August 18, 2025

ELECTRONIC SUBMISSION TO http://comments.ustr.gov

Ms. Jennifer Thornton
General Counsel
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Re: National Corn Growers Association
Public Comment on the Section 301 Investigation of Brazil's Acts, Practices, and Policies on Ethanol Market Access (USTR-2025-0043)

Dear Ms. Thornton:

The National Corn Growers Association ("NCGA") appreciates the opportunity to submit the following comments to the Office of the United States Trade Representative ("USTR") on the investigation initiated under Section 301 of the Trade Act of 1974 with respect to "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" (the "Investigation"). Our comments relate solely to the Investigation's focus on Ethanol Market Access in Brazil.

An investigation of Brazil's ethanol and trade-related policies is warranted and overdue. For years, Brazil has enjoyed advantageous access to the U.S. ethanol market while unfairly and discriminatorily imposing high tariff and non-tariff barriers to U.S. exports. These barriers include a discriminatory biofuels regulatory regime that effectively blocks access for U.S. ethanol. In recent years, spurred in part by these protectionist advantages, and following decades of lax attention to deforestation, Brazil has rapidly expanded crop production on vast, deforested areas of the Amazon that have been converted to farmland. This conversion continues apace, especially in the Cerrado grasslands – once tropical forests – that are now double-cropped to feed Brazil's growing ethanol sector. This expansion is also fueling a fast-growing surplus of Brazilian commodities, including grains and other crops, which are sent abroad to third-country markets such as China where they compete against U.S. farmers who face a variety of tariff and non-tariff barriers. Brazil's surplus production and subsequent exports also means lower global commodity prices, hurting competing farmers in the United States and elsewhere.

On top of all of this, Brazil now poses a serious threat to long-term U.S. export competitiveness in the emerging market for sustainable aviation fuel, where it is influencing the international use of flawed carbon emission models that favor Brazil's system of double-cropping on deforested land, to the disadvantage of farmers in the United States where a ***re***forestation has been underway for decades across the country, due in part to robust U.S. conservation programs.

Not surprisingly, U.S. farmers have suffered as a result. Since 2017, when Brazil first began to impose high tariffs, U.S. ethanol exports to Brazil have sharply fallen. In 2018, the United States exported 489 million gallons of ethanol to Brazil, valued at $761 million. At the time, Brazil was the top export market for U.S. ethanol. By 2024, the United States only exported 28 million gallons of ethanol to Brazil, valued at $53 million. In contrast, in 2024, Brazil shipped ethanol worth approximately $211 million into the U.S. market, equivalent to 88 million gallons.[1]

NCGA urges USTR to closely examine Brazil's biofuels policies, including its numerous tariff and non-tariff barriers, as well as its influence in establishing a flawed emissions model in international bodies. USTR should further consider the extent to which Brazil's measures discriminate against U.S. ethanol producers, and thereby pose an unreasonable burden or restriction on U.S. commerce, to the detriment of U.S. producers and U.S. exports.

This comment proceeds as follows: **Section I** provides background on NCGA and its members – American corn growers. **Section II** summarizes Brazil's acts, practices, and policies related to ethanol market access, while **Sections III, IV, and V** demonstrate how they are unreasonable, discriminatory, and burden U.S. commerce. **Section VI** offers proposed remedies that could be imposed under Section 301 to address Brazil's harmful acts, practices, and policies.

I. BACKGROUND ON THE NATIONAL CORN GROWERS ASSOCIATION

Established in 1957, NCGA represents more than 36,000 dues-paying corn growers in 48 states, and the interests of more than 500,000 farmers who contribute through corn checkoff programs in their states. NCGA and its affiliated associations in 27 states work together to help protect and advance corn growers' interests. The United States is the world's largest producer and exporter of corn, as more than 30 percent of the U.S. corn crop relies on export markets when accounting for corn, ethanol, and value-added products. Not only do U.S. corn exports play a key role in the global economy, but exports contribute to 33 percent of income for U.S. corn farmers.

Each year, roughly 35 percent of U.S. field corn goes into fuel ethanol, making it the second-largest use of U.S. corn. With growing domestic and international demand for biofuels, U.S. corn ethanol is uniquely positioned to play a larger role in the future of transportation fuels.

Since exports directly contribute to a third of corn farmers' income, strong global demand for U.S. corn and ethanol is essential. Exports of corn and ethanol products support more than 144,000 full-time equivalent American jobs and generate $48 billion worth of domestic economic activity. U.S. export income goes beyond the farm gate, into local communities and the broader economy.

II. SUMMARY OF BRAZIL'S ACTS, POLICIES, AND PRACTICES

The U.S. and Brazilian ethanol industries enjoyed a fairly balanced trading relationship for several years from 2012-2017. In 2017, Brazil imposed a two-year 600 million liters per year tariff-rate quota ("TRQ"), which President Bolsonaro extended until December 2020. On

[1] USITC DataWeb.

December 14, 2020, Brazil applied a 20 percent duty on all U.S. ethanol imports, including in-quota shipments. By comparison, the United States has until recently imposed a 2.4 percent most favored nation tariff rate on all ethanol imports.

