Growth Energy™
Expanding America's Bioeconomy

August 18, 2025

Philip Butler and Megan Grimball
Chairs of the Section 301 Committee
Office of the U.S. Trade Representative
600 17th Street NW
Washington, DC 20508
Docket ID: USTR-2025-0043

Dear Mr. Butler and Ms. Grimball:

Thank you for initiating a Section 301 Investigation on Brazil's Acts, Policies and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation.

Growth Energy is the nation's largest association of ethanol producers, representing 97 U.S. plants that each year produce 9.5 billion gallons of low-carbon, renewable fuel; 130 businesses associated with the production process; and tens of thousands of ethanol supporters around the country. Growth Energy represents the leading exporters in the ethanol industry, helping to support nearly two billion gallons of ethanol exports to over 60 countries around the world.

In 2024, U.S. ethanol exports set a record of nearly two billion gallons valued at $4.3 billion. Additionally, U.S. exports of distillers grains, a valuable co-product of the ethanol production process, reached over 12 million metric tons valued at $3.2 billion in the same period. The United States supplies over half of all global ethanol exports. Ensuring ease of trade and price competitiveness will be vital to ensure 2025 continues our trend of growing exports and maintaining strong trade surpluses.

We appreciate the opportunity to provide input on ethanol market access challenges considering Brazil's years-long effort to seek preferential treatment for their ethanol in the United States while limiting U.S. market access into Brazil through tariff and non-tariff measures. We further appreciate the opportunity to highlight the unfair actions by Brazil, bilaterally and within international organizations, to artificially improve the standing of their ethanol vis-à-vis U.S. corn ethanol despite our historic price benefit and low-risk sustainable practices. While the United States may experience an overall trade surplus with Brazil, this is not the case for U.S. ethanol and other agricultural goods.

When Brazil faced earlier barriers to the U.S. market, they wanted to "develop a truly global free market for ethanol, without trade barriers."[1] Once they received that in the United States, they reestablished barriers to eliminate the free market for U.S. ethanol into Brazil. Brazil's unreasonable efforts to initiate tariffs after previously voicing support for free bilateral ethanol

[1] https://www.prnewswire.com/news-releases/congressional-recess-means-the-end-of-three-decades-of-us-tariffs-on-imported-ethanol-136143713.html

trade, as well as their discriminatory policies against imported ethanol into their low carbon fuel policy, have severely restricted U.S. ethanol exports and burdened our industry. These efforts have resulted in a bilateral U.S. ethanol trade deficit of $150 million last year. In 2024, U.S. ethanol exports to Brazil were valued at $53 million, which is a stark decrease from $1.1 billion of U.S. ethanol exports to Brazil in 2011.[2]

As it relates to the topics of "Unfair, Preferential Tariffs," "Ethanol Market Access," and "Illegal Deforestation," we provide the below comments and commend the U.S. Trade Representative (USTR) for taking action to address Brazil's unfair efforts that ultimately put U.S. ethanol at an unfair competitive disadvantage in Brazil, in parts of the United States, and in third-party markets.

Unfair, Preferential Tariffs

European Union (EU) – Mercosur Trade Agreement

In December 2024, the EU and Mercosur announced an agreement on text for their long-negotiated trade agreement. Brazil is a member of Mercosur. While the agreement is pending approval of the individual member states of the EU, it still signals the loss of U.S. commerce where export market opportunities for U.S. ethanol are hindered both within Brazil and in other markets because of Brazilian actions and agreements. Within the deal, Mercosur was able to obtain both preferential treatment for their ethanol, which includes Brazilian ethanol, into the EU and set preferential applied tariffs for European ethanol imports into Mercosur.

Depending on the tariff line, EU ethanol exports to Mercosur will be able to enter the bloc, including Brazil, under preferential duty. EU ethanol exports under 22071010 would have a 10 percent rate to Mercosur countries, eight percent for tariff line 22071090, and eight percent for 22072011. This is much lower than the 18 percent that U.S. ethanol faces when exported to Brazil.

Additionally, the agreement provides preferential treatment for ethanol from Mercosur/Brazil into the EU that is not similarly provided for U.S. ethanol. This significant economic benefit could undermine the demand for U.S. ethanol into the EU because of inferior economics associated with lower tariffs. Currently, both U.S. and Brazilian ethanol are subject to EU import duties of €19.2/hl and €10.2/hl for ethanol, depending on the tariff line.

If ratified, the Mercosur/Brazil agreement with the EU will give its ethanol a competitive advantage (phased in gradually over five years) including:

- A duty-free quota of 450,000 tonnes annually for industrial / chemical ethanol. This equates to 150.7 million gallons annually when fully phased in.
- A 1/3 of full duty rate (ie €6.4/hl or €3.4/hl depending on ethanol tariff line) for 200,000 tonnes for all other ethanol uses (including fuel). This equates to reduced duty for 67 million gallons of ethanol from Mercosur/Brazil.

[2] Unless otherwise indicated, trade data is captured through USDA' global Agricultural Trade System (GATS)

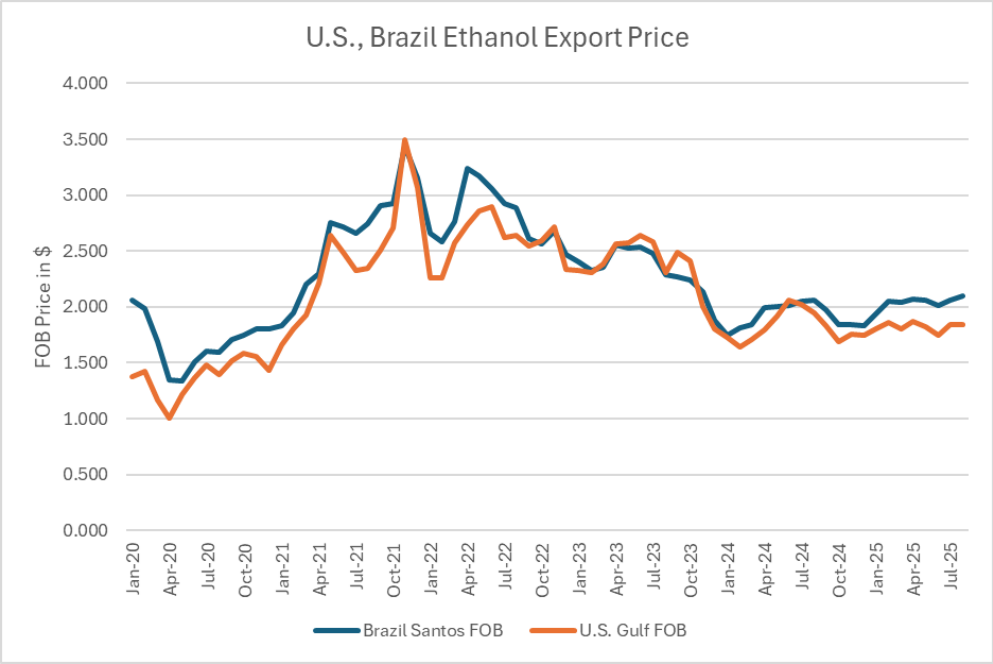
Thus, Brazil will be able to supply the EU with either no duty or 1/3 duty on over 217 million gallons of ethanol while the U.S. will continue to face the higher duty of €19.2/hl and €10.2/hl for ethanol. Further, the EU will be able to supply Brazil with ethanol at a reduced duty compared to the 18 percent duty applied to U.S. ethanol. For comparison, in 2024, U.S. ethanol exports to the EU amounted to 194 million gallons, valued at $420 million, and Brazil's ethanol exports to the EU amounted to approximately 40 million gallons, valued at $92 million[3].

