

Executive summary

of the

Request for an expiry review of the countervailing duties applicable to imports of biodiesel originating in the United States of America

Under Regulation (EU) 2016/1037 of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (as amended)

Submitted by King & Spalding on behalf of the European Biodiesel Board

1. BACKGROUND

On 7 July 2009, the EU institutions imposed definitive countervailing duties on biodiesel imports from the USA in pure form or in a blend containing by weight more than 20% of biodiesel.

Due to circumvention practices, the EU institutions extended on 5 May 2011 the definitive countervailing duties on biodiesel imports originating in the USA to imports of biodiesel consigned from Canada – whether declared as originating in Canada or not – and to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the USA.

On 10 July 2014, the EU Commission initiated an expiry review of the countervailing measures applicable to biodiesel imports from the USA, following a request made by the European biodiesel Board. The expiry review investigation confirmed the likelihood of recurrence of injurious subsidization should the measures be allowed to expire. Accordingly, countervailing duties on biodiesel imports from the USA were extended for a five-year period.

The countervailing measures on biodiesel imports from the USA are set to lapse on 16 September 2020. However, the European Biodiesel Board is strongly convinced that the removal of the countervailing duty would inevitably lead to a recurrence of subsidization and material injury to the EU biodiesel industry. Accordingly, the European Biodiesel Board has filed, on behalf of the EU producers of biodiesel, an expiry review request, with the aim of extending the existing measures for a five-year period.

2. INFORMATION ABOUT THE EXPIRY REVIEW REQUEST

2.1 Product description

The product is the same as in the investigation leading to the imposition of the existing measures, i.e. fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as ‘biodiesel’, in pure form or in a blend, containing by weight more than 20 % of 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.

The product concerned currently falls within the following CN codes of the EU combined nomenclature: CN codes ex 1516 20 98, ex 1518 00 91, ex 1518 00 99, ex 2710 19 43, ex 2710 19 46, ex 2710 19 47, ex 2710 20 11, ex 2710 20 16, ex 3824 99 92, 3826 00 10 and ex 3826 00 90.

Biodiesel is a renewable fuel produced from a wide range of raw materials, i.e. vegetable oils such as rapeseed oil, soybean oil, palm oil, used frying oils (UFO), animal fats or biomass. Biodiesel is intended for diesel engines and can be blended with petroleum diesel in any percentage, from 1 to 99 percent.

2.2 Summary of the complaint

The European Biodiesel Board (“EBB”) has filed the request for an expiry review of the countervailing duties applicable to imports of biodiesel originating in the United States of America on behalf of 14 EU biodiesel producers which together represent considerably more than 25% of the total EU production. Additionally, the complaint is supported by other EBB members representing an overall level of support of more than 50% of the total EU biodiesel production.

The Applicant has established that there is prima facie evidence of likelihood of recurrence of injurious subsidization should the countervailing measures on biodiesel imports from the USA be allowed to expire.

Risk of recurrence of subsidization

The Applicant has gathered evidence showing that the US biodiesel industry is still heavily subsidized. Since the imposition of the countervailing duties in 2009, there has been no fundamental change in the situation of the US biodiesel industry which still benefit from massive subsidies to stay in business.

The Biodiesel Mixture Credit - which is the most important subsidy granted to the US biodiesel industry – has been available since 2005 and has recently been reinstated for a 5-year period, showing the long-term strategy of the US government to unfairly subsidize its biodiesel sector.

In addition, the Applicant has gathered evidence showing that several other subsidy schemes – both at the Federal or State levels – are still available to the US biodiesel industry.

Risk of recurrence of injury

The US biodiesel production and capacity have continued to strongly increase since the reconduction of the countervailing measures in 2015 and are expected to further increase in the near future. The Applicant has gathered evidence that US biodiesel producers have large unused capacities and high level of stocks ready to flood the EU market with subsidised biodiesel imports should the measures be allowed to lapse. These unused capacities are unlikely to be absorbed by the US consumption or by third countries.

