



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

C-560-831

Biodiesel from the Republic of Indonesia: Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and/or exporters of biodiesel from the Republic of Indonesia (Indonesia). The period of investigation is January 1, 2016, through December 31, 2016. Interested parties are invited to comment on this preliminary determination.

DATES: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Gene Calvert or Joseph Traw, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3586 or (202) 482-6079, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on April 19, 2017.¹ On June 5, 2017, the Department postponed the preliminary determination of this investigation until no later than August 20, 2017. However, because August

¹ See *Biodiesel from Argentina and Indonesia: Initiation of Countervailing Duty Investigations*, 82 FR 18423 (April 19, 2017) (*Initiation Notice*).

20, 2017, falls on a Sunday, the preliminary determination was postponed until August 21, 2017.² A complete description of the events that followed the initiation of this investigation can be found in the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to parties in the Central Records Unit, room B8024 of the main Department of Commerce building. A complete version of the Preliminary Decision Memorandum can also be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is biodiesel from Indonesia. A complete description of the scope of this investigation is included as Appendix I to this notice.

Scope Comments

In accordance with the *Preamble* to the Department's regulations,⁴ the *Initiation Notice* set aside a period of time for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁵ No interested party commented on the scope of this investigation as it appeared in the *Initiation Notice*.

Methodology

² See *Biodiesel from Argentina and Indonesia: Postponement of Preliminary Determinations of Countervailing Duty Investigations*, 82 FR 25773 (June 5, 2017); see also *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

³ See Department Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of Biodiesel from the Republic of Indonesia," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ See *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ See *Initiation Notice* at the section, "Comments on Scope of the Investigations."

The Department is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, the Department preliminarily determines that there is a subsidy, *i.e.*, a financial contribution provided by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶

Preliminary Determination and Suspension of Liquidation

We preliminarily determine that countervailable subsidies are being provided with respect to the manufacture, production, or exportation of the subject merchandise. In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not individually examined, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individually-examined company respondents by those companies’ exports of the subject merchandise to the United States during the period of investigation. Under section 705(c)(5)(A)(i) of the Act, the “all-others” rate should exclude zero and *de minimis* rates or any rates based solely on the facts otherwise available calculated for the producers/exporters individually investigated. Neither of the individually-examined company respondents’ rates in in this preliminary determination is zero, *de minimis*, or based entirely on facts otherwise available. Accordingly, in this preliminary determination, we have calculated the “all-others” rate by weight averaging the calculated subsidy rates of the two individually examined company respondents. In order to ensure that business proprietary information is not disclosed through the all-others rate, we are using a weighted average of the publicly-ranged information provided by Musim Mas and Wilmar Trading for their sales of subject merchandise to the United States during the POI. The Department preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate (percent)
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⁶ See sections 771(5)(B) and 771(D) of the Act (regarding financial contribution); *see also* section 771(5)(E) of the Act regarding benefit, and section 771(5A) of the Act regarding specificity.

PT Musim Mas	68.28
Wilmar Trading PTE Ltd.	41.06
All-Others	44.92

In accordance with sections 703(d)(1)(B) and 703(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of biodiesel from Indonesia that are entered, or withdrawn from warehouse, for consumption, on or after the date of the publication of this notice in the *Federal Register*, and to require a cash deposit equal to the subsidy rates indicated above.

Disclosure

The Department intends to disclose to interested parties the calculations performed in connection of this preliminary determination within five days of its public announcement.⁷

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

Public Comment and Request for Hearing

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance via ACCESS no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted by no later than five days after the deadline for case briefs.⁸ A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department, pursuant to 19 CFR 351.309(c)(2) and 19 CFR 351.309(d)(2). This summary should be limited to five pages, including footnotes.

Pursuant to 19 CFR 351.310(c) interested parties who wish to request a hearing, limited to issues raised in case and rebuttal briefs, must submit a written request to the Assistant Secretary for

⁷ See 19 CFR 351.224(b).

⁸ See 19 CFR 351.309; see also 19 CFR 351.303 for general filing requirements.

Enforcement and Compliance, U.S. Department of Commerce, via ACCESS. An electronically-filed request must be successfully received, in its entirety, by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of the publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a hearing is requested, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. Parties will be notified of the date, time, and location of any hearing via ACCESS. Parties should confirm by telephone the date, time, and location of the hearing date two days before the scheduled date of the hearing.

U.S. International Trade Commission

Pursuant to section 703(f) of the Act, we will notify the U.S. International Trade Commission (ITC) of this preliminary determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative,⁹ the ITC will make its final determination within 45 days after the Department makes its final determination.

⁹ As of the signing of this notice, the petitioner (the National Biodiesel Fair Trade Coalition) had not requested that the date of the final determination of this investigation be aligned with the date of the final determination of the companion antidumping investigation, pursuant to section 705(a)(1) of the Act. Therefore, the current date for the final determination of this investigation is 75 days from the signature of this preliminary determination, November 6, 2017.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: August 21, 2017

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

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Appendix II

Scope of the Investigation

The product covered by this investigation 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 investigation 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 biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of this investigation.

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 this investigation 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.

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