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## The National Biodiesel Board Fair Trade Coalition's Petitions on Biodiesel Imports

### What is the problem? Why are we taking action?

A flood of dumped and subsidized imports from Argentina and Indonesia has resulted in market share losses and depressed prices for domestic producers. The result has been material injury to American manufacturers and workers.

Biodiesel imports from Argentina and Indonesia surged by 464 percent from 2014 to 2016, taking 18.3 percentage points of market share from U.S. manufacturers. Imports of biodiesel from Argentina jumped 144.5 percent since the filing of the antidumping and countervailing duty petitions (i.e., April-June 2017), as compared to the period prior to the filings (January-March 2017).

This is not the first time that Argentine and Indonesian biodiesel producers have been charged with violating international trade laws. In 2013, the EU imposed 41.9 to 49.2 percent duties on Argentina and 8.8 to 23.3 percent duties on Indonesia. And just last year, Peru imposed both antidumping and countervailing duties on Argentine biodiesel.

### What is the solution? What are antidumping and countervailing duty petitions?

An injured party can file antidumping or countervailing duty petitions with the International Trade Commission (ITC) and the U.S. Department of Commerce (DOC). To be successful, a party must file both with the ITC and DOC. DOC determines whether the imports are subsidized and/or dumped, while the ITC determines whether the domestic industry has been injured by reason of such unfairly traded imports. DOC determines the margin of duties to impose on imports based on the degree of dumping and subsidies found.

Antidumping petitions address concerns with imports coming into the United States *below fair value*. Countervailing duty petitions address *subsidies* provided by foreign governments benefiting imported product.

In March 2017, the National Biodiesel Board (NBB) Fair Trade Coalition filed antidumping and countervailing duty petitions with the DOC and the ITC, alleging that increased volumes of subsidized and dumped biodiesel imports from Argentina and Indonesia have taken market share away from U.S. manufacturers and otherwise injured U.S. biodiesel producers.

### Why is this the solution?

U.S. trade law provides remedies for parties who are materially injured (or threatened by such injury) because of: (a) imports that are sold (or likely to be sold) in the United States at less than fair value (antidumping) and/or (b) subsidies by foreign governments (countervailing duty). If the ITC finds that there's harm, the Commerce Department can impose and collect duties on the offending imports. This would level the playing field between the importers and the injured U.S. biodiesel producers.

### How does this process work?

After filing petitions with the respective agencies, there are preliminary determinations made by the ITC and then DOC, followed by final determinations by DOC and ITC. (A complete timeline is on the next page.)

The ITC injury investigation includes questionnaires issued to U.S. producers, foreign producers from the subject countries, U.S. importers and purchasers. Questionnaires solicit data on production, sales, pricing, financial condition and other information relating to the impact of imports on the condition of the domestic industry. Interested stakeholders can present written briefs and appear at a hearing in support or opposition to the case.

The DOC investigations involve extensive data collection from the foreign producers/exporters and foreign governments in an effort to determine the existence and extent of subsidies and dumping. DOC then preliminarily determines whether biodiesel from Argentina and Indonesia are subsidized and/or dumped. If Commerce issues affirmative preliminary determinations, DOC will instruct Customs to collect cash deposits from U.S. importers in the amount of subsidies and dumping found. The cash deposit rates are expressed as a percentage of the value of imports. Cash deposit requirements are imposed at the time the preliminary determinations are published in the Federal Register. Following the preliminary

DOC determinations, DOC will audit the foreign producers and governments to confirm the accuracy of their data submissions. Parties will file briefs on issues arising from DOC’s preliminary AD and CVD determinations, and DOC may hold a hearing as well. The cash deposit rates will be updated at the time of the final determinations.

The ITC will hold its final vote roughly a month after DOC’s final determination, and if affirmative, AD and/or CVD orders will be issued several weeks later.

**What has happened to date on these petitions?**

On March 23, 2017, the National Biodiesel Board Fair Trade Coalition—whose members include the National Biodiesel Board and U.S. producers—filed antidumping and countervailing duty petitions with the DOC and the ITC.

