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ΥΠΟΥΡΓΕΙΟ ΟΙΚΟΝΟΜΙΚΩΝ



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4 Αυγούστου 2021

Εγκύκλιος ΕΕ – “ANT” (569)

Όλο το τελωνειακό προσωπικό

Επιβολή οριστικού δασμού αντιντάμπινγκ και οριστικού αντισταθμιστικού δασμού στις εισαγωγές βιοντίζελ, καταγωγής Ηνωμένων Πολιτειών Αμερικής

Εκτελεστικοί Κανονισμοί (ΕΕ) αριθ. 2021/1266 και 2021/1267

Με τους εκτελεστικούς κανονισμούς (ΕΕ) αριθ. 2021/1266 και 2021/1267 του Συμβουλίου, οι οποίοι δημοσιεύτηκαν στην Επίσημη Εφημερίδα της Ευρωπαϊκής Ένωσης L 277 ημερομηνίας 2 Αυγούστου 2021, επιβάλλονται εκ νέου, έπειτα από επανεξέταση ενόψει της λήξης ισχύος των μέτρων, οι πιο κάτω δασμοί αντιντάμπινγκ και αντισταθμιστικοί δασμοί:

1) Οριστικός δασμός αντιντάμπινγκ και οριστικός αντισταθμιστικός δασμός στις εισαγωγές μονοαλκυλεστέρων λιπαρών οξέων και/ή παραφινικών πετρελαίων εσωτερικής καύσης που προέρχονται από σύνθεση και/ή υδρογονοκατεργασία, μη ορυκτής προέλευσης (κοινώς βιοντίζελ), σε καθαρή μορφή ή σε μορφή μείγματος με περιεκτικότητα κατά βάρος πάνω από 20 % σε μονοαλκυλεστέρες λιπαρών οξέων και/ή παραφινικά πετρέλαια εσωτερικής καύσης που προέρχονται από σύνθεση και/ή υδρογονοκατεργασία, μη ορυκτής προέλευσης, καταγωγής Ηνωμένων Πολιτειών Αμερικής.

Οι συντελεστές του δασμού που επιβάλλονται για τις διάφορες εταιρείες – παραγωγούς και εφαρμόζονται με τη χρήση πρόσθετων κωδικών TARIC εφαρμόζονται με την προσκόμιση στις τελωνειακές αρχές έγκυρου εμπορικού τιμολογίου, με τις απαιτήσεις που καθορίζονται στο Παράρτημα II.

2) Οριστικός δασμός αντιντάμπινγκ και οριστικός αντισταθμιστικός δασμός στις εισαγωγές των προϊόντων που αναφέρονται στο σημείο 1), τα οποία αποστέλλονται από τον Καναδά, είτε δηλώνονται ως καταγωγής Καναδά είτε όχι. Εξαιρούνται τα προϊόντα που παράγονται από τις εταιρίες που απαριθμούνται στο άρθρο 2 παράγραφος 1 του κάθε κανονισμού, με την προϋπόθεση προσκόμισης στις τελωνειακές αρχές έγκυρου εμπορικού τιμολογίου, με τις απαιτήσεις που καθορίζονται στο Παράρτημα II.

3) Οριστικός δασμός αντιντάμπινγκ και οριστικός αντισταθμιστικός δασμός, στις εισαγωγές μονοαλκυλεστέρων λιπαρών οξέων και/ή παραφινικών πετρελαίων εσωτερικής καύσης που προέρχονται από σύνθεση και/ή υδρογονοκατεργασία, μη ορυκτής προέλευσης (κοινώς βιοντίζελ), σε καθαρή μορφή ή σε μορφή μείγματος με περιεκτικότητα που δεν υπερβαίνει το 20 % σε μονοαλκυλεστέρες λιπαρών οξέων και/ή παραφινικά πετρέλαια εσωτερικής καύσης που προέρχονται από σύνθεση και/ή υδρογονοκατεργασία, μη ορυκτής προέλευσης, καταγωγής Ηνωμένων Πολιτειών Αμερικής.

Οι συντελεστές του δασμού που επιβάλλονται για τις διάφορες εταιρείες – παραγωγούς και εφαρμόζονται με τη χρήση πρόσθετων κωδικών TARIC, εφαρμόζονται με την προσκόμιση

στις τελωνειακές αρχές έγκυρου εμπορικού τιμολογίου, με τις απαιτήσεις που καθορίζονται στο Παράρτημα III.

Σημειώνεται ότι και στις τρεις περιπτώσεις, ο δασμός αντιντάμπινγκ και ο αντισταθμιστικός σταθμός για τα μείγματα εφαρμόζονται κατ' αναλογία στη συνολική περιεκτικότητα, κατά βάρος, σε μονοαλκυλεστέρες λιπαρών οξέων και παραφινικών πετρελαίων εσωτερικής καύσης (gas oils) που προέρχονται από σύνθεση και/ή υδρογονοκατεργασία, μη ορυκτής προέλευσης (περιεκτικότητα σε βιοντίζελ).

- Επισυνάπτονται οι κυριότερες σελίδες των κανονισμών, οι οποίοι άρχισαν να ισχύουν από τις 3 Αυγούστου 2021. Διευκρινίζεται ότι και για τους δύο κανονισμούς επισυνάπτεται το αγγλικό κείμενο λόγω μεταφραστικών λαθών στο ελληνικό κείμενο.

(Ειρήνη Παπαντωνίου)
για Αν. Διευθυντή
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ΓΚ/

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1266**of 29 July 2021****imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE**1.1. Previous investigations and measures in force**

- (1) By Regulation (EC) No 599/2009 ⁽²⁾, the Council imposed a definitive anti-dumping duty ranging from EUR 0 to EUR 198 per tonne on imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, at that time falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 20), ex 1518 00 91 (TARIC code 1518 00 91 20), ex 1518 00 99 (TARIC code 1518 00 99 20), ex 2710 19 41 (TARIC code 2710 19 41 20), 3824 90 91, ex 3824 90 97 (TARIC code 3824 90 97 87), and originating in the United States of America ('USA' or 'the country concerned'). The anti-dumping duty imposed by that regulation is hereafter referred to as the 'original measures'. The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.
- (2) By Council Implementing Regulation (EU) No 444/2011 ⁽³⁾, following an anti-circumvention investigation, the Council extended the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, with the exception of those produced by the companies BIOX Corporation, Oakville and Rothsay Biodiesel, Guelph, both located in Ontario, Canada. By the same Regulation the Council also extended the definitive anti-dumping duty imposed by Council Regulation (EC) No 599/2009 to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (3) By Implementing Regulation (EU) 2015/1518 ⁽⁴⁾, the European Commission re-imposed the definitive anti-dumping measures on imports of biodiesel originating in the USA following an expiry review (the 'previous expiry review').

