Biodiesel from Argentina and Indonesia

Investigation Nos. 701-TA-571-572 and 731-TA-1347-1348 (Review)

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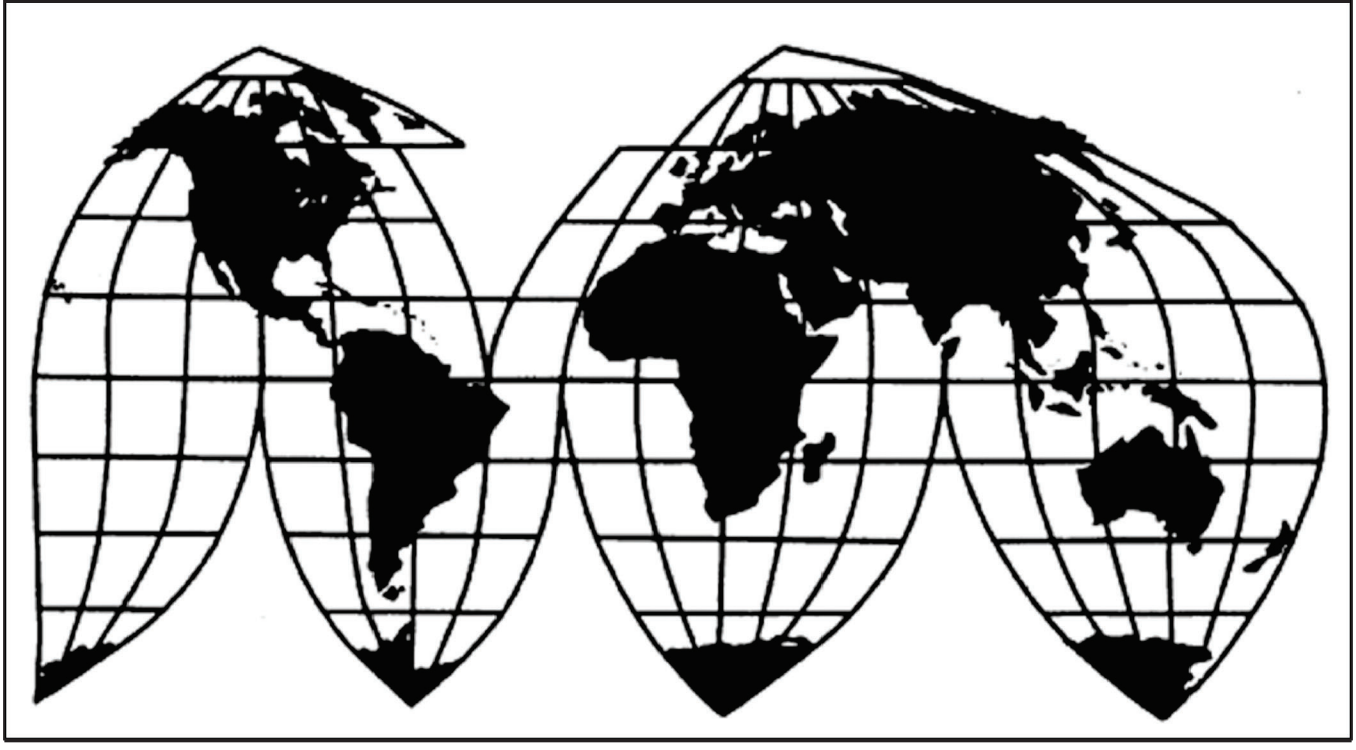
U.S. International Trade Commission



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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-571-572 and 731-TA-1347-1348 (Review)

Biodiesel from Argentina and Indonesia

DETERMINATIONS

On the basis of the record[1] developed in the subject five-year reviews, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that revocation of the antidumping and countervailing duty orders on biodiesel from Argentina and Indonesia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on December 1, 2022 (87 FR 73781) and determined on March 6, 2023 that it would conduct expedited reviews (88 FR 19668, April 3, 2023).

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Views of the Commission

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Tariff Act"), that revocation of the antidumping and countervailing duty orders on biodiesel from Argentina and Indonesia, would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. Background

Original Investigations: The original petitions concerning biodiesel from Argentina and Indonesia were filed on March 23, 2017, by the National Biodiesel Board Fair Trade Coalition and its individual members.[1] On December 21, 2017, the Commission determined in the leading investigations that an industry in the United States was materially injured by subject imports of biodiesel from Argentina and Indonesia that had been found by the Department of Commerce ("Commerce") to be subsidized by the governments of Argentina and Indonesia.[2] On January 4, 2018, Commerce issued countervailing duty orders for subject imports from Argentina and Indonesia.[3] On April 16, 2018, the Commission determined in the trailing investigations that the domestic industry was materially injured by reason of less-than-fair value ("LTFV") subject imports of biodiesel from Argentina and Indonesia.[4] Subsequently, on April 26, 2018, Commerce issued antidumping duty orders on biodiesel from Argentina and Indonesia.[5]

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[1] *Biodiesel From Argentina and Indonesia*: *Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*, 82 Fed. Reg. 15541 (Mar. 29, 2017).

[2] *Biodiesel From Argentina and Indonesia*, Inv. Nos. 701-TA-571-572 (Final), USITC Pub. 4748 (Dec. 2017) ("*Original Leading Determinations*") at 3. Although the petitions for the antidumping and countervailing duty investigations of biodiesel from Argentina and Indonesia were filed on the same day, the investigation schedules became staggered when Commerce extended the deadline for making preliminary determinations in the antidumping duty investigations, thereby necessitating earlier final determinations by the Commission in the countervailing duty investigations than in the antidumping duty investigations. *Biodiesel From Argentina and Indonesia*, Inv. Nos. 701-TA-571-572 (Final), USITC Pub. 4775 (Apr. 2018) ("*Trailing Determinations*") at 3.

[3] *Biodiesel From the Republic of Argentina and the Republic of Indonesia Countervailing Duty Orders*, 82 Fed. Reg. 522 (Jan. 4, 2018); and *Biodiesel From the Republic of Argentina and the Republic of Indonesia Countervailing Duty* Orders, 83 Fed. Reg. 3114 (Jan. 23, 2018).

[4] *Trailing Determinations*, USITC Pub. 4775 at 3.

[5] *Biodiesel From Argentina and Indonesia: Antidumping Orders*, 83 Fed. Reg. 18278 (Apr. 26, 2018).

Current Reviews. The Commission instituted the current five-year reviews on December 1, 2022.[6] It received one response to its notice of institution filed on behalf of the Clean Fuels Alliance Fair Trade Coalition ("Domestic Interested Parties"), an ad hoc association comprised of Clean Fuels Alliance America ("CFAA") and 15 domestic producers of biodiesel.[7] It did not receive a response to the notice of institution from any respondent interested party.[8] On March 6, 2023, the Commission determined that the domestic interested party group response to the notice of institution was adequate and that the respondent interested party group responses were inadequate.[9] In the absence of any other circumstances that would warrant full reviews, the Commission determined that it would conduct expedited reviews.[10] The Domestic Interested Parties submitted final comments pursuant to Commission rule 19 C.F.R. §207.62(d)(1) regarding the determinations that the Commission should reach in these reviews.[11]

U.S. industry data in these reviews are based on information supplied by Domestic Interested Parties in their response to the notice of institution, which are estimated to account for at least *** percent of total U.S. biodiesel production in 2021.[12] U.S. import data and related information are based on Commerce's official import statistics.[13] Foreign industry data

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[6] *Biodiesel From Argentina and Indonesia*; *Institution of Five-Year Reviews*, 87 Fed. Reg. 73781 (Dec. 1, 2022).

[7] Clean Fuels Alliance Fair Trade Coalition's Response to Notice of Institution, EDIS Doc. 787154 (Jan. 3, 2023) ("Domestic Interested Parties' Response") at 1. CFAA is a national trade association comprised of biodiesel producers, distributors, and feedstock organizations. *Id*. at 1, 1 n.3. *See* Confidential Report, INV-VV-014 (Feb. 22, 2023) ("CR") at I-2; Public Report, *Biodiesel From Argentina and Indonesia*, Inv. Nos. 701-TA-571-572 (Review), USITC Pub. 5428 (Jun. 2023) ("PR") at I-2, Table I-2. The Clean Fuels Alliance Fair Trade Coalition's 15 domestic producers include the Clean Fuels Alliance America ("CFAA"); Ag Processing Inc. a cooperative; Archer Daniels Midland Company ("Archer Daniels"); Cape Cod Biofuels; Crimson Renewable Energy LP; Iowa Renewable Energy, LLC; Lake Erie Biofuels dba HERO BX (HERO BX); Minnesota Soybean Processors; Kolmar Americas, Inc.; Renewable Biofuels, LLC; Renewable Energy Group, Inc.; Seaboard Energy, Inc.; Thumb BioEnergy, LLP; Western Dubuque Biodiesel, LLC; Western Iowa Energy, LLC; and World Energy, LLC. *Id*.

[8] CR/PR at Table I-2.

[9] Explanation of Commission Determination on Adequacy, EDIS Doc. 793100 (Mar. 29, 2023).

[10] *Biodiesel From Argentina and Indonesia; Scheduling of an Expedited Five-Year Review*, 88 Fed. Reg. 19668 (Apr. 3, 2023).

[11] 19 C.F.R. § 207.62(d)(1); Domestic Interested Parties' Final Comments, EDIS Doc. 796209 (May 11, 2023).

[12] The U.S. producer coverage figure is the estimated share of total U.S. production of biodiesel in 2021 accounted for by responding firms. The estimate was calculated as the quantity of reported production (*** gallons) divided by total U.S. production as reported in the U.S. Energy Information Administration's November 2022 Monthly Energy Review (1.709 billion gallons). CR/PR at Table I-2 n.1.

[13] *See* CR/PR at Table I-5.

and related information are based on information furnished by Domestic Interested Parties in their responses to the notice of institution, information from the original investigations, and publicly available information gathered by the Commission.[14] Additionally, one U.S. purchaser responded to the Commission's adequacy phase questionnaire.[15]

II. Domestic Like Product and Industry

A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the "domestic like product" and the "industry."[16] The Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[17] The Commission's practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.[18]

Commerce has defined the imported merchandise within the scope of the orders under review as follows:

> The product covered by this *Order* is biodiesel, which is a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, including biologically-based waste oils or greases, and other biologically-based oil or fat sources. This *Order* covers biodiesel in pure form (B100) as well as fuel mixtures containing at least 99 percent biodiesel by volume (B99). For fuel mixtures containing less than 99 percent

[14] *See* CR/PR at I-17-18, Tables I-7-10.

[15] CR/PR at D-3. *** provided a response to the Commission's purchasers' questionnaire. *Id.*

[16] 19 U.S.C. § 1677(4)(A).

[17] 19 U.S.C. § 1677(10); *see*, *e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Dep't of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[18] *See*, *e.g.*, *Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

> biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of this *Order*. Biodiesel is generally produced to American Society for Testing and Materials International (ASTM) D6751 specifications, but it can also be made to other specifications. Biodiesel commonly has one of the following Chemical Abstracts Service (CAS) numbers, generally depending upon the feedstock used: 67784-80-9 (soybean oil methyl esters); 91051-34-2 (palm oil methyl esters); 91051-32-0 (palm kernel oil methyl esters); 73891-99-3 (rapeseed oil methyl esters); 61788-61-2 (tallow methyl esters); 68990-52-3 (vegetable oil methyl esters); 129828-16-6 (canola oil methyl esters); 67762-26-9 (unsaturated alkylcarboxylic acid methyl ester); or 68937-84-8 (fatty acids, C12-C18, methyl ester). The B100 product subject to the *Order* is currently classifiable under subheading 3826.00.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), while the B99 product is currently classifiable under HTSUS subheading 3826.00.3000.
>
> Although the HTSUS subheadings, ASTM specifications, and CAS numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.[19]

The scope is unchanged from the original investigations.

Biodiesel is a fuel made from many types of vegetable oils, animal fats, and used cooking oils. Biodiesel has many molecular formulas, and therefore slightly varying characteristics because of the assorted vegetable oils and animal fats that can be used as an

[19] *Biodiesel From Argentina and Indonesia: Final Results of Expedited First Sunset Review of the Countervailing Duty Orders*, 88 Fed. Reg. 20130 (Apr. 5, 2023). *See also* Issues and Decision for the Expedited First Sunset Review of the Countervailing Duty Orders on Biodiesel from Indonesia (Mar. 29, 2022) ("Indonesia CVD Issues & Decision Memo") at 2-3; Issues and Decision for the Expedited First Sunset Review of the Countervailing Duty Orders on Biodiesel from Argentina (Mar. 29, 2022) ("Argentina CVD Issues & Decision Memo") at 2-3; *Biodiesel From Argentina and Indonesia: Final Results of Expedited First Sunset Review of the Antidumping Duty Orders*, 88 Fed. Reg. 19920 (Apr. 4, 2023). *See also* Issues and Decision for the Expedited First Sunset Review of the Antidumping Duty Orders on Biodiesel from Argentina and Indonesia (Mar. 29, 2022) ("AD Issues & Decision Memo") at 2.

input.[20] Regardless of the type of input, any biodiesel that meets the ASTM standard for biodiesel can be used in all applications permitting biodiesel use.[21]

Biodiesel is used as a partial or full substitute for diesel, primarily in the transportation sector.[22] Biodiesel is also used as a heating fuel ("fuel oil"), primarily in the northeastern United
States. Biodiesel use in conventional heating oil reduces carbon and sulfur environmental concerns and maintenance costs because of biodiesel's lower sulfur level.[23]

As a substitute in the transportation sector, biodiesel is used in its unadulterated form (B100) or blended with diesel, with the most frequent proportions of such blends being 2.0 percent (B2), 5.0 percent (B5), 10.0 percent (B10), and 20.0 percent (B20) biodiesel. Blending can take place at any point in the distribution system as the act of blending is usually neither mechanically complex nor expensive. Biodiesel can be blended with diesel in any proportion without separation, meaning that it can be used in existing diesel applications without major modifications to the machinery. Any vehicle that uses diesel can use biodiesel at a blend level of B5 or lower.[24]

In the original investigations, the Commission defined a single domestic like product that was coextensive with Commerce's scope.[25] In these reviews, the record contains no new

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[20] CR/PR at I-5.
[21] CR/PR at I-9.
[22] CR/PR at I-5-6.
[23] CR/PR at I-6.
[24] CR/PR at I-6.
[25] *Original Leading Determinations*, USITC Pub. 4748 at 6-7. In defining a single domestic like product, the Commission found that although biodiesel within the scope differed in its precise composition since it could be produced from different feedstocks (types of oil), all biodiesel consisted of mono-alkyl esters of long-chain fatty acids and all biodiesel within the scope met the same ASTM D6751 standard specifications and uses (it was primarily blended with petrodiesel for transportation or used as heating oil). *Biodiesel From Argentina and Indonesia*, Inv. Nos. 701-TA-571-572 (Preliminary), USITC Pub. 4690 (May 2017) ("*Preliminary Determinations*"). While recognizing that certain feedstocks may require more pretreatment in the production process, the Commission found similarities in terms of channels of distribution, interchangeability, customer and producer perceptions, and price. Specifically, the Commission found that biodiesel that met the ASTM standard was generally used interchangeably regardless of the feedstock used and was sold through similar channels of distribution to petrodiesel producers, independent blenders/distributors, and retail locations. The Commission found that the price for biodiesel did not vary much based on the feedstock used or any other physical characteristics but rather based on whether or not Renewable Identification Numbers ("RINs") and the federal blender's tax credit ("BTC") were included with the biodiesel. *Id.* In the final phase of the investigations, the Commission found that there was no new information concerning the domestic like product factors (Continued…)

information suggesting that the characteristics and uses of domestically produced biodiesel have changed so as to warrant revisiting the Commission's domestic like product definition from the original investigations. The Domestic Interested Parties agree with the domestic like product definition the Commission adopted in the original investigations, as set out in the notice of institution.[26] Accordingly, we again define a single domestic like product consisting of all biodiesel, coextensive with Commerce's scope.

B. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[27] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

In the original investigations, the Commission did not exclude any domestic biodiesel producer from the domestic industry under the related parties provision.[28] In those proceedings, the Commission found that while three domestic producers – Cargill, Inc. ("Cargill"), Louis Dreyfus Company Agricultural Industries LLC ("Louis Dreyfus"), and American Greenfuels LLC. ("American Greenfuels") – were subject to possible exclusion under the related parties provision, appropriate circumstances did not exist to exclude them from the domestic

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or argument for a different definition of the domestic like product, and thus again defined a single domestic like product coextensive with the scope. *Original Leading Determinations*, USITC Pub. 4748 at 6-7.

[26] Domestic Interested Parties' Response at 44.

[27] 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. *See* 19 U.S.C. § 1677.

[28] *Original Leading Determinations*, USITC Pub. 4748 at 8-10.

industry.[29] The Commission therefore defined the domestic industry as all domestic producers of biodiesel.[30]

In these reviews, the Domestic Interested Parties agree with the Commission's definition of the domestic industry from the original investigations.[31] The Domestic Interested Parties report that the Clean Fuels Alliance Fair Trade Coalition is not related to any exporters or importers of subject merchandise, and that neither the Coalition nor its members imported subject merchandise during the period of review.[32] They are also unaware of any other domestic producer that may qualify for possible exclusion under the related parties provision other than Archer Daniels, a member of the Coalition, which owns a minority stake in the Indonesian biodiesel producer PT Wilmar Bioenergi Indonesia.[33] There is no record evidence in these reviews that Archer Daniels controls PT Wilmar Bioenergi Indonesia through its minority stake in the producer, or that PT Wilmar Bioenergi Indonesia exported subject merchandise to the United States during the period of review.[34] Accordingly, we do not find that Archer Daniels qualifies as a related party under 19 U.S.C. § 1677(4)(B) by virtue of its minority stake in PT Wilmar Bioenergi Indonesia.

Consequently, consistent with our definition of the domestic like product, we define the domestic industry as all domestic producers of biodiesel.

III. Cumulation

A. Legal Standard

With respect to five-year reviews, section 752(a) of the Tariff Act provides as follows:

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[29] *Original Leading Determinations*, USITC Pub. 4748 at 8-10. During the original investigations, Cargill was a related party because its wholly-owned subsidiary, Cargill SACI, was an exporter of subject merchandise and because Cargill directly imported subject merchandise from Argentina during the period of investigation ("POI"). Louis Dreyfus was a related party both because it imported subject merchandise from Argentina during the POI and because it was related to an importer and an exporter of the subject merchandise. American Greenfuels was a related party because its parent, Kolmar Americas, Inc., imported subject merchandise during the POI. *Id*.

[30] *Original Leading Determinations*, USITC Pub. 4748 at 10.

[31] Domestic Interested Parties' Response. at 44-45.

[32] Domestic Interested Parties' Response at 41.

[33] *See* CR/PR at I-13; Domestic Interested Parties' Response at 41.

[34] The record shows that subject imports from Indonesia were minimal in 2017, at 18,000 gallons, and zero throughout the remainder of the period of review. CR/PR at Table I-5. The Domestic Interested Parties state that to the best of their knowledge, there have been no subject imports from Indonesia since imposition of the orders. CR/PR at Table I-5 note.

> the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.[35]

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.[36] The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

The statutory threshold for cumulation is satisfied in these reviews, because all reviews were initiated on the same day: December 1, 2022.[37]

B. The Original Investigations and Arguments of the Parties

1. The Original Investigations

In the original investigations, the Commission found at least a moderate degree of fungibility between and among imports from each subject country and the domestic like product and that there was also substantial geographic overlap, notwithstanding certain

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[35] 19 U.S.C. § 1675a(a)(7).

[36] 19 U.S.C. § 1677(7)(G)(i); *see also*, *e.g.*, *Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); *Nucor Corp. v. United States*, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

[37] CR/PR at I-1.

product differences and state and local restrictions on palm-based biodiesel.[38] The Commission also found that biodiesel from the three sources overlapped with respect to channels of distribution and was simultaneously present in the U.S. market.[39] The Commission concluded that there was a reasonable overlap of competition between and among subject imports from Argentina and Indonesia and the domestic like product and cumulated subject imports from Argentina and Indonesia in its material injury analysis.[40]

2. Party Arguments

The Domestic Interested Parties argue that the Commission should exercise its discretion to cumulate subject imports from Argentina and Indonesia.[41] Claiming that market conditions have not changed since the original investigations, they assert that all subject imports are likely to compete with each other and the domestic like product in the U.S. market if the orders were revoked.[42] Domestic Producers also assert that there is no basis to conclude that biodiesel imported from either Argentina or Indonesia would likely have no discernible adverse impact on the domestic industry after revocation.[43]

C. Likelihood of No Discernible Adverse Impact

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.[44] Neither the statute nor the Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") provides specific guidance on what factors the Commission is to consider in determining that imports "are likely to have no discernible adverse impact" on the domestic industry.[45] With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked. Our analysis for each of the subject countries takes into account, among other things, the nature of the product and the behavior of subject imports in the original investigations.

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[38] *Original Leading Determinations*, USITC Pub. 4748 at 13-15.
[39] *Original Leading Determinations*, USITC Pub. 4748 at 13-15.
[40] *Original Leading Determinations*, USITC Pub. 4748 at 15.
[41] Domestic Interested Parties' Response at 5-9.
[42] Domestic Interested Parties' Response at 6, 8.
[43] Domestic Interested Parties' Response at 6.
[44] 19 U.S.C. § 1675a(a)(7).
[45] SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

Based on the record in these reviews, we find that imports from each subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation of the corresponding order.

Argentina. During the original investigations, subject imports from Argentina increased from 46.7 million gallons in 2014, or 3.4 percent of apparent U.S. consumption, to 196.9 million gallons in 2015, or 13.0 percent of apparent U.S. consumption, and 440.3 million gallons in 2016, or 20.0 percent of apparent U.S. consumption.[46] Subject imports from Argentina were 170.7 million gallons (equivalent to 20.2 percent of apparent U.S. consumption) in January-June 2017 ("interim 2017"), compared to 105.5 million gallons (equivalent to 12.1 percent of apparent U.S. consumption) in January-June 2016 ("interim 2016").[47] During the current period of review, subject imports from Argentina were 288.9 million gallons in 2017 but decreased to zero for the remainder of the period.[48]

The record of the current reviews contains limited new information concerning the biodiesel industry in Argentina because no producer in Argentina responded to the Commission's notice of institution.[49] The Domestic Interested Parties provided a list of 17 possible producers and/or exporters of biodiesel in Argentina.[50] According to information in the U.S. Department of Agriculture's ("USDA") Foreign Agricultural Service ("FAS") Biofuels Annual Report for Argentina, subject producers in Argentina produced 518 million gallons of biodiesel in 2021 but operated at a capacity utilization rate of only 44.2 percent that year, yielding excess capacity of approximately 600 million gallons.[51]

The record also indicates that the Argentine industry demonstrated the ability to export large volumes of biodiesel products during the period of review. Global Trade Atlas ("GTA") data concerning biodiesel under Harmonized System ("HS") subheading 3826.00, a category that includes pure biodiesel (B100) and mixtures of biodiesel with less than 70 percent by weight of fuels from petroleum,[52] show that Argentine exports of such merchandise decreased irregularly from 492.6 million gallons in 2017 to 342.2 million gallons in 2021, which made Argentina the world's sixth largest exporter of such merchandise that year.[53] These data also

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[46] CR/PR at Table C-1.
[47] CR/PR at Table C-1.
[48] CR/PR at Table I-5.
[49] *See* CR/PR at I- 17-18.
[50] CR/PR at I-17. *See also* Domestic Interested Parties' Response at Ex. 33.
[51] Domestic Interested Parties' Response at 26 and Ex. 15.
[52] For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of the order. CR/PR at I-17 n.45.
[53] CR/PR at Table I-8 & Table I-11.

show that the United States was the leading destination market for exports of biodiesel from Argentina in 2017, before such exports ceased.[54]

In the original investigations, subject imports from Argentina undersold the domestic like product in 24 of 50 instances, accounting for *** gallons.[55] Given the expedited nature of these reviews, no product-specific pricing data concerning subject imports from Argentina were obtained.

In light of the foregoing, including the significant and increasing volume of subject imports from Argentina in the original investigations, the large size, excess capacity, and volume of exports of the subject industry, and the underselling during the original investigations, we find that subject imports from Argentina would not likely have no discernible adverse impact on the domestic industry if the orders were revoked.

Indonesia. During the original investigations, subject imports from Indonesia increased from 51.0 million gallons in 2014, or 3.7 percent of apparent U.S. consumption, to 70.7 million gallons in 2015, or 4.7 percent of apparent U.S. consumption, and 110.4 million gallons in 2016, or 5.0 percent of apparent U.S. consumption.[56] There were no subject imports from Indonesia in interim 2017, compared to 43.2 million gallons (equivalent to 4.9 percent of apparent U.S. consumption) in interim 2016.[57] During the current period of review, subject imports from Indonesia were 18,000 gallons in 2017 but decreased to zero for the remainder of the period of review.[58]

The record of the current reviews contains limited new information concerning the biodiesel industry in Indonesia because no producer in Indonesia responded to the Commission's notice of institution.[59] The Domestic Interested Parties provided a list of 25 possible producers and/or exporters of biodiesel in Indonesia.[60] The information available indicates that the biodiesel industry in Indonesia expanded during the period of review with the opening of one new plant and the expansion of facilities in two different provinces.[61] This

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[54] CR/PR at Table I-8. Argentina exported 289.4 million gallons of exports under HS 3826.00 in 2017 to the United States. *Id.*

[55] *Original Leading Determinations*, USITC Pub. 4748 at V-14. *See also Original Investigations Confidential Report*, INV-PP-156, EDIS Doc. 786028 (Oct. 27, 2017) ("Original CR") at V-14.

[56] CR/PR at Table C-1.

[57] CR/PR at Table C-1.

[58] CR/PR at Table I-5.

[59] *See* CR/PR at I- 17-18

[60] CR/PR at I-18. *See also* Domestic Interested Parties' Response at Ex. 33.

[61] CR/PR at Table I-9.

growth is projected to ***.[62] Additionally, the USDA FAS's Biofuels Annual Report for Indonesia states that subject producers in Indonesia produced 2.5 billion gallons of biodiesel in 2021 but operated at a capacity utilization rate of only 61.8 percent that year, yielding excess capacity of 1.7 million gallons.[63]

The record also indicates that the Indonesian industry demonstrated the ability to export substantial volumes of biodiesel during the period of review. GTA data concerning biodiesel under HS subheading 3826.00, a category that includes pure biodiesel (B100) and mixtures of biodiesel with less than 70 percent by weight of fuels from petroleum, show that exports of such merchandise from Indonesia increased sharply from 49.0 million gallons in 2017 to 465.5 million gallons in 2018 before declining to 330.4 million gallons in 2019 and 10.1 million gallons in 2020, and then increasing to 54.0 million gallons in 2021.[64]

In the original investigations, subject imports from Indonesia, adjusted for RIN values, undersold the domestic like product in 25 of 30 instances, accounting for *** gallons.[65] Again, no product-specific pricing data concerning subject imports from Argentina were obtained in these expedited reviews.

Based on the foregoing, including the increasing volume of subject imports from Indonesia in the original investigations, the large size and excess capacity of the subject industry in Indonesia, the subject industry's demonstrated ability to export large volumes, and the underselling by subject imports from Indonesia during the original investigations, we find that subject imports from Indonesia would not likely have no discernible adverse impact on the domestic industry if the orders were revoked.

D. Likelihood of a Reasonable Overlap of Competition

The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like

[62] CR/PR at I-19.

[63] Domestic Interested Parties' Response at 29 and Exhibit 25.

[64] CR/PR at Table I-10. For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of the order. *Id.* at I-19 n.49. Although GTA data indicates that the United States was the ninth largest export destination for biodiesel exported from Indonesia in 2021, *id.*, there were no subject imports from Indonesia reported that year. *Id.* at Table I-5.

[65] *Original Leading Determinations*, USITC Pub. 4748 at V-14. *See also* Original CR at V-14.

product.[66] Only a "reasonable overlap" of competition is required.[67] In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.[68]

Fungibility. In the original investigations, the Commission found there to be a at least a moderate degree of fungibility between subject imports and domestically produced biodiesel. Notwithstanding arguments from the Indonesian respondents, the Commission observed that market participants generally perceived products from different sources to be interchangeable.[69] The Commission also found that an importers' large-scale blending of domestically produced biodiesel and biodiesel from both subject countries for transportation fuel and the fact that all biodiesel was produced to ASTM specification D6751 suggested that biodiesel from different sources was fungible.[70]

There is no new information in these reviews to indicate that the degree of fungibility of biodiesel from Argentina, Indonesia, and the United States has changed from that found in the original investigations.[71]

Channels of Distribution. In the original investigations, the Commission found that almost half of domestic production, and the great majority of subject imports from both

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[66] The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product. *See, e.g., Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[67] *See Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); *Wieland Werke,* 718 F. Supp. at 52 ("Completely overlapping markets are not required."); *United States Steel Group v. United States,* 873 F. Supp. 673, 685 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. *See, e.g*., *Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff'd sub nom., Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d 1353 (Ct. Int'l Trade 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-62 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

[68] *See generally*, *Chefline Corp. v. United States*, 219 F. Supp. 2d 1313, 1314 (Ct. Int'l Trade 2002).

[69] *Original Leading Determinations*, USITC Pub. 4748 at 13.

[70] *Original Leading Determinations*, USITC Pub. 4748 at 13-14.

[71] The Domestic Interested Parties assert that biodiesel remains fungible regardless of source. Domestic Interested Parties' Response at 34.

Argentina and Indonesia, were sold to distributors and independent blenders.[72] In the current reviews, there is no new information to indicate that there has been any change in the channels of distribution of subject imports from Argentina and Indonesia and the domestic like product since the original investigations.

