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May 10, 2017

VIA ELECTRONIC FILING (www.regulations.gov)

The Honorable Wilbur L. Ross, Jr.
Secretary of Commerce
U.S. Department of Commerce
14th Street and Constitution Avenue, NW
Washington, DC 20230

Docket No. DOC-2017-0003

PUBLIC DOCUMENT

The Honorable Stephen Vaughn
Acting U.S. Trade Representative &
General Counsel
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508

Re: Comments Regarding Causes of Significant Trade Deficits for 2016 – Indonesia

The National Biodiesel Board (NBB) respectfully submits the following comments in response to Executive Order 13786, dated March 31, 2017, and the notice entitled “Public Comments and Hearing Regarding Administration Report on Significant Trade Deficits,” published at 82 Fed. Reg. 18,110 (Apr. 17, 2017) (“Comments and Hearing Notice”). NBB welcomes this opportunity to convey its concerns regarding the United States’ growing trade-in-goods deficit with Indonesia, which is fueled in significant part by increasing volumes of unfairly traded biodiesel imports from Indonesia. Unfairly traded imports of biodiesel from Indonesia are injuring U.S. biodiesel producers and the workers they

employ, and also harming American farmers who supply much of the feedstock for the U.S. biodiesel industry.

By way of introduction, NBB is the national trade association representing the biodiesel industry as the coordinating body for research and development in the United States, founded in 1992. NBB is a comprehensive industry association, which coordinates and interacts with a broad range of cooperators, including industry, government and academia. NBB's membership is comprised of state, national and international feedstock and feedstock processor organizations, biodiesel suppliers, fuel marketers and distributors, and technology providers.

The United States' trade deficit with Indonesia is the highest it has ever been, reaching \$13.2 billion dollars in 2016, which represents a nearly 20 percent increase since 2014.¹ On a macroeconomic level, this growing imbalance results from Indonesian government policies that discourage U.S. exports to Indonesia on the one hand, and stimulate Indonesian exports to the United States on the other.

The 2017 National Trade Estimate Report on Foreign Trade Barriers details a number of barriers to trade in Indonesia facing U.S. producers and exporters, including high tariffs.² Indonesia maintains a high average bound tariff rate of 37 percent, with applied tariff rates fluctuating often. As stated in the NTE Report, "[t]he high bound tariff

¹ United States Census Bureau, *Foreign Trade: Trade in Goods with Indonesia*, <<https://www.census.gov/foreign-trade/balance/c5600.html>> (last accessed May 8, 2017).

² Office of the United States Trade Representative, *2017 National Trade Estimate Report on Foreign Trade Barriers*, at 219-237 (Mar. 2017) (hereinafter referred to as "NTE Report"), available at <<https://ustr.gov/sites/default/files/files/reports/2017/NTE/2017%20NTE.pdf>>.

rates, combined with unexpected changes in applied rates, create uncertainty for foreign companies seeking to enter the Indonesian market.”³ In addition, a number of recent regulations, such as more burdensome import licensing requirements, have made it more difficult for U.S. businesses to navigate the Indonesian market.⁴ The NTE Report identifies a slew of other non-tariff trade barriers that limit U.S. producers’ access to the Indonesian market. Such factors contribute importantly to the fact that U.S. goods exports declined by more than 15 percent from 2015-2016.

In 2016, the value of U.S. imports from Indonesia was more than three times the value of U.S. exports to Indonesia. Increased imports of biodiesel from Indonesia is a major factor in this trade imbalance, accounting for 2 percent of the total U.S. trade deficit with Indonesia. In fact, out of a total 1,361 products (as defined by 6-digit HTSUS subheadings) contributing to the U.S. trade deficit with Indonesia, biodiesel’s contribution to the trade deficit exceeded that of 1,347 other products, leaving only 13 products contributing more. In addition, as reflected in **Table 1** below, the trade imbalance with respect to biodiesel has grown **95 percent** from 2014 to 2016. This dramatic increase in the trade imbalance for biodiesel is greater than the increase for any of the other top fifteen products contributing to the trade deficit with Indonesia, with the exception of sports footwear.

³ See *id.* at 222.

⁴ See *id.* at 223.

