Transition review of the EU anti-dumping and countervailing measures applicable to imports of biodiesel originating in the United States of America (TD0004 & TS0005)

Diamond Green Diesel & Valero Energy Limited

Comments on the Statements of Essential Facts

Executive summary

Diamond Green Diesel and Valero Energy Limited welcome the TRA's recommendation to exclude HVO from the application of the anti-dumping and anti-subsidy measures on imports of biodiesel from the U.S.

The TRA could further strengthen its recommendation by recognizing that FAME and HVO are not like products. Given the price difference of around 38-45% between FAME and HVO, the TRA's findings that U.S. producers would export HVO at dumped prices to the UK is unsupported by facts and should be reversed.

Furthermore, reliable data indicates that both consumption and production of HVO in the U.S. will increase significantly but that there would continue to be a production shortage to meet the growing demand until at least 2026. Therefore, there is no evidence that excess volumes of U.S. HVO would flood the UK market.

As such, it is highly unlikely that, on the balance of probabilities, dumping of HVO would occur if the measures were no longer applied.

1. INTRODUCTION

1.1 On 15 December 2021, the UK Trade Remedies Authority ("**TRA**") issued the Statement of Essential Facts ("**SEF**") in the transition reviews of the EU anti-dumping and countervailing measures (jointly referred hereafter as: "**Measures**") applicable to imports of biodiesel originating in the U.S. The SEFs provide the essential facts on which the TRA has relied for its intended final recommendation to the Secretary of State in both investigations.

1.2 The TRA recommends to maintain the anti-dumping and countervailing measures with regard to fatty-acid mono-alkyl esters ("**FAME**") and to exclude hydrotreated vegetable oil (also referred to as "**HVO**" or renewable diesel) from the application of the Measures.

1.3 Diamond Green Diesel ("**DGD**") and Valero Energy Limited ("**VEL**") hereby submit combined comments on the SEFs addressing product scope, dumping, subsidy and injury.

2. LIKE PRODUCT ASSESSMENT

2.1 The TRA finds – correctly so – that FAME and HVO have different production processes,[1] differences in quality[2] and differences in technical and chemical characteristics[3]. Moreover, the differences in technical and chemical characteristics were undisputed by the UK domestic industry.[4] Nevertheless, despite the differences between FAME and HVO in terms of production processes, quality and technical and chemical characteristics, the TRA considers that FAME and HVO are "like goods" because of their "commercial likeness."[5]

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1 Par. 69 SEF (Anti-Subsidy) and par. 70 SEF (Anti-Dumping).
2 Par. 70 SEF (Anti-Subsidy) and par. 71 SEF (Anti-Dumping).
3 Par. 71 SEF (Anti-Subsidy) and par. 72 SEF (Anti-Dumping).
4 Par. 71 SEF (Anti-Subsidy) and par. 72 SEF (Anti-Dumping).
5 Par. 73 – 82 SEF (both Anti-Subsidy and Anti-Dumping).

2.2 DGD and VEL disagree with the TRA's finding that FAME and HVO are sufficiently similar or, as the appropriate legal threshold would require, that they are "like goods".[6] According to the TRA Guidance, "like goods" are UK produced goods that are identical or closely resemble the imported goods under investigation. In identifying "like goods", the TRA will consider the following criteria:[7]

(a) Physical likeness, such as physical characteristics
(b) Commercial likeness, including competition and distribution channels
(c) Functional likeness, such as end-use or if the goods can be substituted for each other
(d) Similarities in production, such as method and inputs
(e) Other relevant characteristics

2.3 The TRA Guidance on "like goods" is based on Article 2.6 of the WTO Anti-Dumping Agreement, which provides that the term "like product" ("*produit similaire*") shall be interpreted to mean a product which is identical, i.e., alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration".[8] It is also appropriate to refer to the determination of "likeness" in the context of Article III.2 and Article III.4 of the General Agreement on Tariffs and Trade ("**GATT**").[9]

2.4 For determining the "commercial likeness" between FAME and HVO, the TRA assessed the end-use and interchangeability as well as the direct competition between both products. In this regard, the TRA found that:

(a) FAME and HVO compete in the biofuels market to replace (either in part or in whole) mineral diesel as a road transport fuel with environmental benefits[10]; and