Geographic Overlap. In the original investigations, the Commission found that biodiesel from U.S. producers was sold to all regions of the contiguous United States while imports from Argentina were sold in the Central Southwest, Southeast, Northeast, and Mountains regions and subject imports from Indonesia were sold in the Central Southwest, Southeast, and Northeast regions.[73] The Commission also found that state and local restrictions on palm-based biodiesel only affected a modest portion of the overall market.[74]

During the current review period, subject imports from Argentina entered through southern and eastern borders of entry while subject imports from Indonesia entered through eastern borders of entry in 2017, before subject imports ceased.[75]

Simultaneous Presence in Market. In the original investigations, the Commission found subject imports from both countries were present in the U.S. market during 26 months of the 42-month period of investigation ("POI").[76] In the current reviews, the record indicates that subject imports from Argentina were present in seven of the 60 months of the period of review, while subject imports from Indonesia were present in one of 60 months.[77]

Conclusion. While the record in these expedited reviews contains limited information concerning subject imports in the U.S. market during the period of review, it contains no new information suggesting a change in the considerations that led the Commission in its original determinations to conclude that there was a reasonable overlap of competition between and among subject imports from Argentina and Indonesia and the domestic like product. On that basis, and in the absence of any contrary argument, we find that there would likely be a reasonable overlap of competition between and among subject imports from Argentina and Indonesia and the domestic like product if the orders were revoked.

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[72] *Original Leading Determinations*, USITC Pub. 4748 at 14.
[73] *Original Leading Determinations*, USITC Pub. 4748 at 14-15.
[74] *Original Leading Determinations*, USITC Pub. 4748 at 14-15.
[75] CR/PR at I-15.
[76] *Original Leading Determinations*, USITC Pub. 4748 at 15.
[77] CR/PR at I-15.

E. Likely Conditions of Competition

In determining whether to exercise our discretion to cumulate the subject imports, we assess whether subject imports from Argentina and Indonesia would likely compete under similar or different conditions of competition in the U.S. market after revocation of the orders. The record in these reviews does not indicate that there likely would be any significant difference in the conditions of competition between subject imports from Argentina and Indonesia if the orders were revoked, and no party has argued to the contrary. Accordingly, based on the information available, we find the imports from Argentina and Indonesia are likely to compete under similar conditions of competition in the event of revocation of the orders.

F. Conclusion

Based on the foregoing, we find that subject imports from Argentina and Indonesia, considered individually, would not be likely to have no discernible adverse impact on the domestic industry if the corresponding orders were revoked. Based on the foregoing, we also find a likely reasonable overlap of competition between subject imports from Argentina and Indonesia and between the subject imports from each subject country and the domestic like product, and we find that imports from Argentina and Indonesia are likely to compete in the U.S. market under similar conditions of competition should the orders be revoked. We therefore exercise our discretion to cumulate subject imports from Argentina and Indonesia for purposes of our analysis in these reviews.

IV. Revocation of the Antidumping and Countervailing Duty Orders Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[78]

[78] 19 U.S.C. § 1675a(a).

The SAA states that "under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[79] Thus, the likelihood standard is prospective in nature.[80] The U.S. Court of International Trade ("CIT") has found that "likely," as used in the five-year review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[81]

The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[82] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis in original investigations."[83]

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of

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[79] SAA at 883-84. The SAA states that "{t}he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." *Id*. at 883.

[80] While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

[81] *See NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), *aff'd mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) ("more likely than not" standard is "consistent with the court's opinion;" "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); *Usinor v. United States*, 26 CIT 767, 794 (2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[82] 19 U.S.C. § 1675a(a)(5).

[83] SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." *Id*.

imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[84] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[85] The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination.[86]

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[87] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[88]

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[89]

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[84] 19 U.S.C. § 1675a(a)(1).

[85] 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings with respect to the orders under review. AD Issues & Decision Memo at 3.

[86] 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[87] 19 U.S.C. § 1675a(a)(2).

[88] 19 U.S.C. § 1675a(a)(2)(A-D).

[89] *See* 19 U.S.C. § 1675a(a)(3). The SAA states that "{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[90] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.[91]

No respondent interested party participated in these expedited reviews. The record, therefore, contains limited new information with respect to the biodiesel industry in Argentina and Indonesia. There also is limited information about the market for biodiesel in the United States during the period of review. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigations and the limited new information in the record of these reviews.

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked or a suspension agreement is terminated, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[92] The following conditions of competition inform our determination.

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[90] 19 U.S.C. § 1675a(a)(4).

[91] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[92] 19 U.S.C. § 1675a(a)(4).

1. Overview of the Renewable Fuel Market

Original Investigations. The Commission observed that the renewable fuel market of the United States was influenced by a federal regulatory program known as the Renewable Fuel Standard ("RFS") program, which was created by the U.S. Environmental Protection Agency ("EPA") under the authority of the Energy Policy Act of 2005. In 2007, Congress expanded and modified the RFS program to include biodiesel.[93] This program required U.S. transportation fuel to contain a minimum volume of renewable fuel and established separate requirements for different classes of biofuels.[94]

The Commission also found that the EPA set overall minimum target volumes for each renewable fuel in order to meet the program's stated goals of reducing greenhouse gas emissions and expanding the nation's renewable fuels sector while reducing reliance on imported oil.[95] For a biofuel to qualify toward the RFS mandated volume, it had to be made from renewable biomass, and also had to achieve a significant reduction in life cycle greenhouse gas emissions compared to petroleum-based diesel or gasoline fuel.[96]

The Commission further found that the EPA required "obligated parties," which were producers and importers of gasoline or diesel fuel, to meet individual annual renewable volume obligations ("RVOs") for the different categories of renewable fuel. The EPA ensured that obligated parties complied with the RVOs through the use of a tradable credit system under which obligated parties had to submit to the EPA each year a quantity of RINs that equaled the number of gallons of renewable fuel in their RVO.[97] The EPA Moderated Transaction System (EMTS) was used to register RIN transactions.[98]

The Commission explained that the biodiesel market was also driven by a federal blender's tax credit (BTC), which permitted blenders of domestically produced or imported

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[93] *Original Leading Determinations*, USITC Pub. 4748 at 19.

[94] *Original Leading Determinations*, USITC Pub. 4748 at 19.

[95] *Original Leading Determinations*, USITC Pub. 4748 at 19.

[96] *Original Leading Determinations*, USITC Pub. 4748 at 19. As the Commission explained, biodiesel, or what the EPA calls "biomass-based diesel," is one of the four renewable fuel categories in the RFS; the three other categories are cellulosic biofuel, advanced biofuel, and total renewable fuel. *Id.* The EPA set minimum volumes for biodiesel and the other fuel categories and had increased these volumes each year since 2013. *Id.*

[97] *Original Leading Determinations*, USITC Pub. 4748 at 20. As the Commission explained, there were different classes of RINs depending on the feedstock used to produce the renewable fuel and each RIN type had a different market value, but the RIN prices usually tracked each other and were generally relatively close in value. *Id*.

[98] *Original Leading Determinations*, USITC Pub. 4748 at 20.

biodiesel to claim a $1 per gallon refundable tax credit.[99] The BTC could be used to offset excise tax liability or exchanged for cash, and was therefore viewed as a revenue stream by market participants.[100] The BTC was initially established by Congress in 2005 and subsequently lapsed, only to be reinstated retroactively, several times before lapsing in January 2017.[101]

Current Reviews. The record indicates that the U.S. government continues to provide incentives for the use of biodiesel through the same regulatory support mechanisms that existed during the original investigations, including biofuel mandates, the BTC, and the trading of RINs.[102] The EPA's annual volume requirements for bio-mass-based diesel increased from 2.0 billion gallons in 2017 to 2.76 billion gallons 2022, and the EPA has proposed that these required volumes be increased to 2.82 billion gallons in 2023, 2.89 billion gallons in 2024, and 2.95 billion gallons in 2025.[103]

In December 2019, the BTC of $1 per gallon of biodiesel was extended through 2022, retroactive to 2018. In August 2022, the BTC was extended through December 31, 2024.[104]

The EPA also continues to regulate compliance with the RFS using RIN credits. Biodiesel producers can use RINs to satisfy their obligations under the RFS and trade surplus credits to other obligated parties as an additional income source. ***.[105]

2. Demand Conditions

Original Investigations. The Commission observed that biodiesel is blended with petrodiesel for use as a transportation fuel or a home heating oil. The Commission found that demand for biodiesel was driven largely by increasing volume requirements under the RFS program, rather than by end use demand trends. The Commission also found that the BTC and state and local tax credits and mandates had increased demand for biodiesel. [106] Apparent U.S. consumption increased from 1.4 billion gallons in 2014 to 1.5 billion gallons in 2015 and 2.2 billion gallons in 2016.[107] Apparent U.S. consumption was lower in interim 2017 after the expiration of the BTC (844.1 million gallons) than in interim 2016 (875.7 million gallons).[108]

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[99] *Original Leading Determinations*, USITC Pub. 4748 at 21.
[100] *Original Leading Determinations*, USITC Pub. 4748 at 21.
[101] *Original Leading Determinations*, USITC Pub. 4748 at 21.
[102] CR/PR at I-10.
[103] CR/PR at I-10.
[104] CR/PR at I-10.
[105] CR/PR at I-10.
[106] *Original Leading Determinations*, USITC Pub. 4748 at 21.
[107] *Original Leading Determinations*, USITC Pub. 4748 at 22. *See also* CR/PR at Table C-1.
[108] *Original Leading Determinations*, USITC Pub. 4748 at 22. *See also* CR/PR at Table C-1.

Current Reviews. The information available indicates that demand declined during the current period of review. The Domestic Interested Parties contend that demand for biodiesel continues to be driven by RFS volume requirements along with other state and local tax credits and mandates instead of end-use demand factors.[109] They assert that domestic consumption of biodiesel declined during the period of review, as consumption of renewable diesel increased. According to them, renewable diesel is generally interchangeable with biodiesel for purposes of RFS program mandates but chemically indistinguishable from petrodiesel, permitting its use in the existing storage and distribution infrastructure for petrodiesel, unlike biodiesel.[110] The U.S. Department of Energy's Annual Energy Outlook 2022 projects that domestic biodiesel production will remain flat or decline in the next several years.[111] On the other hand, responding purchaser *** reported ***.[112]

In 2021, apparent U.S. consumption of biodiesel was *** gallons, which was lower than apparent U.S. consumption in any year of the original investigations.[113]

3. Supply Conditions

Original Investigations. The domestic industry was the largest supplier of biodiesel to the U.S. market during the POI, though its share of apparent U.S. consumption declined from 86.2 percent in 2014 to 67.9 percent in 2016.[114] The Commission also observed that six of 25 domestic producers accounted for over half of domestic production of biodiesel, and that the domestic industry had increased its capacity from 1.4 billion gallons in 2014 to 1.8 billion

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[109] Domestic Interested Parties' Response at 13. Domestic Interested Parties' Final Comments at 5.

[110] Domestic Interested Parties' Response at 13-14. Domestic Interested Parties' Final Comments at 5-6

[111] Domestic Interested Parties' Response at 14, Ex. 12.

[112] CR/PR at D-3.

[113] CR/PR at Table I-6. Apparent U.S. consumption in 2021 may be understated as compared to apparent U.S. consumption in the original investigations because consumption in the current reviews was calculated using U.S. producers' U.S. shipment data provided by the Domestic Interested Parties in their response to the notice of institution, which accounted for at least *** percent of U.S. biodiesel production in 2021, whereas apparent U.S. consumption in the original investigations was calculated using information from the U.S. Energy Information Administration ("EIA") for the domestic industry's U.S. shipments, which was comprehensive. CR/PR at I-9 and Table I-6; *Original Leading Determinations*, USITC Pub. 4748 at I-4 n. 5 (noting that EIA data accounted for all domestic production of biodiesel in 2016). In both consumption calculations import shipments are based on official U.S. import statistics. CR/PR at Table I-6.

[114] *Original Leading Determinations*, USITC Pub. 4748 at 22.

gallons in 2016.[115] While much of the domestic industry's production capacity was located in the Midwest, the Commission noted, there were also plants on the East, West, and Gulf Coasts.[116]

Cumulated subjects imports increased their share of apparent U.S. consumption from 7.0 percent in 2014 to 25.0 percent in 2016.[117] One company, Biosphere, imported and used approximately half of subject imports in 2016 at its truck stops.[118] The Commission observed that, even though subject imports from Indonesia were made from palm oil and thus did not meet the RFS program's minimum greenhouse gas reduction threshold, the EPA "grandfathered" the two Indonesian producers responsible for all subject imports from Indonesia so that such imports could generate RINs, like subject imports from Argentina made from soybean oil.[119]

The Commission found that the share of apparent U.S. consumption accounted for by nonsubject imports was relatively stable over the POI, at 3.9 to 7.1 percent, and that Canada was the largest source of nonsubject imports.[120]

Current Reviews. The domestic industry was the *** source of supply to the U.S. market in 2021, accounting for *** percent of apparent U.S. consumption that year.[121] This was higher than the domestic industry's share of apparent U.S. consumption in 2015 and 2016 but lower than in 2014.[122]

The Domestic Interested Parties contend that the domestic industry possesses sufficient capacity to supply the entire U.S. biodiesel market, including substantial unutilized capacity.[123] During the period of review, there were several changes to the domestic industry. Cargill began operating a 60 million gallon per year facility in Wichita, Kansas in 2019.[124] W2Fuel LLC., closed facilities in Crawfordsville, Iowa and Adrian, Michigan. Hero BX acquired Clinton County

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[115] *Original Leading Determinations*, USITC Pub. 4748 at 22.
[116] *Original Leading Determinations*, USITC Pub. 4748 at 22.
[117] *Original Leading Determinations*, USITC Pub. 4748 at 23.
[118] *Original Leading Determinations*, USITC Pub. 4748 at 23.
[119] *Original Leading Determinations*, USITC Pub. 4748 at 23.
[120] *Original Leading Determinations*, USITC Pub. 4748 at 23.
[121] CR/PR at Table I-6.
[122] CR/PR at Table I-6. The domestic industry's share of apparent U.S. consumption may be understated in these reviews relative to the industry's share of apparent U.S. consumption in the original investigations due to the lower data coverage of the domestic industry in these reviews as compared to that in the original investigations, as discussed in section IV.B.2 above. *See* CR/PR at I-9 and Table I-6.
[123] Domestic Interested Parties' Response at 16.
[124] CR/PR at Table I-3.