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 599/2009 of 7 July 2009 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America (OJ L 179, 10.7.2009, p. 26).

⁽³⁾ Council Implementing Regulation (EU) No 444/2011 of 5 May 2011 extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ L 122, 11.5.2011, p. 12).

⁽⁴⁾ Commission Implementing Regulation (EU) 2015/1518 of 14 September 2015 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 239, 15.9.2015, p. 69).

- (4) Moreover, Regulation (EU) 2015/1518 as amended by Regulation (EU) 2016/676 ⁽¹⁾, also extended the definitive anti-dumping duty to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, with the exception of those produced by the companies BIOX Corporation, Oakville and Rothsay Biodiesel, Guelph, both located in Ontario, Canada as well as DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia, Canada. By the same Regulation, the European Commission also extended the definitive anti-dumping duty to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (5) The anti-dumping duties currently in force are fixed amounts ranging between EUR 0 per tonne and EUR 198 per tonne on imports from the sampled exporting producers, EUR 115,6 per tonne on imports from the non-sampled cooperating companies and a fixed amount of EUR 172,2 per tonne on imports from all other companies.
- (6) In addition, by Commission Implementing Regulation (EU) 2017/1598 ⁽²⁾, Regulation (EU) 2015/1518 was amended by allowing companies that did not export biodiesel during the original investigation period to request a review whether they can be made subject to the duty rate imposed on the cooperating companies not in the sample.
- (7) By Commission Implementing Regulation (EU) 2018/1121 ⁽³⁾, following a request for new exporting producer treatment, Regulation (EU) 2015/1518 was amended by adding the US company Organic Technologies, Coshocton (Ohio) to Annex I and thus subject to the weighted average duty of EUR 115,6 per tonne applicable to cooperating companies not included in the sample.

1.2. Request for an expiry review

- (8) Following the publication of a notice of impending expiry ⁽⁴⁾ the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation.
- (9) The request for review was lodged on 11 June 2020 by the European Biodiesel Board ('EBB' or 'the applicant'), on behalf of Union producers representing more than 25 % of the total Union production of biodiesel. The request for review was based on the grounds that the expiry of the measures would likely result in recurrence of dumping and recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

- (10) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review the Commission initiated, on 14 September 2020, an expiry review with regard to imports of biodiesel originating in the USA, on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽⁵⁾ ('the Notice of Initiation').
- (11) On the same date, the Commission initiated a separate expiry review of the anti-subsidy measures in force concerning imports of biodiesel originating in the USA ⁽⁶⁾.

⁽¹⁾ Commission Implementing Regulation (EU) 2016/676 of 29 April 2016 amending Implementing Regulation (EU) 2015/1518 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 116, 30.4.2016, p. 31).

⁽²⁾ Commission Implementing Regulation (EU) 2017/1598 of 22 September 2017 amending Commission Implementing Regulation (EU) 2015/1518 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 245, 23.9.2017, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2018/1121 of 10 August 2018 amending Commission Implementing Regulation (EU) 2015/1518 imposing a definitive anti-dumping duty on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 204, 13.8.2018, p. 33).

⁽⁴⁾ Notice of the impending expiry of certain anti-dumping measures (OJ C 18, 20.1.2020, p. 20).

⁽⁵⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of biodiesel originating in the United States of America (OJ C 303, 14.9.2020, p. 18).

⁽⁶⁾ Notice of initiation of an expiry review of the anti-subsidy measures applicable to imports of biodiesel originating in the United States of America (OJ C 303, 14.9.2020, p. 7).

- (12) The Government of Canada commented on this initiation, noting that, if the measures were to be maintained, the exemption granted to three Canadian producers of biodiesel should be retained. The exemption was maintained in Article 2 of the present Regulation.

1.4. Review investigation period and period considered

- (13) The investigation of a continuation or recurrence of dumping covers the period from 1 July 2019 to 30 June 2020 ('the review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covers the period from 1 January 2017 to the end of the review investigation period ('the period considered').

1.5. Withdrawal of the United Kingdom from the EU

- (14) This case was initiated on 14 September 2020, that is during the transition period agreed between the United Kingdom ('UK') and the EU in which the UK remained subject to the Union law. This period ended on 31 December 2020. Consequently, as of 1 January 2021, companies and associations from the UK no longer qualified as interested parties in this proceeding.
- (15) By a note to the case file ⁽¹⁾ on 15 January 2021, the Commission invited UK operators that considered that they nevertheless would still qualify as interested parties to contact it. BP OIL International Limited and Argent Energy requested to continue to be considered as interested parties and were granted this right based on the evidence submitted. In particular, both companies provided proof of the existence of related entities within the respective group active on the Union market. On the other hand, the UK parent company Valero Energy Limited was replaced by its Irish subsidiary Valero Energy Limited Ireland since the latter one is active on the Union market.

1.6. Interested parties

- (16) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, the known producers in the USA and the US authorities, known importers, users, traders, as well as associations known to be concerned about the initiation of the expiry review and invited them to participate.
- (17) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. No requests for a hearing were received.

1.7. Sampling

- (18) In the Notice of Initiation, the Commission stated that it might use sampling in accordance with Article 17 of the basic Regulation.

1.7.1. Sampling of Union producers

- (19) On 14 September 2020, the Commission notified to interested parties the provisional sample of Union producers pursuant to Section 5.4 of the Notice of Initiation. It selected the sample on the basis of the size of the production and sales volume of the like product in 2019 as well as the geographic location of the producers of the like product. This sample consisted of three Union producers. The sampled Union producers accounted for 17,5 % of the estimated total production volumes of the like product in the Union and it also ensured a good geographical spread. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline of 7 days of the notification of the provisional sample of Union producers.

1.7.2. Sampling of importers

- (20) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

⁽¹⁾ Tron document: t21.000417.

- (21) Only one unrelated importer, Shell Trading Rotterdam BV, provided the requested information and, consequently, the Commission decided that sampling was not necessary.

1.7.3. *Sampling of exporting producers*

- (22) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the USA to provide the information specified in the Notice of Initiation. In addition, the Commission asked the authorities of the country concerned to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (23) At the initiation a copy of questionnaires was made available in the file for inspection by interested parties and on DG Trade's website.
- (24) Three exporting producers in the USA came forward and expressed their willingness to cooperate with the Commission in the investigation. In view of the low number, the Commission decided that sampling was not necessary. Accordingly, all three companies that came forward were requested to complete a questionnaire and submit it to the Commission within the given deadline.