Table 1			
Trade Balance / (Deficit) with Indonesia			
Biodiesel (HTS 3826.00)			
<i>In \$1,000s</i>	2014	2015	2016
Imports from Indonesia	137,756	153,833	268,214
Exports to Indonesia	0	0	7
Balance / (Deficit)	(137,756)	(153,833)	(268,207)

Source: USITC Dataweb (Imports are General Imports and Exports are Total Exports)

The surge in biodiesel imports since 2014 is the result of unfair trade practices, specifically massive subsidization by the Indonesian government and dumped pricing by Indonesian biodiesel producers/exporters. Such practices have injured (and threaten continued injury to) U.S. biodiesel producers. NBB is leading a coalition of U.S. producers that filed antidumping and countervailing duty petitions in March 2017 in an effort to remedy the damage to the domestic biodiesel industry caused by such unfair imports. The U.S. International Trade Commission last week confirmed that there is a reasonable indication that biodiesel imports from Indonesia (and Argentina) are injuring the domestic biodiesel industry,⁵ and the Department of Commerce is currently investigating the extent to which biodiesel imports from Indonesia are subsidized and dumped.⁶

⁵ *Biodiesel from Argentina and Indonesia*, Inv. Nos. 701-TA-571-572 and 731-TA-1347-1348 (Preliminary).

⁶ See *Biodiesel from Argentina and Indonesia: Initiation of Countervailing Duty Investigations*, 82 Fed. Reg. 18,423 (Apr. 19, 2017); *Biodiesel From Argentina and Indonesia: Initiation of Less-Than-Fair-Value Investigations*, 82 Fed. Reg. 18,428 (Apr. 19, 2017).

As NBB detailed in its petitions for relief, Indonesian biodiesel production has grown significantly over the last ten years, largely due to a variety of Indonesian government programs. Most significantly, the Government of Indonesia (GOI) maintains a biodiesel subsidy fund that provides grants to Indonesian biodiesel producers. The GOI established this fund under Presidential Regulation No. 61/2015,⁷ which was “intended to cover the shortage between the market index prices of diesel fuel and biodiesel-type biofuel.”⁸ This subsidy program has provided over \$600 million in grants to a handful of producers between 2015 and 2016 alone. The GOI also utilizes a number of other subsidy programs to bolster its biodiesel industry, including high export taxes on crude palm oil (which reduces the cost of this key feedstock for biodiesel producers), preferential financing from the Indonesian Export-Import Bank, and various tax benefits for biodiesel producers and exporters.

Indonesian producers have leveraged such subsidies to become dominant exporters and capture U.S. market share through dumped pricing. Based on data collected by NBB, U.S. producers have lost more than 18 percentage points of market share to imported biodiesel, with unfairly traded Indonesian imports accounting for a substantial proportion of such imported biodiesel. Forced to compete with Indonesian producers’ dumped prices, U.S. biodiesel producers’ financial condition has declined significantly, causing them to pull

⁷ Presidential Regulation of the Republic of Indonesia Number 61 of 2015 Regarding the Oil Palm Plantation Fund-Raising and its Use.

⁸ *See id.* at Article 18.

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back on investments to expand production capacity in what continues to be a growing market.

The current situation presented by biodiesel imports from Indonesia is already untenable, and actually threatens to worsen. In 2017, Indonesia's biodiesel production capacity is projected to be 7.6 billion liters (2 billion gallons), but capacity utilization is projected to reach only 34 percent,⁹ leaving substantial unused capacity for increased production that can be exported to the United States, further threatening the U.S. biodiesel industry and its ability to contribute to America's energy security.

Request to Appear at Hearing

NBB also wishes to present testimony at the public hearing on Thursday, May 18, 2017. Testifying on behalf of NBB will be myself, Anne Steckel. My contact information is below:

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Vice President Federal Affairs
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NBB intends to present testimony that tracks closely with our written comments and be available to the Department of Commerce and the United States Trade Representative to respond to any questions regarding these issues.

⁹ USDA Foreign Agricultural Service GAIN Report, Indonesia Biofuels Annual 2016, at 7 (July 28, 2016).

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We appreciate this opportunity to comment on the growing U.S.-Indonesia trade deficit and look forward to additional opportunities to work with the Administration on this important issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anne Steckel".

Anne Steckel
Vice-President, Federal Affairs
National Biodiesel Board

cc: Earl Comstock
Director, Office of Policy and Strategic Planning
Department of Commerce