Growth Energy™
Expanding America's Bioeconomy

September 10, 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 allowing me the opportunity to testify on September 3 as part of USTR's 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.

We appreciate the opportunity to supplement answers to questions posed during the hearing as well as the opportunity to provide a post-hearing rebuttal.

Supplemental answers to restrictive measures on RenovaBio and Rebuttal to Testimony about RenovaBio

The process required to verify feedstock eligibility, which in turn is required for certification under the program, hinders fair participation by U.S. producers in RenovaBio. We continue to seek recognition of alternative feedstock eligibility compliance under RenovaBio, which is the same treatment foreign feedstocks have in the United States.[1]

The U.S. and Brazilian agricultural sectors and supply chains related to ethanol production are starkly different. The size of operations, farm management, feedstock production, ownership, and the relationship between the farmer and the biorefinery vary considerably between countries. Additionally, regulations regarding land management are different, particularly as it relates to conservation of land. The production of sugarcane is also very different than the production of corn.

Most Brazilian ethanol biorefineries are vertically integrated with the production of feedstock. Even if the land is not owned by the biorefinery, they often manage that agricultural land. This is starkly different than the United States, where corn farmers often sell to a local grain elevator

[1] https://www.epa.gov/renewable-fuel-standard/biomass-tracking-renewable-fuel-standard-program

which in turn sells to an ethanol producer. Or, if some corn is brought straight from the farm to an ethanol biorefinery, the number of independent operators that feed into that plant's operations vastly outnumber the number of suppliers into one Brazilian biorefinery. Additionally, the average size of a farm in Brazil that produces feedstocks for ethanol production is much larger in Brazil than the average size of a farm in the United States.

As we noted in our original comments, RenovaBio was structured to meet the Brazilian form of production as it relates to primary/default data. Brazilian plants own/operate most of the agricultural land used to produce their feedstocks for biofuels, in addition to the production of the fuel. This one vertically integrated business specifically controls, and thus can specifically reference, the inputs and mechanisms associated with production of both the crop and the ethanol, giving them a distinct advantage and insights into their supply chain, including amount of inputs (fertilizer, nitrogen, etc.), passes of the tractor, energy expended, and data that can be used to meet land verification requirements. This extremely large-scale version of agriculture and corporate production works for Brazil. It does not work in the United States where family farming has been central to America's economy and its identity.

U.S. ethanol biorefineries procure their feedstocks from many farmers, production is diversified, product is commingled, farmers are separate entities from ethanol production, competing prices at elevators/storage change the supplier/purchaser dynamic, etc. Coupled with the differences in supply chains between corn and sugarcane from planting, harvest, storage, commingling—the ability for compliance through all these different suppliers for one gallon of ethanol is exponentially more difficult in the United States than it is in Brazil. This places an immense and prohibitive burden on U.S. ethanol producers that is not equal to Brazilian producers who are not similarly burdened. This forms a central tenet of our concern that Brazil's RenovaBio appears to be in violation of the World Trade Organization (WTO)'s General Agreement on Tariffs and Trade (GATT), specifically Article III on national treatment.

To demonstrate a feedstock's eligibility for ethanol production (such as corn), a producer must meet detailed eligibility requirements. Specifically, it must (1) comply with local environmental legislation and (2) verify that the feedstock was harvested from lands where native vegetation had not been removed as of November 27, 2018. The use of defaults, rather than primary data, in the creation of carbon credits (known as CBios) during the certification process aims to remove the significant supply chain hurdles by avoiding the convoluted process of getting crop production information from each individual grower. However, this cumbersome process still must be followed to prove feedstock eligibility as there is no ability for a general recognition of feedstock eligibility. Each plant would still need to show eligibility of all its feedstocks for each farmer, even if relying on the use of default values for CBios.

The objectives under RenovaBio related to feedstock eligibility requirements are equivalent to what is already required by the U.S. Department of Agriculture's (USDA) farm programs as well as the Renewable Fuel Standard (RFS). Specifically, the RFS uses "aggregate compliance" to verify that the use of agricultural land is not expanding, which illustrates U.S. ethanol meeting the land use requirements under the above second criteria.

