

Executive Summary

Of the

**Request for an expiry review of the anti-dumping measures
concerning imports of bioethanol originating in the United
States of America**

submitted by Gide Loyrette Nouel on behalf of ePURE

1. BACKGROUND

Following a complaint lodged by the European Producers Union of Renewable Ethanol Association ("ePURE") on behalf of the EU bioethanol industry on 12 October 2011 against dumped imports from the US, the EU institutions imposed definitive anti-dumping duties of 9.5% on imports of US bioethanol through Council Implementing Regulation (EU) No 157/2013 of 18 February 2013. These measures were set to expire on 23 February 2018.

As ePURE strongly believes that, should the measures be removed, massive unfair imports of bioethanol from the US will again be exported to the EU and inevitably cause the recurrence of material injury to the EU bioethanol industry, it submitted to the European Commission a request for an expiry review of the anti-dumping measures on bioethanol from the US.

It should also be noted that Council Implementing Regulation (EU) No 157/2013 was challenged before the General Court by two US associations representing bioethanol producers and one US bioethanol producer. The General Court delivered its final judgment in both cases on 9 June 2016. Both judgments were subsequently appealed by the Council before the European Court of Justice. These appeals are still pending..

2. COMPLAINT

The request for an expiry review was lodged by ePURE, a European association representing the interests of European renewable ethanol producers, on behalf of 11 of its member companies which represent approximately 60% of the total EU production and therefore considerably more than the 25% threshold set in Article 5(4) of Regulation 2016/1036.

2.1 THE PRODUCT CONCERNED

The product concerned by the expiry review request is the same as was defined in the Council Implementing Regulation (EU) No 157/2013 imposing a definitive anti-dumping duty on imports of bioethanol originating in the US. It was defined as follows: "*bioethanol, sometimes referred to as 'fuel ethanol', i.e. ethyl alcohol produced from agricultural producers (as listed in Annex I to the Treaty on the Functioning of the European Union), denatured or undenatured, excluding products with a water content of more than 0,3% (m/m) measured according to the standard EN 15376, but including ethyl alcohol produced from agricultural products (as listed in Annex I to the Treaty on the Functioning of the European Union) contained in blends with gasoline with an ethyl alcohol content of more than 10% (v/v) originating in the US, currently falling within CN codes ex 2207 10 00, ex 2207 20 00, ex 2208 90 99, ex 2710 12 21, ex 2710 12 25, ex 2710 12 31, ex 2710 12 41, ex 2710 12 45, ex 2710 12 49, ex 2710 12 51, ex 2710 12 59, ex 2710 12 70, ex 2710 12 90, ex 3814 00 10, ex 3814 00 90, ex 3820 00 00 and ex 3824 90 97*".

Although bioethanol imported into the EU may fall within various CN codes, it is currently predominantly classified under tariff codes 2207 10 10 and 2207 20 00.

Bioethanol is a renewable fuel obtained from a process of industrial fermentation which transforms sugar into alcohol. The sugar can come from agricultural sources such as cereals, sugar beet, other crops, and even organic waste materials. While EU bioethanol is mainly produced from cereals, in the US the large majority of the production comes from corn.

During the original investigation, the European Commission found that bioethanol manufactured by the EU industry and sold on the EU market has similar basic physical, chemical and technical characteristics when compared to bioethanol exported to the EU from the US. It also concluded that both are interchangeable and that there was no significant difference in the uses and the perception by operators and users.

Since there has been no significant technological evolution in the production process since the imposition of the measures, the Applicant considers that EU bioethanol and bioethanol imported from the US should be considered as like products within the meaning of Article 1(4) of Regulation 2016/1036.

2.2 LIKELIHOOD OF RECURRENCE OF DUMPING

As mentioned above, following the original investigation carried out by the Commission in 2012-2013, a country-wide anti-dumping duty of 9.5% was imposed on bioethanol imports from the US. By consequence, the flow of unfair imports of bioethanol from the US significantly decreased and has remained at such a lower level since the imposition of measures.

It is important to note that since the imposition of measures there has been no change in the general export policy of US bioethanol producers/exporters, nor do the conditions on their home market differ from the situation before the imposition of measures. The anti-dumping duties imposed in 2013 were therefore extremely effective to counterbalance the flow of unfair imports from the US.

Furthermore, as detailed in the expiry review request, there are strong converging indications showing that there is a significant risk of recurrence of dumping by US bioethanol exporters should the measures imposed in 2013 be lifted. These indications include:

- i. The existence of systematic dumping by US exporting producers on export markets based on US exports to non-EU countries (Brazil, Canada, Peru which were the main export destinations during the IP).
- ii. Systematic exports of US bioethanol into export markets at prices significantly below prices in the EU market which show that, if such exports were made to the EU, they would severely undercut EU bioethanol producers' prices.
- iii. Third-country anti-dumping investigations on US imports of bioethanol which also revealed very significant dumping.

2.3 LIKELIHOOD OF RECURRENCE OF INJURY

The likelihood of recurrence of injury to the EU bioethanol industry was assessed in light of the situation of the EU bioethanol industry and a number of indicators relating to the US bioethanol industry and US bioethanol exports which would allow to take into account expected future developments in case the measures would be lifted.

