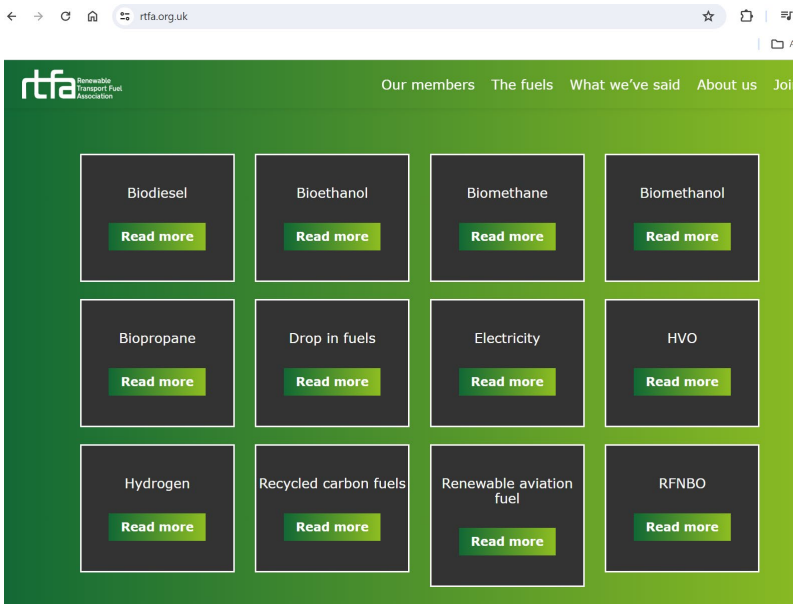
2.3 The Applicant also distinguishes SAF from FAME and HVO

26. The Application alleges on page 12 that "[i]t is not because several terms are used for biodiesel (i.e. FAME, HVO, SAF) that those products do not belong to the general category of biodiesel".

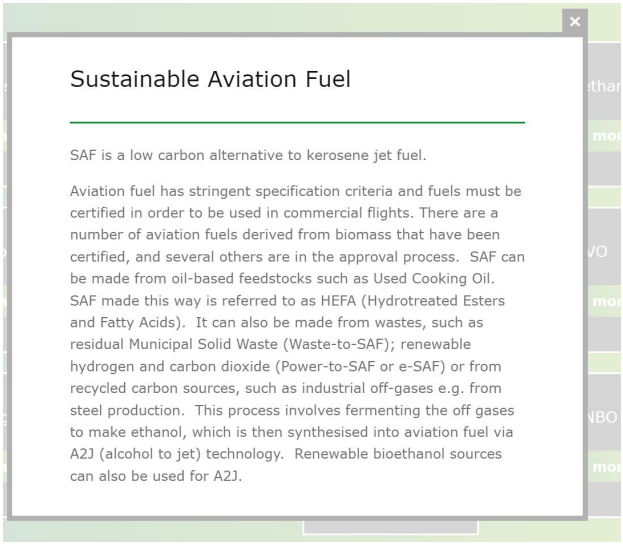
27. EcoCeres notes that, first, the Application fails to even address the different end-use and characteristics of SAF. As a matter of fact, "SAF" is mentioned only twice in the Application, once in the quote reproduced above (without any elaboration or explanation) and once in a quote where there is a reference to "the creation of a SAF airworthiness certification system".

28. Second, the allegation that FAME, HVO, and SAF all belong to the same category of 'biodiesel' is in stark contrast with the Applicant's own categorisation of SAF on its website. Specifically, on its website, under "The Fuels", the RTFA also treats biodiesel differently from renewable aviation fuel:[4]

[4] See "The fuels" section of RTFA website available here (last accessed 21 June 2024).



29. When clicking on "renewable aviation fuel", the RTFA's website explains the following:



2.4 <u>FAME and HVO on the one hand, and SAF on the other, are easily distinguishable by customs authorities</u>

30. EcoCeres finds it useful to highlight that the UK customs authorities would be able to easily distinguish between the different categories of products, given the various certifications that must accompany these products. FAME's European standard is EN14214, while the one for SAF is ASTM7566 respectively. To be supplied with each of these products, customers expect compliance with the respective standards to be certified, ensuring the quality of the products.

31. When it comes to SAF, compliance with the relevant standard is of paramount importance and is especially strict, given that SAF must have the same qualities and characteristics as conventional jet fuel in order to substitute it. The international standard regulating the technical certification of SAF is ASTM D7566.

32. Moreover, whether a certain shipment contains SAF can also be easily ascertained, for instance by measuring its freezing point, given that SAF has a much lower freezing point than other biofuels (making SAF suitable to be used for aircraft operating at high altitudes). This is an easy test that can be performed by customs authorities.

3 THERE IS NO UK SAF INDUSTRY: IMPORTS OF SAF CANNOT HAVE CAUSED ANY INJURY

33. Should the TRA conclude that SAF has to be included in the scope of the present investigation, *quod non,* EcoCeres submits that the TRA should follow the same approach as in TD004 with regards to the assessment of the substantive conditions for the imposition of anti-dumping duties. In particular, in that case, after concluding that FAME and HVO should be included in the scope of the investigation, the TRA nevertheless conducted separate dumping and injury analyses for FAME, on the one hand, and HVO, on the other, pointing out that "these products are traded as distinct commodities in the biofuels market". Thereafter, following its substantive assessment of the relevant conditions, the TRA concluded that no anti-dumping duties should be imposed on imports of HVO, as there was no UK HVO industry and, thus, no injury could be established.