1.8. **Absence of cooperation from the country concerned**

- (25) On 15 October 2020, one of these three companies informed the Commission by an email that it would not cooperate further. Moreover, neither of the two other companies provided the requested information within the required deadline by completing and returning the questionnaire replies.
- (26) On 10 November 2020 the Commission sent a letter informing all three companies about the intention to apply Article 18 of the basic Regulation and base the findings of the investigation on facts available. The US authorities were also informed about this intention. The deadline for providing comments to the letter was 17 November 2020. No comments were received.
- (27) Since none of the three exporting producers in the USA cooperated in the expiry review investigation it was decided to apply the provisions of Article 18 of the basic Regulation and to base findings on the facts available.

1.9. **Questionnaires**

- (28) At initiation, a copy of the questionnaires was made available in the file for inspection by interested parties and on DG Trade's website.
- (29) Questionnaire replies were received from the three sampled Union producers as well as from an unrelated Union importer.

1.10. **Verification**

- (30) Due to the outbreak of COVID-19 and the confinement measures put in place by various Member States as well as by various third countries, the Commission could not carry out verification visits pursuant to Article 16 of the basic Regulation. The Commission instead cross-checked remotely all the information deemed necessary for its determination in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ⁽¹³⁾. The Commission carried out remote crosschecks ("RCC") of the following companies/parties:

Union producers

- SAIPOL Bu Diester, France
- CAMPA Iberia S.A.U., Spain
- VERBIO Vereinigte BioEnergie AG, Germany

⁽¹³⁾ Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations OJ C 86/6, 16.3.2020.

Importers

— Shell Trading Rotterdam BV, The Netherlands

1.11. Disclosure

- (31) On 21 May 2021, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure.
- (32) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. The parties who so requested were granted a hearing.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (33) The product concerned is the same as in the original investigation and the previous expiry review, namely fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 29), ex 1518 00 91 (TARIC code 1518 00 91 29), ex 1518 00 99 (TARIC code 1518 00 99 29), ex 2710 19 43 (TARIC code 2710 19 43 29), ex 2710 19 46 (TARIC code 2710 19 46 29), ex 2710 19 47 (TARIC code 2710 19 47 29), ex 2710 20 11 (TARIC code 2710 20 11 29), ex 2710 20 16 (TARIC code 2710 20 16 29), ex 3824 99 92 (TARIC code 3824 99 92 12), ex 3826 00 10 (TARIC codes 3826 00 10 29, 3826 00 10 59, 3826 00 10 99), ex 3826 00 90 (TARIC code 3826 00 90 19) ('the product concerned').
- (34) Biodiesel is a renewable fuel produced from a wide range of raw materials, i.e. vegetable oils such as rapeseed oil, soybean oil, palm oil, used frying oils (UFO), animal fats or biomass.
- (35) Biodiesel is used in the transport sector, mainly blended with mineral diesel (i.e. petroleum/conventional diesel) and very marginally in its pure form (B100).

2.2. Like product

- (36) As established in the original investigation as well as in the previous expiry review, this expiry review investigation confirmed that the following products have the same basic physical, chemical and [technical] characteristics as well as the same basic uses:
- the product concerned;
 - the product produced and sold on the domestic market of the USA; and
 - the product produced and sold in the Union by the Union industry.
- (37) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

- (38) The Swedish company Preeem AB and Valero Energy Ltd Ireland, fuel producers and suppliers and as such users of the product concerned, argued that Fatty Acid Methyl Ester (FAME) biodiesel and Hydrotreated Vegetable Oil (HVO) biodiesel are two different types of biodiesel, and that HVO should be excluded from the current product scope. In the 2009 Regulation imposing provisional measures⁽¹⁾, all types of biodiesel and biodiesel blends were considered to be biodiesel fuels. FAME and HVO can both be blended with diesel and despite some differences in physical characteristics, the product end-use is the same and both products are produced by the Union industry. In addition, the complaint in the original investigation explicitly defined diesel fuel produced from HVOs as part of the product concerned and no party challenged this statement at that time. Therefore, the claim was rejected.

⁽¹⁾ Commission Regulation (EC) No 193/2009 of 11 March 2009 imposing a provisional anti-dumping duty on imports of biodiesel originating in the United States of America (OJ L 67, 12.3.2009, p. 22).

- (146) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation.
- (147) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the United States of America currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 29), ex 1518 00 91 (TARIC code 1518 00 91 29), ex 1518 00 99 (TARIC code 1518 00 99 29), ex 2710 19 43 (TARIC code 2710 19 43 29), ex 2710 19 46 (TARIC code 2710 19 46 29), ex 2710 19 47 (TARIC code 2710 19 47 29), ex 2710 20 11 (TARIC code 2710 20 11 29), ex 2710 20 16 (TARIC code 2710 20 16 29), ex 3824 99 92 (TARIC code 3824 99 92 12), ex 3826 00 10 (TARIC codes 3826 00 10 29, 3826 00 10 59, 3826 00 10 99) and ex 3826 00 90 (TARIC code 3826 00 90 19).

2. The rates of the definitive anti-dumping duty applicable to the net free-at Union frontier price, before duty, of the product described in paragraph 1, and manufactured by the companies listed below, shall be a fixed amount as follows:

Company	AD duty rate EUR per tonne net	TARIC additional code
Archer Daniels Midland Company, Decatur	68,6	A933
Cargill Inc., Wayzata	0	A934
Green Earth Fuels of Houston LLC, Houston	70,6	A935
Imperium Renewables Inc., Seattle	76,5	A936
Peter Cremer North America LP, Cincinnati	198,0	A937
World Energy Alternatives LLC, Boston	82,7	A939
Companies listed in Annex I	115,6	See Annex I
All other companies	172,2	A999

The anti-dumping duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

3. The application of the individual duty rate specified for the companies referred to in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

⁽¹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

4. Where any party from the United States of America provides sufficient evidence to the Commission that:
- it did not export the goods described in Article 1(1) originating in the United States of America during the period of investigation (1 April 2007-31 March 2008);
 - it is not related to an exporter or producer subject to the measures imposed by this Regulation; and
 - it has either actually exported the goods concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation;

the Commission may amend Annex I in order to attribute to that party the duty applicable to cooperating producers not included in the sample, i.e. EUR 115,6 per tonne.