The U.S. Environmental Protection Agency (EPA) adopted an "aggregate compliance" model to implement the requirement that biomass be harvested from agricultural land cleared prior to December 19, 2007,[2] and actively managed or fallow on that date. Aggregate compliance is used as an alternative to individual record keeping and reporting requirements that would otherwise apply. Under this approach, renewable fuel producers can rely on EPA's aggregate compliance determination that all planted crops and crop residue from the United States are sourced from permissible lands, as opposed to having to demonstrate that individually for each batch of renewable fuel to be compliant under the RFS. Or, if not this approach, Brazil should ensure alternative compliance mechanisms for feedstock eligibility for non-Brazilian feedstock.

Meeting the first set of criteria for feedstock eligibility, i.e. compliance with local laws, is different in the United States than it is in Brazil, where the U.S. has a presumption of innocence—that unless proven otherwise in court or another similar adjudication method—it is presumed that farmers, landowners, ethanol producers, etc. are following the law. The ability to prove a negative is not an easy accomplishment in the United States as in other countries. This criteria is aimed at meeting Brazil's "forest code," which is a regulatory need in Brazil and a requirement for Brazilian producers given how their law aims to target land conservation on private land.

Additionally, unlike in Brazil where there are legitimate concerns of converting federal land, such as the Amazon or Cerrado , into agricultural operations, property laws and enforcement in the United States are very different and the threat of someone converting U.S. federal lands into a new farm is neither likely nor realistic. Further, to be eligible for the plethora of programs and assistance offered by USDA, farmers and landowners must certify they abide by various requirements. Nearly all farmers and landowners in the U.S. do this.

As such, the United States and U.S. industry have requested that Brazil deems all U.S. corn ethanol as eligible for credits under RenovaBio, in lieu of providing satellite imagery or other verification means, as long as EPA maintains that the biofuel complies with relevant provisions of the RFS. Brazil should recognize "aggregate compliance" as an equivalent technical regulation as it not only fulfills but exceeds the objectives of both the RFS and RenovaBio related to, among other items, restricting agricultural land expansion for biofuels production. By not recognizing "aggregate compliance," Brazil appears to be in violation of Article 5 under the WTO's Technical Barriers to Trade (TBT) Agreement related to conformity assessments.

Testimony from Brazil noted that the TBT and GATT justify the imposition of environmental measures like the ones imposed by RenovaBio. However, these measures must be applied fairly and without discrimination. Given the lack of agreement on "aggregate compliance" as a conformity assessment measure (or a similar alternative mechanism), as well as national treatment as it relates to the structure of the program, it appears RenovaBio is in violation of the GATT and TBT agreements related to national treatment and conformity assessment related to RenovaBio.

[2] The RFS' compliance date of 2007, compared to 2018 with RenovaBio, is a more rigorous standard to base land use.

Testimony from Brazil also noted that RenovaBio is a voluntary, origin-neutral policy within the spirit of the RFS. Given this recognition of a similar "spirit," this underscores that Brazil should recognize "aggregate compliance" as it relates to feedstock eligibility as it is a central tenet of the RFS and addresses the same objectives.

Finally, testimony from Brazil also implied that because one U.S. ethanol company was certified under the program on August 19, that discrimination or burdens do not exist. This one plant represents 0.0036 percent of U.S. ethanol capacity. Conversely, as noted in UNICA's comments, 95 percent of the ethanol sold in Brazil was produced by companies certified under RenovaBio in 2024. That is one U.S. plant certified out of over 200 U.S. ethanol biorefineries (or less than 0.5 percent of U.S. plants), compared to 291 ethanol plants certified out of 359 operating ethanol biorefineries (over 81 percent participation rate of ethanol plants in Brazil).[3] We reiterate our written comments that highlighted that even if one, two, or a handful of U.S. producers were approved and certified under very prescribed conditions to those facilities, that does not amount to effective, fair, or widespread access to RenovaBio.