Based on a detailed analysis of relevant injury indicators, it can be concluded that the EU bioethanol industry has since the imposition of measures shown signs of recovery from the injury caused by unfair imports from the US. However, it is also clear that the EU bioethanol industry remains fragile and exposure to a renewed flood of unfair imports from the US would prove devastating to the EU industry.

As is shown in the expiry review request, removal of the anti-dumping measures would immediately again lead to a sharp increase of unfair imports of bioethanol from the US because of, among others, the following reasons:

- i. A comparison between EU sale prices of bioethanol and US export prices which demonstrate significant undercutting margins;
- ii. The fact that US bioethanol production and production capacities have strongly increased since the Regulation imposing definitive anti-dumping duties;
- iii. The limited growth potential of the US’ domestic ethanol market;
- iv. Significant risk of trade diversion from other US ethanol export markets to the EU due to the imposition of trade defense measures.

3. CONCLUSION

There is ample *prima facie* evidence provided and extensively explained in the expiry review request indicating the strong likelihood of recurrence of injurious dumping, should the measures lapse. As such, ePURE respectfully requests the European Commission to initiative an expiry review investigation so as to extend the anti-dumping measures for another five-year period and to offer the protection necessary to the EU industry against dumping imports of bioethanol from the US.

4. INTERESTED PARTIES

ePURE Members producing bioethanol
ADM
Agrana Bioethanol GmbH
Alco Group

Almagest AG
Altia
BIOAGRA S.A.
British Sugar
Clariant Produkte GmbH
Cristal Union
CropEnergies
DuPont
Enviral
Essentica
Hungrana Kft.
Kurana
KWST
Lantmännen Energi / Agroetanol
NordZucker
Novozymes
Pannonia Ethanol
Suiker Unie GmbH
Tereos
Verbio
Vivergo Fuels Limited
EU producers (not member of ePURE) and producing in the EU
Agrar Destillerie GmbH
Alcoplus Spa
Azucarera del Guadalfeo S.A.
Bioetanol de la Mancha
Bioethanol AEG

CARBERY
Cargill
Chempolis
DESTYLACJE POLSKIE Sp. z o.o.
Ethanol Energy
Euro Ethyl GmbH
GYOR DISTILLERY CO. LTD.
IMA Srl
Inbicon A/A
JAUNPAGASTS PLUS, SIA
Müllermilch
Neot
PHP Wieslaw Wawrzyniak
Prophex Bioproducts
Roquette Frères
SEKAB
Trilantic Europe
UAB Nordetanolis
Wratysława-Bio
Zaharni Zavodi
EU and national bioethanol associations
KIB
BDBE
APPA
ASSO DISTIL
BELGIAN BIOETHANOL ASSOCIATION
SNPAA

CMCS
VDB
Združenie pre výrobu a využitie biopalív
EU end-users
Agip/ENI
BP
CARGILL
Cepsa
ESSO
ExxonMobil
Greenergy
Gunvor
Harvest
Hellenic Petroleum
INA
Lotus
Lukoil
Lyondell
MOL Group
Nesté
OMV AG
P66 Limited
Petrolplus
PKN ORLEN SA
Repsol
Romp petrol
Sekab

Shell
Statoil
Total
Vitol
EU importers and traders
DYNEFF
ED&F MAN
FuelStreamers aka GreenDiesel
Greenergy
Gunvor
Morgan Stanley
Mitsui
Neste
Noble
Neot
SCA PÉTROLE ET DÉRIVÉS
Sekab
Shell trading
Silcompa
SIPLEC
Statoil
Systeme U
Total Marketing France
Total Raffinage France
TOTSA TOTALOIL TRADING SA
Tradhol
Trafigura

Vertical
US producers
Abe South Dakota Llc
Absolute Energy Llc
Ace Ethanol Llc
Adkins Energy Llc
Adm Cedar Rapids Ia Dry Mill
Adm Cedar Rapids Ia Wet Mill
Adm Clinton Ia
Adm Columbus Ne Dry Mill
Adm Columbus Ne Wet Mill
Adm Decatur Il
Adm Marshall Mn
Adm Peoria Il
Aemetis Advanced Fuels Keyes Inc
Agra Resources Coop
Agri-Energy Llc
Al-Corn Clean Fuel
Andersons Albion Ethanol Llc
Andersons Clymers Ethanol Llc
Andersons Denison Ethanol Llc
Andersons Marathon Ethanol Llc
Arkalon Ethanol Llc
Badger State Ethanol Llc
Big River Resources Boyceville Llc
Big River Resources Galva Llc
Big River Resources Llc

Big River United Energy Llc
Blue Flint Ethanol Llc
Bonanza Bioenergy Llc
Bridgeport Ethanol Llc
Bushmills Ethanol Inc
Calgren Renewable Fuels Llc
Carbon Green Bioenergy Llc
Cardinal Ethanol Llc
Cargill Inc
Center Ethanol Co Llc
Central Indiana Ethanol Llc
Chief Ethanol Fuels Inc
Chippewa Valley Ethanol Co Lllp
Commonwealth Agri-Energy Llc
Corn Lp
Corn Plus
Dakota Ethanol Llc
Dakota Spirit Agenergy
Denco Ii Llc
Diamond Ethanol Llc
Didion Ethanol Llc
E Energy Adams
East Kansas Agri-Energy Llc
Elkhorn Valley Ethanol Llc
Ergon Biofuels Llc
Ese Alcohol Inc
Flint Hills Resources