Beginning in 2021, Brazil decided to drop the duty to zero until December 31, 2022, as a measure to control inflation in the country for which the accumulated annual index at that time exceeded 10 percent. On January 31, 2023, the current President Lula decided to re-impose a 16 percent duty until December 31, 2023, as Brazil's Agriculture Minister argued that foreign ethanol imports jeopardized domestic production.[2] On January 1, 2024, Brazil raised the tariff to 18 percent on all ethanol imports without provocation, and the United States was unable to negotiate with Brazil to prevent the increase or move toward a reduction.

The U.S. ethanol industry, through the Brazilian Association of Fuel Importers, formally requested that the Brazilian Chamber of Foreign Trade ("CAMEX") eliminate the duty on U.S. ethanol and include it on the Mercosur Exemption List ("LETEC"). However, CAMEX rejected both requests despite receiving extensive comments from the U.S. ethanol industry, corn state producers, and even the Brazilian Federation of Fuel, Natural Gas, and Biofuel Distributors. As of now, CAMEX has still provided no response addressing the arguments behind its decision.

In 2020, Brazil implemented the RenovaBio program, which aimed to increase the role of biofuels in Brazil's transportation fuel market. RenovaBio is expected to generate up to five billion gallons of new demand through 2030.

Brazil's National Agency for Petroleum, Natural Gas and Biofuels ("ANP") administers RenovaBio, including the procedures to accredit verification bodies and biofuel certification. Approval through these procedures is necessary in order to generate carbon reduction credits, known as "CBios."

To participate in RenovaBio, an ethanol producer must have its feedstocks be deemed eligible and subsequently certified, a process that requires extensive farm-level data. This data is then used in the RenovaCalc methodology to calculate the resulting ethanol's carbon intensity score. Brazilian sugarcane ethanol producers are generally able to provide this "primary" level of data, since Brazilian sugarcane farms and ethanol facilities are typically integrated, allowing easy access to information on a per-farm level basis. Brazil's sugarcane industry was heavily supported by the Brazilian government's PROACLOOL program aimed at boosting a domestic biofuels program, which allowed for this subsequent integration.[3] In contrast, U.S. ethanol production is far less vertically integrated, which means that ethanol producers do not generally have access to confidential and proprietary information about the particular farms and individual farmers whose corn was used to produce the ethanol. Since they cannot provide such "primary" farm-level data,

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[2] Reuters, Brazil ends ethanol import tax exemption, U.S. disappointed, (February 2, 2023) (last accessed August 13, 2025).

[3] T. Koizumi, *The Brazilian ethanol programme: impacts on world ethanol and sugar markets*, FAO Commodity and Trade Policy Research Working Paper No. 1 (June 24, 2003) https://www.fao.org/4/ad430e/ad430e00.pdf.

U.S. ethanol producers must rely on RenovaCalc's "default factor." Unfortunately, the RenovaCalc "default factor" carries a 300 percent penalty.

ANP Resolution No. 984, recently issued and replacing the previous ANP Resolution No. 758, requires eligible ethanol producers to demonstrate that their feedstock crop was not produced on land that was deforested after 2018.[4] The U.S. industry has urged Brazil to provide mutual recognition of the U.S. "aggregate model" of compliance that takes account of a farm's prior land use, prohibiting the production of biofuel feedstock on lands that may have been deforested after 2007. Unfortunately, ANP has so far failed to provide mutual recognition of the U.S. "aggregate model" of compliance as an alternative compliance mechanism.

In 2024, Brazil also established the Sustainable Aviation Fuel's ("SAF") National Program in 2024 to spur the use of SAF in the Brazilian energy matrix. Through this program, airlines are required to increase their consumption of SAF by one percent each year, until hitting a maximum of ten percent by 2036. For its SAF program, Brazil uses an emissions model that places a premium lifecycle assessment value on multi-cropped feedstock produced on formerly "degraded" pasture lands. This naturally incentivizes Brazil's practice of double-cropping soy and corn and devalues the lifecycle assessment of U.S. single cropped corn, despite adequate scientific rigor to justify this approach.

Most concerning, Brazil has emerged as a pivotal player in international bodies that are considering emissions modeling for emerging SAF markets, such as Japan and the European Union. Use of Brazil's emissions model's overweighting of multi-cropping system threatens to undermine the export potential of U.S. ethanol. Earlier this year, International Civil Aviation Organization (ICAO) Committee on Aviation Environmental Protection (CAEP) approved a recommendation on multi-cropping, following Brazil's model. The ICAO committee's recommendation prompted an objection from the U.S. State Department that noted the recommendation's lack of sufficient technical or scientific justification and described it as unfairly penalizing U.S. farmers, to the benefit of Brazil in global markets.[5]

III. BRAZIL'S ACTIONS ARE UNREASONABLE

[4] See ANP Resolution No. 984 (June 16, 2025), https://atosoficiais.com.br/anp/resolucao-n-984-2025-regulamenta-a-certificacao-da-producao-ou-importacao-eficiente-de-biocombustiveis-de-que-trata-o-art-18-da-lei-no-13-576-de-26-de-dezembro-de-2017-e-o-credenciamento-de-firmas-inspetoras?origin=instituicao (unofficial English translation, last accessed August 11, 2025); revoking ANP Resolution No. 758 (2018) https://www.gov.br/anp/pt-br/assuntos/renovabio/arq/ranp-758-2018-english.pdf (unofficial English translation).