(b) Considering the price difference between FAME and HVO, it would be economically rational that UK blenders opt for the less expensive product (FAME) over HVO in

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6 In accordance with Article 30 (2) of The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, as amended ("**Trade Remedies Regulations**"):
"In order to determine whether a UK industry is suffering or has suffered injury the TRA must consider—
(a)the volume of the dumped goods or subsidised imports during the injury period;
*(b)the effect of the dumped goods or subsidised imports on prices of the **like goods** in the United Kingdom during the injury period;*
(c)the consequent impact of the dumped goods or subsidised imports on a UK industry during the injury period; and
(d)any other factors it considers relevant."

7 The TRA Guidance on how to make an application for a trade remedies investigation (last updated 20 January 2021) at the section *Like and directly competitive goods*.

8 The concept of "likeness" has been developed in WTO case law. For example, in *Korea – Pneumatic Valves*, the Panel considered the definition of "like products" in Article 2.6 of the WTO ADA as follows: "*We recall that Article 2.6 of the Anti-Dumping Agreement defines the like product as a product which is either "alike in all respects" to, or has "characteristics closely resembling" those of the imported products subject to the investigation. Based on this definition, it would be expected that allegedly dumped imports compete with the domestic like product. Indeed, if they did not, it is difficult to imagine on what basis a domestic industry could properly allege that dumped imports were causing injury to the domestic industry producing the like product, so as to justify the initiation of an investigation*" (Panel Report, DS504, Korea – Pneumatic Valves, par. 2.275).

9 In *Japan – Alcoholic Beverages II*, the Appellate Body "*agree[d] with the practice under the GATT 1947 of determining whether imported and domestic products are "like" on a case-by-case basis.... Some criteria were suggested for determining, on a case-by-case basis, whether a product is "similar": the product's end-uses in a given market; consumers' tastes and habits, which change from country to country; the product's properties, nature and quality*" (Appellate Body Report, DS8 / DS10 / DS11, *Japan — Taxes on Alcoholic Beverages*; p. 20); likewise, in *Argentina – Hides and Leather*, the Panel held that *"[T]he proper test is that a determination of 'like products' for the purposes of Article III:2, first sentence, must be construed narrowly, on a case-by-case basis, by examining relevant factors including: (i) the product's end-uses in a given market; (ii) consumers' tastes and habits; and (iii) the product's properties, nature and quality*" (Panel Report, DS155, Argentina – Hides and Leather, para. 11.167).

10 Par. 77 SEF (Anti-Subsidy) and par. 78 SEF (Anti-Dumping).

order to satisfy the blending mandate and the requirements under the Road Transport Fuel Obligation ("**RTFO**").[11]

2.5 DGD and VEL address both findings in turn.

(a) FAME and HVO do not compete with each other to replace mineral diesel as a road transport fuel. Contrary to FAME, HVO is a "drop in" fuel which allows for replacing mineral diesel without requiring engine modifications or with no performance issues. High blends of FAME cannot be considered a "drop in" fuel and under the specification for EN590 ultra low sulphur diesel there would still only be a maximum of 7% FAME allowed. B7 is the highest blend fungible and there is no supporting evidence that higher blends (B20 / B30) would be workable.[12].

(b) The TRA has established that HVO is significantly more expensive than FAME and that therefore it is economically rational for UK blenders to opt for FAME over HVO to satisfy the blending mandate. HVO will not replace FAME blending. Instead, HVO will need to attract a premium over FAME. Some end users in the UK are willing to pay such a premium to be able to achieve their own specific decarbonisation objectives, particularly for hard-to-abate sectors such as domestic heating, railway, heavy goods vehicles and non-road mobile machinery. Contrary to TRA's findings, such price difference demonstrates the fact that FAME and HVO do not compete with each other on the biofuels market.

2.6 In light of the above, the TRA's conclusion that FAME and HVO are "comparable products"[13] is solely based on that FAME and HVO share an end-use (e.g., road fuel transportation) and despite the fact that both products have different technical and physical characteristics, prices and that HVO has different end-uses which do not overlap with FAME (such as home heating oil).