The Applicant has provided micro and macro indicators describing the situation of the EU biodiesel industry. In this respect, it has compared the EU sale prices of biodiesel and US export prices to the EU and has evidenced significant undercutting margin during the period considered.

As the largest biodiesel market worldwide, the EU is a major target for US biodiesel producers to use their spare capacities and clear their available stocks in order to reduce their unit cost of production. Given the attractiveness of the EU market, the US biodiesel producers' potential to penetrate the EU market is currently only constrained by the anti-dumping and countervailing duties in force.

3. INTERESTED PARTIES

US biodiesel producers
Adkins Energy Biodiesel
Ag Processing Inc. - Algona
Ag Processing Inc. - Sergeant Bluff
Ag Processing Inc. - St. Joseph
Agron Bioenergy
Alaska Green Waste Solutions Inc.
American GreenFuels - Texas
American GreenFuels LLC
Archer Daniels Midland Co. - Velva
Bioenergy Development Group
BioVantage Fuels LLC

Blue Ridge Biofuels LLC
Buster Biofuels
Cape Cod Biofuels
Cargill Inc. - Iowa Falls
Cargill Inc. - Wichita
CHS - Patriot Fuels Biodiesel
Cincinnati Renewable Fuels LLC
Community Fuels
Deerfield Energy LLC
Delek Renewables - Cleburne
Delek Renewables - Crossett
Delek Renewables - New Albany
Down to Earth Energy
Duonix LLC
East Kansas Agri-Energy LLC (Renewable Diesel)
Eberle Biodiesel
Enviro-Brite Solutions Inc.
Ever Cat Fuels LLC
Fuel: Bio One LLC
FutureFuel Chemical Company
GC Lipids
GEB3
General Biodiesel Northwest
Genuine Bio-Fuel Inc.
GeoGreen Biofuels Inc.
Green Biofuels Miami LLC
Green Energy Biofuel
Griffin Industries Inc.
Hero BX
Hero BX Alabama LLC
Hero BX Iowa
Imperial Western Products Inc.
Incobrasa Industries Ltd.
Integrity Biofuels LLC
Iowa Renewable Energy LLC
Kelley Green Biofuel
Lakeview Biodiesel LLC
Louis Dreyfus Agricultural Industries LLC
Loyola University Chicago
Maine Bio-Fuel Inc.
Mason Biodiesel LLC
Mid America Agri Products/Wheatland LLC
Mid-America Biofuels
Minnesota Soybean Processors
Natural Biodiesel Plant LLC
Newport Biodiesel Inc.
Northeast Biodiesel LLC
Omaha Biofuels Coop
Owensboro Grain Biodiesel LLC
Pacific Biodiesel
Paseo-Cargill Energy LLC
RBF Port Neches LLC
Reco Biodiesel LLC
REG Albert Lea LLC
REG Danville LLC

REG Geismar LLC (Renewable Diesel)
REG Grays Harbor LLC
REG Houston LLC
REG Madison LLC
REG Mason City LLC
REG New Boston LLC
REG Newton LLC
REG Ralston LLC
REG Seneca LLC
Rio Valley Biofuels LLC
Scott Petroleum Corporation - Greenville
Seaboard Energy Missouri LLC
Seaboard Energy Oklahoma LLC
SeQuential
Simple Fuels Biodiesel
SJV Biodiesel LLC
Solfuels USA LLC
Southeast Biodiesel LLC
Stepan Co. - Joliet
Sullens Biodiesel LLC
Thumb BioEnergy LLC
Triangle Biofuels Industries Inc.
Virginia Biodiesel Refinery LLC
W2Fuel - Adrian
W2Fuel - Crawfordsville
Walsh BioFuels LLC
Western Dubuque Biodiesel LLC
Western Iowa Energy LLC
White Mountain Biodiesel LLC
World Energy Harrisburg
World Energy Houston
World Energy Natchez
World Energy Rome at U.S. Biofuels Inc.
SeQuential
Simple Fuels Biodiesel
SJV Biodiesel LLC
Solfuels USA LLC
Southeast Biodiesel LLC
Stepan Co. - Joliet
Sullens Biodiesel LLC
Thumb BioEnergy LLC
Triangle Biofuels Industries Inc.
Virginia Biodiesel Refinery LLC
W2Fuel - Adrian
W2Fuel - Crawfordsville
Walsh BioFuels LLC
Western Dubuque Biodiesel LLC
Western Iowa Energy LLC
White Mountain Biodiesel LLC
World Energy Harrisburg
World Energy Houston
World Energy Natchez
World Energy Rome at U.S. Biofuels Inc.
EU biodiesel producers
Abc s.r.o.