Article 2

1. The definitive anti-dumping duty applicable to 'all other companies' as set out in Article 1, paragraph 2, is extended to imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, consigned from Canada, whether declared as originating in Canada or not, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 21), ex 1518 00 91 (TARIC code 1518 00 91 21), ex 1518 00 99 (TARIC code 1518 00 99 21), ex 2710 19 43 (TARIC code 2710 19 43 21), ex 2710 19 46 (TARIC code 2710 19 46 21), ex 2710 19 47 (TARIC code 2710 19 47 21), ex 2710 20 11 (TARIC code 2710 20 11 21), ex 2710 20 16 (TARIC code 2710 20 16 21), ex 3824 99 92 (TARIC code 3824 99 92 10), ex 3826 00 10 (TARIC codes 3826 00 10 20, 3826 00 10 50, 3826 00 10 89) and ex 3826 00 90 (TARIC code 3826 00 90 11), with the exception of those produced by the companies listed below:

Country	Company	TARIC additional code
Canada	BIOX Corporation, Oakville, Ontario, Canada	B107
Canada	DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia, Canada	C114
Canada	Rothsay Biodiesel, Guelph, Ontario, Canada	B108

The duty to be extended shall be the one established for 'all other companies' in Article 1(2), which is a definitive anti-dumping duty of EUR 172,2 per tonne net.

The anti-dumping duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

2. The application of the exemptions granted to companies referred to in paragraph 1 or authorised by the Commission in accordance with Article 4(2) shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty rate as imposed by paragraph 1 shall apply.

Article 3

1. The definitive anti-dumping duty as set out in Article 1, paragraph 2, is hereby extended to imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the United States of America, and currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 30), ex 1518 00 91 (TARIC code 1518 00 91 30), ex 1518 00 99 (TARIC code 1518 00 99 30), ex 2710 19 43 (TARIC code 2710 19 43 30), ex 2710 19 46 (TARIC code 2710 19 46 30), ex 2710 19 47 (TARIC code 2710 19 47 30), ex 2710 20 11 (TARIC code 2710 20 11 30), ex 2710 20 16 (TARIC code 2710 20 16 30), ex 3824 99 92 (TARIC code 3824 99 92 20) and ex 3826 00 90 (TARIC code 3826 00 90 30).

The anti-dumping duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

2. The application of the individual duty rate specified for the companies referred to in Article 1, paragraph 2, shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex III. If no such invoice is presented, the duty rate applicable under Article 1(2) to 'all other companies' shall apply.

Article 4

1. Requests for exemption from the duty extended by Article 2(1) and Article 3(1) shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate G
Rue de la Loi 170, CHAR 04/034
1049 Brussels
BELGIUM

Email: TRADE-TDI-INFORMATION@ec.europa.eu

2. In accordance with Article 13(4) of Regulation (EU) 2016/1036, the Commission, after consulting the Advisory Committee, may authorise, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Article 1, from the duty extended by Article 2(1) and Article 3(1).

Article 5

In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Commission Implementing Regulation (EU) 2015/2447⁽²⁾, the amount of anti-dumping duty laid down in Articles 1, 2 and 3 shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 6

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 July 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽²⁾ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

ANNEX I

Company Name	City	TARIC additional code
AG Processing Inc.	Omaha	A942
Alabama Clean Fuels Coalition Inc.	Birmingham	A940
American Made Fuels, Inc.	Canton	A940
Arkansas SoyEnergy Group	DeWitt	A940
Arlington Energy, LLC	Mansfield	A940
Athens Biodiesel, LLC	Athens	A940
Beacon Energy	Cleburne	A940
Biodiesel of Texas, Inc.	Denton	A940
BioDiesel One Ltd	Southington	A940
Buffalo Biodiesel, Inc	Tonawanda	A940
BullDog BioDiesel	Ellenwood	A940
Carbon Neutral Solutions, LLC	Mauldin	A940
Central Iowa Energy LLC	Newton	A940
Chesapeake Custom Chemical Corp.	Ridgeway	A940
Community Fuels	Stockton	A940
Delta BioFuels Inc.	Natchez	A940
Diamond Biofuels	Mazon	A940
Direct Fuels	Eules	A940
Eagle Creek Fuel Services, LLC	Baltimore	A940
Earl Fisher Bio Fuels	Chester	A940
East Fork Biodiesel LLC	Algona	A940
ECO Solutions, LLC	Chatsworth	A940
Ecogy Biofuels LLC	Tulsa	A940
ED&F Man Biofuels Inc.	New Orleans	A940
Freedom Biofuels Inc.	Madison	A940
Fuel & Lube, LLC	Richmond	A940
Fuel Bio	Elizabeth	A940
FUMPA Bio Fuels	Redwood Falls	A940
Galveston Bay Biodiesel LP (BioSelect Fuels)	Houston	A940
Geo Green Fuels LLC	Houston	A940
Georgia Biofuels Corp.	Loganville	A940
Green River Biodiesel, Inc.	Moundville	A940
Griffin Industries Inc.	Cold Spring	A940

Company Name	City	TARIC additional code
High Plains Bioenergy	Guymon	A940
Huish Detergents Inc.	Salt Lake City	A940
Incobrasa Industries Ltd.	Gilman	A940
Independence Renewable Energy Corp.	Perdue Hill	A940
Indiana Flex Fuels	LaPorte	A940
Innovation Fuels Inc.	Newark	A940
Iowa Renewable Energy LLC	Washington	A940
Johann Haltermann Ltd.	Houston	A940
Lake Erie Biofuels LLC	Erie	A940
Leland Organic Corporation	Leland	A940
Louis Dreyfus Agricultural Industries LLC	Claypool	A940
Louis Dreyfus Claypool Holdings LLC	Claypool	A940
Memphis Biofuels, LLC	Memphis	A942
Middle Georgia Biofuels	East Dublin	A940
Middletown Biofuels LLC	Blairsville	A940
Musket Corporation	Oklahoma City	A940
New Fuel Company	Dallas	A940
North Mississippi Biodiesel	New Albany	A940
Northern Biodiesel, Inc.	Ontario	A940
Northwest Missouri Biofuels, LLC	St. Joseph	A940
Nova Biofuels Clinton County LLC	Clinton	A940
Nova Biosource	Seneca	A940
Organic Fuels Ltd.	Houston	A940
Organic Technologies	Coshocton	C482
Owensboro Grain Company LLC	Owensboro	A940
Paseo Cargill Energy, LLC	Kansas City	A940
Peach State Labs Inc.	Rome	A940
Perihelion Global, Inc.	Opp	A940
Philadelphia Fry-O-Diesel Inc.	Philadelphia	A940
Pinnacle Biofuels, Inc.	Crossett	A940
PK Biodiesel	Woodstock	A940
Pleasant Valley Biofuels, LLC	American Falls	A940
RBF Port Neches LLC	Houston	A940
Red Birch Energy, Inc.	Bassett	A940