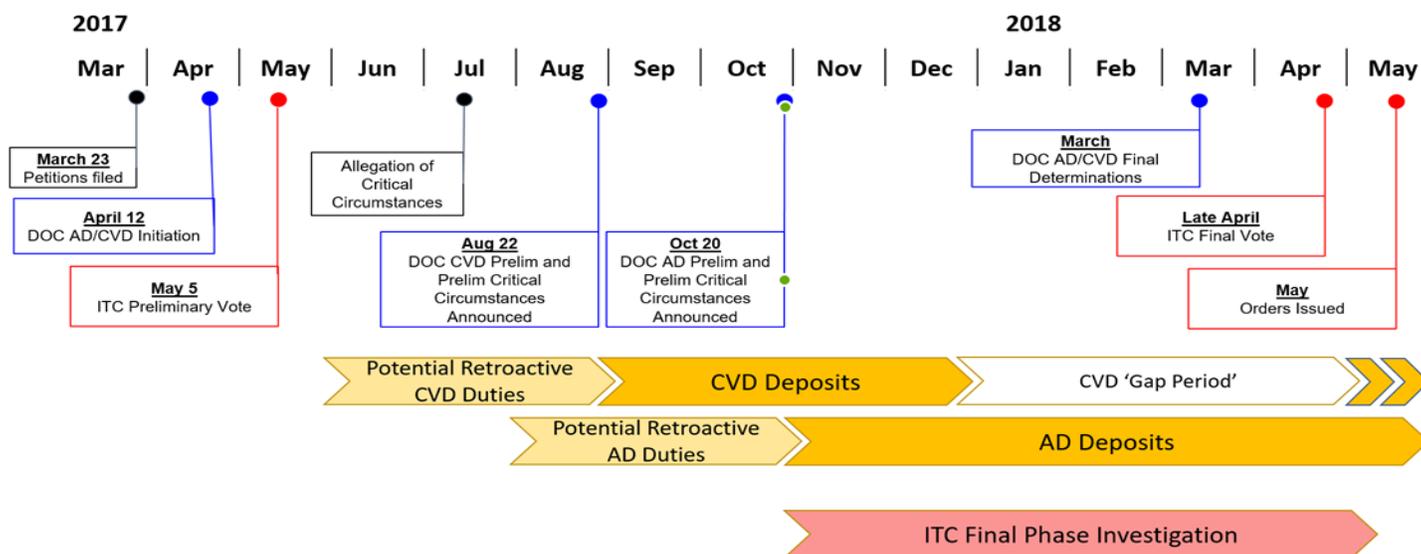
On April 12, 2017, the Commerce Department confirmed the adequacy of the allegations in the petitions, formally initiating investigations into various subsidy programs—including Argentina’s provision of soybean feedstock at depressed prices—as well as allegations of dumping at rates up to 26.54 percent for Argentina and up to 28.11 percent for Indonesia.

On May 5, 2017, the International Trade Commission voted 5-0 in finding that there is a reasonable indication that a U.S. industry is materially injured by reason of imports of biodiesel from Argentina and Indonesia that are allegedly subsidized and sold in the United States at less than fair value. (Biodiesel from Argentina and Indonesia, Inv. Nos. 701-TA-571-572 and 731-TA-1347-1348 (Preliminary)).

On July 11, the NBB Fair Trade Coalition filed an allegation with DOC that “critical circumstances” exist with respect to imports of biodiesel from Argentina. The “critical circumstances” provision in antidumping and countervailing duty law allows for retroactive duties to be imposed on unliquidated entries of biodiesel imported during the 90 day period before publication of DOC’s preliminary determinations. These protections exist to deter importers from attempting to circumvent the antidumping and countervailing duty laws by making massive shipments immediately after the filing of a petition and before any relief can be imposed. Traditionally, DOC issues a preliminary finding on critical circumstances at the same time it issues preliminary determinations.

**What is the complete timeline of these petitions?**

## Biodiesel AD/CVD Case Timeline



*Note: All dates are estimates, and assume full extension of statutory deadlines*