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DEPARTMENT OF COMMERCE

International Trade Administration

[C-357-821]

Biodiesel from Argentina: Final Results of Countervailing Duty Changed Circumstances Review

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

SUMMARY: On July 9, 2019, the Department of Commerce (Commerce) published the preliminary results of the changed circumstances review (CCR) of the countervailing duty (CVD) order on biodiesel from Argentina. For these final results, Commerce finds that sufficient changed circumstances do not exist warranting a recalculation of the CVD deposit rates in the order.

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

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, 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) 482-3148.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2019, Commerce published the CVD order on biodiesel from Argentina.¹

On November 13, 2018, in response to a request submitted by the Government of Argentina

¹ See *Biodiesel from the Republic of Argentina and the Republic of Indonesia: Countervailing Duty Orders*, 83 FR 552 (January 4, 2018), corrected by *Biodiesel from the Republic of Argentina and the Republic of Indonesia: Countervailing Duty Orders*, 83 FR 3114 (January 23, 2018) (*Order*).

(GOA), joined by Vicentin S.A.I.C. (Vicentin) and LDC Argentina (LDC), Commerce initiated a CCR for both the CVD and antidumping duty (AD) orders.² Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.³ On July 1, 2019, Commerce issued the *Preliminary Results* and placed additional information on the record of the CCR, pursuant to 19 CFR 351.301(c)(4).⁴ On July 5, 2019, Commerce provided interested parties until July 12, 2019 to place additional information on the record in order to “rebut, clarify, or correct” the information placed on the record by Commerce.⁵

On July 12, 2019, the National Biodiesel Board Fair Trade Coalition (the petitioner), and LDC and Vicentin submitted additional factual information.⁶ On July 29, 2019, the petitioner requested that Commerce conduct a verification of factual information.⁷ The petitioner claimed that there was “good cause” to request a verification in this CCR because the “complexity of the record compel{ed} a more thorough understanding of the GOA’s recent export tax modifications.”⁸ Recognizing that verification would impede Commerce’s ability to meet its original September 19, 2019 deadline, the petitioner also requested an extension of the final

² See *Biodiesel from Argentina: Initiation of Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders*, 83 FR 56300 (November 13, 2018).

³ See Memorandum, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019.

⁴ See *Biodiesel from Argentina: Preliminary Results of Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders*, 84 FR 32714 (July 9, 2019) (*Preliminary Results*); see also Memorandum, “Additional Information Concerning the Preliminary Changed Circumstances Reviews of Biodiesel,” dated July 1, 2019.

⁵ See Memorandum, “Additional Information Concerning the Preliminary Changed Circumstances Reviews of Biodiesel,” dated July 5, 2019.

⁶ See Petitioner’s Letter, “Biodiesel from Argentina: Factual Information Pursuant to 19 CFR 301(c)(4),” dated July 12, 2019; see also LDC Argentina and Vicentin’s Letter, “Biodiesel from Argentina: Additional Information Concerning the Preliminary Changed Circumstances Reviews of Biodiesel,” dated July 12, 2019.

⁷ See Petitioner’s Letter, “Biodiesel from Argentina: Petitioner’s Request for Verification,” dated July 29, 2019.

⁸ *Id.* at 3.

deadline.⁹ On August 2, 2019, Commerce temporarily put a hold on the deadlines for case and rebuttal briefs.¹⁰

Commerce issued its verification agenda to the GOA on August 2, 2019.¹¹ The petitioner submitted its pre-verification comments on August 19, 2019.¹² Commerce conducted its verification of the GOA on August 26, 2019.¹³ On September 5, 2019, Commerce released its verification report regarding the GOA.¹⁴

On September 5, 2019, Commerce reinstated the deadlines for case and rebuttal briefs.¹⁵ On September 11, 2019, the petitioner requested an indefinite suspension of the deadlines for briefs and the final determination.¹⁶ The petitioner requested that Commerce accept new factual information on September 11, 2019.¹⁷ On September 12, 2019, the GOA responded, stating that a short extension of the deadlines was acceptable.¹⁸ On September 12, 2019, Commerce issued a

⁹ *Id.* at 4-5.