If the EU-Mercosur agreement is agreed to, without further concessions from the EU for U.S. ethanol in any potential bilateral EU-U.S. trade discussion, Brazilian ethanol could significantly displace U.S. ethanol in the EU market due to this competitive advantage of lower tariffs on 217 million gallons, which exceeds the full amount of U.S. ethanol exports in 2024.

Ethanol Market Access

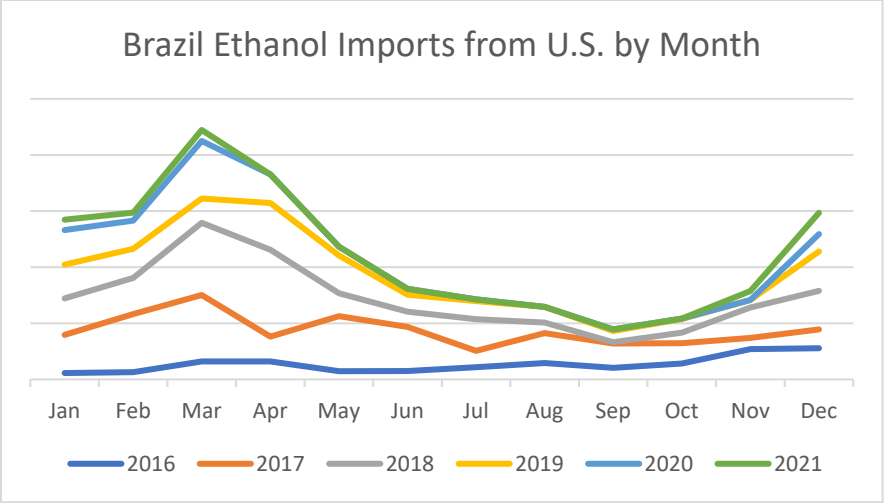
U.S. ethanol benefits from free trade globally and retaining the U.S. de minimis tariffs on imported ethanol has illustrated our openness to accepting imports into our own market. However, this duty-free trade must be fairly applied, particularly with Brazil. U.S. corn ethanol has a historic price advantage compared to Brazilian ethanol, however this can be affected by currency exchange rates, related costs for gasoline or other fuel additives, feedstock costs, transportation and shipping costs, as well as emissions profiles and sustainability criteria.

Brazilian sugarcane ethanol production faces seasonal limitations, resulting in a need for imports to complement domestic production. Ethanol imports are largely concentrated in Brazil's Northeast, at times accounting for 85 percent of all ethanol imported into Brazil. Import demand was primarily met by U.S. ethanol.



Data Source: Argus

[3] Brazilian export data from Brazil's Ministry of Development, Industry and Trade's COMEX STAT



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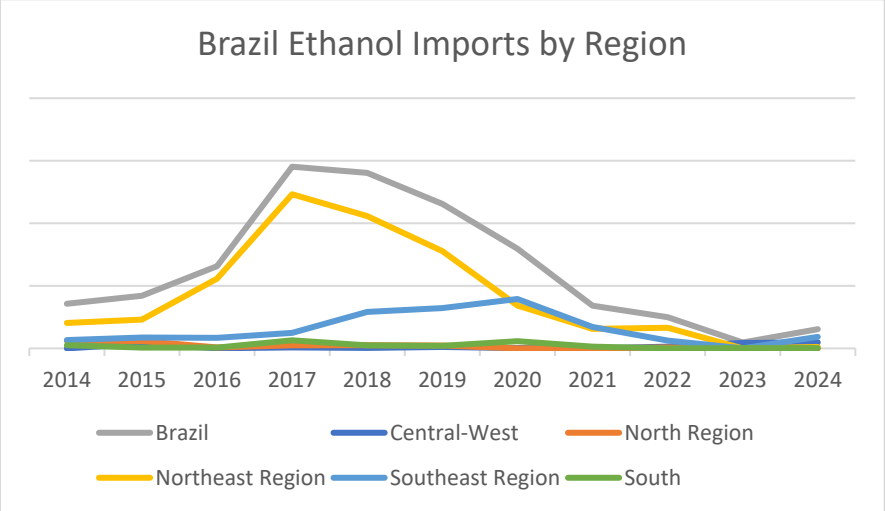

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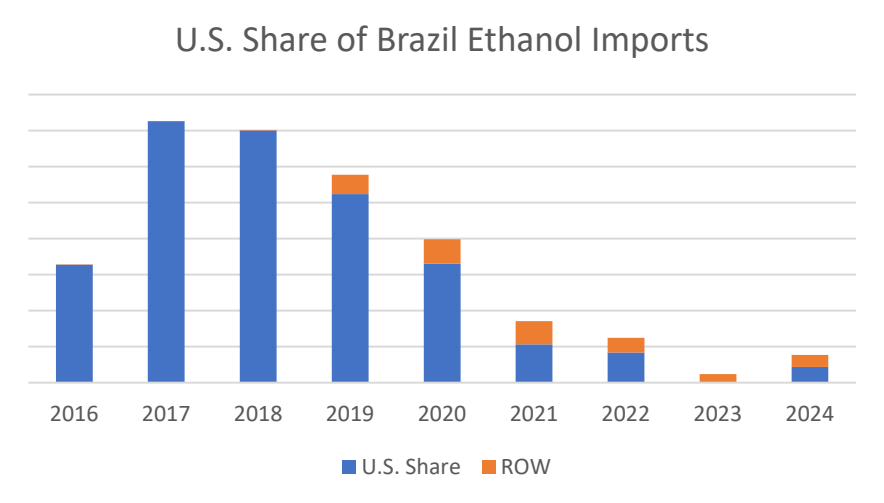


Data Source: Brazil's COMEX Stat

U.S. Tariffs Compared to Brazil

The United States levies a de minimis import tariff on ethanol in the amount of 1.9 or 2.5 percent (depending on the tariff line). Between 1980 and 2011 the United States also levied a surcharge of 54 cents per gallon as an "other duty and charge" (ODC) on ethanol imports. This ODC is still included within the U.S. World Trade Organization (WTO) tariff schedule, but its applicability ended in 2011 when it expired.