Biodiesel in Clinton County, Iowa as well as Midwest Biodiesel Product in South Roxana, Illinois in 2018.[125] Marathon Petroleum Corp. acquired the Duonix facility in Beatrice, Nebraska with a 50 million gallon per year capacity in 2020.[126] Renewable Energy Group expanded capacity at its Ralston, Iowa facility from 12 to 30 million gallons per year in 2018 but closed its 15 million gallon per year facility in New Boston, Texas in 2019.[127]

The information available indicates that there have been no subject imports since the imposition of the orders in 2018.[128] Nonsubject imports were the *** largest source of supply in the U.S. market in 2021, accounting for *** percent of apparent U.S. consumption that year.[129] The largest sources of nonsubject imports during the review period were Canada, Germany, Spain, and South Korea.[130]

Responding purchaser *** reported that, since January 1, 2018, ***.[131] *** also reported anticipating that ***.[132]

4. Substitutability and Other Conditions

Original Investigations. The Commission found that there was a moderate-to-high degree of substitutability between the subject imports and domestically produced biodiesel, observing that market participants indicated that subject imports and domestic biodiesel were at least sometimes interchangeable, notwithstanding certain product distinctions.[133] The Commission also found that price was an important factor in purchasing decisions.[134]

Both domestic producers and importers reported that federal and state incentives and tax credits were important factors in setting prices for biodiesel.[135] The Commission found that biodiesel prices were generally tied to petrodiesel prices, with biodiesel often selling at

[125] CR/PR at Table I-3.
[126] CR/PR at Table I-3.
[127] CR/PR at Table I-3.
[128] CR/PR at Table I-5 & note.
[129] CR/PR at Table I-6.
[130] CR/PR at Table I-5.
[131] CR/PR at D-3.
[132] CR/PR at D-3.
[133] *Original Leading Determinations*, USITC Pub. 4748 at 23.
[134] *Original Leading Determinations*, USITC Pub. 4748 at 23.
[135] *Original Leading Determinations*, USITC Pub. 4748 at 24.

premium due to the BTC and RINs.[136] The Commission also found that the majority of sales of the domestic like product and subject imports were pursuant to short-term contracts.[137]

Raw materials, consisting primarily of soybean oil, accounted for a substantial portion of the domestic industry's cost of goods sold ("COGS") during the POI, ranging from 85.1 to 87.7 percent of COGS.[138]

Current Reviews. There is no new information on this record to indicate that the degree of substitutability between the domestic like product and subject imports or the importance of price in purchasing decisions has changed since the original investigations, and the Domestic Interested Parties agree with the Commission's previous findings regarding these factors.[139] Accordingly, we continue to find a moderate-to-high degree of substitutability between the subject imports and domestically produced biodiesel, and that price is an important factor in purchasing decisions.

C. Likely Volume of Subject Imports

1. The Original Investigations

The volume of cumulated subject imports increased from 97.8 million gallons in 2014 to 276.6 million gallons in 2015, and to 550.7 million gallons in 2016, and was 170.7 million gallons in interim 2017 compared to 148.7 million gallons in interim 2016.[140] As a share of apparent U.S. consumption, cumulated subject imports increased from 7.0 percent in 2014 to 17.7 percent in 2015 and 25.0 percent in 2016, and were 20.2 percent in interim 2017 compared to 17.0 percent in interim 2016.[141] The Commission found that the domestic industry's market share declined by a comparable amount between 2014 and 2016 and that the volume of subject imports rose at a much faster rate than apparent U.S. consumption.[142]

The Commission rejected the Argentine respondents' arguments that the increase in subject import volume was not significant because the domestic industry was essentially operating at full capacity, finding that the industry was operating at only a moderate level of

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[136] *Original Leading Determinations*, USITC Pub. 4748 at 24-25.
[137] *Original Leading Determinations*, USITC Pub. 4748 at 24.
[138] *Original Leading Determinations*, USITC Pub. 4748 at 25.
[139] Domestic Interested Parties' Response at 18; Domestic Interested Parties' Final Comments at 8
[140] *Original Leading Determinations*, USITC Pub. 4748 at 25.
[141] *Original Leading Determinations*, USITC Pub. 4748 at 25.
[142] *Original Leading Determinations*, USITC Pub. 4748 at 25.

capacity utilization with no significant supply constraints.[143] The Commission also disagreed with the Argentine respondents' contention that increased subject imports resulted from high U.S. transportation costs or a geographic mismatch between the locations of domestic production and consumption, observing that domestic production of biodiesel was geographically dispersed and that there was no evidence that inadequate infrastructure had hindered distribution.[144]

In light of the foregoing, the Commission found that the volume of cumulated subject imports, and the increase in that volume, were significant in absolute terms and relative to consumption in the United States.[145]

1. The Current Reviews

The record indicates that the antidumping and countervailing duty orders have had a disciplining effect on the volume of subject imports. Cumulated subject imports decreased from 288.9 million gallons in 2017, before imposition of the orders, to zero for the remainder of the period of review.[146]

The record of these expedited reviews contains limited information on the biodiesel industries in Argentina and Indonesia. Nevertheless, the available information indicates that subject producers in both countries have the means and incentive to produce and export significant volumes of the subject merchandise to the U.S. market within a reasonably foreseeable time if the orders were revoked.

The Domestic Interested Parties identified 17 possible producers of biodiesel in Argentina.[147] According to the USDA FAS's Biofuels Annual Report concerning Argentina, the Argentine industry produced 518 million gallons of primarily soybean-based biodiesel in 2021, making it the fifth largest global producer of biodiesel according to OECD data.[148] Argentina biodiesel production is projected to grow even further in 2022, reaching 555 million gallons.[149] Nevertheless, this same report indicates that biodiesel producers in Argentina were operating at a capacity utilization rate of only 44.2 percent in 2021 and are projected to operate at a

[143] *Original Leading Determinations*, USITC Pub. 4748 at 26-27.
[144] *Original Leading Determinations*, USITC Pub. 4748 at 27.
[145] *Original Leading Determinations*, USITC Pub. 4748 at 28.
[146] CR/PR at Table I-6.
[147] CR/PR at I-17-18. *See also* Domestic Interested Parties' Response at Ex. 33.
[148] Domestic Interested Parties' Response at 22, Exs. 15-16.
[149] Domestic Interested Parties' Response at 22, Ex. 15.

capacity utilization rate of 47.4 percent in 2022.[150] Thus, subject producers in Argentina possessed excess capacity of approximately 600 million gallons in 2021, equivalent to *** percent of apparent U.S. consumption that year.[151]

The record also indicates that subject producers in Argentina remain export oriented. According to the relevant USDA FAS report, subject producers in Argentina have exported at least half of their production each year since 2016, with exports as a percent of production reaching a peak of 73.5 percent in 2021.[152] As discussed in section III.C above, GTA data concerning biodiesel under HS subheading 3826.00, a category that includes pure biodiesel (B100) and mixtures of biodiesel with less than 70 percent by weight of fuels from petroleum,[153] indicate that Argentine exports of such merchandise declined irregularly from 492.6 million gallons in 2017 to 342.2 million gallons in 2021, which still made Argentina the world's sixth largest exporter of such merchandise that year.[154] These data also show that the United States was the leading destination market for exports of biodiesel from Argentina in 2017, before imposition of the orders caused such exports to cease.[155]

The Domestic Interested Parties also identified 25 possible producers of biodiesel in Indonesia.[156] The information available indicates that subject producers in Indonesia also possess substantial capacity, including excess capacity. According to the USDA FAS's Biofuels Annual Report for Indonesia, the Indonesian industry produced 2.5 billion gallons of palm-based biodiesel in 2021, making it the third largest global producer of biodiesel according to OECD data.[157] Indonesian biodiesel production is projected to grow even further in 2022, reaching 2.7 billion gallons.[158] Nevertheless, the capacity utilization rate of subject producers in Indonesia was only 66.3 percent in 2021, and is projected to decline to 61.8 percent in 2022.[159] Subject producers in Indonesia had excess capacity of 1.7 million gallons in 2021, equivalent to 141.7 percent of apparent U.S. consumption that year.[160] Notwithstanding this substantial

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[150] Domestic Interested Parties' Response at 25, Ex. 15.

[151] Domestic Interested Parties' Response at 25, Figure 5; CR/PR at Table I-6.

[152] Domestic Interested Parties' Response at 25, Ex. 15.

[153] For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of the orders. CR/PR at I-17 n.45.

[154] CR/PR at Tables I-8 and I-11.

[155] CR/PR at Table I-8.

[156] CR/PR at I-17-18. *See also* Domestic Interested Parties' Response at Ex. 33.

[157] Domestic Interested Parties' Response at 29 & Exs. 16,27.

[158] Domestic Interested Parties' Response at 29.

[159] Domestic Interested Parties' Response at 30.

[160] Domestic Interested Parties' Response at 30.

excess capacity, the information available indicates that there is a new biodiesel plant under construction in East Kalimantan and expansions underway at biodiesel facilities located in South Kalimantan and Lampung.[161]

The record also indicates that subject producers in Indonesia demonstrated the ability to export substantial volumes of biodiesel during the period of review. According to the relevant USDA FAS's report, exports by subject producers in Indonesia peaked at around a third of their production in 2018, before declining thereafter.[162] The Domestic Interested Parties contend that subject producers in Indonesia increased their focus on home market customers due to trade actions in the EU and United States and domestic blending mandates.[163] GTA data indicate that exports of biodiesel under HS subheading 3826.00 from Indonesia increased sharply from 49.0 million gallons in 2017 to 465.5 million gallons in 2018 before declining to 330.4 million gallons in 2019 and 10.1 million gallons in 2020, and then increasing to 54.0 million gallons in 2021.[164]

Available information also indicates that the U.S. market remains attractive to subject producers. According to the Domestic Interested Parties, U.S. biodiesel prices are higher than those in the subject producers' home markets and primary export destination, the EU.[165] Countervailing duties imposed by the EU, covering imports of biodiesel from Argentina and Indonesia, as well as antidumping measures imposed by Peru on imports of biodiesel from Argentina, would provide additional incentives for subject producers to increase their exports to the United States in the event of revocation.[166]

In light of the significant and increasing volume of cumulated subject imports during the original investigations, the subject industries' large capacity, including excess capacity, the demonstrated ability of subject producers in Argentina and Indonesia to export substantial volumes of biodiesel, and the attractiveness of the U.S. market to subject producers, we find

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[161] CR/PR at I-19.

[162] Domestic Interested Parties' Response at 30, Ex. 27.

[163] Domestic Interested Parties' Response at 30, Ex. 27.

[164] CR/PR at Table I-10. For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of the orders. *Id.* at I-19 n.49.

[165] Domestic Interested Parties' Response at 27, 31. In April 2022, U.S. biodiesel prices were $2.00 per liter, compared to $1.70 per liter in the European Union. *Id.* at 27 n.92, 31 n.107, Exs. 26, 29. In the same month, the government-set prices of biodiesel were $1.43 per liter in Argentina and $1.09 per liter in Indonesia. *Id.*

[166] CR/PR at I-21; *see also* Domestic Interested Parties' Response at 26-27 and 31. A price undertaking agreement between the EU and Argentine producers allows approximately 360 million gallons (1.2 million metric tons) per year of Argentine imports to enter at a minimum price without paying the countervailing duties. CR/PR at I-21.

that the volume of cumulated subject imports would likely be significant, both in absolute terms and relative to consumption in the United States, if the orders were revoked.[167]

D. Likely Price Effects of Subject Imports

1. The Original Investigations

The Commission found that there was a moderate-to-high degree of substitutability between domestically produced biodiesel and subject imports, and that price was an important factor in purchasing decisions.[168]

During the POI, subject imports undersold the domestic like product in 49 of 84 quarterly price comparisons (58 percent of the quarterly comparisons) amounting to *** gallons of subject imports (60 percent of the subject import volume in the pricing data)), with underselling margins ranging from *** percent to *** percent.[169] The Commission also found that responses to the lost sales/lost revenue survey confirmed that purchasers purchased 207.9 million gallons of subject imports instead of the domestic like product due to their lower price.[170] Based on these factors, the Commission found that there was significant underselling of the domestic like product by subject imports.[171]

The Commission also found that subject imports prevented domestic price increases that would have otherwise occurred.[172] It found that prices for domestically produced pricing products declined from 2014 to 2015 but increased in 2016 and interim 2017, for an overall decline ranging from 8.1 percent to *** percent depending on the product.[173] It also found that the domestic industry's increasing prices towards the end of the POI were insufficient to cover the industry's increasing costs, despite strong growth in apparent U.S. consumption, causing the industry's ratio of COGS to net sales to increase from 87.6 percent in 2015 to 89.5

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[167] The record of these expedited reviews does not contain information about inventories of the subject merchandise or the potential for product shifting.

[168] *Original Leading Determinations*, USITC Pub. 4748 at 28.

[169] *Original Leading Determinations*, USITC Pub. 4748 at 29; *Confidential Leading Determination*, EDIS Doc. 78036 at 41.

[170] *Original Leading Determinations*, USITC Pub. 4748 at 29.

[171] *Original Leading Determinations*, USITC Pub. 4748 at 29.

[172] *Original Leading Determinations*, USITC Pub. 4748 at 30-31; *Confidential Leading Determination* at 42.

[173] *Original Leading Determinations*, USITC Pub. 4748 at 30.

percent in 2016 and 102.3 percent in interim 2017, compared to 94.1 percent in interim 2016.[174]

The Commission concluded that significant subject import underselling had caused a shift in market share from the domestic industry to subject imports and suppressed domestic prices to a significant degree.[175]

2. The Current Reviews

As discussed in section III.B.3, we continue to find a moderate-to-high degree of substitutability between the subject imports and domestically produced biodiesel and that price is an important factor in purchasing decisions.

The record in these expedited reviews does not contain new product-specific pricing information. Based on the available information, including the significant subject import underselling in the original investigations, the moderate-to-high degree of substitutability between subject imports and the domestic like product, the importance of price in purchasing decisions, and the attractiveness of the U.S. market to subject producers, we find that if the orders were revoked, significant volumes of subject imports would likely undersell the domestic like product to a significant degree. Absent the discipline of the orders, the significant volumes of low-priced subject imports would likely force domestic producers to reduce their prices, forego needed price increases, or risk losing sales and market share to subject imports, as they did in the original investigations. Accordingly, we find that subject imports would cause significant price effects within a reasonably foreseeable time if the orders were revoked.

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[174] *Original Leading Determinations*, USITC Pub. 4748 at 30.

[175] *Original Leading Determinations*, USITC Pub. 4748 at 30-31. The Commission recognized that the unavailability of the BTC in 2017 resulted in lower net sales revenue in interim 2017, and therefore contributed to interim 2017 net sales values being lower than that for interim 2016 on both an aggregate and per unit basis. *Id*. at 30 n.189. However, the Commission observed that since the BTC reduced biodiesel prices because some portion of the credit is shared with purchasers through lower prices; this meant that when the BTC was no longer available, the domestic industry should have obtained higher prices to compensate for its loss but were unable to due to increasing sales of low-priced subject imports. *Id*.

E. Likely Impact of Subject Imports[176]

1. The Original Investigations

The Commission found that the domestic industry's performance indicators were "generally lackluster" over the POI, despite a large increase in apparent U.S. consumption.[177] The Commission found that, as a result of underselling by subject imports, the domestic industry's market share decreased steadily, and the domestic industry's production and sales grew more slowly than apparent U.S. consumption.

Additionally, the Commission found that improvements in the domestic industry's financial performance during the 2014-2016 period were not commensurate with the increase in apparent U.S. consumption,[178] and stemmed in part from increasing revenues from the BTC. Even before the lapse of the BTC, the Commission found, the domestic industry experienced adverse effects from subject imports, including a decline in the industry's ratio of operating income to net sales from 2015 to 2016.[179] After the BTC lapsed, the industry's prices did not permit the industry to recover its costs, as low-priced subject imports suppressed domestic prices and reduced the industry's profits.[180]

The Commission found that increasing and significant volumes of low-priced subject imports took market share from the domestic industry, resulting in lower domestic production, shipments, and sales than would have otherwise occurred given the strong growth in apparent U.S. consumption.[181] The Commission also found that the domestic industry had lower revenues than it otherwise would have obtained, and declining financial performance, as

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[176] In its expedited reviews of the subject countervailing duty orders, the Department of Commerce determined that revocation of the orders would result in the continuation or recurrence of countervailable subsidies, with estimated margins ranging from 71.45 to 72.28 percent for Argentina, and from 34.45 to 64.73 percent for Indonesia. *Biodiesel From Argentina and Indonesia: Final Results of Expedited First Sunset Reviews of the Countervailing Duty Orders*, 88 Fed. Reg. 20130 (April 5, 2023).