Flint Hills Resources Fairbank Llc
Flint Hills Resources Llc
Flint Hills Resources Lp
Flint Hills Resrcs Iowa Falls
Flint Hills Resrcs Menlo Llc
Flint Hills Resrcs Shell Rock
Fox River Valley Ethanol Llc
Front Range Energy Llc
Glacial Lakes Energy Llc
Golden Grain Energy Llc
Golden Triangle Energy Llc
Grain Processing Corp
Granite Falls Energy Llc
Green Plains Atkinson
Green Plains Bluffton Llc
Green Plains Central City Llc
Green Plains Fairmont Llc
Green Plains Hereford Renewable Energy Llc
Green Plains Holdings Ii
Green Plains Holdings Ii Llc - L
Green Plains Hopewell Llc
Green Plains Madison Llc
Green Plains Mount Vernon Llc
Green Plains Obion Llc
Green Plains Ord Llc
Green Plains Otter Tail Llc
Green Plains Shenandoah Llc

Green Plains Superior Llc
Green Plains Wood River Llc
Green Plains York Llc
Guardian Energy Llc
Guardian Hankinson Llc
Guardian Lima Llc
Heartland Corn Products
Heron Lake Bioenergy Llc
Highwater Ethanol Llc
Homeland Energy Solutions Llc
Husker Ag Llc
Icm Biofuels Inc
Illinois Corn Processing Llc
Illinois River Energy Llc
Ingredion Inc
Iroquois Bio-Energy Co Llc
Kaapa Ethanol Llc
Kaapa Ethanol Ravenna Llc
Kansas Ethanol Llc
Lincolnland Agri-Energy Llc
Lincolnway Energy Llc
Little Sioux Corn Processors Lp
Louis Dreyfus Commodities Llc
Marquis Energy Llc
Marquis Energy Wisconsin Llc
Marysville Ethanol Llc
Mgp Ingredients Inc

Mid America Agri Products Llc
Mid-Missouri Energy Llc
Midwest Renewable Energy Llc
Mxi Enviromental Services Llc
Nebraska Corn Processing Llc
Nesika Energy Llc
Noble Americas South Bend Ethanol Llc
Nugen Energy Llc
One Earth Energy Llc
Pacific Ethanol Aurora East Llc
Pacific Ethanol Aurora West Llc
Pacific Ethanol Columbia Llc
Pacific Ethanol Madera Llc
Pacific Ethanol Magic Valley Llc
Pacific Ethanol Pekin Inc
Pacific Ethanol Stockton Llc
Parallel Prodts Of California
Parallel Products Of Kentucky
Patriot Renewable Fuels Llc
Pennsylvania Grain Prcsg Llc
Pinal Energy Llc
Pine Lake Corn Processors Lp
Plainview Bioenergy Llc
Plymouth Energy Llc
Poet Biorefining - Cloverdale
Poet Biorefining-Alexandria Llc
Poet Biorefining-Fostoria Llc

Poet Biorefining-Leipsic Llc
Poet Biorefining-Marion Llc
Poet Biorefining-North Manchester
Poet Biorefining-Portland Llc
Poet Ethanol 2000 Llp
Poet Frontier Ethanol Llc
Poet Great Plains Ethanol Llc
Poet Horizon Ethanol Llc
Poet Iowa Ethanol Llc
Poet James Valley Ethanol Llc
Poet Michigan Ethanol Llc
Poet Missouri Ethanol Llc
Poet Northeast Missouri Grain Llc
Poet Northern Lights Ethanol Llc
Poet Northstar Ethanol Llc
Poet Otter Creek Ethanol
Poet Pinnacle Ethanol Llc
Poet Prairie Ethanol Llc
Poet Pro Corn Llc
Poet Research Center
Poet Tall Corn Ethanol Coop
Poet Voyager Ethanol Llc
Prairie Horizon Agri-Energy Llc
Pratt Energy Llc
Quad County Corn Processors
Red River Energy Llc
Red Trail Energy Llc

Redfield Energy Llc
Reeve Agri Energy Inc
Show Me Ethanol Llc
Sioux River Ethanol Llc
Siouxland Energy & Livestock Co-Op
Siouxland Ethanol Llc
Southwest Iowa Renewable Energy Llc
Sterling Ethanol Llc
Sunoco Inc
Tate & Lyle
Tharaldson Ethanol Llc
Three Rivers Energy Llc
Trenton Agri Products Llc
Tyton Nc Biofuels Llc
United Ethanol Llc
United Wisconsin Grain Producers Llc
Us Energy Partners
Valero Renewable Fuels Llc
Western New York Energy Llc
Western Plains Energy Llc
White Energy Hereford Llc
Yuma Ethanol Llc