

2ND FRONT

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European complaint fuels biodiesel war

EBB contends that U.S. tax credit creates unfair playing field for pricing in biodiesel market

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A complaint filed last month by the European Biodiesel Board against American producers could have major implications for an already troubled industry.

The anti-dumping and countervailing duty trade complaint states that American biodiesel manufacturers are undercutting European producers in the rampant European market because the American products are buoyed by strong government subsidies. The European Commission is expected to decide on an action sometime this summer, and could recommend a formal inquiry from the World Trade Organization.

At the very least, if action is taken, loopholes in the tax credit such as what has become known as the "splash and dash" may be



Jenny Ligums of BioSelect Fuels: 'Right now in the industry, people are literally struggling to break even.'

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closed.

Splash and dash occurs when producers such as those in Latin America and South America offload their biodiesel in the Port of Houston, for example, to qualify for the tax credit, before reloading it and shipping it off to Europe.

The credit was never meant to benefit exporters, but instead was created to spur domestic producers and, hence, a domestic market. Instead, it's flooding — and irking — the European market.

"It will be interesting to see what happens to that complaint because Europe is benefiting from the lower price of that biodiesel," says Jess Hewitt, president of Gulf Hydrocarbon Inc., a Houston-based company that provides biodiesel to the petroleum industry. Hewitt and a member of the National Biodiesel Board.



The blender's credit is set to expire at the end of this year, which could render the EBB complaint moot before it even gains traction, but any of the three U.S. presidential hopefuls remaining could renew it, though likely loaded with language less open to loopholes.

There is also a bill bouncing around the House and Senate that supports a biodiesel subsidy as long as that fuel is not exported to Europe.

"The best case scenario is that we return to the reason for the blender's tax credit — to assist the market here in the U.S.," Hewitt says.

While reactions to the EBB complaint range from passive to outraged, the one unified response from U.S. producers

is simple — the EBB is trying to use litigation as a protectionist tool to shield them from U.S. competition.

"Both products are heavily subsidized," says Melinda Kimble, senior vice president of programs with the United Nations Foundation. "The Organization of Economic Cooperation and Development (in Paris) has identified subsidies on both sides."

Kimble says daily fluctuations in the exchange rates make it difficult to track the true value of the subsidies, but U.S. producers are more competitive in Europe because of lower feedstock costs and the weak dollar compared to the euro.

"Whatever the subsidy is buying in the U.S., at least the exchange rate difference is cheaper," she says.

Meanwhile, some cite simple supply and demand. Only 4 percent of personal cars in America run on diesel fuel compared with 50 percent in Europe, due in no small part to a European Union mandate.

"There's no market here," says Jenny Liguins, co-founder and vice president of Houston-based biodiesel producer BioSelect Fuels LLC. "There are high feedstock costs and a host of other issues (Europeans) face as an industry that are completely independent, (but) even if there weren't, they'd still have to buy from someone."

Others say there is, in fact, a domestic market, and the attraction to European markets is driven by the dollar-per-gallon tax credit given to any biodiesel that is blended on American soil.

"No one has said there's not a domestic market — there is a very lively market for biodiesel in the U.S.," says the NBB's Hewitt. "The market in Europe, considering the dollar credit, can pay more."

MAKING WAVES

The U.S. government does not monitor biodiesel exports. Industry insiders say domestic production is around 450 million gallons a year. Europe says it receives about 272 million gallons from American producers, but Jess Hewitt of the National Biodiesel Board says the best he can surmise is that the U.S. net exports 250 million gallons.

"It's very difficult to get numbers," he says. Other sources, like Will Thurmond, managing principal of the Houston-based research firm Emerging Markets Online and author of "Biodiesel 2020: A Global Market Survey," says more than 75 percent of U.S. biodiesel is exported to Europe. Either way, with diesel prices in the United Kingdom at \$1.1 per gallon as opposed to about \$4.25 per gallon in the U.S., exporting will continue, regardless of who is keeping track.

Ford Gunter

can't take the credit," he says.

Hewitt predicts that the credits will be mixed, but the possibility of retroactively eliminating them dating back to 2005 could result in some hefty refunds and, assuredly, some loud complaints.

Whatever happens in the Legislature, it seems clear that there is little interest in Washington to continue sending subsidized biodiesel to Europe.

In the meantime, American producers will start receiving surveys in June from the EBB that will account for where their biodiesel was sold for the first quarter of 2008 and the last three quarters of 2007 — a tricky proposition in a market that is not tracked by the government and is dominated by mid-levelmen, traders and exporters.

"A lot (of biodiesel), we've sold to U.S. traders," Liguins says. "We don't know where they've sold it to."

the fuel is coming from."

If the European Commission decides to pursue the complaint with the WTO, there could be a five-year anti-dumping duty that would at minimum damage and at most destroy profit margins.

"U.S. producers are having to prepare for this kind of like a lawsuit," Hewitt says. "They will have to defend themselves against these accusations, hire attorneys and experts and prepare."

On a national level, the NBB is poised to go on the offensive, saying it will use "every resource at its disposal to wage a vigorous defense" and, on top of that, "aggressively challenge existing EU trade barriers — such as the EU's discriminatory biodiesel fuel specification — and other EU biofuel policies that are inconsistent with WTO rules and provide preferential treatment to European fuel producers."