In its expedited reviews of the antidumping orders, the Department of Commerce determined that revocation of the orders would result in the continuation or recurrence of dumping, with margins ranging up to 86.23 percent for Argentina, and 275.65 percent for Indonesia. *Biodiesel From Argentina and Indonesia: Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 88 Fed. Reg. 19920 (April 4, 2023).

[177] *Original Leading Determinations*, USITC Pub. 4748 at 31.

[178] *Original Leading Determinations*, USITC Pub. 4748 at 33.

[179] *Original Leading Determinations*, USITC Pub. 4748 at 33.

[180] *Original Leading Determinations*, USITC Pub. 4748 at 33, 34 n.209.

[181] *Original Leading Determinations*, USITC Pub. 4748 at 34.

subject imports prevented the industry from increasing its shipments commensurately with growing demand and suppressed domestic prices.[182]

The Commission rejected respondents' argument that subject imports did not cause material injury to the domestic industry in light of the industry's increased output and improvements in many financial indicators, finding that increased subject imports had materially reduced the industry's output and suppressed domestic prices, causing reduced financial performance late in the POI.[183]

The Commission observed that apparent U.S. consumption increased during most of the POI. It found that although apparent U.S. consumption was lower during interim 2017 due to the expiration of the BTC, the loss of market share that occurred both during the interim period and the earlier portions of the POI could not be explained by the relatively modest reduction in demand that occurred during interim 2017.[184]

The Commission recognized that nonsubject imports maintained a nontrivial presence in the U.S. market, but observed that their market share increased only modestly, while nonsubject imports from Canada, the largest source of nonsubject imports, were generally priced higher than subject imports.[185]

2. The Current Reviews

The record in these expedited reviews contains limited new information on the domestic industry's performance since the original investigations. The information available indicates that the domestic industry's performance was generally stronger in 2021 than in 2016, the last year examined in the original investigations, though the industry's output and capacity utilization were generally lower.[186] In 2021, the industry's capacity was *** gallons, its production was *** gallons, its U.S. shipments were *** gallons, and its capacity utilization rate

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[182] *Original Leading Determinations*, USITC Pub. 4748 at 34.
[183] *Original Leading Determinations*, USITC Pub. 4748 at 34 n.209.
[184] *Original Leading Determinations*, USITC Pub. 4748 at 34-35.
[185] *Original Leading Determinations*, USITC Pub. 4748 at 35.
[186] The domestic industry's performance may be understated in these reviews as compared to the industry's performance in the original investigations due to the lower data coverage of the industry in these reviews relative to that in the original investigations. In the original investigations the domestic industry's U.S. shipments were based upon comprehensive EIA data, as discussed in section IV.B.2 above, and the industry's other performance indicators were based upon the questionnaire responses of domestic producers accounting for at least 90.0 percent of domestic production of biodiesel in 2016. *See* CR/PR at I-9, Table I-4. By contrast, the responding domestic producers in these reviews accounted for at least *** percent of domestic biodiesel production in 2021. *Id*. at I-9.

was *** percent – all lower than in 2016.[187] The value of the U.S. shipments at $***, and market share of *** percent in 2021 were all higher than in 2016.[188] In 2021, the domestic industry had net sales revenues of $***, gross profit of $***, operating income of $***, and a ratio of operating income to net sales of *** percent, which were also higher than in 2016.[189] This limited information is insufficient for us to make a finding as to whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the orders.

Based on the information available in these reviews, we find that revocation of the orders would likely lead to a significant volume of subject imports that would likely significantly undersell the domestic like product to gain market share. Given the moderate-to-high degree of substitutability between domestically produced biodiesel and subject imports and the importance of price to purchasers, the likely significant volume of low-priced subject imports would likely capture sales and market share from the domestic industry and/or force domestic producers to lower their prices to defend their sales, thereby depressing or suppressing prices for the domestic like product to a significant degree. Consequently, subject imports would likely have a significant impact on the production, shipments, sales, market share, and revenue of the domestic industry. These declines would likely impact the domestic industry's profitability and employment, and its ability to raise capital and to make and maintain capital investments. Consequently, we conclude that if the orders were revoked, cumulated subject imports from Argentina and Indonesia would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

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[187] CR/PR at Table I-4. The domestic industry's reported capacity and production in 2021 were higher than in 2014, the same in 2015, and lower than in 2016. *Id. See also* CR/PR at Appendix C. The domestic industry's capacity was 1.4 billion gallons in 2014, 1.5 billion gallons in 2015, and 1.8 billion gallons in 2016; production was 1.0 billion gallons in 2014, 1.1 billion gallons in 2015, and 1.4 billion gallons in 2016. *Id*. The domestic industry's capacity utilization rate of *** percent in 2021 was lower compared to the rate of 75.1 percent in 2014, 73.5 percent in 2015, and 77.7 percent in 2016. *Id*.

[188] CR/PR at Tables I-4, I-6. The reported quantity of U.S. shipments was lower in 2021 than during each year of the original investigations, but the value of the U.S. shipments in 2021 was higher than each year during the original investigations. *Id.* The reported quantity of the domestic industry's U.S. shipments was 1.2 billion gallons in 2014, with a value of $4.0 billion; 1.2 billion gallons in 2015, with a value of $3.1 billion; and 1.5 billion gallons in 2016, with a value of $3.6 billion. *Id*.

[189] CR/PR at Table I-4. The industry's net sales, gross profit, operating income, and ratio of operating income to net sales were higher in 2021 then in any year of the original investigations. *Id*. The domestic industry's net sales were $3.9 billion in 2014, $3.3 billion in 2015, and $4.3 billion in 2016; gross profits were $356.6 million in 2014, $412.1 million in 2015, and $456.4 million in 2016; operating income was $209.1 million in 2014, $254.6 million in 2015, and $271.8 million in 2016; and the ratio of operating income to net sales was 5.4 percent in 2014, 7.6 percent in 2015, and 6.3 percent in 2016. *Id*.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports. Although nonsubject imports have increased their presence in the U.S. market since the prior reviews, accounting for *** percent of apparent U.S. consumption by quantity in 2021,[190] the record provides no indication that the presence of nonsubject imports would prevent cumulated subject imports from entering the U.S. market in significant quantities and underselling the domestic product if the orders were revoked. Moreover, given the domestic industry's *** percent share of apparent U.S. consumption in 2021, as well as the moderate-to-high degree of substitutability between subject imports and the domestic like product, the likely significant volume of low-priced subject imports would take market share at least in part from the domestic industry, as well as potentially from nonsubject imports, and/or depress or suppress domestic prices to a significant degree. Consequently, any effects of nonsubject imports would be distinct from the likely effects attributable to the subject imports.

We recognize that apparent U.S. consumption was *** percent lower in 2021 than in 2016.[191] Apparent U.S. consumption in 2021, however, may be understated relative to apparent U.S. consumption in 2016 due to the lower data coverage of the domestic industry in these reviews as compared to that in the original investigations, as discussed in section IV.B.2 above.[192] Nevertheless, the Domestic Interested Parties attribute the decline in apparent U.S. consumption to increased consumption of renewable diesel at the expense of biodiesel, and highlight the U.S. Department of Energy's projection that domestic biodiesel production will remain flat or decline over the next several years.[193] Despite declining demand for biodiesel during the period of review, the available information indicates the lower level of apparent U.S. consumption did not prevent the domestic industry from improving its financial performance in 2021 relative to 2016.[194] Even if demand were to decline in the reasonably foreseeable future, the significant volume of low-priced subject imports that is likely after revocation of the orders would exacerbate any effects of declining demand on the domestic industry.

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[190] CR/PR at Table I-6.

[191] Calculated from CR/PR at Table I-6.

[192] *See* CR/PR at I-9 and Table I-6.

[193] Domestic Interested Parties' Response at 13-14, Ex. 12. We note that the sole responding purchaser, ***, reported that ***. CR/PR at D-3.

[194] CR/PR at Table I-4. We recognize that the domestic industry's performance in 2021 may be understated relative to that in 2016 due to the lower data coverage of the domestic industry in these reviews than in the original investigations, as discussed above.

V. Conclusion

For the foregoing reasons, we determine that revocation of the antidumping and countervailing duty orders on biodiesel from Argentina and Indonesia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Information obtained in these reviews

Background

On December 1, 2022, the U.S. International Trade Commission ("Commission") gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] that it had instituted reviews to determine whether revocation of antidumping and countervailing duty orders on biodiesel from Argentina and Indonesia would likely lead to continuation or recurrence of material injury.[2] All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.[3] [4] Table I-1 presents information relating to the background and schedule of this proceeding:

Table I-1
Biodiesel: Information relating to the background and schedule of this proceeding

Effective date	Action
December 1, 2022	Notice of initiation by Commerce (87 FR 73757, December 1, 2022)
December 1, 2022	Notice of institution by Commission (87 FR 73781, December 1, 2022)
March 6, 2023	Commission's vote on adequacy
April 4, 2023	Commerce's results of its expedited reviews of the antidumping duty orders (88 FR 19920, April 4, 2023)
April 5, 2023	Commerce's results of its expedited reviews of the countervailing duty orders (88 FR 20130, April 5, 2023)
June 2, 2023	Commission's determinations and views

[1] 19 U.S.C. 1675(c).

[2] 87 FR 73781, December 1, 2022. In accordance with section 751(c) of the Act, the U.S. Department of Commerce ("Commerce") published a notice of initiation of five-year reviews of the subject antidumping and countervailing duty orders. 87 FR 73757, December 1, 2022. Pertinent Federal Register notices are referenced in app. A, and may be found at the Commission's website (www.usitc.gov).

[3] As part of their response to the notice of institution, interested parties were requested to provide company-specific information. That information is presented in app. B. Summary data compiled in the original investigations are presented in app. C.

[4] Interested parties were also requested to provide a list of three to five leading purchasers in the U.S. market for the domestic like product and the subject merchandise. Presented in app. D are the responses received from purchaser surveys transmitted to the purchasers identified in this proceeding.

Responses to the Commission's notice of institution

Individual responses

The Commission received one submission in response to its notice of institution in the subject reviews. It was filed on behalf of the Clean Fuels Alliance Fair Trade Coalition, an *ad hoc* association consisting of the Clean Fuels Alliance America[5] and 15 domestic producers[6] of biodiesel (collectively referred to herein as "domestic interested parties").

A complete response to the Commission's notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy and explain any deficiencies in their responses. A summary of the number of responses and estimates of coverage for each is shown in table I-2.

Table I-2
Biodiesel: Summary of completed responses to the Commission's notice of institution

Interested party	Type	Number of firms	Coverage
U.S. producer	Domestic	15	at least ***%

Note: The U.S. producer coverage figure is the estimated share of total U.S. production of biodiesel in 2021 accounted for by responding firms. The estimate was calculated as the quantity of reported production (*** gallons) divided by total U.S. production as reported in the U.S. Energy Information Administration's November 2022 Monthly Energy Review (1.709 billion gallons). Domestic interested parties' response to the notice of institution, January 3, 2023, pp. 43-44; and domestic interested parties' supplemental response to the notice of institution, January 24, 2023, exh. 1.

[5] The Clean Fuels Alliance America, formerly known as the National Biodiesel Board, is a national trade association comprised of biodiesel producers and distributors, as well as feedstock organizations. Domestic interested parties' response to the notice of institution, January 3, 2023, p. 1.

[6] The 15 domestic producers are Ag Processing Inc., a cooperative; Archer Daniels Midland Company; Cape Cod Biofuels; Crimson Renewable Energy LP; Iowa Renewable Energy, LLC; Kolmar Americas, Inc.; Lake Erie Biofuels dba HERO BX; Minnesota Soybean Processors; Renewable Biofuels, LLC; Renewable Energy Group, Inc.; Seaboard Energy, Inc.; Thumb BioEnergy LLC; Western Dubuque Biodiesel, LLC; Western Iowa Energy, LLC; and World Energy, LLC. Ibid., pp. 1-2.

Party comments on adequacy

The Commission received party comments on the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews from the domestic interested parties. The domestic interested parties request that the Commission conduct expedited reviews of the antidumping and countervailing duty orders on biodiesel.[7]

The original investigations

The original investigations resulted from petitions filed on March 23, 2017, with Commerce and the Commission by the National Biodiesel Board Fair Trade Coalition, Washington, District of Columbia.[8] On November 16, 2017, Commerce determined that imports of biodiesel from Argentina and Indonesia were being subsidized by the Government of Argentina and the Government of Indonesia.[9] The Commission determined on December 21, 2017, that the domestic industry was materially injured by reason of subsidized imports of biodiesel from Argentina and Indonesia.[10] On January 4, 2018, Commerce issued its countervailing duty orders with the final net subsidy rates ranging from 71.45 to 72.28 percent for Argentina and 34.45 to 64.73 percent for Indonesia.[11] On March 1, 2018, Commerce determined that imports of biodiesel from Argentina and Indonesia were being sold at less than fair value ("LTFV").[12] The Commission determined on April 16, 2018, that the domestic industry was materially injured by reason of LTFV imports of biodiesel from Argentina and Indonesia.[13] On April 26, 2018, Commerce issued its antidumping duty orders with the final weighted-average dumping margins ranging from 60.44 to 86.41 percent for Argentina and 92.52 to 276.65 percent for Indonesia.[14]

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[7] Domestic interested parties' comments on adequacy, February 9, 2023, pp. 1-2.

[8] The National Biodiesel Board Fair Trade Coalition was an *ad hoc* association consisting of the National Biodiesel Board and 15 domestic producers of biodiesel. Biodiesel from Argentina and Indonesia, Inv. Nos. 701-TA-571-572 (Final), USITC Publication 4748, December 2017 ("Original publication"), pp. 3, I-1.

[9] 82 FR 53471 and 53477, November 16, 2017.

[10] 82 FR 61585, December 28, 2017.

[11] 83 FR 522, January 4, 2018 and 83 FR 3114, January 23, 2018.

[12] 83 FR 8835 and 8837, March 1, 2018.

[13] 83 FR 17447, April 19, 2018. The Commission also found that imports subject to Commerce's affirmative critical circumstances determination were not likely to undermine seriously the remedial effect of the antidumping duty order on biodiesel from Argentina.

[14] 83 FR 18278, April 26, 2018.

Previous and related investigations

Biodiesel has not been the subject of any prior related antidumping or countervailing duty investigations in the United States.