In April 2010, Brazil eliminated its 20 percent import tariff on ethanol, with the country reporting that the "elimination of the 20 percent import tariff reflected its position to transform ethanol into a freely traded global energy commodity."[4]

At that time, Brazil saw significant export growth in the U.S. market and sought to improve its access with the significantly increased volumetric requirements under the U.S. Renewable Fuels Standard (RFS) and yet-to-be expanded U.S. ethanol production. This paid off for Brazil, with their ethanol exports to the United States growing from 166 million gallons (valued at $555 million) in 2011 to 532 million gallons (valued at nearly $1.5 billion) in 2012 and nearly 450 million gallons (valued at $1.2 billion) in 2013.

Brazil lobbied the United States to remove its ODC on ethanol imports, with Brazilian industry calling for "free and fair trade" between the two largest ethanol producing and consuming counties. UNICA, Brazil's trade association for sugarcane producers, addressed various myths when seeking the removal of that ODC, specifically noting there was no interest for Brazil to reinstate their tariff on U.S. ethanol.[5] Separately, UNICA noted that "allowing sugarcane ethanol to compete fairly in the U.S. would save drivers money at the pump…So the best option for Americans is to let the ethanol tariff and subsidies expire as scheduled, because competition benefits consumers…The ethanol import tariff shouldn't exist at all."[6] Similar calls for the ODC's removal came from other Brazilian industries and organizations, such as the Brazil-U.S. Business Council.[7]

In September 2015, Brazil extended its zero-import tariff on ethanol.[8] However, as free trade between the two countries flourished, and U.S. ethanol exports to Brazil expanded in 2017, Brazil went backward on the desire for free and fair trade by establishing a tariff rate quote (TRQ) at the request of UNICA and other Brazilian industries seeking to reinstate tariffs on imported ethanol.[9] When the original TRQ was expiring in 2019, Brazil increased the TRQ but added quarterly allocations. These allocations limited exports given the seasonal nature of ethanol production in Brazil. Once that TRQ expired in December 2020, all U.S. ethanol exports

[4]https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Biofuels%20Annual_Sao%20Paulo%20ATO_Brazil_8-11-2010

[5] https://www.sugarcane.org/wp-content/uploads/2020/12/Clearing-Up-a-Few-Tariff-Myths.pdf

[6] https://www.prnewswire.com/news-releases/brazilian-sugarcane-industry-association-says-lame-duck-congress-goes-from-bad-to-worse-on-ethanol-policy-111277944.html

[7] https://www.sugarcane.org/wp-content/uploads/2020/12/Letter-from-USCC-and-BUSBC-to-Congress-Nov.-29-2011.pdf

[8]https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Biofuels%20Annual_Sao%20Paulo%20ATO_Brazil_8-12-2016

[9]https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Biofuels%20Annual_Sao%20Paulo%20ATO_Brazil_9-15-2017

to Brazil were assessed a 20 percent tariff. The tariff had some fluctuations until it settled at the current 18 percent in February 2023.

Brazil executed a "bait and switch" against U.S. ethanol: it actively sought U.S. removal of its ODC by referencing their own tariff removal, and then—when that took place—they reinstated their tariff. Brazil took these actions to meet their own goals and serve the interests of their ethanol and agricultural industries. Brazil's actions actively discriminate against U.S. ethanol, have demonstrably burdened U.S. ethanol, and have imposed economic barriers that restrict U.S. ethanol exports to Brazil. We believe these actions negate Brazil's posture that they are within their right to increase the tariffs given their higher bound rate under the World Trade Organization (WTO).

This abrupt reversal from zero tariffs to 20 percent after securing reciprocal tariff elimination from the U.S. undermines the spirit of fairness and reciprocity in bilateral trading under the WTO's General Agreement on Tariffs and Trade (GATT) 1994, reflecting an opportunistic use of WTO flexibilities and contravening the principle that tariff policy should not be manipulated in a manner that distorts legitimate expectations of fair and predictable trade, and therefore provides a sound basis for the United States to consider countermeasures under Section 301.

Additionally, GATT Article III (National Treatment) prohibits members from applying internal taxes or regulations to imported products in a manner that affords protection to domestic production. If Brazil's tariff measures are combined with domestic policies like RenovaBio (as further explained herein) to give preferential economic outcomes to domestic ethanol producers over imported U.S. ethanol, that combination could raise a National Treatment concern.

National Treatment concerns also stem from Brazil's actions in the resumption of the 16 percent tariff on February 1, 2023. While the tariff reduction was done in response to inflation, according to news reports it was the government that decided to reinstitute the tariff on the behest of its sugar industry. Specifically, reports noted the government did it as a means to protect their domestic industry.[10]

While it is difficult to estimate the exact damage associated with reduced exports to Brazil, one could look at the similarities between U.S. ethanol exports to Canada and compare them to Brazil. Both markets were seeing export growth with expanded ethanol demand. In 2016 and 2017, U.S. ethanol exports to Canada and Brazil were relatively comparable, with 314 million gallons exported to Canada and 269 million gallons exported to Brazil in 2016. In 2017, 325 million gallons were exported to Canada and 431 million gallons exported to Brazil. Since then, exports to Canada have continued to grow (697 million gallons in 2024) while ethanol exports to Brazil have plummeted to 28 million gallons in 2024. Without the TRQ and adverse tariff situation, it is likely we could have seen continued increases in U.S. ethanol exports to Brazil as their demand continued to increase with higher blend levels.