2.7 DGD and VEL request the TRA to review its assessment of whether FAME and HVO can be considered "like goods". The fact that FAME and HVO are used for road transport fuel end-use does not negate the fact that FAME and HVO have: (i) different production processes, (ii) different qualities; (iii) different technical and chemical characteristics; and (iv) a significant price difference.

3. LIKELIHOOD OF DUMPING ASSESSMENT FOR HVO

3.1 The TRA found that it is likely, on the balance of probabilities, that dumping of HVO would occur if the Measures were no longer applied.[14] DGD and VEL disagree with the TRA's conclusion for the following reasons.

(a) Price comparison between U.S. and UK products

3.2 The TRA finds that U.S. producers would have to export HVO at dumped price levels to the UK so that they would be able to compete with FAME.[15] This statement would appear to imply that HVO and FAME compete with each other and that their prices are within the same price range. However, the TRA noted that the price of HVO is approximately 38-45%

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11 Par. 80 SEF (both Anti-Subsidy and Anti-Dumping).
12 UCOME producers can evidence where B20/B30 has been successfully introduced to the heavy goods vehicle market. Importantly, this will not meet EN590 or enable it to be considered a high-blend 'drop in' fuel.
13 Par. 81 SEF (Anti-Subsidy) and par. 82 (Anti-Dumping).
14 Par. 211 SEF (Anti-Dumping).
15 Par. 115 SEF (Anti-Dumping).

higher than FAME.[16] Moreover, comparing HVO and FAME prices contradicts the TRA's own findings that there is a need to make a separate analysis for FAME and HVO.[17]

3.3 DGD and VEL concur with the TRA's findings that "there is no domestic production of HVO within the UK". However, the TRA found that *"*[t]herefore, [it has] considered the domestic sale price for HVO within the U.S. and compared this with the UK price for FAME, which has been calculated as GBP 810.62MT".[18]

3.4 The TRA has failed to explain how two different products which such a significant price difference can compete with each other. The fact that there is no domestic production of HVO in the UK does not make imports of HVO compete with FAME.

3.5 Despite the lack of exports of HVO to the UK due to very high anti-dumping and countervailing measures, the TRA could have reconstructed a U.S. export price on the basis of reasonable information available[19] or [*CONFIDENTIAL: Sensitive information relating to prices that is not publicly available*].[20]

3.6 The TRA established a U.S. domestic HVO price at GBP1,073.32/MT during the period of investigation ("**POI**"), approximately USD1,447.25/MT. [*CONFIDENTIAL: Sensitive information relating to prices that is not publicly available*].[21]

Table 1 – [*CONFIDENTIAL: Sensitive information relating to prices that is not publicly available*]

[*CONFIDENTIAL: Sensitive information relating to prices that is not publicly available*]

3.7 If the TRA would prefer to compare a U.S. HVO price with a UK price, such a comparison would have to be with a reconstructed UK HVO price (not FAME). This would be in line with the TRA's own conclusion that a separate analysis of FAME and HVO is warranted.[22] For example, an EU HVO price may serve as an appropriate basis. As of September 2020, Argus started publishing price data for Class II HVO in the ARA region.[23] [*CONFIDENTIAL: This information is only available upon the payment of a subscription fee and is subject to copyright*].[24]

3.8 On the basis of the above, the TRA's conclusion that if U.S. producers were to export HVO into the UK market they would need to do so at dumped price levels is unsupported by facts and should be reversed.

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16 Par. 238 SEF (Anti-Subsidy).
17 Par. 80 SEF (both Anti-Subsidy and Anti-Dumping).
18 Par. 111 SEF (Anti-Dumping).
19 Article 15 (4) of the Trade Remedies Regulations provides that when there is no export price, the TRA may construct the export price on the basis of (i) the price at which the goods concerned are first sold to an independent buyer in the UK, or (ii) where the goods concerned are not resold to an independent buyer in the UK, or are not resold in the condition as imported, **on such other reasonable basis as the TRA determines**.
20 Please see DGD's reply to the Addendum Questionnaire of 21 February 2021 and DGD's submission on the Blender's Credit of 28 April 2021.
21 [*CONFIDENTIAL: Sensitive information relating to prices that is not publicly available*].
22 Par. 82 SEF (both Anti-Subsidy and Anti-Dumping).
23 Argus (https://www.argusmedia.com/en) is one of the leading independent providers of energy and commodity price benchmarks. Argus pricing data is available only upon subscription. HVO Class II is HVO produced from RED-compliant used cooking oil as a feedstock. [*CONFIDENTIAL: Sensitive information relating to prices that is not publicly available*].
24 Please refer to the Excel sheet in **Annex 1** for an extract of Argus HVO Class II prices (FOB and ARA range). [*CONFIDENTIAL*].

