

**THE GOVERNMENT OF INDONESIA'S PETITION FOR A WAIVER OF THE
COMPETITIVE NEED LIMIT (CNL) ON IMPORTS FROM INDONESIA OF
EDIBLE PRODUCTS OF ANIMAL ORIGIN**

Petitioner : Government of the Republic of Indonesia
Products : Edible Products of Animal Origin, nesi (HTS 0410.00.00)
Relief : Competitive Needs Limitation Waiver

A. INTRODUCTION

1. Indonesia is one of eligible Beneficiary Developing Countries (BDCs) under the U.S. GSP program. In 2016, Indonesia exported approximately USD 1.8 billion in goods to the United States under the GSP program out of USD 18.95 billion in exports to the United States.
2. On November 14, 2017 the Office of United States Trade Representative published the interim 2017 import statistics, which informed the imported value of the article from the specified country for the first nine months of 2017. It also informed the GSP-eligible of BDCs' articles which could potentially or has exceeding competition limit, based on interim nine-month 2017 data.
3. The identified products from Indonesia, which are stated on the Federal Register, are the following:
 - Edible products of animal origin (HTS number: 0410.00.00).
 - New pneumatic radial tires, of rubber, of a kind used on buses or trucks (HTS number: 4011.20.10)
 - Stearic Acid (HTS 3823.11.00)

These products are considered has the potential in exceeding USD180 million, or a value equal to or greater than 50 percent of the total US imported value for the specified article from all countries

4. Federal Register dated on November 14, 2017 set the deadline for the submission of all requests for CNL waivers to December 5, 2017.

B. REQUEST FOR CNL WAIVER

1. Under 19 USC 2463, a country can request a CNL waiver if the criteria set out in paragraphs (d) (1) or (d) (3) are met.
2. Government of the Republic of Indonesia believes that there is a compelling case for a CNL waiver and respectfully requests a waiver for Edible Products of Animal Origin, nesi (HTS 0410.00.00).

C. THE IMPORTANCE OF GSP TO INDONESIA

1. GSP has helped developing countries, including Indonesia, in promoting economic growth particularly its export to the US in addition to providing greater access to US market.
2. GSP has contributed significantly to Indonesia's export. Indonesia total export to US in 2016 amounted to USD 16.14 billion in which export value benefit from GSP scheme registered USD 1.8 billion.
3. GSP supports the development of Indonesian companies mainly for small and medium size business sectors. The majority of Indonesian SMEs still encounter restraints in term of resources. Through either less or no duties, GSP enhances the capacity of Indonesia producers to compete with those of other countries.
4. GSP also has contributed in increasing the number of employment in Indonesia. Excluding a product from GSP eligible product may result to unemployment owing to companies' declining export profit. Many employments are involved in producing finished products.
5. Less profit due to exclusion of eligible goods may also affect the environment and prosperity as many companies have Ccorporates Social Responsibility (CSR) programs to develop their surroundings. Companies would not allocate their expenditure on CSR program due to lower profit.
6. The beneficial impacts of Indonesia's GSP extend to the U.S. importers and consumers as GSP-eligible products from Indonesia enter the United States market duty-free under the GSP program. The U.S. consumers enjoy less expensive and greater choices and U.S. businesses are able to obtain necessary raw materials and intermediate goods at less expensive prices.

D. FACTORS TO BE CONSIDERED FOR WAIVER OF COMPETITIVE NEED LIMITATION FOR EDIBLE PRODUCTS OF ANIMAL ORIGIN, NESI (HTS 0410.00.00)