¹⁰ See Memorandum, “Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders on Biodiesel from Argentina: Holding of Deadlines,” dated August 2, 2019.

¹¹ See Memorandum, “Changed Circumstances Review of the Countervailing Duty Order on Biodiesel from Argentina; Verification of Information Submitted by the Government of Argentina,” dated August 2, 2019.

¹² See Petitioner’s Letter, “Biodiesel from Argentina: Coalition’s Comments Regarding Commerce’s Verification of Government of Argentina,” dated August 19, 2019.

¹³ See Memorandum, “Changed Circumstances Review of the Countervailing Duty Order on Biodiesel from Argentina: Verification Date,” dated August 7, 2019.

¹⁴ See Memorandum, “Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders on Biodiesel from Argentina: Publication of Verification Report and Reinstatement of Deadlines,” dated September 5, 2019.

¹⁵ See Memorandum, “Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders on Biodiesel from Argentina: Publication of Verification Report and Reinstatement of Deadlines,” dated September 5, 2019.

¹⁶ See Petitioner’s Letter, “Biodiesel from Argentina: Request for Meeting and Extension of Briefing Schedule,” dated September 11, 2019.

¹⁷ See Petitioner’s Letter, “Biodiesel from Argentina: Request to Expand Record to Include Factual Information Regarding Political Developments in Argentina,” dated September 11, 2019.

¹⁸ See GOA’s Letter, “Biodiesel from Argentina: Response from the GOA to Petitioner’s Request for Meeting and Extension of Briefing Schedule,” dated September 12, 2019.

short extension of deadlines.¹⁹ Commerce rejected the petitioner's request to include new factual information on the record on September 18, 2019.²⁰

On September 17, 2019, the petitioner requested a public hearing regarding the CCR.²¹ The petitioner and the GOA submitted case briefs on September 17, 2019.²² On September 23, 2019, the petitioner and the GOA submitted rebuttal briefs.²³ Pursuant to the petitioner's request, Commerce held a public hearing on September 26, 2019.²⁴

On October 16, 2019, Commerce placed additional factual information on the record of this proceeding.²⁵ In response, the petitioner placed additional factual information on the record on October 24, 2019.²⁶ Between the time Commerce released its Preliminary Results and the publication of these Final Results, Commerce has held numerous phone calls and meetings with parties.²⁷

¹⁹ See Memorandum, Changed Circumstances Reviews of the Antidumping and Countervailing Duty Orders on Biodiesel from Argentina: Deadline for Case and Rebuttal Briefs and Hearing Requests; Rejection of New Factual Information," dated September 12, 2019.

²⁰ See Memorandum, "Changed Circumstances Review of the Countervailing Duty Order on Biodiesel from Argentina: Rejection of Document from the Administrative Record," dated September 18, 2019.

²¹ See Petitioner's Letter, "Biodiesel from Argentina: Petitioner's Hearing Request," dated September 17, 2019.

²² See Petitioner's Case Brief, "Biodiesel from Argentina: Petitioner's Case Brief," dated September 17, 2019; see also GOA's Case Brief, "Biodiesel from Argentina Changed Circumstances Review: Government of Argentina Case Brief and Statement with Respect to Public Hearing," dated September 17, 2019.

²³ See Petitioner's Rebuttal Brief, "Biodiesel from Argentina: Rebuttal Brief on Behalf of the National Biodiesel Board Fair Trade Coalition," dated September 23, 2019 (Petitioner's Rebuttal Brief); see also GOA's Rebuttal Brief, "Biodiesel from Argentina: Rebuttal Brief in AD Changed Circumstances Review," dated September 23, 2019.

²⁴ See Hearing Transcript, "In the Matter of: The Changed Circumstances Review of the Countervailing Duty Order on Biodiesel from Argentina," dated September 26, 2019.

²⁵ See Memorandum, "Ex Parte Meeting with the National Biodiesel Board and the American Soybean Association," dated October 16, 2019.

²⁶ See Petitioner's Letter, "Biodiesel from Argentina: Petitioners' Submission to Rebut, Clarify, or Correct Information Placed on the Record," dated October 24, 2019.