[10] https://eixos.com.br/combustiveis-e-bioenergia/biocombustiveis/pedido-das-usinas-volta-do-imposto-sobre-etanol-importado-foi-articulada-por-favaro/

U.S. ethanol exports to Brazil peaked at approximately 500 million gallons in 2018, before collapsing to just 59.4 million gallons in 2022 and further to only 29,779 gallons in 2023. This decline directly coincides with Brazil's reinstatement of tariff and quota barriers.

Brazil continues to publicly seek additional trade advantages for its agricultural products, including by calling for increased market access for its sugar into the United States as a prerequisite to remove its tariff on U.S. ethanol.[11] Brazil tries to pit different U.S. agricultural sectors against each other by seeking these trade concessions which is unfair, unequitable and we hope this Section 301 investigation will remedy.

Brazil disregarded the realities of ethanol's ubiquitous use in gasoline when it provided comments on unfair trade practices to USTR. In its comments under docket ID: USTR-2025-0001, Brazil highlighted that it applies a zero-percent duty on imports of other U.S. energy commodities, such as oil, natural gas, and coal.[12] While ethanol is an agricultural commodity, Brazil's comment ignores market realities of our bilateral energy trade by omitting a reference to ethanol's tariff in order to further justify its discrimination against U.S. ethanol.

Given Brazil is seeking a positive outcome for their agricultural products to remove its tariff on U.S. ethanol, we ask USTR to consider responding to these provocations by placing barriers—tariff-based or otherwise—on other Brazilian products (in addition to ethanol) as part of its 301 investigation into unfair ethanol market access actions by Brazil.

Additionally, while the authorization of the Generalized System of Preferences (GSP) expired in 2021, Brazil was included on the list of USTR's eligible countries even through it was "graduated" by Canada and the EU.[13] As part of other remedies, we ask USTR to proactively remove Brazil from the GSP program and, if a future extension of the GSP takes place, no refunds would be provided to Brazil since the GSP expired in 2021. This action would be in keeping with the Trade Act of 1974 where it noted designation under the GSP was for countries that provided "equitable and reasonable access to the markets".

Brazil's Low Carbon Fuel Policy (RenovaBio)

In 2011, Brazil emphasized its ability to participate in the U.S. biofuels program at greater levels because of lower tariffs. In a press releases celebrating the ODC removal, UNICA touted the designation of sugarcane ethanol as an advanced renewable fuel under the U.S. RFS. Specifically, UNICA noted that sugarcane ethanol "can now be a larger part of the solution for diversifying U.S. energy supplies and improving America's energy security."[14]

[11] https://www.reuters.com/world/americas/brazil-sees-prolonged-us-tariff-talks-minister-says-linking-ethanol-sugar-2025-03-20/

[12] https://comments.ustr.gov/s/commentdetails?rid=9M6F2BX869

[13] https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preferences-gsp/gsp-use-%E2%80%93-coun

[14] https://www.prnewswire.com/news-releases/after-30-years-us-market-for-clean-fuels-is-opened-to-competition-136144248.html

However, 14 years later, U.S. ethanol is not eligible to participate in RenovaBio, Brazil's low carbon fuel policy, which hinders U.S. ethanol's ability to play the same part in Brazil's energy security and goals that Brazil claimed to be doing for the U.S.
In December 2016, Brazil established RenovaBio to meet their carbon emissions goal. It "…was initially tailored toward sugarcane ethanol producers…"[15] As Brazil continues to adjust the program to account for its increased corn ethanol production and soybean-based biodiesel, it is continuing to put preferential treatment for their products ahead of foreign-based feedstocks.

As of August 2024, 333 of Brazil's 422 biofuels plants were certified under RenovaBio, including 291 ethanol plants.[16] This number continues to increase. However, no U.S. biofuel producer is currently certified or eligible to participate. Given the lack of participation, U.S. ethanol is ineligible to receive the incentivizing credits under RenovaBio, which further disadvantages U.S. ethanol vis-à-vis Brazil.

Brazilian regulators are working to ensure maximum compliance abilities from their own producers and have recently undergone a revision to their overarching regulation implementing RenovaBio from national law. Brazil released a draft for comments in November 2023, which included an alternative pathway for foreign producers that could have resulted in U.S. ethanol's fair participation in the program, including a specific allowance for "aggregate compliance." Aggregate compliance is used by the U.S. Environmental Protection Agency (U.S. EPA) to determine compliance under the RFS' land use change requirement.

Under the U.S. RFS any foreign or domestic renewable fuel producer or credit-generating importer can petition the U.S. EPA for review and approval of alternative renewable biomass tracking for compliance purposes. As such, American ethanol producers had hoped for a similar approval of an alternative compliance approach/method for their products under RenovaBio.

In March 2025, Brazil released the final version of RenovaBio, which removed the inclusion of alternative compliance mechanisms for foreign feedstocks. While no specific reason was given to explain why the Brazilian government had made this change, we have no doubt it was a result of Brazilian industry weighing in with the Brazilian government to ensure U.S. ethanol followed the same requirements as Brazilian producers. Despite this sounding reasonable, the requirements include very specific compliance mechanisms that are disguised as restrictions on trade. A recent request for reconsideration by the U.S. ethanol industry has not yet received a response.

One of the overarching reasons Brazilian industries gave for seeking to have the Brazilian government reject "aggregate compliance" was that such a compliance regime would not ensure that U.S. ethanol producers would follow Brazilian law associated with deforestation in the Amazon. However, this assertion disregards that U.S. ethanol producers and farmers follow U.S. law and that the basis for Brazil's restrictions are not prevalent in the United States (i.e., the

[15]https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Implementation%20of%20RenovaBio%20-%20Brazil%27s%20National%20Biofuels%20Policy_Sao%20Paulo%20ATO_Brazil_02-25-2021#:~:text=The%20Brazilian%20Corn%20Ethanol%20Union,in%20the%20national%20fuel%20mix.
[16]https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Biofuels%20Annual_Brasilia_Brazil_BR2024-0022

Amazon is not located in the United States). Further, there are significant federal and state laws, regulations, and programs that cover agricultural production in the United States, including that the production of biofuels does not lead to land use changes.
Thus, Brazil is limiting U.S. participation out of concern for land use changes in Brazil without considering that there are U.S. policies in place that meet the environmental objectives of RenovaBio. Brazil appears to be in violation of Article 5 under the WTO's Technical Barriers to Trade (TBT) Agreement related to conformity assessments.