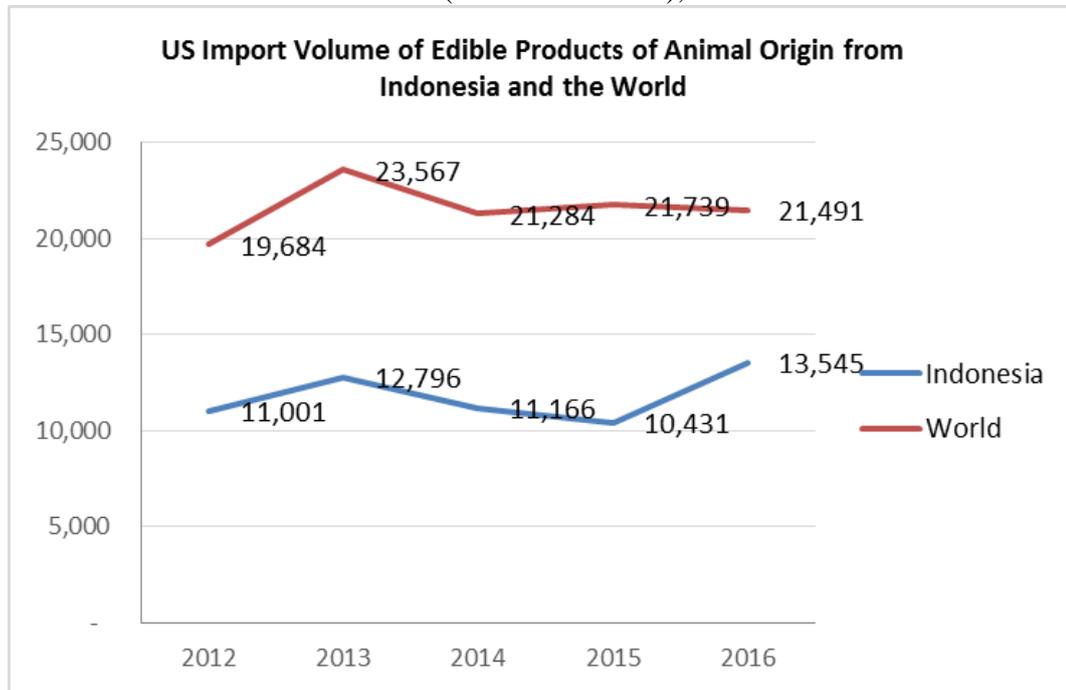
1. Pursuant to 19 USC 2463 (c), (2), (F) De Minimis Waiver
 - (1). In general The President may disregard subparagraph (A) (i) (II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.
 - (2). APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is— (I) for calendar year 1996, USD 13,000,000, and (II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus USD 500,000. Therefore, for calendar year 2017, the amount is USD 23,500,000.

Note: The applicable amount in this case means the applicable *de minimis* amount

As seen in the figure 1.1 (<https://www.usitc.gov>), the trend of US import on swift's nest from the world for the past 5 years was slightly down or only -1.1%. From year 2012 - 2016, its value was less than USD 23,500,000 except for year 2013, which was slightly higher than the applicable *de minimis* amount. In 2012, swift's nest exported to US reached its lowest point which was USD 19,684,221.

According to US International Trade Commission (US ITC) data web, from January to September 2017 the world export value of swift's nest to US was USD 18,310,000. The increase only amounts to 16,1% compare to the same period of previous year which was USD 15,776,743.

Figure 1.1 US import volume of Edible Products of Animal Origin from Indonesia and the World (HTS 0410.00.00), 2012-2016



2. Waiver under 19 USC 2463 (d) (3)
 - a. Waiver may be granted, if the President determines that
 - (A). there has been a historical preferential trade relationship between the United States and such country,
 - (B). there is a treaty or trade agreement in force covering economic relations between such country and the United States, and
 - (C). such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

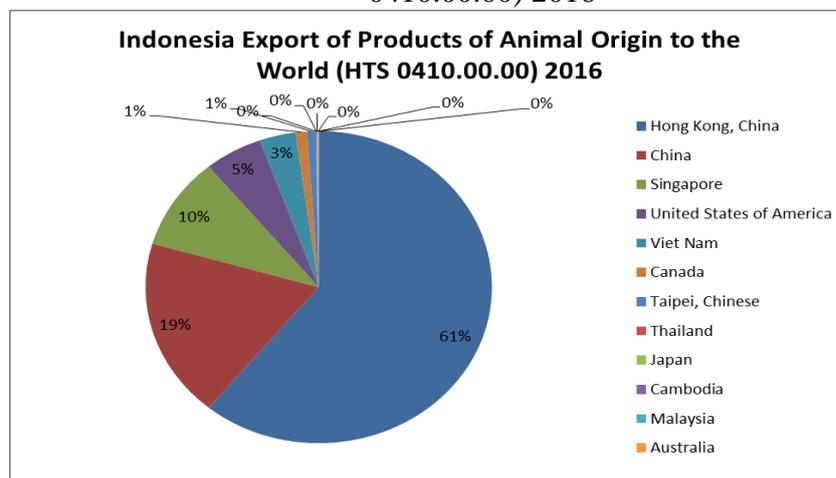
and the President publishes that determination in the Federal Register.

