Department for International Trade

Transition Review of anti-dumping and countervailing measures

Cases TD0004 and TS0005: Biodiesel originating in the United States of America and consigned from Canada

Request for further information on the goods subject to review

Period of Investigation:	1 July 2019 to 30 June 2020
Injury Period:	1July 2016 to 30 June 2019
Deadline for response:	22 February 2021
Case Team Contact:	TD0004@traderemedies.gov.uk (dumping) or TS0005@traderemedies.gov.uk (subsidies)
Completed on behalf of:	Argent Energy

When you have completed this form, indicate the **confidentiality** of this document by placing an X in the relevant box below:

☐ Confidential

X Non-confidential – will be made publicly available

Please note that you will have to provide **two copies of your response** - a **Confidential** and a **Non-confidential version.** Both copies should be returned to TRID using the Trade Remedies Service (www.trade-remedies.service.gov.uk) by **22 February 2021.**

The transition review in cases TD0004 and TS0005 to which you have registered an interest, covers biodiesel originating in the United States of America and consigned from Canada, described as:

Fatty-acid mono-alkyl esters (FAME) and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as biodiesel. In a pure form or in a blend containing by weight more than 20%, fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the United States of America and consigned from Canada.

These goods are currently classifiable within the following commodity codes:

Dumping and Subsidy:

- 1516 20 98 (TARIC 1516 20 98 21, 1516 20 98 29, 1516 20 98 30)
- 1518 00 91 (TARIC 1518 00 91 21, 1518 00 91 29, 1518 00 91 30)
- 1518 00 99 (TARIC 1518 00 99 21,1518 00 99 29, 1518 00 99 30)
- 2710 19 43 (TARIC 2710 19 43 21, 2710 19 43 29,2710 19 43 30)
- 2710 19 46 (TARIC 2710 19 46 21, 2710 19 46 29, 2710 19 46 30)
- 2710 19 47 (TARIC 2710 19 47 21, 2710 19 47 29, 2710 19 47 30)
- 2710 20 11 (TARIC 2710 20 11 21, 2710 20 11 29, 2710 20 11 30)
- 2710 20 16 (TARIC 2710 20 16 21,2710 20 16 29, 2710 20 16 30)
- 3824 99 92 (TARIC 3824 99 92 10, 3824 99 92 12, 3824 99 92 20)
- 3826 00 10 (TARIC 3826 00 10 20, 3826 00 10 29, 3826 00 10 50, 3826 00 10 59, 3826 00 10 89, 3826 00 10 99)
- 3826 00 90 (TARIC 3826 00 90 11, 3826 00 90 19, and 3826 00 90 30)

The goods described above are referred to as the ‘goods subject to review’ within the current transition review.

A registered contributor made a submission on 05 January 2021 regarding product scope. The submission can be viewed here: https://www.trade-remedies.service.gov.uk/public/case/TD0004/submission/45e923b4-02cd-4ec8-9b71-f18d1acf0fce/. We seek further information from your company and/or industry members that you represent regarding the description of goods referred to above. We therefore invite you to answer the following questions to help inform our review.

1. Do you have any comments regarding the scope of products that are the subject of the current measures? Please provide any relevant information which you think would be useful in the box below and include any evidence which supports your claims and would help illustrate this.

The product subject to the current measures is biodiesel which is a non-fossil fuel alternative to conventional diesel. The product subject to the current measures thus includes all types of biodiesel manufactured in the USA – including HVO (most commonly known as 'renewable diesel') – as all types of biodiesel manufactured in the USA (including renewable diesel) are heavily subsidized.

It is important to understand that biodiesel can be produced from many different feedstocks (from edible oil feedstocks, waste, to various types of non-food biomass such as the biogenic component of used tyres) and from different production processes (e.g. transesterification (FAME biodiesel) ; hydro-treatment (either in a dedicated production facility, or via co-processing – known as 'renewable diesel'); biomass to liquid (BTL); or gas to liquid (GTL)).

Although there are differences in raw materials or production processes (which result in different properties), all these types of biodiesel form one single product (biodiesel) used for the same purpose (a fossil fuel alternative to diesel). This was the conclusion drawn by the EU Commission in the 2009 original investigation on biodiesel imports from the USA as follows:

"[A]ll types of biodiesel and the biodiesel in the blends covered by this investigation, despite possible differences in terms of raw material used for the production, or variances in the production process, have the same or very similar basic physical, chemical and technical characteristics and are used for the same purposes. The possible variations in the product concerned do not alter its basic definition, its characteristics or the perception that various parties have of it" (See Recital (23) of Council Regulation (EC) No 599/2009 of 7 July 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America, OJ L 179/26, 10.07.2009 available here:
https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:179:0026:0051:EN:PDF)

Such a conclusion was re-confirmed by the EU Commission during the 2015 expiry review investigation on biodiesel imports from the USA with respect to "**diesel produced from biomass"**. During this investigation, the US Government claimed that diesel produced from biomass is a category of products broader than the product under review. However, the EU rejects this claim by the US Government and concluded that "*as set out in the Regulation imposing provisional countervailing duties in the original investigation, all types of biodiesel and biodiesel blends, including diesel produced from biomass, are considered to be biodiesel fuels and are part of a*

legislative package concerning energy efficiency and renewable energy and alternative fuels. The reason is that biodiesel produced from biomass has the same or very similar basic physical and technical characteristics and uses as biodiesel produced from other sources" (see Recital (37) of Commission Implementing Regulation (EU) 2015/1518 of 14 September 2015 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009, OJ L 239/69, 15.09.2015, available here: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_239_R_0007&from=EN)

The UK is one of the most successful countries in utilising wastes for biofuels. As a direct result of policy, significant investments have been made to manufacture biodiesel in the UK from all sorts of wastes, that often otherwise end up in landfills.