By not accepting alternative mechanisms, Brazil could also be in violation of articles 2.1 and 2.7 of the TBT Agreement, which note "Members shall give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfill the objectives of their own regulations."

Brazil also discriminates against U.S. corn ethanol by saddling it with an unnecessarily punitive carbon intensity default score. As confirmed to the U.S. ethanol industry by Brazil's Ministry of Mines and Energy, U.S. corn ethanol faces a punitive penalty of 250 percent for the use of default scoring, to encourage the use of primary/direct data all the way back to farm-level inputs. While this 250 percent penalty is also applied to Brazilian producers using default values, Brazilian ethanol producers are vastly relying on primary data given Brazil's unique agricultural production system, which includes larger farms managed by the ethanol facilities directly. Additionally, the recent revisions to RenovaBio aim to ease the burden on Brazil's non-sugarcane producers to provide primary data. This basis to rely upon, and incentivize, integrated and larger-scale operations for primary data penalizes the ability for a U.S. farmer, particularly U.S. family farms, to participate through their local ethanol facility. A U.S. ethanol producer using primary data to avoid the punitive default penalty will need to provide exponentially more data from more farmers than Brazilian ethanol producers will need to do to avoid this penalty.

While the punitive nature for defaults for Brazilian ethanol producers may make sense to incentivize them to then provide primary data, it does not make sense for U.S. ethanol producers. This also directly stifles commerce and disincentivizes U.S. ethanol as the RenovaBio reporting process was designed for Brazilian sugarcane producers and Brazil has not adjusted the program to work for foreign suppliers. Brazilian sugarcane producers are able to provide primary data and do not need to rely on the punitive default scoring. As with the above noted tariff, this could signal a significant National Treatment issue under the GATT.

The outright ineligibility of U.S. ethanol, combined with Brazil's decision to withdraw a proposed alternative compliance pathway, could constitute de facto less-favorable treatment for imported like products compared to domestic products, especially since domestic Brazilian producers enjoy more flexible compliance options.

Moreover, Brazil's refusal to recognize U.S. lifecycle analysis and carbon intensity tracking systems (as only its RenovaCalc model is accepted) or to adjust their modeling to accurately account for U.S. corn ethanol production processes, despite their acceptance under other international low-carbon fuel programs, appears inconsistent with the spirit of the TBT. The U.S. Department of Energy's Greenhouse gases, Regulated Emissions, and Energy use in

Technologies (GREET) model (accepted under U.S. federal RFS, California's low-carbon fuel standard (LCFS), Canada's Clean Fuel Regulations (CFR), and several voluntary international sustainability certification schemes) serves the same environmental objective as RenovaCalc—measuring lifecycle greenhouse gas (GHG) emissions. Brazil's refusal to accept GREET or make changes to RenovaCalc despite its international recognition, can be considered as violating Article 2.7 of the TBT.

While we understand Brazilian regulators may be working with one or two U.S. applicants for eligibility under RenovaBio, these approvals will be very prescribed to those individual facilities and will jeopardize the ability for larger, meaningful U.S. industry participation in the program. Even if one, two, or a small handful of U.S. producers are approved under these regulations, that would amount to a very small number and it would likely be done in a way that allows Brazil to superficially tout U.S. participation.

RenovaBio is a lucrative program for Brazilian biofuel producers and is modeled on the U.S. RFS and California's LCFS relative to credit generation. In the U.S., Brazilian producers can participate in both the RFS and the LCFS and experience the financial benefits that those and other state-based, emission reduction programs provide. Brazilian sugarcane ethanol is eligible to create advanced Renewable Identification Numbers (RINs) under the RFS as well as carbon credits under California's LCFS. Conversely, U.S. ethanol cannot participate in RenovaBio and is not eligible to generate similarly lucrative carbon credits (known as CBios) under RenovaBio. In 2023 (the last full year of data available from USDA's Foreign Agricultural Service), Brazilian fuel distributors met 81 percent of RenovaBio's reduction targets by retiring 33.1 million CBios. CBio trading results in an estimated average price of $16.61 per CBio, resulting in a total of $548 million in lost opportunity for U.S. ethanol producers under RenovaBio. Over time, the amount of CBios are projected to increase incrementally, ultimately reaching nearly 96 million CBios annually by 2031. Brazil hopes the CBios will reach values like California's LCFS.

Brazil's Fuel of the Future Program and Sustainable Aviation Fuel (SAF) Policy
In 2021, Brazil established its "Fuel of the Future Program", which aims to increase the use of sustainable fuels across all modes of transportation. In addition to expanding the minimum ethanol blending in its base gasoline (up from 27 percent ethanol to 30 percent), this new program also established a "National Sustainable Aviation Fuel Program", known as ProBioQAV.

ProBioQAV aims to expand the production and use of SAF in Brazil, basing requirements on minimum annual percentage reduction of greenhouse gas emissions. Those lifecycle emissions will likely be determined either by RenovaCalc or ICAO's modeling scenarios, which Brazil has actively engaged in to be advantageous for their SAF (see also our comments later in this document under the topic "Illegal Deforestation"). Accurate accounting in lifecycle emissions ensures U.S. ethanol's fair participation in these new market opportunities.

Given the issues surrounding U.S. ethanol tariff and RenovaCalc, we are concerned that U.S. ethanol will not be able to access this potential growth in market demand in Brazil, similar to our

restrictions under RenovaBio. Or, if it is allowed to access this program, that U.S. ethanol will be economically uncompetitive due to import tariffs and issues surrounding primary data, affection the creation of CBios. Unlike ICAO, which obligates international flights, ProBioQAV mandates reductions in domestic flights and will result in even greater SAF demand in Brazil.

Third Country Markets

Brazilian ethanol exports entering the United States via the Gulf are typically destined to be produced into ETBE (ethyl tert-butyl ether) for export, including to Japan.[17] While currently U.S. ethanol can be used to meet up to 100 percent of Japan's on-road demand for ethanol and ETBE, it is estimated that 40 percent of U.S. ETBE exports to Japan, or 85 million gallons (with an estimated value of $153 million), are produced from Brazilian ethanol.

This displacement of U.S. ethanol in a key third country market demonstrates a direct loss of competitive opportunity and revenue for U.S. producers, which can be particularly unfair given the restrictive tariff and non-tariff barriers Brazil maintains against U.S. ethanol in its own domestic market. In this case, Brazilian ethanol is benefitting from U.S. production infrastructure and export channels to reach the Japanese market in the form of ETBE, even though Brazil does not provide any equivalent reciprocal treatment for U.S. ethanol seeking to enter the Brazilian market and the country's export routes.