Company Name	City	TARIC additional code
Red River Biodiesel Ltd.	New Boston	A940
REG Ralston LLC	Ralston	A940
Renewable Energy Products, LLC	Santa Fe Springs	A940
Riksch BioFuels LLC	Crawfordsville	A940
Safe Renewable Corp.	Conroe	A940
Sanimax Energy Inc.	DeForest	A940
Scott Petroleum	Itta Bena	A942
Seminole Biodiesel	Bainbridge	A940
Soy Solutions	Milford	A940
SoyMor Biodiesel LLC	Albert Lea	A940
Sunshine BioFuels, LLC	Camilla	A940
TPA Inc.	Warren	A940
Trafigura AG	Stamford	A940
U.S. Biofuels Inc.	Rome	A940
United Oil Company	Pittsburgh	A940
Valco Bioenergy	Harlingen	A940
Vanguard Synfuels, LLC	Pollock	A940
Vinmar Overseas, Ltd	Houston	A938
Vitol Inc.	Houston	A940
Walsh Bio Diesel, LLC	Mauston	A940
Western Dubque Biodiesel LLC	Farley	A940
Western Iowa Energy LLC	Wall Lake	A940
Western Petroleum Company	Eden Prairie	A940

ANNEX II

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3) and Article 2(2):

- the name and function of the official of the entity issuing the commercial invoice,
- the following declaration:

'I, the undersigned, certify that the (volume) of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as "biodiesel", in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin sold for export to the European Union covered by this invoice was manufactured by [company name and address] [TARIC additional code] in [count[ri]y[ies] concerned]. I declare that the information provided in this invoice is complete and correct.'

ANNEX III

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 3(2):

- the name and function of the official of the entity issuing the commercial invoice;
- the following declaration:

'I, the undersigned, certify that the (volume) of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as "biodiesel", in pure form or in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin sold for export to the European Union covered by this invoice was manufactured by [company name and address] [TARIC additional code] in the United States of America. I declare that the information provided in this invoice is complete and correct.'

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1267

of 29 July 2021

imposing definitive countervailing duties on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (1) and in particular Article 18(1) thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

- (1) By Regulation (EC) No 598/2009 (2) the Council imposed a definitive countervailing duty, ranging from EUR 211,2 to EUR 237 per tonne net, on imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, at that time falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 20), ex 1518 00 91 (TARIC code 1518 00 91 20), ex 1518 00 99 (TARIC code 1518 00 99 20), ex 2710 19 41 (TARIC code 2710 19 41 20), ex 3824 90 91, ex 3824 90 97 (TARIC code 3824 90 97 87), and originating in the United States of America ('USA' or 'the country concerned'). The countervailing duty imposed by this regulation is hereafter referred to as 'the original measures'. The investigation that led to the imposition of the original measures will hereafter be referred to as 'the original investigation'.
- (2) By Implementing Regulation (EU) No 443/2011 (3), following an anti-circumvention investigation, the Council extended the definitive anti-countervailing imposed by Council Regulation (EC) No 598/2009 to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, with the exception of those produced by the companies BIOX Corporation, Oakville and Rothsay Biodiesel, Guelph, Ontario, Canada. By the same Regulation, the Council also extended the definitive countervailing duty imposed by Council Regulation (EC) No 598/2009 to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (3) By Implementing Regulation (EU) 2015/1519 (4), the European Commission re-imposed the definitive countervailing measures on imports of biodiesel originating in the USA following an expiry review (the 'previous expiry review').

(1) OJ L 176, 30.6.2016, p. 55.

(2) Council Regulation (EC) No 598/2009 of 7 July 2009 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of biodiesel originating in the United States of America (OJ L 179, 10.7.2009, p. 1).

(3) Council Implementing Regulation (EU) No 443/2011 of 5 May 2011 extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ L 122, 11.5.2011, p. 1).

(4) Commission Implementing Regulation (EU) 2015/1519 of 14 September 2015 imposing definitive countervailing duties on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 18 of Council Regulation (EC) No 597/2009 (OJ L 239, 15.9.2015, p. 99).

- (4) Moreover, Regulation (EU) 2015/1519 as amended by Regulation (EU) 2016/675 ⁽⁹⁾ also extended the definitive countervailing duty to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, with the exception of those produced by the companies BIOX Corporation, Oakville and Rothsay Biodiesel, Guelph, both located in Ontario, Canada as well as by the company DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia, Canada. By the same Regulation, the European Commission also extended the definitive countervailing duty to imports of biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (5) The countervailing duties currently in force are fixed amounts ranging from EUR 211,2 to EUR 237 per tonne net on imports from the exporting producers.

1.2. Request for an expiry review

- (6) Following the publication of a notice of impending expiry ⁽¹⁰⁾ the European Commission ('the Commission') received a request for a review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ('the basic Regulation').
- (7) The request for review was lodged on 11 June 2020 by the European Biodiesel Board (EBB' or 'the applicant'), on behalf of Union producers representing more than 25 % of the total Union production of biodiesel. The request for review was based on the grounds that the expiry of the measures would likely result in continuation or recurrence of subsidised biodiesel entering the Union and of recurrence of injury to the Union industry.

2. INITIATION OF AN EXPIRY REVIEW

- (8) Having determined, after consulting the Committee established by Article 15(1) of Regulation (EU) 2016/1036 of the European Parliament and of the Council ⁽¹¹⁾ that sufficient evidence existed for the initiation of an expiry review, the Commission initiated, on 14 September 2020, an expiry review with regard to imports of biodiesel originating in the USA on the basis of Article 18(1) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽¹²⁾ ('the Notice of Initiation').
- (9) On the same day, 14 September 2020, the Commission initiated in parallel an expiry review of the anti-dumping measures in force on imports of biodiesel originating in the USA.
- (10) The Government of Canada commented on this initiation, noting that, if the measures were to be maintained, the exemption granted to three Canadian producers of biodiesel should be retained. The Commission maintained the exemption in Article 2 of the present Regulation.

2.1. Review investigation period and period considered

- (11) The investigation of a continuation or recurrence of subsidisation covered the period from 1 July 2019 to 30 June 2020 ('the review investigation period' or 'the RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2017 to the end of the review investigation period ('the period considered').

⁽⁹⁾ Commission Implementing Regulation (EU) 2016/675 of 29 April 2016 amending Implementing Regulation (EU) 2015/1519 imposing definitive countervailing duties on imports of biodiesel originating in the United States of America following an expiry review pursuant to Article 18 of Council Regulation (EC) No 597/2009 (OJ L 116, 30.4.2016, p. 27).