(b) **Alleged oversupply of HVO on the U.S. market due to production and production capacity levels and high inventories**

3.9 The U.S. is a net consumer of HVO. The TRA considers that with planned production capacity increases and the high level of HVO inventories[25] with U.S. producers, it is likely the U.S. market will have an oversupply of HVO which it will offload to third country markets such as the UK.[26]

3.10 First, there is no evidence that the U.S. would have a significant oversupply of HVO in the future. Second, even if there was an excess production of HVO in the U.S. (for which there is no evidence) and, should the duties on HVO be lifted, U.S. producers may export HVO to the UK, but not at dumped prices. As was demonstrated in Section 3.(a) above, HVO does not compete with FAME prices and there is no UK HVO production to compete with either. As such, there is no economically sound reason for U.S. producers to sell into the UK market at dumped prices.

3.11 On the basis of data from the U.S. Energy Information Agency ("**U.S. EIA**"), the TRA finds that the U.S. HVO production capacity is expected to increase up to 14.8 million MT by 2024 and that as a result U.S. producers would be able to meet domestic consumption. The TRA also finds that there has been an overall increase in demand for HVO between 2013 – 2019 and that this is likely to continue.[27] The TRA acknowledges that such an increase in demand may act to reduce the incentive for U.S. producers to export these products and sell them in the UK market.[28] However, the TRA's analysis was incomplete and did not take into account the potential increase in demand for HVO in the U.S. due to lack of data on future consumption.[29]

3.12 The U.S. EIA estimate relied upon by the TRA is a maximum case scenario that, in 2023 and 2024, includes proposed/announced projects. Historically, most of the announced projects have not come to fruition and the capacity of 14.8 million MT by 2024 might therefore not be achieved.[30] Moreover, when reviewing the EIA data on HVO capacity in the U.S., the EIA notes that "*the majority of estimated new renewable diesel capacity will likely be built on the West Coast to serve nearby markets, and the remainder will likely be built on the Gulf Coast to capitalize on existing refinery infrastructure*" and "*although we expect significant capacity to be built on the Gulf Coast, we anticipate that a large portion of the Gulf Coast's output will be consumed in California and other western states such as Oregon and Washington to meet future LCFS program targets in those areas*".[31] In other words, most of the U.S. expected increase in production capacity for HVO would be destined for the U.S. market or nearby markets such as Canada.

3.13 It seems pretty unlikely that these volumes would ever be exported in significant quantities to third markets such as the UK at a price that would compete with FAME.

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25 See par. 137 – 138 SEF (Anti-Dumping). The TRA finds inventory levels of U.S. producers have fluctuated from 2016 – 2020 but there has been a general downward trend from 783,186 MT HVO in 2016/17 to 714,213 MT HVO in 2019/20.