3. Regarding Waiver under 19 USC 2463 (d) (3) point (A), Indonesia and the US have historically close economic relations, strengthened by the launch of the Comprehensive Partnership by both Heads of State. Trade related agreements between Indonesia and the U.S. include:
 - (A). In July 16, 1996 the Minister of Trade of the Republic of Indonesia and the Acting United States Trade Representative signed a Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of the United States of America Concerning the Establishment of the Council on Trade and Investment under Trade and Investment Framework Agreement (TIFA). The two countries continuously engaged in regular and intensive dialogue on trade and investment issues under the framework since 1 April 2005. The last meeting was TIFA 16th meeting held in June 2017 in Washington D.C, United of States.

- (B). The Head of the Indonesian Investment Coordinating Board and Acting President of Overseas Private Investment Corporation (OPIC) signed the OPIC Investment Support Agreement (ISA) on 13 April 2010 in Washington, D.C. The ISA serves to facilitate increase of investment and to strengthen economic ties between the two countries.
- (C). The Indonesia – U.S. Comprehensive Partnership launched by President Obama and President Yudhoyono on 27 June 2010 was followed up by the establishment of a Joint Commission for which the inaugural meeting was held on 16-17 September 2010 in Washington, D.C. The Joint Commission Meeting (JCM) is co-chaired by the Minister of Foreign Affairs of Indonesia and the U.S. Secretary of State, and consists of 6 (six) Working Groups, including a Working Group on Trade and Investment. Having desire for deeper and broader collaboration building upon strong relation, the two countries committed to upgrade the Comprehensive Partnership to Strategic Partnership in 2015 during President Joko Widodo visit to U.S. in the end of 2015. Indonesia and the U.S. agreed on joint statement and Memorandum of Understanding on maritime cooperation. During the visit, Indonesia and the U.S. agreed on joint statement and Memorandum of Understanding on maritime cooperation.

- 4. Indonesia swifts nest is not a competitor to US market.
 - a. In regards to total labor, swiftlet farming industries in Indonesia are classified into micro, small and medium enterprises. Their labor varies from 5 to 50 people while their production is 20 kg to 200 kg per month.
 - b. Most of Indonesia swiftlet farming industry exported their products to Hong Kong, China and Singapore. In 2016, US share in Indonesia total export to the world was only 5%, (source: www.trademap.org).¹
 - c. Furthermore, there is a data discrepancy between data of Indonesia and United States. Based on Indonesian record, in 2016, US imports of swift nest from world amounted to USD 21.9 million. Indonesia share in US imports of swift nest from world was only 40% or equal to USD 10.4 million (source: www.trademap.org).² In other words, the value of US import from Indonesia is not exceeding 50 percent CNL.

Figure 1.2 Indonesia Export of Products of Animal Origin to the World (HTS 0410.00.00) 2016



E. IMPORTANCE OF THE CNL WAIVER FOR EDIBLE PRODUCTS OF ANIMAL ORIGIN, NESI (HTS 0410.00.00)

1. Role of Swift Nest for Employment

Since most locations of Swift Nest are in rural location, automatically this business is involving a small traditional farmers. Currently, more or less, there are hundred thousand farmers who are involved in this business as keeper and picker of nest. There are fifty thousand more who are involved in sterilization process before it is exported to overseas. By eliminating GSP duty-free treatment for product of animal origin, nesi (HTS 0410.00.00), it will give direct impact for the employment and economy of Indonesian small traditional farmer.

2. The Benefit of Swifts Nest to Human Health

There are many studies showed that swift's nest brought health benefit to human. One of those is from recent medical research reported by Hong Kong Chinese University. It explains that the cell division enzyme and hormone of bird's nest can promote reproduction and regeneration of human cells. Furthermore, it also helps promote one's immune system and enhances body metabolism.³ Recent years, US consumers on swift's nest have realized those benefits. This phenomenon allegedly contributes to increase of swift's nest import to US.

F. CONCLUSION

1. Based on the above reasons and justifications of economic development and other more specific reasons, The Government of Indonesia appreciates this opportunity to provide comments in support of the CNL waiver for edible products of animal origin or swift's nest (HTS 0410.00.00) from Indonesia.
2. Given the quickly and significantly changing import dynamics, the Government of Indonesia requests an extension for Indonesia's CNL waiver for swift's nest. The waiver would significantly affect positively not only Indonesia swiftlet farming industry competitiveness among others but also increase US consumers' health.

Jakarta, 05 December 2017

Director of Bilateral Negotiation
Directorate General International Trade Negotiation
Ministry of Trade of the Republic of Indonesia

³ Runckel, Christopher W. "A Bird in the Hand." Business-in-Asia.com. N.p., 2010. Web. 01 Dec. 2016.