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April 1, 2009

Secretary Marilyn R. Abbott  
U.S. International Trade Commission  
500 E Street, SW  
Washington, DC 20436

Re: Investigation No. 332-504 – India: Effects of Tariffs & Nontariff Measures  
On U.S. Agricultural Exports

Dear Secretary Abbott:

This statement is filed on behalf of the National Oilseed Processors Association (NOPA), which represents the United States soybean, sunflower, canola, flaxseed and safflower seed crushing industries. NOPA represents 15 member companies, who process approximately 95% of all soybean processing in the United States. NOPA's members account for essentially all U.S. soybean oil exports to India, which are the subject of this submission.

For the record, NOPA would like to make comments regarding the edible vegetable oil market in India, including:

1. India's vegetable oil imports from all sources
2. Tariffs on imports of oilseeds and oilseed products
3. Argentine Differential Export Taxes -- the principal reason that the United States is unable to export any significant volume of soybean oil to India.

#### India Oilseeds & Product Markets

Edible Vegetable Oil: Demand for vegetable oil has increased in India due to two major factors – a rise in per capita income, and an increase in population. India imports nearly one-half of its vegetable oil demand. India applied tariffs for oilseeds and oilseed products are high by global standards, primarily to protect the welfare of small-scale domestic farmers.

Soybeans: India is not a significant importer of oilseeds for processing. Oilseed imports are restricted by both a 30% tariff and by nontariff barriers. Imports of genetically modified oilseeds are not permitted unless approved by the Government's Genetic Engineering Approvals Committee (GEAC). The GEAC currently has no policy that would permit such approvals. In addition, a 2002 Plant Quarantine Order requires that shipments be certified free of certain pests or that seeds be "devitalized." At present, the only permissible means of "devitalization" is to mechanically split the seed, a process that adds considerable cost and, if done at the point of origin, would lead to unacceptable deterioration in quality during transit.

Oilmeal: India is the fifth largest exporter of both soybean meal and total oil meals, although a minor global supplier vis-à-vis Argentina, Brazil and the United States. India's growth in exports of soybean meal has been dampened by expanding domestic feed use. It also has been impacted by slow growth in its domestic soybean production (some of the reasons are discussed below).

#### India's Structural Problems in Oilseed Production

Even with a relatively high level of tariff protection, India domestic oilseed producers have been unable to meet the rapid increase in domestic demand.

Among the basic reasons for this problem are:

- Fragmentation of the industry.
- Artificial barrier created by government policies to foster small-scale activity.
- Government past policies favoring grain such as wheat and rice over oilseeds.
- Inefficiencies in marketing and processing.
- Erratic rainfall (monsoons).

#### India's Imports of Vegetable Oils

Although India imports over half of its edible oil demand, the United States is a very minor player in the market because South American soybean oil and Asian palm oil are less costly than U.S. soybean oil. While Brazil and Argentina do have some competitive advantages due to somewhat shorter shipping distances, this is not the major reason that the U.S. is virtually unable to export soybean oil to India. Rather, the primary cause is Argentina's use of Differential Export Taxes (DETs) on oilseeds and oilseed products (including soybean oil and sunflower oil). This will be addressed in a later section of this submission.

The following is a chart depicting India's vegetable oil imports (MT 000) from all sources:

<b>Oil Type</b>	<b>Origin</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Soyoil	USA	20.9	14.3	0.0
	Argentina	1,360.4	1,008.1	635.0
	Brazil	245.1	258.0	172.0
	China	0.0	0.0	25.0
	Other	0.0	0.4	3.0
	<b>Total</b>		<b>1,626.4</b>	<b>1,280.8</b>
Sunflower Oil	USA	0.0	0.0	0.0
	Russia	36.2	22.0	11.0
	Ukraine	0.0	53.2	21.0
	Argentina	88.1	97.0	29.0
	Singapore	0.2	0.8	0.0
	Other	0.0	0.1	8.0
	<b>Total</b>		<b>124.5</b>	<b>173.1</b>
				<i>(continued)</i>

Oil Type	Origin	2006	2007	2008
Palm Oil	Indonesia	2,622.2	3,124.1	4,684.0
	Malaysia	519.5	508.4	980.0
	Singapore	5.9	3.3	0.0
	Sri Lanka	0.0	0.0	0.0
	Thailand	50.2	51.4	83.0
	Other	0.6	0.3	6.0
	<b>Total</b>	<b>3,198.4</b>	<b>3,687.5</b>	<b>5,753.0</b>
	U.S. Share of Above	0.42%	0.28%	0.00%

Source: Oil World

In 2006, 2007 and 2008, imports of U.S. soyoil and sunflower oil are virtually zero. Even Brazil, which enjoys a shorter shipping distance to India than Argentina, has a very limited market share of soybean oil. Argentina has the vast majority of both India's soyoil and sunflower oil import market. Tariffs are not a competitive factor since the United States, Brazil and Argentina are all subject to the same import tariffs on soybean oil.