²⁷ Memorandum, "Email Exchange with Governor Kim Reynolds," dated July 16, 2019, Memorandum, "Ex Parte Discussion with Governor Kim Reynolds," dated July 25, 2019, Memorandum, "Ex Parte Discussion with Congressman Darin LaHood," dated July 25, 2019, Memorandum, "Ex Parte Discussion with Senator Alexander's Office," dated July 30, 2019, Memorandum, "Correspondence with Minister Dante Sica," dated August 15, 2019, Memorandum, "Correspondence with Several U.S. Senators," dated August 15, 2019, Memorandum, "Ex Parte Discussions with the Government of Argentina," dated August 28, 2019, Memorandum, "Ex Parte Discussion with National Biodiesel Board," dated September 12, 2019, Memorandum, "Ex Parte Meeting with Senator Grassley's Staff Regarding Biodiesel Changed Circumstances Reviews," dated September 27, 2019, Memorandum, "Ex Parte Meeting with National Biodiesel Board," dated September 30, 2019, Memorandum, "Ex Parte Meeting with the

Scope of the Order

The product covered by the *Order* is biodiesel from Argentina. For a complete description of the scope of the *Order*, see the appendix to this notice.

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs by parties to this review in the Issues and Decision Memorandum (I&D Memo).²⁸ Attached to this notice, in Appendix II, is a list of the issues which parties raised. The I&D Memo is a public document and on file in the Central Records Unit (CRU), Room B8024 of the main Commerce building, as well as 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>. In addition, a complete version of the I&D Memo can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed I&D Memo and the electronic versions of the I&D Memo are identical in content.

Final Results of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216, Commerce has determined that sufficient changed circumstances warranting a

National Biodiesel Board and the American Soybean Association," dated October 16, 2019, Memorandum, "Ex Parte Meeting with the Petitioners," dated October 18, 2019, Memorandum, "Ex Parte Meeting with the Government of Argentina," dated October 18, 2019, Memorandum, "Telephone call with Argentine Embassy Official Regarding Changed Circumstances Reviews (CCR) of Biodiesel from Argentina," dated December 9, 2019, Memorandum, "Telephone call with Representative Darin LaHood to discuss Changed Circumstances Review (CCR) of Biodiesel from Argentina," dated November 26, 2019, Memorandum, "Telephone call with Senator Chuck Grassley to discuss Changed Circumstances Reviews (CCR) of Biodiesel from Argentina," dated November 26, 2019, Memorandum, "Telephone call with Ambassador Fernando Oris de Roa to discuss Changed Circumstances Reviews (CCR) of Biodiesel from Argentina," dated December 5, 2019, Memorandum, "Telephone call with the National Biodiesel Board to discuss Changed Circumstances Reviews of Biodiesel from Argentina," dated December 19, 2019, Memorandum, "Telephone call with Senator Chuck Grassley to discuss Changed Circumstances Reviews of Biodiesel from Argentina," dated December 19, 2019, and Memorandum, "Telephone call with Congressman Darin LaHood," dated March 19, 2020.

²⁸ See Memorandum, "Issues and Decision Memorandum for the Final Results of Antidumping Duty Changed Circumstances Review: Biodiesel from Argentina," dated concurrently with, and hereby adopted by, this notice.

cash deposit adjustment do not exist. As explained in the I&D Memo, Argentina's export tax regime is in flux, leading Commerce to conclude that there are not sufficient changed circumstances to warrant such an adjustment. Therefore, Commerce is making no changes to the cash deposit rates as listed in the order.

Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclose under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i) of the Act, and 19 CFR 351.216 and 19 CFR 351.222.

Dated: May 5, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Order

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

Attachment II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
 - II. Background
 - III. Final Results of Review
 - IV. Discussion of the Issues
 - Comment 1: Relevance of the GOA's Changes after the Preliminary Results
 - Comment 2: Whether Commerce Properly Initiated the CCR
 - Comment 3: Whether Commerce Properly Conducted the CCR
 - Comment 4: Whether a Financial Contribution Still Exists
 - V. Recommendation
- [FR Doc. 2020-10129 Filed: 5/11/2020 8:45 am; Publication Date: 5/12/2020]