26 Par. 208 SEF (Anti-Dumping).

27 Par. 128 and 132 SEF (Anti-Dumping).

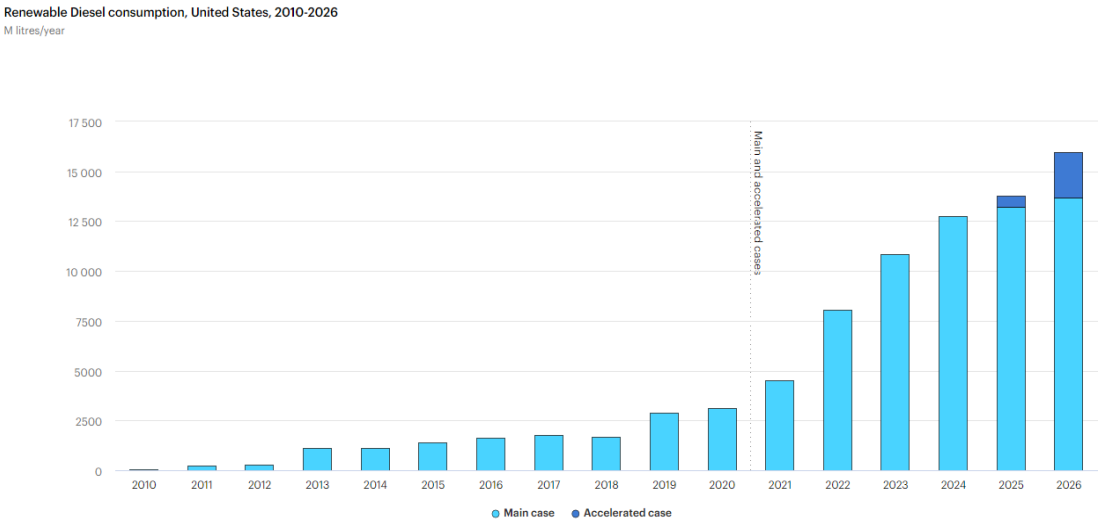
28 Par. 161-162 SEF (Anti-Dumping).

29 Par. 127-128 SEF (Anti-Dumping). See in particular the end of par. 128 SEF (Anti-Dumping): "*However, analysis has not been completed on the potential increase in demand for HVO in the US, due to a lack of data*".

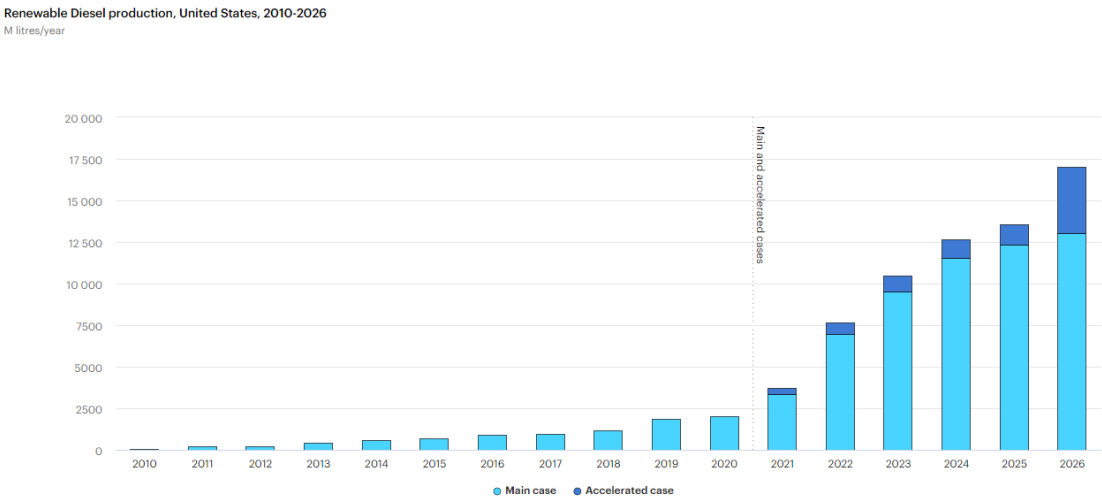
30 See specifically in relation to the U.S. EIA projections: "Less than half of projected U.S. renewable diesel output likely by 2025 study", Reuters, 18 January 2022. Available at: https://www.reuters.com/business/energy/less-than-half-projected-us-renewable-diesel-output-likely-by-2025-study-2022-01-18/.

31 https://www.eia.gov/petroleum/weekly/archive/2021/210721/includes/analysis_print.php

3.14 This is further supported by data from the International Energy Agency ("**IEA**"), which considers that U.S. HVO consumption will continue to exceed domestic production.[32] The below graph shows that between 2021 and 2026 U.S. HVO consumption will increase from 3.5 million MT (4,513 million litres) to 10.7 million MT (13,684 million litres).[33] One of the main drivers of growth is the California Low Carbon Fuel Standard, which has set the state's target of reducing its transportation fuel carbon intensity by 20% by 2030.