Commerce's five-year reviews

Commerce announced that it would conduct expedited reviews with respect to the orders on imports of biodiesel from Argentina and Indonesia with the intent of issuing the final results of these reviews based on the facts available not later than March 31, 2023.[15] Commerce publishes its Issues and Decision Memoranda and its final results concurrently, accessible upon publication at http://enforcement.trade.gov/frn/. Issues and Decision Memoranda contain complete and up-to-date information regarding the background and history of the orders, including scope rulings, duty absorption, changed circumstances reviews, and anticircumvention, as well as any decisions that may have been pending at the issuance of this report. Any foreign producers/exporters that are not currently subject to the antidumping and countervailing duty orders on imports of biodiesel from Argentina and Indonesia are noted in the sections titled "The original investigations" and "U.S. imports," if applicable.

The product

Commerce's scope

Commerce has defined the scope as follows:

> *The product covered by these orders is biodiesel, which is a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, including biologically-based waste oils or greases, and other biologically-based oil or fat sources. These orders cover biodiesel in pure form (B100) as well as fuel mixtures containing at least 99 percent biodiesel by volume (B99). For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of these orders.*

[15] Letter from Alex Villanueva, Senior Office Director, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce to Nannette Christ, Director of Investigations, January 25, 2023.

Biodiesel is generally produced to American Society for Testing and Materials International (ASTM) D6751 specifications, but it can also be made to other specifications. Biodiesel commonly has one of the following Chemical Abstracts Service (CAS) numbers, generally depending upon the feedstock used: 67784-80-9 (soybean oil methyl esters); 91051-34-2 (palm oil methyl esters); 91051-32-0 (palm kernel oil methyl esters); 73891-99-3 (rapeseed oil methyl esters); 61788-61-2 (tallow methyl esters); 68990-52-3 (vegetable oil methyl esters); 129828-16-6 (canola oil methyl esters); 67762-26-9 (unsaturated alkylcarboxylic acid methyl ester); or 68937-84-8 (fatty acids, C12-C18, methyl ester).[16]

U.S. tariff treatment

Biodiesel in pure form (B100) is provided for in Harmonized Tariff Schedule of the United States ("HTS") subheading 3826.00.10. Fuel mixtures containing at least 99 percent biodiesel by volume (B99) are provided for in HTS subheading 3826.00.30. Column 1-general rates of duty for these subheadings are 4.6 and 6.5 percent ad valorem, respectively, and apply to products of both Argentina and Indonesia.[17] Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

Description and uses[18]

Biodiesel is used as a partial or full substitute for diesel. It has many molecular formulas, and therefore slightly varying characteristics, because of the assorted vegetable oils and animal fats that can be used as an input. Several CAS registry numbers can apply to biodiesel due to differences in molecular formulas.[19]

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[16] 83 FR 18278, April 26, 2018.

[17] Although HTS subheading 3926.00.10 is designated as covering eligible goods under the Generalized System of Preferences (GSP), products of both Argentina and Indonesia are excluded from duty-free treatment under that subheading (see HTS General Note 4(d)). Legal authorization for duty-free treatment of all products under the GSP program expired on January 1, 2021.

[18] Unless otherwise noted, this information is based on the original publication, pp. I-7-I-13.

[19] See original publication, p. I-11-I-12, for a tabulation of 53 CAS registry numbers applied to varieties of biodiesel.

Biodiesel is primarily used as a substitute for diesel in the transportation sector. This use involves biodiesel in its unadulterated form (B100) or blended with diesel, with the most frequent proportions of such blends being 2 percent (B2), 5 percent (B5), 10 percent (B10), and 20 percent (B20) biodiesel. Blending can take place at any point in the distribution system as the act of blending is most frequently neither mechanically complex nor expensive. Biodiesel can be blended with diesel in any proportion without separation, meaning that it can be used in existing diesel applications without major modifications to the machinery.[20] Any vehicle that uses diesel can use biodiesel at a blend level of B5 or lower.

There are advantages to using biodiesel compared to diesel only. Biodiesel has a very low sulfur content and contains oxygen molecules (diesel has no oxygen), lowering its pollution potential. It has a high lubrication capacity, which can offset the lubrication problems encountered with low-sulfur diesel use, which is increasingly being mandated. There are also disadvantages to replacing diesel with biodiesel. Biodiesel has a lower energy content compared to diesel, which lowers fuel efficiency and power, and has lower cold-flow properties, which can cause problems when used in cold temperatures with respect to blends with higher concentrations of biodiesel.

Biodiesel is also used as a heating fuel (fuel oil), primarily in the northeastern United States. Biodiesel use in conventional heating oil reduces carbon and sulfur environmental concerns and maintenance costs because of biodiesel's lower sulfur level.

[20] The use of diesel blended with biodiesel does not require any modification to engines or heating burners, taking into consideration the proportion of biodiesel used because of temperature and other factors. Because of biodiesel's greater solvent properties compared to diesel, however, the use of unadulterated biodiesel requires modification of fuel hoses, pipes, and seals.

Manufacturing process[21]

Biodiesel is a fuel made from many types of vegetable oils, animal fats, and used cooking oils. As presented in figure I-1, biodiesel is produced by reacting the triglycerides found in these oils and fats with methanol in the presence of an alkaline catalyst in a process called transesterification. The resulting products are biodiesel (in the form of fatty acid methyl esters ("FAMEs")) and glycerol (more commonly known in the United States as glycerin).[22] [23] After transesterification, an acid is added to neutralize the catalyst. The crude biodiesel is separated from glycerin before the products go through separate purification processes. Recovered methanol from both the crude biodiesel and glycerin products is recycled to the transesterification process. The end products of the process are refined biodiesel and refined glycerin.

[21] Unless otherwise noted, this information is based on the original publication, pp. I-13-I-14.

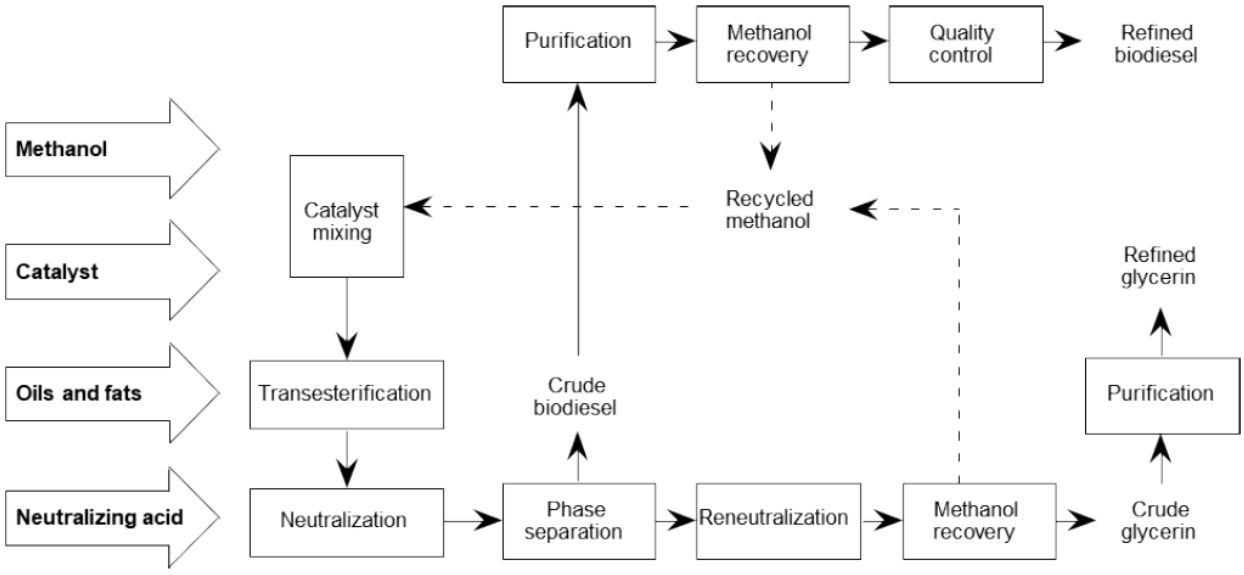
[22] Glycerol, with a chemical formulation of $C_3H_8O_3$ and a CAS registry number of 56-81-5, is the primary by-product/co-product of the biodiesel production process and is mixed with nonglycerol contaminants as of the moment when the chemical reaction making biodiesel ends. This name is used throughout the HTS and commercially worldwide except in the United States.

The term "glycerin" is used without distinction in the U.S. industry to refer to the many grades of glycerol mixtures available, from crude glycerin (80 percent and less glycerol) to technical-grade glycerin (95–96 percent) to USP-grade glycerin (99.5 percent and 99.7 percent are most common). USP-grade glycerin has the most flexibility in terms of sales and use because it meets any lower-grade requirements.

Biodiesel producers are the largest source of glycerin supply in the world and sell crude glycerin to processors or purify it themselves for sale. Glycerin is used in personal and oral care products, food and beverages, tobacco, pharmaceuticals, and chemical production. Relatedly, when biodiesel production is high, prices for crude and refined glycerin can drop.

[23] See original publication, figure I-1 and pp. I-7-I-8, for the chemical structures of the components and the reaction chemistry of the transesterification process.

Figure I-1
Biodiesel: Production process



Source: Original publication, p. I-9.

Argentine and Indonesian biodiesel producers use the transesterification process for their biodiesel production without notable chemical differences from U.S. biodiesel producers' production process.

The two primary factors in choosing the oils and fats feedstocks for biodiesel production are availability and affordability. Locally grown oil seed crops provide the main source of feedstock. Soybeans are the dominant crop in the United States and Argentina because growing conditions are favorable and soybeans can be used as a nitrogen-replacing rotational crop. Palm oil production dominates in Asia, particularly in Malaysia and Indonesia, and is favorable due to the high oil yield per acre. The use of animal fats in biodiesel production has increased in the United States, as has the use of used cooking oil, which reportedly only requires a simple cleaning process before transesterification begins. Multifeedstock production facilities are equipped to process more than one type of oil or fat into biodiesel without significant changes in operating procedures.

Use of a particular oil or fat input produces biodiesel with characteristics that vary slightly according to which input is used. For example, biodiesel made from palm oil becomes "cloudy" and less free-flowing at higher temperatures than biodiesel made from soybean oil. These differences can cause problems with use of biodiesel blends at low temperatures, depending on the proportion of biodiesel in the fuel. By comparison, soybean oil biodiesel oxidizes more quickly than palm oil biodiesel; when that happens, the biodiesel would not meet

the ASTM International standard anymore. Regardless of the type of input, all biodiesel that meets the ASTM International standard can be used in all applications allowing for biodiesel use.[24]

The industry in the United States

U.S. producers

During the final phase of the original investigations, the Commission received U.S. producer questionnaires from 25 firms, which accounted for at least 90.0 percent of U.S. production of biodiesel during 2016.[25]

In response to the Commission's notice of institution in these current reviews, domestic interested parties reported that according to the U.S. Energy Information Administration, as of January 1, 2022, there were 72 biodiesel production plants in the United States.[26] Fifteen firms providing U.S. industry data in response to the Commission's notice of institution accounted for at least *** percent of production of biodiesel in the United States during 2021.[27]

[24] Any biodiesel that meets the ASTM International standard for biodiesel (D6751, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels) can be sold for biodiesel use purposes. See original publication, p. I-12.

[25] Original publication, p. I-4.

[26] The domestic interested parties account for 28 of the 72 biodiesel production plants. Moreover, domestic interested parties believe that three of the remaining plants are no longer in operation. Domestic interested parties' response to the notice of institution, January 3, 2023, pp. 38-39.

[27] Domestic interested parties' response to the notice of institution, January 3, 2023, pp. 43-44; and domestic interested parties' supplemental response to the notice of institution, January 24, 2023, exh. 1.

Recent developments

As detailed in the original publication, the United States federal government provides incentives for the use of biodiesel through three regulatory support mechanisms: biofuel mandates, the biodiesel blender's tax credit, and trading of Renewable Identification Numbers (RIN).[28] These incentives are summarized below:

Volume mandate

The U.S. Environmental Protection Agency (EPA) set the annual volume requirement for biomass-based diesel at 2.76 billion gallons for 2022.[29] In 2017, the annual volume requirement was 2 billion gallons. In December 2022, the EPA proposed annual volume requirements of 2.82, 2.89, and 2.95 million gallons for 2023, 2024, and 2025, respectively.[30]

Blender's tax credit

In December 2019, the blender's tax credit of $1 per gallon of biodiesel was extended through 2022, retroactive to 2018.[31] Public law 117-169 (August 16, 2022) extended the blender's tax credit until December 31, 2024.[32]

RIN price

The EPA regulates compliance with the Renewable Fuel Standards (RFS) using RIN credits. Biodiesel producers can use RINs to satisfy their obligations under the RFS and trade surplus credits to other obligated parties as an additional income source.[33] ***.[34]

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[28] Original publication, pp. I-16-I-20.

[29] U.S. Environmental Protection Agency, "Renewable Fuel Annual Standards," https://www.epa.gov/renewable-fuel-standard-program/renewable-fuel-annual-standards (accessed February 3, 2023).

[30] U.S. Environmental Protection Agency, "Proposed Renewable Fuel Standards for 2023, 2024, and 2025," https://www.epa.gov/renewable-fuel-standard-program/proposed-renewable-fuel-standards-2023-2024-and-2025 (accessed February 3, 2023).

[31] U.S. Energy Information Administration, "U.S. biomass-based diesel tax credit renewed through 2022 in government spending bill," January 28, 2020, https://www.eia.gov/todayinenergy/detail.php?id=42616# (accessed February 9, 2023).

[32] Public Law 117-169 (August 16, 2022), Sec. 13201, https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf (accessed February 3, 2023).

[33] Original publication, p. I-17.

[34] ***.

Table I-3 presents developments in the U.S. industry since the Commission's original investigations.[35]

Table I-3
Biodiesel: Developments in the U.S. industry

Item	Firm	Event
Acquisition	Hero BX	Hero BX acquired Clinton County (Iowa) Bio Energy and Midwest Biodiesel Products (South Roxana, Illinois) in 2018
Expansion	Renewable Energy Group (REG)	REG expanded the production capacity of its Ralston, Iowa, facility from 12 to 30 million gallons per year in May 2018
Closure	REG	REG closed its 15 million gallon per year biodiesel facility in New Boston, Texas, in July 2019
Closure	W2Fuel LLC	W2Fuel closed biodiesel facilities in Crawfordsville, Iowa, and Adrian, Michigan, in 2019
Plant opening	Cargill	Cargill's 60 million gallon per year facility in Wichita, Kansas, began operating at capacity in October 2019
Acquisition	Marathon Petroleum Corp.	Marathon acquired the Duonix Beatrice (Nebraska) facility (50 million gallon per year capacity) in June 2020

Sources: Biodiesel Magazine, "Hero BX acquires biodiesel facility in Clinton, Iowa," September 26, 2018, https://biodieselmagazine.com/articles/2516466/hero-bx-acquires-biodiesel-facility-in-clinton-iowa (accessed February 9, 2023); Renewable Energy Group, "Chevron Renewable Energy Group Completes $32 Million Ralston Biodiesel Expansion," May 10, 2018, https://www.regi.com/resources/press-releases/renewable-energy-group-completes-32-million-ralston-biodiesel-expansion (accessed February 9, 2023); Renewable Energy Group, "Chevron Renewable Energy Group to Close New Boston, Texas Biodiesel Plant," July 24, 2019, https://www.regi.com/resources/press-releases/renewable-energy-group-to-close-new-boston-texas-biodiesel-plant (accessed February 9, 2023); Eller, Donnelle and Barbara Rodriguez, "Another renewable fuel plant closes as Iowa leaders wait for White House biofuels fix," The Des Moines Register, September 24, 2019, https://www.desmoinesregister.com/story/money/agriculture/2019/09/24/another-renewable-fuel-plant-closes-iowa-leaders-wait-biofuels-fix/2433255001/ (accessed February 9, 2023); Biodiesel Magazine, "Cargill's Wichita biodiesel plant online, operating at capacity," October 16, 2019, https://biodieselmagazine.com/articles/2516816/cargillundefineds-wichita-biodiesel-plant-online-operating-at-capacity (accessed February 9, 2023); Biodiesel Magazine, "Marathon acquires Duonix biodiesel plant in Beatrice, Nebraska," July 20, 2020, https://biodieselmagazine.com/articles/2517084/marathon-acquires-duonix-biodiesel-plant-in-beatrice-nebraska (accessed February 9, 2023).