The UK biodiesel industry thus produces both FAME biodiesel and renewable diesel. With respect to our company, it produces biodiesel from waste feedstocks for the UK market, both indirectly via the major fuel suppliers and directly to HDV fleet operators seeking the most cost-effective and local decarbonisation solution.

Any exclusion of renewable diesel from the product scope, as requested by a registered contributor in its submission dated 05 January 2021, would have dramatic negative impact on our company since biodiesel imported from the USA strongly competes with biodiesel manufactured in the UK. In addition, FAME biodiesel and renewable diesel compete in the same market as direct competition: they are interchangeable to meet the RTFO objectives.

The massive subsidy granted by the US government to the US producers of renewable diesel provides a price advantage on export markets which allows them to rapidly gain market shares. Thus, any exclusion of renewable diesel from the product scope will allow US imports to progressively replace UK biodiesel production, and ultimately prevent our company being able to sell our products on the UK market. It would drastically reduce profitability and could lead to the closure of our plant and loss of employment.

Appendix reference:

2. Thinking about the chemical, technical, physical, and other relevant factors, how does FAME/biodiesel compare to HVO?

As explained above, biodiesel can be produced from many different feedstocks and from different production processes.

This can notably be explained by the fact that biodiesel is an evolving product. The 'first generation of biodiesel' refers to biodiesel made from vegetable oils. The 'second

generation of biodiesel' refers to biodiesel made from various types of non-food biomass. Biomass means for example crops, residues or animal waste used as a source of fuel. Since this second-generation of biodiesel is made from different feedstocks, it may require different technology to extract energy from them. Therefore, the second generation of biodiesel both refers to 'advanced' technology used to process feedstocks into biodiesel (e.g. hydro-treatment and BTL), but also the use of non-food crops, biomass and wastes as feedstocks in 'standard' biodiesel processing technologies if suitable. Experts already refer to the 'third generation of biodiesel' which is obtained from microalgae biomass that possess high productivity of lipids, which after extraction are trans-esterified to obtain biodiesel. There is also a non-biological route to renewable diesel production, where renewable hydrogen is reacted with CO_2 to make methane (CH_4) and the Fischer Tropsch reaction is used to make longer chain hydrocarbons from the methane.

In the light of the above, depending on the feedstock used and on the production process, each type of biodiesel will have different technical and chemical characteristics. Accordingly, any difference in technical or chemical characteristics between FAME biodiesel and HVO biodiesel (or renewable diesel) is not a determinant factor to assess if this product exclusion is warranted.

The most important criterion for this assessment is, in our view, the competition of products and whether any product exclusion can undermine the effectiveness of the duties in place and thus cause injury to the UK biodiesel industry. In the present cases, all types of biodiesel are used for the same purpose, namely to be a fossil free alternative to conventional diesel for the purposes of decarbonisation. US imports of renewable diesel are in strong competition with UK products as they compete in the same market and are thus interchangeable to meet the RTFO objectives

Therefore, any exclusion of renewable diesel from the product scope would place on the UK market US unfairly traded renewable diesel that would lead to the rapid disappearance of the UK biodiesel industry with proportional job losses and would undermine any planned investments into increasing capacity of UK biodiesel production.

	Appendix reference:

3. Do you have any further comments to make in relation to the Submission on Product Scope dated 05 January 2021? Please include any evidence which supports your claims.

The following comments can be made regarding the submission on the product scope dated 5 January 2021:

1) First, the submission on Product Scope dated 05 January 2021 provides false information when it affirms that "there are no existing or planned levels of

"renewable diesel" production in the UK. It follows that the UK is 100% dependent on third country imports for "renewable diesel"'. There is currently UK production of renewable diesel and further significant investments are expected in the very near future. We refer to the separate submission made by RTFA in this respect which provides detailed information regarding the state of the UK biodiesel industry.

2) Second, the submission on Product Scope dated 05 January 2021 fails to address the competition of products which is the most determinant criterion to assess if this product exclusion would be warranted in this case. Thus, any exclusion of renewable diesel from the product scope will cause severe injury both to UK renewable diesel producers and to UK FAME biodiesel producers. As explained above, all these compete in the same market as direct competition: they are interchangeable to meet the RTFO objectives.

3) Third, the submission on Product Scope dated 05 January 2021 fails to mention that renewable diesel manufactured in the USA is as subsidized as FAME biodiesel. By this heavy subsidization, US renewable diesel producers practice unfair trade which can be highly detrimental to the UK biodiesel industry.

We are convinced that this product exclusion is an attempt to undermine the effectiveness of the duties in place to the detriment of the UK biodiesel industry.

Appendix reference:

Certification

By providing the information above, you acknowledge that your company may be asked to complete a detailed questionnaire and TRID may ask to visit your premises in order to verify the questionnaire response.

The undersigned certifies that the information supplied herein is correct and complete to the best of their knowledge and belief.

The undersigned certifies that they have the authority to supply the information contained herein on behalf of Click or tap here to enter text.

Signature (including e-signature):

Name:

Position at company:

Date: 19th February 2021