3.15 Additionally, U.S. HVO production is estimated to increase from 2.6 million MT (3,374 million litres) in 2021 to 10.2 million MT (13,051 million litres) in 2026, as is shown in the graph below.[34]



3.16 HVO production and consumption are also expected to increase significantly in Canada due to the implementation of the Clean Fuel Standard which, similar to California's Low Carbon Fuel Standard, sets a carbon intensity limit for fossil fuels by year which becomes more stringent over time. According to the IEA, Canada currently has no HVO production but is expected to produce around 250,000 MT (313 million litres) in 2026. Canada's HVO consumption will increase from 230,000 MT (295 million litres) in 2021 to around 500,000

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32 https://www.iea.org/about/mission. The IEA has a publicly available data explorer tool which allows for extracting data on production and consumption of various renewable fuels (including renewable diesel) on a per-country or per-region basis.

33 https://www.iea.org/articles/renewables-2021-data-explorer?mode=transport&region=United+States&publication=2021&flow=Consumption&product=Renewable+Diesel.

34 https://www.iea.org/articles/renewables-2021-data-explorer?mode=transport&region=United+States&publication=2021&flow=Production&product=Renewable+Diesel.

MT (627 million litres) in 2026. By consequence, Canada will be very dependent on imports of renewable diesel from the U.S. which further demonstrates that it is unlikely that U.S. HVO would flood the UK market.

3.17 In light of the above, DGD and VEL consider to have demonstrated with reliable data that U.S. production of HVO will not exceed U.S. consumption, or only around 2026 at the earliest on the basis of "accelerated demand scenarios". The TRA cannot therefore reasonably conclude that the U.S. is likely to produce excess volumes of HVO which would be dumped on the UK market.

(c) **Attractiveness of the UK market**

3.18 The TRA considers that the mandated increases for biofuels through the RTFO "*may provide a stable demand for HVO. This is because UK blenders may not be able to meet RTFO targets through FAME alone as the targets exceed the blend limits of FAME, meaning that blenders may use HVO to fulfil blend obligations. The TRA has not received any information which shows that UK producers are likely to produce HVO in the future. The UK market will therefore continue to remain an attractive market for foreign producers to export into.*"[35]

3.19 DGD and VEL are of the view that the increasing blending mandates would result in an increase in demand for HVO in the UK (i.e., and not stable as maintained by the TRA in its findings). DGD and VEL's position is supported by the TRA's findings that consumption in the UK will increase in line with the requirements of the RTFO in the short to medium term.[36] Per RTFO records, approximately 30,000 MT (38 million litres) HVO was consumed in the UK in 2020.

3.20 There is currently an increasing market demand for HVO from sectors seeking to decarbonise, such as high emitters, steel, aggregate producers, where they can move towards carbon neutral rail distribution. The attractiveness of the UK market depends on how an end-use market for HVO develops and recognising that users would always have to pay a premium for this product.

3.21 The TRA should also consider that imports of HVO are necessary considering the lack of domestic production of HVO in the UK. Moreover, since there is no UK HVO production, there is no competition on the UK market and therefore also no incentive for U.S. producers to sell at dumped prices on the UK market. Regardless of the attractiveness of the UK market for foreign exporting producers, there is no economically sound reason to sell U.S. HVO at dumped prices in the UK.

4. LIKELIHOOD OF SUBSIDY ASSESSMENT

4.1 With regard to the TRA's subsidy assessment, DGD and VEL would like to reiterate specifically in relation to the benefit obtained from U.S. subsidy schemes, including the Biodiesel Mixture Credit and the Biodiesel Credit, that such benefit has no material impact on the selling prices of HVO. As stated above, HVO and FAME do not compete on a price level. As such, there is simply no incentive for U.S. producers to reduce the price of HVO by approximately USD300/MT, which would be the equivalent of the U.S. Biodiesel Mixture Credit benefit, just so it may compete with FAME biodiesel when there is sufficient and even increasing demand to sell HVO at a price that is approximately USD300/MT more expensive.

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35 Par. 166 SEF (Anti-Dumping).
36 Par. 171 SEF (Anti-Dumping).