⁽¹⁰⁾ Notice of the impending expiry of certain anti-subsidy measures (OJ C 18, 20.1.2020, p. 19).

⁽¹¹⁾ Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 21).

⁽¹²⁾ Notice of initiation of an expiry review of the anti-subsidy measures applicable to imports of biodiesel originating in the United States of America (OJ C 303, 14.9.2020, p. 7).

2.2. Withdrawal of the United Kingdom from the EU

- (12) This case was initiated on 14 September 2020, that is during the transition period agreed between the United Kingdom ('UK') and the EU in which the UK remained subject to the Union law. This period ended on 31 December 2020. Consequently, as of 1 January 2021, companies and associations from the UK no longer qualified as interested parties in this proceeding.
- (13) By a note to the case file ⁽⁷⁾ on 15 January 2021, the Commission invited UK operators that considered that they still qualified as interested parties to contact it. BP Oil International Limited and Argent Energy requested to continue to be considered as interested parties and were granted this right based on the evidence submitted. In particular, both companies provided proof of the existence of related entities within the respective group active on the Union market. On the other hand, the UK parent company Valero Energy Limited was replaced by its Irish subsidiary Valero Energy Limited Ireland since the latter one is active on the Union market.

2.3. Interested parties

- (14) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, the known producers in the USA and the US authorities, known importers, users, traders, as well as associations known to be concerned about the initiation of the expiry review and invited them to participate.
- (15) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

2.4. Sampling

- (16) In the Notice of Initiation, the Commission stated that it might use sampling in accordance with Article 27 of the basic Regulation.

Sampling of Union producers

- (17) On 14 September 2020, the Commission notified to interested parties the provisional sample of Union producers pursuant to Section 5.3 of the Notice of Initiation. It selected the sample on the basis of the size of the production and sales volume of the like product in 2019 as well as the geographic location of the producers of the like product. This sample consisted of three Union producers. The sampled Union producers accounted for 17,5 % of the estimated total production volumes of the like product in the Union and it also ensures a good geographical spread. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline of 7 days of the notification of the provisional sample of Union producers.

Sampling of importers

- (18) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (19) Only one unrelated importer, Shell Trading Rotterdam BV, provided the requested information and, consequently, the Commission decided that sampling was not necessary.

Sampling of exporting producers

- (20) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in the USA to provide the information specified in the Notice of Initiation. In addition, it asked the authorities of the exporting country to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(7) Tron document: t21.000417.

- (21) Three exporting producers in the USA came forward and expressed their willingness to cooperate with the Commission in the investigations. In view of the low number, it decided that sampling was not necessary and all three companies were invited to submit a questionnaire reply.

2.5. Cooperation from the country concerned

- (22) On 15 October 2020, one of the originally cooperating companies sent an email to the Commission informing that it would not cooperate further. Moreover, the other two other companies did also not provide the requested information within the required deadline by completing and returning the questionnaire replies.
- (23) On 10 November 2020, the Commission sent a letter informing all three companies about its intention to apply Article 28 of the basic Regulation and base the findings of the investigation on facts available. The US authorities were also informed about this intention. The deadline for providing comments to the letter was 17 November 2020. No comments were received.
- (24) Moreover, at the initiation, by Note Verbale dated 14 September 2020, the Commission requested the authorities of the USA to complete and return the anti-subsidy questionnaire intended for the Government of USA. It did not receive a reply within the required deadline.
- (25) On 10 November 2020, the Commission sent a Note Verbale informing the US authorities about its intention to apply Article 28 of the basic Regulation and base the findings of the investigation on facts available given its lack of cooperation.
- (26) The deadline for providing comments to the Note Verbale was 17 November 2020. No comments were received.
- (27) The Commission therefore concluded that neither any exporting producer nor the Government of USA cooperated in the expiry review investigation. As a consequence, it decided to apply the provisions of Article 28 of the basic Regulation and base its findings, affirmative or negative, on the facts available.

2.6. Questionnaires

- (28) At the initiation, a copy of the questionnaires was made available in the file for inspection by interested parties and on DG Trade's website.
- (29) Questionnaire replies were received from the three sampled Union producers as well from an unrelated Union importer.

2.7. Verification

- (30) In view of the outbreak of COVID-19 and the confinement measures put in place by various Member States as well as by various third countries, the Commission could not carry out verification visits pursuant to Article 26 of the basic Regulation. The Commission instead cross-checked remotely all the information deemed necessary for its determination in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations⁽¹⁷⁾. The Commission carried out remote crosschecks (RCC) of the following companies/parties:

Union producers

- SAIPOL Bu Diester, France
- CAMPA Iberia S.A.U., Spain
- VERBIO Vereinigte BioEnergie AG, Germany

Importers

- Shell Trading Rotterdam BV, The Netherlands

⁽¹⁷⁾ Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (OJ C 86, 16.3.2020, p. 6).

2.8. Disclosure

- (31) On 21 May 2021, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the countervailing duties in force. All parties were granted a period within which they could make comments on the disclosure.
- (32) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. The parties who so requested were granted a hearing.

3. PRODUCT CONCERNED AND LIKE PRODUCT

3.1. Product concerned

- (33) The product concerned is the same as in the original investigation and previous expiry review namely fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 29), ex 1518 00 91 (TARIC code 1518 00 91 29), ex 1518 00 99 (TARIC code 1518 00 99 29), ex 2710 19 43 (TARIC code 2710 19 43 29), ex 2710 19 46 (TARIC code 2710 19 46 29), ex 2710 19 47 (TARIC code 2710 19 47 29), ex 2710 20 11 (TARIC code 2710 20 11 29), ex 2710 20 16 (TARIC code 2710 20 16 29), ex 3824 99 92 (TARIC code 3824 99 92 12), ex 3826 00 10 (TARIC codes 3826 00 10 29, 3826 00 10 59, 3826 00 10 99), ex 3826 00 90 (TARIC code 3826 00 90 19) ('the product concerned').
- (34) Biodiesel is a renewable fuel produced from a wide range of raw materials, i.e. vegetable oils such as rapeseed oil, soybean oil, palm oil, used frying oils (UFO), animal fats or biomass.
- (35) Biodiesel is used in the transport sector, mainly blended with mineral diesel (i.e. petroleum/conventional diesel) and very marginally in its pure form (B100).