A reciprocal tariff or other potential duty that may be assigned as part of this Section 301 investigation on Brazilian ethanol could result in higher costs for ETBE produced from Brazilian ethanol instead of U.S. ethanol. Improved economics of U.S. ethanol vis-à-vis Brazilian ethanol could allow for a greater proportion of ETBE exported to Japan to come from U.S. producers However, given that Brazilian ethanol undergoes further processed before being re-exported, we are concerned that Brazil may be able to circumvent these added duties through some type of duty drawback claim that would negate the economic consequences (and thus remove the economic benefit for U.S. ethanol).

Accordingly, as USTR considers actions as part of this Section 301 investigation, we ask that Brazilian ethanol be excluded from a duty drawback, or be subject to other measures that would prohibit or severely restrict imports of Brazilian ethanol (either for direct consumption, for re-export, for input into another process, etc.). USTR could also incorporate clear and strong rules of origin to ensure that ETBE or other similar products that are produced in the United States with Brazilian feedstocks cannot avoid the duty through transshipment or blending schemes.

Illegal Deforestation

Part F of the supplementary information of this Section 301 Investigation notes "Illegal Deforestation". We urge USTR to look more broadly at Brazil's practices as it relates to land use sustainability claims, land use changes within Brazil's different biomes such as the Cerrado, the production of multi-cropped corn, as well as through emissions lifecycle modeling. Expanding the scope of this section would be more accurate and advantageous to U.S. agriculture. U.S. farmers, agriculture industry and ethanol producers continually need to justify their sustainability

[17] ETBE is used as a fuel additive in lieu of direct ethanol blending in gasoline.

to other countries or bodies because of Brazilian deforestation. Not only does this increase compliance costs but it harms the economic competitiveness of U.S. agriculture– such as under the EU's Regulation on Deforestation-free Products and within emissions reduction schemes in international organizations like the International Civil Aviation Organization (ICAO).

While we respect landowners' ability to use their land as they see fit within the confines of the law, any sustainability claims used by countries seeking preferential market access must be backed by transparent and scientific-based data. These claims should not be used to gain competitive or economic advantages over U.S. agriculture without rigorous validation. Ignoring this would undermine the fairness principle embedded in WTO agreements and regulations.

Brazil is seeking preferential recognition for its multi-cropped corn by using the narrative that it is more sustainable and a better alternative to U.S. corn. Not only do we disagree with this assessment, but we think it is scientifically inaccurate. We are concerned that Brazil may be lifting restrictions on land clearing, while simultaneously and aggressively pursuing advantages for its agricultural producers on sustainability grounds.[18] Additionally, while Brazil may have laws that restrict deforestation, we are further concerned that compliance with the laws in place may not be accurately enforced.[19] We are also concerned that Brazil's integrated cropping system could be circumventing the very nature of protections for different biomes, creating an unfair and artificially arranged competitive advantage for Brazilian products compared to U.S. products in emissions-based markets using lifecycle modeling.

As Brazil continues to push this false narrative on sustainability in bilateral and multilateral settings and in negotiations, we have become increasingly concerned that it is affecting our potential to compete in certain other markets, such as Japan and EU, that put a premium on lifecycle emissions reductions and sustainability.

We applaud the press release by the U.S. Department of State calling Brazil's practices into question.[20] Continued pressure from the U.S. government is necessary to reset the discussion on sustainable corn production in the United States and to counteract preferential claims made by Brazil which are inconsistent with actual land-use impacts and that fail to consider other environmentally unsustainable practices in Brazil.

While the efforts to better observe, quantify, and verify this have been started, particularly as it relates to the efforts of the ICAO as noted in the above the press release by the U.S. State Department, authoritative and scientific studies on this by the U.S. government are still needed to underscore unfair indirect land use change penalties. USTR's support for these studies and their incorporation within international organizations would be beneficial. We also ask that USTR continues its collaboration with the U.S. Department of Agriculture related to the agricultural practices in Brazil associated with land conversion, degraded pasture, multi-cropped corn, and related biofuels production as it considers how to remedy a broader "illegal deforestation" scope of this Section 301 investigation.

[18] https://www.nature.com/articles/s41598-024-52180-7
[19] https://iopscience.iop.org/article/10.1088/1748-9326/ac5193
[20] https://www.state.gov/united-states-objects-to-sustainable-aviation-fuels-recommendation-at-international-civil-aviation-organization-meeting/

The larger effect of this is not the general production of Brazilian ethanol, but how U.S. trade is directly affected by Brazil aggressively seeking and negotiating artificially lower lifecycle scores. Land emissions, such as indirect land use change (ILUC), are assigned across all biofuel production countries. At the heart of it, U.S. producers are penalized because of aggregate deforestation trends in Brazil, although Brazilian biofuels are seeking preferential scoring despite these trends. Alternately, if there is a penalty for Brazilian biofuels it is seemingly only, inaccurately, attributed to one commodity within its integrated cropping system. This not only has led to the EU and the United Kingdom placing restrictions on food-based crops for biofuels, but also exacerbated inaccuracies in international modeling for ILUC for U.S. biofuels.

Stark discrepancies of ILUC's accuracy are illustrated in the June 2025 release by ICAO on its new default values under ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), which requires emissions reduction in the aviation industry. Over the scientific objections of the United States[21], ICAO acceded to Brazil's demand to provide an advantageous low carbon intensity score (CI) for its second crop corn which allows it to outperform U.S. corn. Brazilian corn now receives a 9.3 ILUC value, while U.S. corn receives an 18.3 value.[22] This means that, according to ICAO, U.S. corn ethanol is twice as likely to lead to land use changes than Brazilian corn. This is categorically untrue.

This lower score enables Brazilian corn ethanol to receive a direct advantage over U.S. corn ethanol as countries want to obtain the lowest CI ethanol to produce sustainable aviation fuel as a means to meet their requirements under CORSIA.

Because of this inaccurate and misleading scoring, Japan is seeking to identify new pathways for Brazilian ethanol at the expense of U.S. ethanol. Japan is not only seeking to allow Brazilian corn ethanol market access to its emissions-based fuel policy, but it is proposing additional changes to that policy which will reduce U.S. market access from the current 100 percent market.[23] As Japan seeks to shift to direct 10 percent ethanol blending in its gasoline by 2030, these changes could dramatically impact the export potential of U.S. ethanol to Japan.