Supplemental Answer to Lifecycle Analysis and Related Rebuttal

Upon receiving eligibility certification, ethanol biorefineries would need to provide data to receive an individual greenhouse gas (GHG) emission score through "RenovaCalc," the lifecycle model Embrapa created for RenovaBio. This score will determine, with volumes provided, how many CBios can be generated by a particular biorefinery. To establish a GHG score for a biorefinery, farm-level information is required, including yields, fertilizer use, and other inputs. In lieu of providing farm-level specific information, also known as "primary data," a biorefinery can utilize "default" values established under RenovaBio, or a combination of both primary data and default values.

As noted above, for Brazil this is an easy option to provide the direct, primary data for both on-farm and the plant given the plant is vertically integrated with the farming operations—the same individuals who manage the ethanol plant also oversee the farming operations. All inputs, all steps are known in Brazil and thus Brazilian ethanol producers are heavily able to rely on primary data. While this number is not publicly known, we estimate it to be the vast majority of Brazilian producers participating in RenovaBio.

While a biorefinery is required to always provide their primary data, if needed, the plant can use default values that form an estimated average of the industry's production in lieu of the primary data for farm-level data. In this instance, this is a "technology-, country-, feedstock-agnostic process." However, in practice, this is not so. As noted, compliance as well as the opportunity to provide primary data for on-farm inputs is very unique to Brazilian ethanol producers given their vertical integration of farming and ethanol production. This positions Brazilian ethanol producers to provide their farm-level primary data without any hindrance.

[3]These figures were noted in the 2024 Brazil Biofuels Annual report by USDA's Foreign Agricultural Service, although the real figures are likely higher with increases project this past year. https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Biofuels%20Annual_Brasilia_Brazil_BR2024-0022.

This is not the case in the United States, where providing the farm-level primary data is not feasible. This amounts to an unfair exploitation of the U.S. agricultural production process vis-à-vis Brazilian production.

Default values, while a helpful alternative to farm-level data, are excessively punitive, approximately 250-300 percent of an assigned value, and exacerbate the emissions reduction discrepancy between Brazilian and U.S. ethanol, given that Brazil's biorefineries are often able to provide primary data for their farm-level inputs.

U.S. industry has suggested an option for supplementing primary data provided by individual biorefineries with USDA county-level data as an alternative to resorting to RenovaBio's default values. However, Brazil has rejected this proposal on the grounds that Brazilian domestic producers are not able to establish a GHG score in this manner.

The unnecessarily cumbersome nature of this makes U.S. ethanol reliant on default values while Brazil can use primary data, which is not subject to the punitive penalty. We concede this is applied to all pathways equally at the 250-300 percent penalty; however, Brazilian producers can rely on primary data because the program is structured to make that easily attainable for them. Thus, this discrepancy between primary data and default values is unfairly applied to U.S. ethanol.

The process of ascribing punitive default values for on-road use under RenovaBio will likely be applied to any sustainable aviation fuel (SAF) or maritime program in Brazil as well, which will only further limit the demand for U.S. ethanol in Brazil—all because of an unfair, distortive program's penalty values that only seem to affect U.S. ethanol since the program was made to follow the unique Brazilian supply chain.

Rebuttal: Sustainability Claims of Brazilian Ethanol

Brazil unfairly benefits from an incorrect assertion that their ethanol is more sustainable than U.S. ethanol. UNEM's testimony asserted that the International Civil Aviation Organization (ICAO) recognized this sustainability unanimously, except for the United States. While this an accurate reference to ICAO's outcome, it glosses over the reason for the U.S. objection as well as illustrates how Brazil uses inaccurate depictions in their favor while seeking to malign U.S. ethanol. Specifically, the U.S. objected because it did not find Brazil's multicropping practices to be risk-based and that ICAO's proposal to be without scientific and technical merit.[4] Brazil intensely engaged countries' ICAO's representatives for its position towards its multi-cropped corn, while simultaneously blocking efforts to apply improved treatment for corn globally and in the United States, as would be scientifically accurate as it applies to ICAO's indirect land use change (ILUC) scoring. Brazil also posed itself as an injured party due to political dispute, rather than seeking to discuss the scientific merits associated with concerns on their integrated, multicropping system.