[35] For developments, if any, in tariff treatment, please see "U.S. tariff treatment" section.

U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution in the current five-year reviews.[36] Table I-4 presents a compilation of the trade and financial data submitted from all responding U.S. producers in the original investigations and current five-year reviews.

Table I-4
Biodiesel: Trade and financial data submitted by U.S. producers, by period

Quantity in 1,000 gallons; value in 1,000 dollars; unit value in dollars per gallon; ratios in percent

Item	Measure	2014	2015	2016	2021
Capacity	Quantity	1,386,348	1,456,279	1,782,010	***
Production	Quantity	1,041,720	1,071,007	1,384,998	***
Capacity utilization	Ratio	75.1	73.5	77.7	***
U.S. shipments	Quantity	1,200,092	1,157,178	1,493,136	***
U.S. shipments	Value	3,989,182	3,131,542	3,584,056	***
U.S. shipments	Unit value	$3.32	$2.71	$2.40	$***
Net sales	Value	3,874,002	3,330,023	4,328,873	***
COGS	Value	3,517,439	2,917,967	3,872,504	***
COGS to net sales	Ratio	90.8	87.6	89.5	***
Gross profit or (loss)	Value	356,563	412,056	456,369	***
SG&A expenses	Value	147,505	157,423	184,574	***
Operating income or (loss)	Value	209,058	254,633	271,795	***
Operating income or (loss) to net sales	Ratio	5.4	7.6	6.3	***

Source: For the years 2014-16, data are compiled using data submitted in the Commission's original investigations and the U.S. Energy Information Administration's Monthly Biodiesel Production Report (for U.S. shipments). For the year 2021, data are compiled using data submitted by domestic interested parties. Domestic interested parties' supplemental response to the notice of institution, January 24, 2023, exh 1.

Note: The domestic interested parties noted that ***. Domestic interested parties' response to the notice of institution, January 3, 2023, exh. 1.

Note: For a discussion of data coverage, please see "U.S. producers" section.

[36] Individual company trade and financial data are presented in app. B.

Definitions of the domestic like product and domestic industry

The domestic like product is defined as the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is defined as the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. Under the related parties provision, the Commission may exclude a U.S. producer from the domestic industry for purposes of its injury determination if "appropriate circumstances" exist.[37]

In its original determinations, the Commission defined a single domestic like product consisting of all biodiesel within Commerce's scope and defined the domestic industry as all U.S. producers of biodiesel.[38]

U.S. importers

During the final phase of the original investigations, the Commission received U.S. importer questionnaires from 14 firms, which represented a large majority of U.S. imports from Argentina and Indonesia between January 2014 and June 2017.[39] Import data presented in the original investigations are based on official Commerce statistics.

Although the Commission did not receive responses from any respondent interested parties in these current reviews, in its response to the Commission's notice of institution, the domestic interested parties provided a list of 13 potential U.S. importers of biodiesel.[40]

U.S. imports

Table I-5 presents the quantity, value, and unit value of U.S. imports from Argentina and Indonesia, as well as the other top sources of U.S. imports.

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[37] Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

[38] 87 FR 73781, December 1, 2022.

[39] Original publication, p. IV-1.

[40] The domestic interested parties based the list of potential U.S. importers of biodiesel on firms that submitted questionnaire responses in the original investigations. To the best of the domestic interested parties' knowledge, there have been no imports of biodiesel from Argentina and Indonesia since the subject orders went into effect in 2018. Domestic interested parties' response to the notice of institution, January 3, 2023, p. 42 and exh. 32.

Table I-5
Biodiesel: U.S. imports, by source and period

Quantity in 1,000 gallons; value in 1,000 dollars; unit value in dollars per gallon

U.S. imports from	Measure	2017	2018	2019	2020	2021
Argentina	Quantity	288,890	---	---	---	---
Indonesia	Quantity	18	---	---	---	---
Subject sources	Quantity	288,908	---	---	---	---
Canada	Quantity	84,994	77,612	86,381	117,706	114,539
Germany	Quantity	16,403	62,328	52,948	49,373	32,448
Spain	Quantity	---	4,804	9,554	7,191	28,942
South Korea	Quantity	4,665	6,262	18,611	26,479	23,515
All other sources	Quantity	403	17,260	12,716	505	3,710
Nonsubject sources	Quantity	106,465	168,266	180,210	201,254	203,154
All import sources	Quantity	395,374	168,266	180,210	201,254	203,154
Argentina	Value	805,204	---	---	---	---
Indonesia	Value	76	---	---	---	---
Subject sources	Value	805,280	---	---	---	---
Canada	Value	264,098	244,049	229,280	363,772	523,063
Germany	Value	54,164	202,689	152,484	149,928	148,665
Spain	Value	---	14,257	29,375	21,271	169,667
South Korea	Value	14,193	23,169	63,685	91,972	121,394
All other sources	Value	2,218	54,925	41,726	4,831	23,605
Nonsubject sources	Value	334,673	539,090	516,550	631,774	986,396
All import sources	Value	1,139,953	539,090	516,550	631,774	986,396
Argentina	Unit value	2.79	---	---	---	---
Indonesia	Unit value	4.25	---	---	---	---
Subject sources	Unit value	2.79	---	---	---	---
Canada	Unit value	3.11	3.14	2.65	3.09	4.57
Germany	Unit value	3.30	3.25	2.88	3.04	4.58
Spain	Unit value	---	2.97	3.07	2.96	5.86
South Korea	Unit value	3.04	3.70	3.42	3.47	5.16
All other sources	Unit value	5.50	3.18	3.28	9.56	6.36
Nonsubject sources	Unit value	3.14	3.20	2.87	3.14	4.86
All import sources	Unit value	2.88	3.20	2.87	3.14	4.86

Source: Compiled from official Commerce statistics for HTS statistical reporting numbers 3826.00.1000 and 3826.00.3000, accessed December 21, 2022.

Note: To the best of the domestic interested parties' knowledge, there have been no imports of biodiesel from Argentina and Indonesia since the imposition of the subject orders in 2018. Domestic interested parties' response to the notice of institution, January 3, 2023, p. 42.

Note: Because of rounding, figure may not add to total shown.

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Cumulation considerations[41]

In assessing whether imports should be cumulated in five-year reviews, the Commission considers, among other things, whether there is a likelihood of a reasonable overlap of competition among subject imports and the domestic like product. Additional information concerning geographical markets and simultaneous presence in the market is presented below.[42]

Imports of biodiesel from Argentina were reported in seven of the 60 months between 2017 and 2021. These imports from Argentina were all concentrated in 2017 and entered through eastern and southern borders of entry. There were no reported U.S. imports of biodiesel from Argentina during 2018-21.

Imports of biodiesel from Indonesia were reported in only one of the 60 months between 2017 and 2021. These imports were concentrated in 2017 and entered through eastern borders of entry. There were no reported U.S. imports of biodiesel from Indonesia during 2018-21.

Apparent U.S. consumption and market shares

Table I-6 presents data on U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares.

[41] Unless otherwise noted, this information is based on official U.S. import statistics for HTS statistical reporting numbers 3826.00.1000 and 3826.00.3000.

[42] In addition, available information concerning subject country producers and the global market is presented in the next section of this report.

Table I-6
Biodiesel: Apparent U.S. consumption and market shares, by source and period

Quantity in 1,000 gallons; value in 1,000 dollars; shares in percent

Source	Measure	2014	2015	2016	2021
U.S. producers	Quantity	1,200,092	1,157,178	1,493,136	***
Argentina	Quantity	46,719	196,930	440,346	---
Indonesia	Quantity	51,038	70,702	110,360	---
Subject sources	Quantity	97,757	267,632	550,706	---
Nonsubject sources	Quantity	93,999	84,363	155,489	203,154
All import sources	Quantity	191,756	351,995	706,194	203,154
Apparent U.S. consumption	Quantity	1,391,848	1,509,173	2,199,330	***
U.S. producers	Value	3,989,182	3,131,542	3,584,056	***
Argentina	Value	149,116	523,190	1,314,492	---
Indonesia	Value	159,371	182,913	304,319	---
Subject sources	Value	308,487	706,102	1,618,811	---
Nonsubject sources	Value	327,404	232,357	496,344	986,396
All import sources	Value	635,890	938,460	2,115,155	986,396
Apparent U.S. consumption	Value	4,625,072	4,070,002	5,699,211	***
U.S. producers	Share of quantity	86.2	76.7	67.9	***
Argentina	Share of quantity	3.4	13.0	20.0	***
Indonesia	Share of quantity	3.7	4.7	5.0	***
Subject sources	Share of quantity	7.0	17.7	25.0	***
Nonsubject sources	Share of quantity	6.8	5.6	7.1	***
All import sources	Share of quantity	13.8	23.3	32.1	***
U.S. producers	Share of value	86.3	76.9	62.9	***
Argentina	Share of value	3.2	12.9	23.1	***
Indonesia	Share of value	3.4	4.5	5.3	***
Subject sources	Share of value	6.7	17.3	28.4	***
Nonsubject sources	Share of value	7.1	5.7	8.7	***
All import sources	Share of value	13.7	23.1	37.1	***

Source: For the years 2014-16, U.S. producers' U.S. shipments are compiled from the U.S. Energy Information Administration's Monthly Biodiesel Production Report and U.S. imports are compiled using official Commerce import statistics. For the year 2021, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the Commission's notice of institution and U.S. imports are compiled using official Commerce statistics under HTS statistical reporting numbers 3826.00.1000 and 3826.00.3000, accessed December 21, 2022.

Note: Share of quantity is the share of apparent U.S. consumption by quantity in percent; share of value is the share of apparent U.S. consumption by value in percent.

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Note: For a discussion of data coverage, please see "U.S. producers" and "U.S. importers" sections.

The industry in Argentina

Producers in Argentina

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from 10 firms, whose exports to the United States accounted for approximately 87.0 percent of U.S. imports from Argentina during 2014-16.[43]

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested parties provided a list of 17 possible producers of biodiesel in Argentina.[44]

Recent developments

Table I-7 presents developments in the Argentine industry since the Commission's original investigations.

Table I-7
Biodiesel: Developments in the Argentine industry

Item	Firm	Event
Closure	Viluco S.A.	Plant closed in 2019.

Source: Sapp, Meghan, "Argentine biodiesel producer says policy forcing it to shut down facility," Biofuels Digest, April 29, 2019, https://www.biofuelsdigest.com/bdigest/2019/04/29/argentine-biodiesel-producer-says-policy-forcing-it-to-shut-down-facility/ (accessed February 9, 2023).

Exports

Table I-8 presents export data for HS 3826.00, a category that includes pure biodiesel (B100) and mixtures of biodiesel with less than 70 percent by weight of fuels from petroleum,[45] from Argentina (by export destination in descending order of quantity for 2017–21).

[43] Eight firms identified themselves as producers of biodiesel in Argentina and two firms identified themselves as resellers of biodiesel from Argentina. Original publication, pp. VII-2-VII-3.

[44] Domestic interested parties' response to the notice of institution, January 3, 2023, exh. 33.

[45] For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of these orders.

Table I-8
Biodiesel: Quantity of exports for HS 3826.00 from Argentina, by destination and period

Quantity in 1,000 gallons

Destination market	2017	2018	2019	2020	2021
Netherlands	93,582	228,158	228,265	151,973	342,241
United States	289,352	---	---	---	---
Malta	70,027	113,335	26,866	---	---
Spain	26,866	---	---	---	---
Peru	12,747	1,493	---	---	---
Taiwan	57	---	---	---	---
All other markets	---	---	---	---	---
All markets	492,630	342,985	255,130	151,973	342,241

Source: Official exports statistics under HS subheading 3826.00 as reported by INDEC – National Institute of Statistics & Census in the Global Trade Atlas database, accessed January 30, 2023.

Note: Because of rounding, figures may not add to totals shown. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

The industry in Indonesia

Producers in Indonesia

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from four firms, whose exports to the United States accounted for *** percent of U.S. imports of biodiesel from Indonesia and all RFS-certified capacity in Indonesia during January 2014 through June 2017.[46]

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested parties provided a list of 25 possible producers of biodiesel in Indonesia.[47]

[46] Investigation Nos. 701-TA-571-572 and 731-TA-1347-1348 (Final): Biodiesel from Argentina and Indonesia, Confidential Report, INV-PP-156, November 27, 2017, as supplemented in INV-QQ-034, March 23, 2018, p. VII-13.

[47] Domestic interested parties' response to the notice of institution, January 3, 2023, exh. 34.

Recent developments

Table I-9 presents developments in the Indonesian industry since the Commission's original investigations. ***.[48]

Table I-9
Biodiesel: Developments in the Indonesian industry

Item	Event
New Regulation	***.
Plant openings	***.
Expansion	***.

Source: ***.

Exports

Table I-10 presents export data for HS 3826.00, a category that includes pure biodiesel (B100) and mixtures of biodiesel with less than 70 percent by weight of fuels from petroleum,[49] from Indonesia (by export destination in descending order of quantity for 2017–21).

[48] ***.

[49] For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of these orders.

Table I-10
Biodiesel: Quantity of exports from Indonesia, by destination and period

Quantity in 1,000 gallons

Destination market	2017	2018	2019	2020	2021
China	---	197,116	177,624	2,448	25,770
Peru	---	12,537	---	---	9,189
Spain	39,102	164,752	93,160	4,776	7,761
Belgium	---	8,955	20,047	---	4,776
Korea	383	685	2,634	804	2,761
Netherlands	---	55,433	29,490	1,497	1,791
Singapore	---	522	---	---	1,194
Italy	7,463	11,887	7,112	597	597
United States	---	---	---	---	99
India	---	2,352	299	---	17
All other markets	2,090	11,265	---	---	---
All markets	49,038	465,505	330,365	10,122	53,955

Source: Official exports statistics under HS subheading 3826.00 as reported by Statistics Indonesia in the Global Trade Atlas database, accessed February 1, 2023.