It is important to note that these inconsistencies in lifecycle analysis parameters represent a direct trade competitiveness issue, and not a science-based environmental policy concern. This is also creating a disparity between these like products from two countries, in direct violation of the WTO principle of non-discrimination under Article I:1 (MFN)—the difference in lifecycle analyses results in preferential treatment of Brazilian ethanol in certain markets despite similar environmental externalities and the production of ultimately identical products.

Actions to respond to this are difficult to identify but must be implemented in order to send a message that the current lifecycle assessment penalization for U.S. corn ethanol because of

[21] https://www.state.gov/united-states-objects-to-sustainable-aviation-fuels-recommendation-at-international-civil-aviation-organization-meeting/

[22] https://www.icao.int/sites/default/files/environmental-protection/CORSIA/Documents/CORSIA%20Eligible%20Fuels/ICAO-document-06-Default-Life-Cycle-Emissions-June-2025.pdf

[23]https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Japan%20Raises%20Carbon%20Intensity%20Value%20for%20Gasoline%20and%20Reduction%20Target_Tokyo_Japan_JA2025-0039

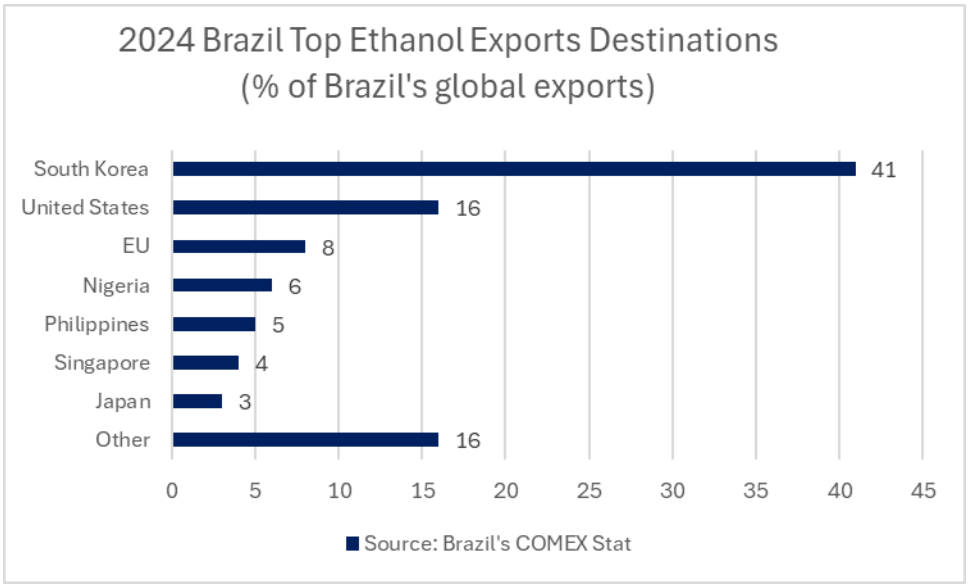
Brazilian action/inaction is unacceptable. In addition to taking action under this Section 301 investigation, we call on USTR to actively engage with other U.S. government agencies in international forums that set lifecycle emissions reduction standards and work to establish goals in the aviation and maritime sectors that are fair, scientific, and that do not put U.S. ethanol at a commercial disadvantage to supply into these new market pathways.

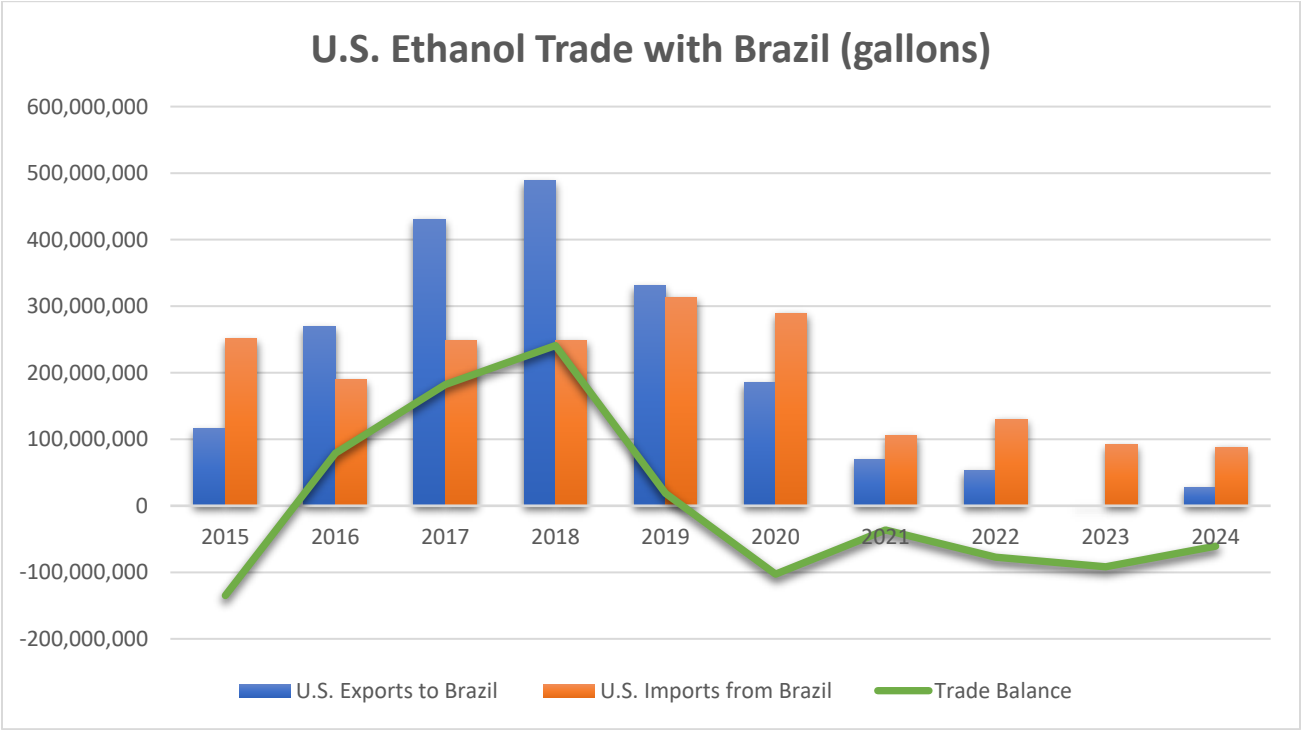
USTR and the U.S. government should advocate for lifecycle assessment methodologies in the International Maritime Organization (IMO), ICAO, the European Union, and other international forums that reflect U.S. agriculture accurately, including on ILUC impacts, thereby restoring fairness for U.S. ethanol. This includes IMO's Net Zero Framework and ICAO CORSIA.