Traditionally, India's applied tariffs for oilseeds and products have been high by global standards, primarily to protect its small-scale farmers. Recently, however, India has reduced its applied tariffs on vegetable oils to zero or very low levels because of its concern about domestic food inflation. See the chart below.

### Bound and Applied Tariffs in India's Oilseed Sector

Commodity	Bound Rate	Applied Rate <sup>1</sup>	Applied Rate <i>(Effective April 1, 2008)</i>
	<i>Percent, ad valorem</i>		
Oilseeds	30	30	30
Oils			
Crude			
Soybean	45	45	0 <sup>4</sup>
Palm oil	300	80	0
Peanut	300	75	0
Sunflower	300	50/75 <sup>2</sup>	0
Rapeseed	75	75	
Refined			
Soybean	45	45	7.5
Palm oil	300	90	7.5
Peanut	300	85	7.5
Sunflower	300	85	7.5
Rapeseed	75	45/85 <sup>3</sup>	7.5
Oilmeals	100	30	30

<sup>1</sup>Applied sales as of March 2006.

<sup>2</sup>Applied rate of 50% within 150,000-ton quota; 85% above quota.

<sup>3</sup>Applied rate of 45% within 150,000-ton quota; 75% above quota.

<sup>4</sup> On March 24, 2009, the GOI abolished the 20% import duty on crude soy oil to narrow its premium over imported palm oil.

Source: Ministry of Commerce and Industry, Government of India; USDA/Foreign Agricultural Service attaché reports.

Currently, the import duties are not a significant barrier to imports of vegetable oil. But whether the import tariffs are *de minimus* or at their traditionally high levels, they do not explain Argentina's dominant share of the market, because the tariffs are applied uniformly to Argentina, Brazil and the United States. As the chart above illustrates, Argentina accounted for approximately 70%-85% of the import market for soybean and sunflower oil from 2006 to 2008. The reason for Argentina having such a large share is due to its use of DETs, while the United States and Brazil do not have such an export subsidy regime.

#### DETs Advantage Argentine Exports of Vegetable Oil to India

Differential Export Taxes act as both an export subsidy and a crushing subsidy for Argentina's oilseed processors and oilseed product exporters.

DETs subsidize exports of processed products by taxing exports of the raw material at a higher rate than exports of the processed products derived from that raw material. The differential tax rate reduces processors' raw material cost more than it reduces their sales revenue.

Argentina applies an export tax of 35% on soybeans, 32% on soybean oil and soybean meal, and 17.5% on soy biodiesel. This DET structure reduces Argentine processors' raw material costs by 35%, but it reduces their export sales revenue by only 32% for soybean oil and soybean meal, and by only 17.5% for soy biodiesel. Taxing the raw material at a higher rate than the processed products establishes a significant export subsidy for the processed products.

Calculation of the subsidy effect of DETs is relatively straightforward. LMC International conducted a study for NOPA in March 2006 of the Argentine DET structure and its effects on soybean crushing margins [*see attachment*]. Over an 11-year period, DETs subsidized Argentine crushing margins by an average of \$9.50 per metric ton of soybeans. An export subsidy of this magnitude presents a major competitive advantage for Argentina and therefore a significant disadvantage to exports of U.S. soybean products.

#### Conclusion

Argentina dominates India's import market for soybean oil and sunflower oil primarily because of the subsidies provided to its oilseed processors and exporters through its Differential Export Tax scheme. Such DETs are distorting global trade in oilseeds and oilseed products. As long as Argentina's DETs are permitted to continue, it will be very difficult for the United States to compete for any meaningful share of India's very large and expanding edible vegetable oil market.

NOPA strongly believes that DETs must be eliminated with all other forms of export subsidies. NOPA, as well as oilseed processing associations from Europe and Canada, have been urging our respective trade negotiators to eliminate the differential element of export taxes in the context of the Doha Round of Trade Negotiations.

Argentina is not alone in the use of Differential Export Taxes. Malaysia and Indonesia also use a DET scheme to subsidize the export of refined palm oil instead of crude palm oil. In addition, Russia and Ukraine utilize DETs for sunflower seed oil and meal. Other countries, such as Paraguay, have considered a DET structure for soybeans and soybean products in order to compete with Argentina.

The United States will continue to be at a competitive disadvantage when attempting to compete for India's as well as other global markets for oilseed products until Differential Export Taxes are eliminated.

We thank you for the opportunity to bring the important issue of DETs before the Commission. We would like to also commend the Commission for the issuance of its September 2007 study by William Deese and John Reeder entitled *"Export Taxes on Agricultural Products: Recent History and Economic Modeling of Soybean Export Taxes in Argentina."* Representatives of NOPA are available to discuss this matter in more depth with members of the Commission and its staff.

Respectfully submitted,

A handwritten signature in black ink that reads "Thomas A. Hammer". The signature is written in a cursive style with a long, sweeping underline.

Thomas A. Hammer  
President

Attachment: *Crushing Margins and the Effect of Differential Export Taxes*, LMC International Ltd, March 2006