Abid biotreibstoffe ag (eop biodiesel ag)
Acor
Adm
Adw bio
Adw holding
Agrifop a.s. Stakčín
Agrochem
Agroils
Agroinvest
Agro-maas
Agropodnik a.s.
Albatio sl
Ambrosia oils ltd
Amex, spol. S r.o.
Argent energy
Astra bioplant
Atko grupp as
Bdk biodiesel kyritz
Becco biofuels
Bio goriva d.o.o.
Bio rafinéria sk
Bioagra-oil
Bioarag biodiesel aragon sl
Biobas - biocarburantes bahia de santander
Biocarb sas
Biocarburantes clm
Biocarburantes de castilla, s.a.
Biocardel luxembourg s.a.
Biocom
Biocombustibles vascos
Bioddiesel vienna gmbh
Biodiesel de andalucia 2004 s.a
Biodiesel kampen b.v.
Biodiesel kärnten gmbh
Biodiesel krems gmbh
Biodiesel ltd
Biodiesel production ireland ltd
Biodiesel s.a.
Biodiesel vienna gmbh
Biodizel vukovar
Biodreams
Bioenergética extremeña (bioenergetica)
Bioenergia papantoniou s.a.
Bioenergy abengoa
Bioenergy biofuels s.a. (neokem)
Biofueling b.v.
Biofuels and oils ltd
Biofuture ltd
Bioil
Bio-oils energy
Bio-olwerk
Biopa
Biopaliwa s.a.
Biopetrol industries
Bioplus

Bioro
Biovegeta
Biovegetal - grupo sgcenergia
Biovegetal - sgc energia, sgps sa
Biowerk sohland gmbh
Bkn biokraftstoff nord ag
Bunge
Bv energi
Cargill gmbh
Centre ouest cereales
Cerealdocks
Chemission srl
Chemtech srl
Cityboard media services poland
Clean-fuels gmbh
Clean-fuels gmbh group
Coansa grupo sos
Cognis gmbh
Combustibles ecológicos biotel s.l.
Comlube
Convert2green ltd
Cukrovary ttd a.s.
D.p. Lordos ltd
Daimyo (biofuels and milvenn as)
Daka ecomotion
Dbd deutsche biodiesel gmbh
Dbe deutsche bioenergie ag
Delitzscher rapsöl gmbh & co. Kg
Desmet ballestra
Doschem
Dp lubrificanti -
Du pont de nemours (deutschland) gmbh
Dutch biodiesel b.v.
Ecanol
Ecanol biotreibstoffe
Eco fox s.r.l.
Ecoil srl
Ecomaster
Ecomotion
Egal biodiesel
Eko petroleum
Ekoil a.s.
Ekorona s.r.o.
Ekotips a.s.
Elstar oils - ont biopaliwa s.a.
Elvi biodiesel
Energy biodiesel
Eni
Entaban
Eop biodiesel ag
Eorc group / edible oil refining co. Ltd
Expur alimenta group
F. Leitner mineralöle gmbh
Fabio produkt
Fabrica torrejana de biocombustíveis sa