34. In the present case there is no full-fledged SAF industry in the UK and the SAF market virtually did not exist in the UK in the period under review 1 April 2020 to 31 March 2024, thus no injury can be found. Thus, if SAF were to be included in the product scope, the TRA should, as it was done in TD004, assess the substantive conditions for imposing anti-dumping duties on imports of SAF separately from FAME and HVO. In the absence of any competitive relationship between SAF and FAME or HVO, this will evidently lead to the conclusion that no duties should be imposed on SAF, especially given the absence of a proper UK SAF industry.

35. In this respect, EcoCeres understands that there is only one operational co-processing plant in the UK, which produces a stream of fossil jet fuel with up to 5% biogenic material

counting as SAF, which is from Phillips 66 in Humber. Co-processing is not comparable with proper standalone technologies for SAF production, as it inevitably results in a much lower SAF blend that only contains limited renewable feedstocks.

36. There is, by contrast, no dedicated full-fledged SAF plant in the UK. Even the complainant, the RTFA, mentions on its website that its members include "prospective SAF producers" rather than actual SAF producers.[5] Although there are ongoing discussions on potential facilities these are not operational yet. The injury analysis will therefore lead to the conclusion that injury cannot be established, given the absence of a full-fledged domestic SAF industry.

4 IMPOSING DUTIES ON SAF WOULD BE AGAINST THE ECONOMIC INTEREST OF THE UK: SUSTAINABILITY AND SUPPLY SCARCITY

37. As a final point, EcoCeres would like to draw the TRA's attention that seldom would a product be dumped when it is in shortage supply. Targeting imports of SAF would be entirely unreasonable in circumstances where there is a shortage of this product globally, including in the UK. It would thus be contrary to the economic interest of the UK, which is one of the elements to be assessed for the imposition of trade defence measures, to deter import of a product which cannot be satisfied by domestic supply.

38. The use of SAF is incentivised under the UK's Renewable Transport Fuel Obligation and the UK SAF Mandate. This reflects the fact that SAF is critical to decarbonisation as a drop-in fuel that can reduce fossil fuel emissions by 85% or more. It is therefore a key government priority – for the current government, as evidenced in the announcement of the mandate, and for the shadow government's climate policy – to develop a SAF industry in the UK.

39. The United Kingdom's SAF Mandate requires aviation fuel suppliers to ensure that all aviation fuel made available to aircraft operators at each UK airport contains minimum shares of SAF, with targets gradually increasing as follows:

- From 1 January 2025, each year a minimum share of 2 % of SAF;
- From 1 January 2030, each year a minimum share of 10 % of SAF;

[5] See "About Us" section of RTFA website available here (last accessed 21 June 2024).

- From 1 January 2035, each year a minimum share of 15 % of SAF; and
- From 1 January 2040, each year a minimum share of 22 % of SAF.

40. In addition to the mandated SAF requirements, this industry will be seeing relevant voluntary reductions (of kerosene), increasing the demand for SAF. Furthermore, once the technical feasibility of 100% SAF fuelled flights is confirmed, demand for SAF will further increase. In fact, after the UK Mandate commences on 1 January 2025, it is expected that the market will grow dramatically from 2% to 22% by 2040.

41. However, while the UK has set ambitious targets for the use of this fuel, the current domestic supply of SAF is significantly too limited to achieve those targets. As mentioned above, there is only one operational co-processing plant from Phillips 66 in Humber UK, which injects up to 5% biogenic material into a traditional refinery and counts the corresponding output portion of jet fuel as SAF. The exact capacity of this blended fuel is unclear, but it is in any event largely insufficient to meet the UK's SAF demands. Moreover, co-processing is typically capped in favour of fully renewable SAF production, which has yet to commence in the UK. Although there are ongoing discussions on potential facilities these are not operational yet, and it is unclear how relevant and stable their production volume will be in the future, if they ever materialise. Moreover, even with significant investments in SAF production facilities in the UK, given the nascent state of the industry, there is a need for UK to compete for the limited SAF global supply and to import it for meeting its ambitious SAF targets.

42. Against this background, targeting imports of SAF would be entirely unreasonable and in stark contradiction with the strong policy initiatives put forward and mandated the UK. This fuel is already in short supply in the UK and global market, while its demand is foreseen to rise significantly in the coming years, not only UK but in the entire globe. While UK fuel suppliers could potentially cover some of that demand, it is doubtful whether, even at maximum capacity, UK production alone could satisfy its demand without relying on imports.

43. [Confidential – Information on competitive aspects]

44. In view of the global shortage of SAF, making imports more difficult into the UK would severely limit airlines' ability to develop a SAF strategy. Given that the UK is late to developing a SAF industry compared to the EU and US, SAF producers have not thus far prioritized the UK. For the foreseeable future, the UK will need to rely on imports to ensure sufficient volumes to fulfil the mandate. [Confidential - Information about EcoCeres]..

45. In the light of the foregoing, the imposition of anti-dumping duties on imports of SAF would be manifestly contrary to the economic interest of the UK, which is one of the elements to be assessed for the imposition of trade defence measures.

5 CONCLUSION

46. In summary, SAF should be excluded from the scope of the present investigation since it is not a biodiesel. SAF can only be used as a substitute to conventional fossil jet fuel for jet engines, while FAME (nor HVO) cannot at all be used for this purpose and are instead used for diesel engines.

47. In any event, should SAF be included in the product scope of this investigation, the TRA should conclude that injury cannot be established, given the absence of a domestic SAF industry.

48. Finally, even if SAF were to be included in the scope of this investigation and imports were found to be dumped and causing injury, it would be against the UK's economic interest to impose trade remedies on imports of SAF, as this would have a severely negative impact on the UK's decarbonization efforts in the aviation industry. Indeed, given the absence of production and supply of SAF in the UK, imports will inevitably need to play a crucial role in helping the UK reach its targets for SAF that it has set under the UK SAF Mandate.

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