3.2. Like product

- (36) As established in the original investigation as well as in the previous expiry review, this expiry review investigation confirmed that the following products have the same basic physical, chemical and [technical] characteristics as well as the same basic uses:
- the product concerned;
 - the product produced and sold on the domestic market of the USA; and
 - the product produced and sold in the Union by the Union industry.
- (37) These products are therefore considered to be like products within the meaning of Article 2(c) of the basic Regulation.

3.3. Claims regarding product scope

- (38) The Swedish company Preem AB and Valero Energy Ltd Ireland, fuel producers and suppliers and as such users of the product concerned, argued that Fatty Acid Methyl Ester (FAME) biodiesel and Hydrotreated Vegetable Oil (HVO) biodiesel are two different types of biodiesel, and that HVO should be excluded from the current product scope. In the 2009 Regulation imposing provisional measures⁽¹⁾, all types of biodiesel and biodiesel blends were considered to be biodiesel fuels. FAME and HVO can both be blended with diesel and despite some differences in physical characteristics, the product end-use is the same and both products are produced by the Union industry. In addition, the complaint in the original investigation explicitly defined diesel fuel produced from HVOs as part of the product concerned and no party challenged this statement at that time. Therefore, the claim was rejected.

⁽¹⁾ Commission Regulation (EC) No 193/2009 of 11 March 2009 imposing a provisional anti-dumping duty on imports of biodiesel originating in the United States of America (OJ L 67, 12.3.2009, p. 22).

- (223) The countervailing duties to be maintained shall continue to be extended to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not as well as to biodiesel in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA.
- (224) The exporting producers from Canada that were exempted from the measures, as extended by Regulation (EU) 2015/1519 as amended by Regulation (EU) 2016/675, shall also be exempted from the measures imposed by this Regulation.
- (225) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036 ⁽⁹⁾.
- (226) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 ⁽¹⁰⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is imposed on imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the USA, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 29), ex 1518 00 91 (TARIC code 1518 00 91 29), ex 1518 00 99 (TARIC code 1518 00 99 29), ex 2710 19 43 (TARIC code 2710 19 43 29), ex 2710 19 46 (TARIC code 2710 19 46 29), ex 2710 19 47 (TARIC code 2710 19 47 29), ex 2710 20 11 (TARIC code 2710 20 11 29), ex 2710 20 16 (TARIC code 2710 20 16 29), ex 3824 99 92 (TARIC code 3824 99 92 12), ex 3826 00 10 (TARIC codes 3826 00 10 29, 3826 00 10 59, 3826 00 10 99) and ex 3826 00 90 (TARIC code 3826 00 90 19).

2. The rates of the definitive countervailing duty applicable to the, net free-at Union frontier price, before duty, of the product described in paragraph 1, and manufactured by the companies listed below, shall be a fixed amount as follows:

Company	Countervailing duty rate EUR per tonne net	TARIC additional code
Archer Daniels Midland Company, Decatur	237,0	A933
Cargill Inc., Wayzata	213,8	A934
Green Earth Fuels of Houston LLC, Houston	213,4	A935
Imperium Renewables Inc., Seattle	216,8	A936
Peter Cremer North America LP, Cincinnati	211,2	A937
Vinmar Overseas Limited, Houston	211,2	A938
World Energy Alternatives LLC, Boston	211,2	A939
Companies listed in Annex I	219,4	See Annex I
All other companies	237,0	A999

⁽⁹⁾ Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 21).

⁽¹⁰⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

The countervailing duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

3. The application of the individual duty rate specified for the companies listed in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

Article 2

1. The definitive countervailing duty applicable to 'all other companies' as set out in Article 1, paragraph 2, is extended to imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, consigned from Canada, whether declared as originating in Canada or not, currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 21), ex 1518 00 91 (TARIC code 1518 00 91 21), ex 1518 00 99 (TARIC code 1518 00 99 21), ex 2710 19 43 (TARIC code 2710 19 43 21), ex 2710 19 46 (TARIC code 2710 19 46 21), ex 2710 19 47 (TARIC code 2710 19 47 21), ex 2710 20 11 (TARIC code 2710 20 11 21), ex 2710 20 16 (TARIC code 2710 20 16 21), ex 3824 99 92 (TARIC code 3824 99 92 10), ex 3826 00 10 (TARIC codes 3826 00 10 20, 3826 00 10 50, 3826 00 10 89) and ex 3826 00 90 (TARIC code 3826 00 90 11), with the exception of those produced by the companies listed below:

Country	Company	TARIC additional code
Canada	BIOX Corporation, Oakville, Ontario, Canada	B107
Canada	DSM Nutritional Products Canada Inc., Dartmouth, Nova Scotia, Canada	C114
Canada	Rothsay Biodiesel, Guelph, Ontario, Canada	B108

The duty to be extended shall be the one established for 'all other companies' in Article 1(2), which is a definitive countervailing duty of EUR 237 per tonne net.

The countervailing duty on blends shall be applicable in proportion, in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

2. The application of exemptions granted to the companies listed in paragraph 1 or authorised by the Commission in accordance with Article 4(2) shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the countervailing duty as imposed by paragraph 1 shall apply.

Article 3

1. The definitive countervailing duty as set out in Article 1, paragraph 2, is hereby extended to imports of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as 'biodiesel', in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, originating in the United States of America, and currently falling under CN codes ex 1516 20 98 (TARIC code 1516 20 98 30), ex 1518 00 91 (TARIC code 1518 00 91 30), ex 1518 00 99 (TARIC code 1518 00 99 30), ex 2710 19 43 (TARIC code 2710 19 43 30), ex 2710 19 46 (TARIC code 2710 19 46 30), ex 2710 19 47 (TARIC code 2710 19 47 30), ex 2710 20 11 (TARIC code 2710 20 11 30), ex 2710 20 16 (TARIC code 2710 20 16 30), ex 3824 99 92 (TARIC code 3824 99 92 20) and ex 3826 00 90 (TARIC code 3826 00 90 30).

The countervailing duty on blends shall be applicable in proportion in the blend, by weight, of the total content of fatty-acid mono-alkyl esters and of paraffinic gasoils obtained from synthesis and/or hydro-treatment, of non-fossil origin (biodiesel content).

2. The application of the individual duty rate specified for the companies listed in Article 1, paragraph 2, shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex III. If no such invoice is presented, the duty rate applicable under Article 1(2) to 'all other companies' shall apply.

Article 4

1. Requests for exemption from the duty extended by Article 2(1) and Article 3(1) shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate G
Office: Rue de la loi 170, CHAR 04/034
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

Email: TRADE-TDI-INFORMATION@ec.europa.eu

2. In accordance with Article 23(6) of Regulation (EU) 2016/1037, the Commission, after consulting the Advisory Committee, may authorise, by decision, the exemption of imports from companies which do not circumvent the countervailing measures imposed by Article 1, from the duty extended by Article 2(1) and Article 3(1).