Note: Because of rounding, figures may not add to totals shown. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Third-country trade actions

In November 2013, the European Union (EU) imposed antidumping duties on imports of biodiesel from Argentina and Indonesia. In May 2018, the EU re-opened in the original investigations after rulings from the World Trade Organization (WTO) Disputes Settlement Body and Appellate Body that the EU had acted inconsistently with the WTO Anti-Dumping Agreement. In October 2018, the EU terminated the investigations and repealed the antidumping duties because dumping margins for Indonesia were *de minimis* and because it could not be established that dumped imports from Argentina were the cause of material injury for the EU industry.[50]

[50] Official Journal of the European Union, "COMMISSION IMPLEMENTING REGULATION (EU) 2018/1570 of 18 October 2018 terminating the proceedings concerning imports of biodiesel originating in Argentina and Indonesia and repealing Implementing Regulation (EU) No 1194/2013," https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1570&from=EN (accessed February 3, 2023).

In February 2019, the EU imposed countervailing duties on imports of biodiesel from Argentina. The countervailing duties range from 25.0 to 33.4 percent.[51] A price undertaking agreement between the EU and Argentine producers allows approximately 360 million gallons (1.2 million metric tons) per year of Argentine imports to enter at a minimum price without paying the countervailing duties.[52] In November 2019, the EU imposed countervailing duties ranging from 8.0 to 18.0 percent on imports of biodiesel from Indonesia.[53]

In 2016, Peru imposed antidumping duties ranging from $134.70 to $191.60 per metric ton (approximately $0.45 to $0.64 per gallon) on biodiesel from Argentina.[54] [55]

The global market

Canada is the largest nonsubject source of imports of biodiesel (table I-5). ***.[56]

[51] Official Journal of the European Union, "COMMISSION IMPLEMENTING REGULATION (EU) 2019/244 of 11 February 2019 imposing a definitive countervailing duty on imports of biodiesel originating in Argentina," https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0244&from=EN (accessed February 3, 2023).

[52] Biodiesel Magazine, "EBB welcomes antisubsidy duties, price undertaking agreement," February 1, 2019, https://biodieselmagazine.com/articles/2516577/ebb-welcomes-antisubsidy-duties-price-undertaking-agreement (accessed February 9, 2023).

[53] Official Journal of the European Union, "COMMISSION IMPLEMENTING REGULATION (EU) 2019/2092 of 28 November 2019 imposing a definitive countervailing duty on imports of biodiesel originating in Indonesia," https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2092&from=EN (accessed February 3, 2023).

[54] Original publication, p. VII-16.

[55] In September 2022, Argentina requested WTO dispute consultation over these duties on biodiesel. World Trade Organization, "Peru - Anti-Dumping and Countervailing Measures on Biodiesel from Argentina, Request for Consultations by Argentina," WT/DS614/1, G/L/1432, G/ADP/D141/1, G/SCM/D134/1, September 6, 2022, https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/614-1.pdf&Open=True (accessed February 3, 2023).

[56] ***.

Table I-11 presents global export data for HS 3826.00, a category that includes a category that includes pure biodiesel (B100) and mixtures of biodiesel with less than 70 percent by weight of fuels from petroleum,[57] by source in descending order of quantity for 2017-21.

Table I-11
Biodiesel: Value of global exports by country and period

Value in 1,000 dollars

Exporting country	2017	2018	2019	2020	2021
Netherlands	2,417,905	3,428,345	3,552,173	4,695,480	8,132,948
Belgium	964,394	1,671,252	2,673,533	3,049,547	4,253,218
Germany	1,558,621	1,892,456	2,117,656	2,374,399	3,702,605
Spain	1,320,826	1,451,162	1,635,765	1,414,976	2,596,123
China	150,073	286,989	591,584	965,331	1,799,400
Argentina	1,224,111	800,771	652,335	396,329	1,429,316
Italy	321,166	367,986	334,506	631,013	1,070,531
United States	351,350	372,510	442,484	426,914	897,524
France	354,380	608,364	605,057	559,429	831,654
Bulgaria	397,670	341,429	379,765	389,875	754,541
All other exporters	2,251,805	3,233,319	3,056,072	2,614,750	4,787,772
All exporters	11,312,301	14,454,584	16,040,930	17,518,043	30,255,632

Source: Official exports statistics under HS subheading 3826.00 as reported by various national statistical agencies in the Global Trade Atlas database, accessed February 1, 2023.

Note: Because of rounding, figures may not add to total shown.

[57] For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of these orders.

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, Federal Register notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
87 FR 73757, December 1, 2022	*Initiation of Five-Year (Sunset) Reviews*	https://www.govinfo.gov/content/pkg/FR-2022-12-01/pdf/2022-26154.pdf
87 FR 73781, December 1, 2022	*Biodiesel From Argentina and Indonesia; Institution of Five-Year Reviews*	https://www.govinfo.gov/content/pkg/FR-2022-12-01/pdf/2022-26046.pdf

APPENDIX B

COMPANY-SPECIFIC DATA

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APPENDIX C

SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS

All U.S. producers

Table C-1
Biodiesel: Summary data concerning the U.S. market, 2014-16, January to June 2016, and January to June 2017
(Quantity=1,000 gallons; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per gallon; Period changes=percent--exceptions noted)

	Reported data					Period changes			
	Calendar year			January to June		Calendar year			Jan-Jun
	2014	2015	2016	2016	2017	2014-16	2014-15	2015-16	2016-17
U.S. consumption quantity:									
Amount	1,391,848	1,509,173	2,199,330	875,675	844,071	58.0	8.4	45.7	(3.6)
Producers' share (fn1)	86.2	76.7	67.9	76.6	75.9	(18.3)	(9.5)	(8.8)	(0.7)
Importers' share (fn1):									
Argentina	3.4	13.0	20.0	12.1	20.2	16.7	9.7	7.0	8.2
Indonesia	3.7	4.7	5.0	4.9	---	1.4	1.0	0.3	(4.9)
Subject sources	7.0	17.7	25.0	17.0	20.2	18.0	10.7	7.3	3.2
Canada	5.3	3.9	4.9	5.3	3.8	(0.5)	(1.4)	1.0	(1.5)
All other sources	1.4	1.7	2.2	1.1	0.0	0.8	0.3	0.5	(1.1)
Nonsubject sources	6.8	5.6	7.1	6.4	3.9	0.3	(1.2)	1.5	(2.6)
All import sources	13.8	23.3	32.1	23.4	24.1	18.3	9.5	8.8	0.7
U.S. consumption value:									
Amount	4,625,072	4,070,002	5,699,211	2,089,245	2,299,958	23.2	(12.0)	40.0	10.1
Producers' share (fn1)	86.3	76.9	62.9	71.6	74.8	(23.4)	(9.3)	(14.1)	3.1
Importers' share (fn1):									
Argentina	3.2	12.9	23.1	14.4	21.2	19.8	9.6	10.2	6.8
Indonesia	3.4	4.5	5.3	5.6	---	1.9	1.0	0.8	(5.6)
Subject sources	6.7	17.3	28.4	20.0	21.2	21.7	10.7	11.1	1.2
Canada	5.3	3.9	6.0	7.1	3.9	0.6	(1.4)	2.0	(3.2)
All other sources	1.7	1.8	2.7	1.2	0.1	1.0	0.0	1.0	(1.1)
Nonsubject sources	7.1	5.7	8.7	8.3	4.0	1.6	(1.4)	3.0	(4.3)
All import sources	13.7	23.1	37.1	28.4	25.2	23.4	9.3	14.1	(3.1)
U.S. imports from:									
Argentina:									
Quantity	46,719	196,930	440,346	105,541	170,697	842.5	321.5	123.6	61.7
Value	149,116	523,190	1,314,492	300,977	488,542	781.5	250.9	151.2	62.3
Unit value	$3.19	$2.66	$2.99	$2.85	$2.86	(6.5)	(16.8)	12.4	0.4
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Indonesia:									
Quantity	51,038	70,702	110,360	43,193	---	116.2	38.5	56.1	(100.0)
Value	159,371	182,913	304,319	117,274	---	91.0	14.8	66.4	(100.0)
Unit value	$3.12	$2.59	$2.76	$2.72	---	(11.7)	(17.1)	6.6	(100.0)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subject sources:									
Quantity	97,757	267,632	550,706	148,734	170,697	463.3	173.8	105.8	14.8
Value	308,487	706,102	1,618,811	418,250	488,542	424.8	128.9	129.3	16.8
Unit value	$3.16	$2.64	$2.94	$2.81	$2.86	(6.8)	(16.4)	11.4	1.8
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Canada:									
Quantity	74,051	58,422	107,046	46,746	32,328	44.6	(21.1)	83.2	(30.8)
Value	246,745	160,681	340,618	149,370	90,286	38.0	(34.9)	112.0	(39.6)
Unit value	$3.33	$2.75	$3.18	$3.20	$2.79	(4.5)	(17.5)	15.7	(12.6)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	19,948	25,941	48,443	9,696	332	142.8	30.0	86.7	(96.6)
Value	80,659	71,677	155,726	24,852	1,647	93.1	(11.1)	117.3	(93.4)
Unit value	$4.04	$2.76	$3.21	$2.56	$4.96	(20.5)	(31.7)	16.3	93.5
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Nonsubject sources:									
Quantity	93,999	84,363	155,489	56,443	32,660	65.4	(10.3)	84.3	(42.1)
Value	327,404	232,357	496,344	174,223	91,932	51.6	(29.0)	113.6	(47.2)
Unit value	$3.48	$2.75	$3.19	$3.09	$2.81	(8.4)	(20.9)	15.9	(8.8)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All import sources:									
Quantity	191,756	351,995	706,194	205,177	203,357	268.3	83.6	100.6	(0.9)
Value	635,890	938,460	2,115,155	592,473	580,475	232.6	47.6	125.4	(2.0)
Unit value	$3.32	$2.67	$3.00	$2.89	$2.85	(9.7)	(19.6)	12.3	(1.1)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
U.S. producers':									
Average capacity quantity	1,386,348	1,456,279	1,782,010	885,026	893,364	28.5	5.0	22.4	0.9
Production quantity	1,041,720	1,071,007	1,384,998	636,354	609,286	33.0	2.8	29.3	(4.3)
Capacity utilization (fn1)	75.1	73.5	77.7	71.9	68.2	2.6	(1.6)	4.2	(3.7)
U.S. shipments:									
Quantity	1,200,092	1,157,178	1,493,136	670,498	640,714	24.4	(3.6)	29.0	(4.4)
Value	3,989,182	3,131,542	3,584,056	1,496,772	1,719,483	(10.2)	(21.5)	14.5	14.9
Unit value	$3.32	$2.71	$2.40	$2.23	$2.68	(27.8)	(18.6)	(11.3)	20.2
Export shipments:									
Quantity	34,713	18,462	33,399	19,681	14,444	(3.8)	(46.8)	80.9	(26.6)
Value	124,995	55,769	68,101	38,451	44,502	(45.5)	(55.4)	22.1	15.7
Unit value	$3.60	$3.02	$2.04	$1.95	$3.08	(43.4)	(16.1)	(32.5)	57.7
Ending inventory quantity	31,096	51,901	39,357	54,824	54,594	26.6	66.9	(24.2)	(0.4)
Inventories/total shipments (fn1) (fn3)	2.9	4.9	2.8	4.3	4.6	(0.2)	1.9	(2.1)	0.3
Production workers	960	1,045	1,215	1,128	1,277	26.6	8.9	16.3	13.2
Hours worked (1,000s)	2,086	2,207	2,582	1,182	1,330	23.8	5.8	17.0	12.5
Wages paid ($1,000)	60,435	66,504	74,803	35,424	41,562	23.8	10.0	12.5	17.3
Hourly wages (dollars)	$28.97	$30.13	$28.97	$29.97	$31.25	(0.0)	4.0	(3.9)	4.3
Productivity (gallons per hour)	499.4	485.3	536.4	538.4	458.1	7.4	(2.8)	10.5	(14.9)
Unit labor costs	$0.06	$0.06	$0.05	$0.06	$0.07	(6.9)	7.0	(13.0)	22.5
Net sales:									
Quantity	1,061,627	1,068,014	1,424,831	641,478	601,755	34.2	0.6	33.4	(6.2)
Value	3,874,002	3,330,023	4,328,873	1,829,719	1,634,468	11.7	(14.0)	30.0	(10.7)
Unit value	$3.65	$3.12	$3.04	$2.85	$2.72	(16.7)	(14.6)	(2.6)	(4.8)
Cost of goods sold (COGS)	3,517,439	2,917,967	3,872,504	1,721,597	1,672,580	10.1	(17.0)	32.7	(2.8)
Gross profit or (loss)	356,563	412,056	456,369	108,122	(38,112)	28.0	15.6	10.8	[Fn2]
SG&A expenses	147,505	157,423	184,574	79,789	87,867	25.1	6.7	17.2	10.1
Operating income or (loss)	209,058	254,633	271,795	28,333	(125,979)	30.0	21.8	6.7	[Fn2]
Net income or (loss)	215,692	192,853	233,844	9,607	(117,388)	8.4	(10.6)	21.3	[Fn2]
Capital expenditures	116,179	99,424	89,609	56,885	30,692	(22.9)	(14.4)	(9.9)	(46.0)
Unit COGS	$3.31	$2.73	$2.72	$2.68	$2.78	(18.0)	(17.5)	(0.5)	3.6
Unit SG&A expenses	$0.14	$0.15	$0.13	$0.12	$0.15	(6.8)	6.1	(12.1)	17.4
Unit operating income or (loss)	$0.20	$0.24	$0.19	$0.04	$(0.21)	(3.1)	21.1	(20.0)	[fn2]
Unit net income or (loss)	$0.20	$0.18	$0.16	$0.01	$(0.20)	(19.2)	(11.1)	(9.1)	[Fn2]
COGS/sales (fn1)	90.8	87.6	89.5	94.1	102.3	(1.3)	(3.2)	1.8	[Fn2]
Operating income or (loss)/sales (fn1)	5.4	7.6	6.3	1.5	(7.7)	0.9	2.3	(1.4)	(9.3)
Net income or (loss)/sales (fn1)	5.6	5.8	5.4	0.5	(7.2)	(0.2)	0.2	(0.4)	(7.7)

Notes:

fn1.--Reported data are in percent and period changes are in percentage points.
fn2.--Undefined.
fn3.--Calculated from submitted questionnaire data (not the EIA data reported for shipments).

Source: Compiled from data submitted in response to Commission questionnaires, U.S. Energy Infomration Administration Monthly Biodiesel Production Report, and official import statistics using HTS statistical reporting numbers, 3826.00.1000 and 3826.00.3000, accessed October 3, 2017.

APPENDIX D

PURCHASER QUESTIONNAIRE RESPONSES

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it provided contact information for the following three firms as top purchasers of biodiesel: ***. Purchaser questionnaires were sent to these three firms and one firm *** provided a response, which are presented below.

1. Have there been any significant changes in the supply and demand conditions for biodiesel that have occurred in the United States or in the market for biodiesel in Argentina and/or Indonesia since January 1, 2018?

Purchaser	Yes / No	Changes that have occurred
***	***	***.

2. Do you anticipate any significant changes in the supply and demand conditions for biodiesel in the United States or in the market for biodiesel in Argentina and/or Indonesia within a reasonably foreseeable time?

Purchaser	Yes / No	Anticipated changes
***	***	***.