Thank you for your consideration of these comments. Growth Energy looks forward to working further with USTR to resolve the unfairness facing U.S. ethanol as part of USTR's Section 301 Investigation into Brazil.

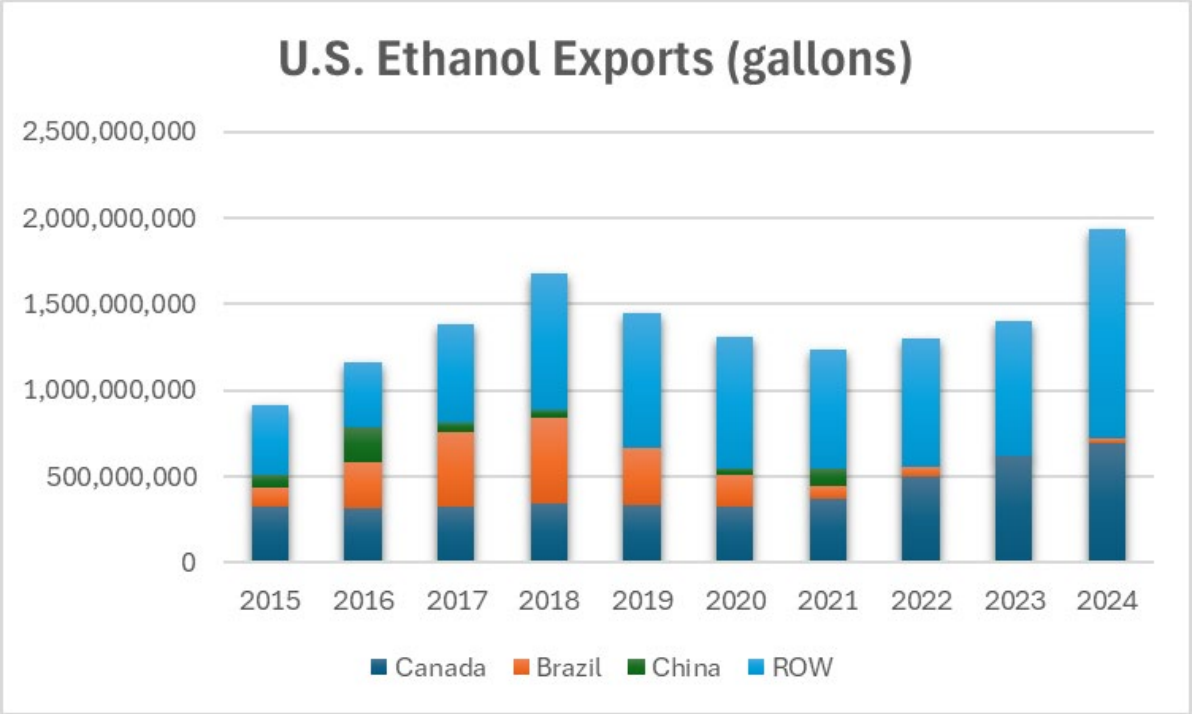
Sincerely,

Chris Bliley
Senior Vice President of Regulatory Affairs
Growth Energy

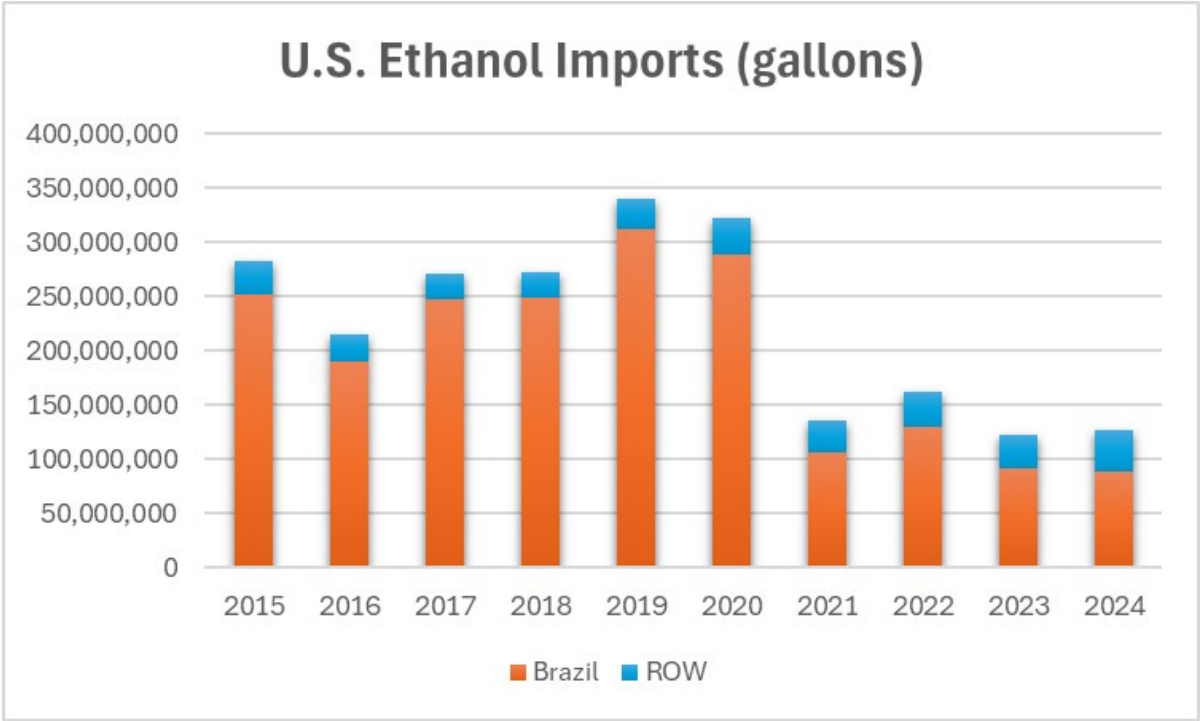




Data Source: U.S. Department of Agriculture's Global Agricultural Trade System



Data Source: U.S. Department of Agriculture's Global Agricultural Trade System



Data Source: U.S. Department of Agriculture's Global Agricultural Trade System