Article 5

In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Commission Implementing Regulation (EU) 2015/2447⁽¹⁾, the amount of countervailing duty laid down in Articles 1, 2 and 3 shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 6

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 July 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽¹⁾ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

ANNEX I

Company Name	City	TARIC additional code
AC & S Inc.	Nitro	A941
Alabama Clean Fuels Coalition Inc.	Birmingham	A940
American Made Fuels, Inc.	Canton	A940
Arkansas SoyEnergy Group	DeWitt	A940
Arlington Energy, LLC	Mansfield	A940
Athens Biodiesel, LLC	Athens	A940
Beacon Energy	Cleburne	A940
Biodiesel of Texas, Inc.	Denton	A940
BioDiesel One Ltd	Southington	A940
BioPur Inc.	Bethlehem	A941
Buffalo Biodiesel, Inc	Tonawanda	A940
BullDog BioDiesel	Ellenwood	A940
Carbon Neutral Solutions, LLC	Mauldin	A940
Central Iowa Energy LLC	Newton	A940
Chesapeake Custom Chemical Corp.	Ridgeway	A940
Community Fuels	Stockton	A940
Delta BioFuels Inc.	Natchez	A940
Diamond Biofuels	Mazon	A940
Direct Fuels	Eufless	A940
Eagle Creek Fuel Services, LLC	Baltimore	A940
Earl Fisher Bio Fuels	Chester	A940
East Fork Biodiesel LLC	Algona	A940
ECO Solutions, LLC	Chatsworth	A940
Ecogy Biofuels LLC	Tulsa	A940
ED&F Man Biofuels Inc.	New Orleans	A940
Freedom Biofuels Inc.	Madison	A940
Freedom Fuels LLC	Mason City	A941
Fuel & Lube, LLC	Richmond	A940
Fuel Bio	Elizabeth	A940
FUMPA Bio Fuels	Redwood Falls	A940
Galveston Bay Biodiesel LP (BioSelect Fuels)	Houston	A940
GeoGreen Fuels LLC	Houston	A940
Georgia Biofuels Corp.	Loganville	A940
Green River Biodiesel, Inc.	Moundville	A940

Griffin Industries Inc.	Cold Spring	A940
High Plains Bioenergy	Guymon	A940
Huish Detergents Inc.	Salt Lake City	A940
Incobrasa Industries Ltd.	Gilman	A940
Independence Renewable Energy Corp.	Perdue Hill	A940
Indiana Flex Fuels	LaPorte	A940
Innovation Fuels Inc.	Newark	A940
Integrity Biofuels	Morristown	A941
Iowa Renewable Energy LLC	Washington	A940
Johann Haltermann Ltd.	Houston	A940
Lake Erie Biofuels LLC	Erie	A940
Leland Organic Corporation	Leland	A940
Louis Dreyfus Agricultural Industries LLC	Claypool	A940
Louis Dreyfus Claypool Holdings LLC	Claypool	A940
Middle Georgia Biofuels	East Dublin	A940
Middletown Biofuels LLC	Blairsville	A940
Musket Corporation	Oklahoma City	A940
Natural Biodiesel Plant LLC	Hayti	A941
New Fuel Company	Dallas	A940
North Mississippi Biodiesel	New Albany	A940
Northern Biodiesel, Inc.	Ontario	A940
Northwest Missouri Biofuels, LLC	St. Joseph	A940
Nova Biofuels Clinton County LLC	Clinton	A940
Nova Biosource	Seneca	A940
Organic Fuels Ltd.	Houston	A940
Owensboro Grain Company LLC	Owensboro	A940
Paseo Cargill Energy, LLC	Kansas City	A940
Peach State Labs Inc.	Rome	A940
Perihelion Global, Inc.	Opp	A940
Philadelphia Fry-O-Diesel Inc.	Philadelphia	A940
Piedmont Biofuels Industrial LLC	Pittsboro	A941
Pinnacle Biofuels, Inc.	Crossett	A940
PK Biodiesel	Woodstock	A940
Pleasant Valley Biofuels, LLC	American Falls	A940
Prairie Pride	Deerfield	A941

RBF Port Neches LLC	Houston	A940
Red Birch Energy, Inc.	Bassett	A940
Red River Biodiesel Ltd.	New Boston	A940
REG Ralston LLC	Ralston	A940
Renewable Energy Products, LLC	Santa Fe Springs	A940
Riksch BioFuels LLC	Crawfordsville	A940
Safe Renewable Corp.	Conroe	A940
Sanimax Energy Inc.	DeForest	A940
Seminole Biodiesel	Bainbridge	A940
Southeast BioDiesel LLC	Charlotte	A941
Soy Solutions	Milford	A940
SoyMor Biodiesel LLC	Albert Lea	A940
Stepan Company	Northfield	A941
Sunshine BioFuels, LLC	Camilla	A940
TPA Inc.	Warren	A940
Trafigura AG	Stamford	A940
U.S. Biofuels Inc.	Rome	A940
United Oil Company	Pittsburgh	A940
Valco Bioenergy	Harlingen	A940
Vanguard Synfuels, LLC	Pollock	A940
Vitol Inc.	Houston	A940
Walsh Bio Diesel, LLC	Mauston	A940
Western Dubque Biodiesel LLC	Farley	A940
Western Iowa Energy LLC	Wall Lake	A940
Western Petroleum Company	Eden Prairie	A940
Yokaya Biofuels Inc.	Ukiah	A941

ANNEX II

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3) or Article 2(2):

- The name and function of the official of the entity issuing the commercial invoice.
- The following declaration: 'I, the undersigned, certify that the (volume) of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as "biodiesel", in pure form or in a blend containing by weight more than 20 % of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin sold for export to the European Union covered by this invoice was manufactured by [company name and address (TARIC additional code)], in [country]ies concerned]. I declare that the information provided in this invoice is complete and correct.'

ANNEX III

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 3(2):

- The name and function of the official of the entity issuing the commercial invoice.
- The following declaration: 'I, the undersigned, certify that the (volume) of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin, commonly known as "biodiesel", in pure form or in a blend containing by weight 20 % or less of fatty-acid mono-alkyl esters and/or paraffinic gasoil obtained from synthesis and/or hydro-treatment, of non-fossil origin sold for export to the European Union covered by this invoice was manufactured by [company name and address] [TARIC additional code] in the United States of America. I declare that the information provided in this invoice is complete and correct.'