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

Frustratingly, the ILUC penalty that is applied to U.S. ethanol is predicated on both ILUC and direct land use change in Brazil. This is also predicated on how U.S. policy affects land use change in Brazil, assuming (incorrectly) that Brazil has no autonomy in its own policies on biofuels and that U.S. policies on biofuels has more of an effect on Brazil than Brazilian polices on biofuels. Yet, Brazil is seeking significant preferential ILUC scoring under ICAO for their own ethanol using the above noted unscientific determination.

Brazil references that they are converting degraded pasture; however, this narrative does not include how that land was degraded and its use before being pasture. Nor, why that land became degraded initially and the joint economics of land conversion and subsequent need for a soy-corn rotation. This process has been raised in international fora by the United States government as being questionable in its sustainability claims.[5]

If there was justification to lower Brazil's ILUC score for their ethanol, this should in turn result in a lower score for U.S. ethanol given a supposed change in global corn ethanol yield. However, because Brazil's insistence on moving the ICAO processes forward only on their own "second crop corn", a reassessment of U.S. and global corn ILUC values did not similarly move forward. Under both ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORISA) as well as countries' domestic policies on emissions reductions in its aviation sector, inaccuracies such as this will unfairly restrict procurement of U.S. ethanol while positioning Brazil to be the preferential supplier given its "lower" ILUC and carbon intensity scoring under these international models, as outline in our written comments.

Brazil's testimony also implied that they are superior in emissions reduction compared to U.S. ethanol, and so any unfair treatment is justified. But these deceptive viewpoints are based entirely on the mischaracterization of Brazil's integrated, mulit-cropping system, which seems more likely to be contributing to land use conversion. Brazil is still experiencing deforestation, even if it is less intense than earlier. The U.S. on the other hand is seeing increases in forested land and real sustainable practices with less inputs, on less land, with higher yields, and increased gallons from one bushel of corn.

Rebuttal: Seek Cooperation, Collaborative Dialogues to Resolve Issues

Much was made in Brazil's testimony to form, in lieu of this Section 301 Investigation, collaborative bilateral dialogues to resolve issues associated with ethanol market access. As we noted in our testimony and comments, these issues are not new and have been discussed at length for years by both industry and U.S. government, including through various established bilateral forums. Brazil continues to push for new ways to keep the status quo of their unfair treatment of U.S. ethanol.

Rebuttal: Brazil's Tariffs are Less Than Mercosur's Rates, Tariffs Set with Mercosur

During the hearing, UNICA seemingly justified the tariff, in part, as Brazil setting a lower rate (18 percent) compared to that of Mercosur's rate of 20 percent. Brazil seems to be seeking a

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

"free pass" on its unfair tariffs on U.S. ethanol by claiming it is merely following Mercosur rules. Regardless of Mercosur's rates, Brazil has the autonomy to set their own list of exceptions to Mercosur's tariffs. Ethanol is already included on that list and Brazil can be set at whichever rate it chooses without Mercosur's approval. Brazil first placed ethanol on its "list of exceptions" in April 2010 for a zero percent import duty.

Further, Brazil is a leading member of Mercosur, which consists of just six countries. Attempting to seek a pass because it is beholden to Mercosur is wrong, as Brazil has significant input into the development of Mercosur's policies.