Ferrero ingegneria s.p.a.
Flanders biofuels bvba
Gate
Gbf - german biofuels gmbh
Gdr biocarburanti
General de biocarburantes, s.a.
Gf energy
Ghp biodiesel gmbh & co. Kg - werk oranienburg
Green biodiesel ltd
Green biofuels ireland ltd
Greencyber, sa
Greenmills
Greyhound recycling & recovery ltd
Grupa lotos sa
Honeywell specialty materials
Iberol
Industrialexport
Ineos
Inkemia advanced bf
Irish food processors ltd
Ital bi oil
Jsc
K1 biodiesel gmbh
Klas oil
K1-oil
Kosecp/ euro chemie products ltd
L'usine nouvelle
Latraps ltd.
Leitner mineralöle gmbh
Loredan gasparini
Lotos
Lpv bergholz
Man ferrostaal ag
Man ferrostaal ag büro bukarest
Man takraf büro rumänien
Marina biodiesel gmbh & co. Kg
Masol iberia biofuels
Mercuria biofuels brunsbüttel
Meroco, a.s.
Mestilla
Mestilla uab
Mezrozite biodiesel
Mil oil hellas sa
Milvenn as
Moravske rafinerie a.s.
Münzer bioindustrie gmbh
Nafta lendava/ nafta-biodizel d.o.o.
Neste corporation
New energy aε - fytoenergia
New gmbh
Nord ester
Northern greece ginning plant s.a.
Novaol italy
Oil b - alpha trading
Oleon

Oxem
Papas oilo
Pavex
Pavlos n. Pettas s.a
Perstorp bioproduct ab
Petrostry jarzabkowo
Petrosa
Phillips 66 limited
Pinus tki d.d.
Pkn orlen/ rafineria trzebinia s.a.
Polmos
Popilka slovensko spol. S.r.o.
Popilka spol. S.r.o.
Ppm energie aus nachw. Rohstoffen gmbh
Preol
Primagra
Prio biocombustiveis
Proviron holding nv
Rafineria trzebinia
Rapsoila
Recyoil zona centro s.l.(diesel)
Redoil italia spa
Reg
Repsol s.a.
Rme alternativ treib- und heizstofferzeugung
Rompetrol
Rompetrol downstream
Rosendaalenergy
Rossi biofuel zrt.
Rpn s.r.o.
S.c. Dafora s.a. Medias sucursala foraj
Saipol (groupe avril)
Saras energia
Sca pétrole et dérivés
Scanoil
Scheier biodiesel produktionsgmbh
Seeg
Sekab bioenergy hungary ltd.
Serichim srl
Seta diesel, a.s.
Setuza
Sgc energia sgps sa (sgc group)
Sica atlantique
Sime darby cleanerg b.v/
Skotan
Slunchevi luchì
Sovena oilseeds
Soya mills s.a.
Spirytusowej wratislavia polmos (brasco group)
Staff colour
Sunoil biodiesel
Synthos (ex- solvent dwory)
Technologie environnement nièvre
Titbiodiesel ltd bulgaria
Total refining & chemicals

Tovarna olja
Ttp asukas
Ulerom/racova
Upm biorefining
Valagro
Vance bioenergy
Verbio ag
Vert oil
Vía operador petrolifero, s.l.
Vls-group ghent nv
Werol
Worldwide bio refineries plc
Wratislavia bio
Wratislavia-bio sp z.o.o
Xenoil
Zs kratonohy
EU traders
Ambrian Energy
BP Oil Trading
Cremer
Ed&f Man
Glencore
Greenergy
Gunvor International B.v.
Harvest Energy
Nidera
Noble
Pertoincos
SCB Limited
Shell Europe
STX Services B.v.
Vitol
Wilmar
EU importers / end users
Biodiesel S.A.
BP Deutschland
BP Oil international Limited
Campa Iberia S.A.U
Carfuel (Carrefour)
CEPSA
Chevron
Conoco Philips
DP Lubrificanti SRL
ENI
ETB Biofuels SA
ExxonMobil
Galp Energia, SGPS, S.A.
Hellenic Petroleum
IM Biofuel Italy S.R.L.
Lotos Group
Louis Dreyfus Commodities España
Lukoil
Losur Overseas S.A.
Mabanaft
MOL Group

OMV AG
PKN ORLEN (Rafineria Trzebinia)
Preem
Repsol
Rompetro
SHELL Trading Rotterdam BV
Slovnaft (MOL Group)
Total
Wilmar Europe Trading B.V.

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