4.2 The price of the product (both FAME and HVO) is determined by demand generated from the various greenhouse gas emissions savings emission schemes established by governments, and by the rapid proliferation of corporate environmental, social and governance policies. As a result, even if U.S. producers did not receive any benefit from certain subsidy schemes, it would still continue to sell its HVO at the same market prices as at which it is currently selling.

5. LIKELIHOOD OF INJURY ASSESSMENT AND ECONOMIC INTEREST TEST

5.1 DGD and VEL welcome the TRA's conclusions that the UK industry is currently in a stable position.

5.2 Further, DGD and VEL support the TRA's conclusion that there is very low incentive for U.S. producers to sell HVO at dumped prices in order to compete with UK market prices (i.e., FAME prices).[37] The TRA further found that there is a price difference of approximately 38%-45% between UK FAME and U.S. HVO (compared to both its domestic price and the U.S. export price to third countries).[38]

5.3 DGD and VEL would like to reiterate that U.S. HVO producers have no incentive to compete with UK FAME. As the TRA's investigation has confirmed, U.S. exporters are able to sell HVO at prices that are significantly higher than the UK FAME prices.[39] DGD and VEL concur with the TRA's findings that it is not likely that U.S. HVO prices would undercut or undersell UK FAME prices.[40]

5.1 As such, the TRA correctly concludes that U.S. HVO would not injure the UK industry.[41] There is therefore no likelihood of injury to the UK industry by dumped or subsidized imports of HVO from the U.S. if the current Measures were removed. DGD and VEL support the TRA's findings to exclude HVO from the Economic Interest Test.

6. ADDITIONAL REMARKS

6.1 DGD and VEL would like to reiterate their concerns with regard to the data relied on by the TRA concerning injury. In the SEFs, the TRA states that it is satisfied that the data it relied on from Greenergy and Argent is complete, relevant and accurate for the purposes of the review.[42] It also refers to the verification reports of Greenergy and Argent for any information that was not or only partially provided, or that the TRA was unable to verify. The SEFs simply refer to the respective verification reports and therefore do not further clarify if the TRA was able to review and verify all the necessary information, especially with regard to the injury assessment. DGD and VEL request the TRA to confirm that all the necessary data was submitted and verified.

6.2 DGD and VEL noted certain differences in the injury assessment between the two SEFs. Notably, the injury assessment in the SEF of the anti-subsidy investigation appears more detailed in undercutting/underselling of the UK industry than the injury assessment in the anti-dumping investigation.[43] DGD and VEL request that the TRA clarifies the rationale for such difference and in particular whether the injury for both investigations was based on

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37 Par. 239-240 SEF (Anti-Subsidy).
38 Par. 234-240 SEF (Anti-Subsidy).
39 Par. 255 SEF (Anti-Dumping).
40 Par. 240 and par. 242 SEF (Anti-Subsidy).
41 Par. 271-273 SEF (Anti-Dumping).
42 Par. 62 SEF (Anti-Subsidy) and par. 63 SEF (Anti-Dumping).
43 See for example par. 234 – 240 SEF (Anti-Subsidy) on undercutting/underselling of the UK industry whereas this is reflected in only 1 paragraph (par. 255) in the SEF (Anti-Dumping).

the same findings. If the differences in the SEFs would reflect different underlying data for both investigations, DGD and VEL request an explanation of such differences.

7. CONCLUSION

7.1 DGD and VEL support the TRA's recommendation to remove the Measures under review against U.S. HVO imports. We would, however, request the TRA to reconsider its assessment of the commercial likeness of FAME and HVO and more accurately conclude that FAME and HVO are not like products.

7.2 Given the very significant price difference (38%-45%) between FAME and HVO, the TRA cannot reasonably conclude that U.S. producers are likely to export HVO to the UK at dumped prices.

7.3 Furthermore, reliable data submitted by DGD and VEL demonstrates that consumption and production of HVO in the U.S. will increase significantly in the next few years and that there would continue to be a production shortage to meet growing demand until at least 2026. As such, the TRA's finding that excess volumes of U.S. HVO would flood the UK market is unsupported by evidence.

7.4 DGD and VEL support the TRA's findings that it is unlikely that the UK industry would suffer injury due to imports of HVO and that imports of HVO are therefore excluded from the application of the Measures.

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