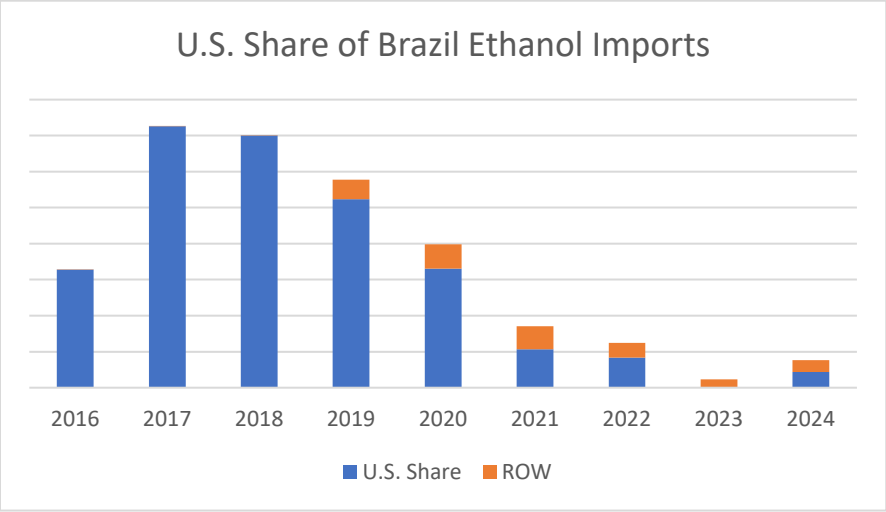
Rebuttal: Brazil's Tariff Did Not Impede Trade

Brazil continues to see an ethanol trade surplus with the United States. In 2024, Brazil had an ethanol trade surplus of over $150 million with the United States, having exported $203 million in 2024.

In testimony, it was continually asserted by Brazil that trade was not impeded because of the tariff due to the size of ethanol exported in 2024.

As we earlier noted, U.S. ethanol exports to Brazil have steadily declined from a high of $1.1 billion in 2011 and $760 million in 2018. While U.S. ethanol exports to Brazil were valued at $53 million in 2024, they were valued at $140,000 in 2023. While there can be arbitrage windows where U.S. ethanol is able to economically compete even with the tariff, it is a significantly depressed opportunity.

It was also noted in Brazil's testimony that imports from the U.S. outpaced Brazil's imports from India, so it argued that this proves there is no harm to U.S. producers. However, U.S. ethanol no longer holds a competitive advantage among other imported ethanol, as noted in the earlier submitted chart (also included below).



Data Source: Brazil's COMEX Stat

This competition to meet Brazilian imports will be further complicated by the pending European Union-Mercosur trade agreement, which also gives Brazilian ethanol preferential access to the EU, and preferential access for European ethanol into Brazil.

The timeline of Brazil's import decline corresponds with the increased corn ethanol production in Brazil, further compounding competition with U.S. ethanol that is hamstrung by Brazil's tariff. As we earlier noted in our comments, the circumstances surrounding the ethanol market with Brazil since 2017 necessitate non-ethanol trade remedies.

In testimony, it was raised that U.S. exports to Brazil never materialized when the tariff was eliminated given inflationary pressures in March 2022.[6] Because of that, it was implied that the tariff had no impact. This is a false characterization of how trade contracts work. The tariff was eliminated with no advance notice, and the market was not given the time to adjust to the zero-tariff change. The longevity of the tariff's removal was in question and was issued by Brazil as a short-term measure. Additionally, this did not have an impact on U.S. ethanol exports as futures contracts were difficult to effectuate given the uncertainty of the timeline, the supply of U.S. ethanol was already contracted, and there were already contracts in place to meet Brazilian demand. Thus, business decisions did not have time to adjust to the abrupt market change, despite the temporary zero tariff.

We also reassert that the damage from years of Brazil's unfairness has led to likely irreversible shifts. While Brazil is still a decent-sized ethanol export market, the country has augmented and enhanced its industry. This means that, as we requested in our initial comments, USTR should take a more expansive look at remedies, including on other commodities because of Brazil's unfair trade practices against U.S. ethanol.

Thank you for your consideration of this rebuttal as well as our earlier comments and testimony. 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

[6] The tariff was reinstated in January 2023.