[5] U.S. State Department, Press Statement, "United States Objects to Sustainable Aviation Fuels Recommendation at International Civil Aviation Organization Meeting," (March 3, 2025) https://www.state.gov/united-states-objects-to-sustainable-aviation-fuels-recommendation-at-international-civil-aviation-organization-meeting/ (last accessed August 10, 2025).

Brazil's actions deny "fair and equitable" market opportunities for U.S. ethanol producers, pursuant to Section 301(d)(3)(B)(i)(IV)[6].

Specifically, Brazil's high tariffs on ethanol imports have led to a near-complete depletion in market access for U.S. ethanol exporters. This was not always the case. In 2011, Brazil reduced its import tariff on foreign ethanol to zero, which served in part as a catalyst for the U.S. decision not to renew the federal excise tax credit as well as a temporary Other Duty or Charge (ODC). This fairly balanced trading relationship continued until its abrupt end in 2017, when Brazil initiated an ethanol import TRQ for approximately 158.5 million gallons to enter duty-free with an out-of-quota tariff rate of 20 percent. This TRQ appears to have been aimed at limiting market access for U.S. producers, who had already exported approximately one billion gallons of ethanol to the global market in 2017, the year that it was announced. In March 2022, Brazil eliminated its tariffs on ethanol to combat rising fuel prices, but then re-imposed them again in 2023 at 16 percent, which rose to 18 percent in 2024.

Volatility in U.S. ethanol exports to Brazil closely mirror its changing policies, with Brazil emerging as one of the main export markets for American ethanol before vanishing. When Brazil first lowered its tariff barriers and the United States reciprocated by terminating the federal excise tax credit and temporary ODC in 2011, trade flourished. U.S. ethanol exports to Brazil reached a "record high" pace– U.S. ethanol exports were 133,000 barrels per day at the end of 2011 compared with about 10,000 barrels per day in early 2010, according to the U.S. Energy Information Administration.[7] U.S. ethanol exports to Brazil really began picking up speed in 2015, increasing every year until Brazil's 20 percent tariff was imposed in September 2017. At first, U.S. exporters were able to maintain shipments in 2018, before sharply declining in 2019 and 2020, eventually becoming virtually nonexistent in 2021. The rise and fall of U.S. ethanol trade with Brazil is illustrated in Figure 1 below.[8]

The importance of the Brazilian market to American exporters cannot be understated, and the loss of revenue and jobs as a result of Brazil's tariff are clear. Without the tariff, U.S. ethanol exports would have been approximately 281 million gallons higher in 2018, 321 million gallons higher in 2019, 243 million gallons higher in 2020 and could have been 307 million gallons higher in 2021. The higher tariff costs U.S. exporters more than $1.6 billion annually over the four-year time period (2018-2021) in lost U.S. industry sales, which translates to approximately 409 million bushels of lost corn demand. Even more, during this same time period, the average number of jobs that the U.S. economy could have gained, if Brazil had not implemented its ethanol import tariff, was 4,487 jobs *per year*. This job loss translates to roughly $280 million annually in forgone U.S. labor income.[9]

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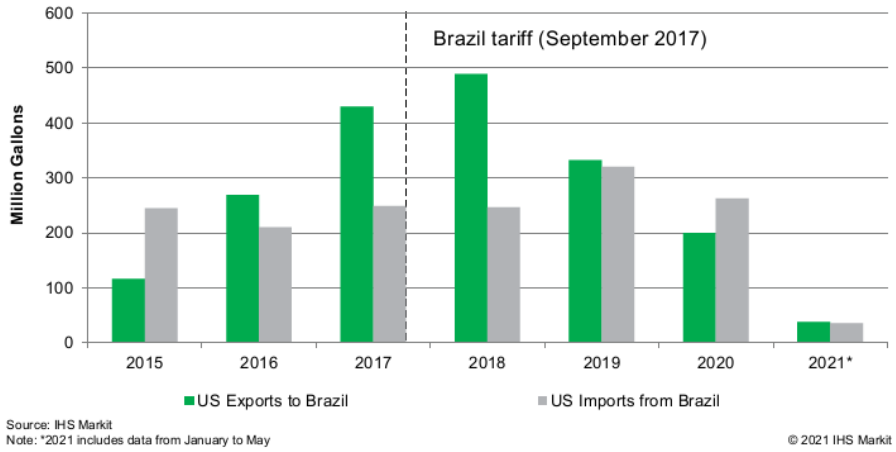
[6] 19 U.S.C. § 2411 (d)(3)(i)(IV).

[7] U.S. Energy Information Administration, "Record U.S. ethanol exports in 2011 help offset Brazil's production decline," (Mar. 6, 2012) https://www.eia.gov/todayinenergy/detail.php?id=5270 (last accessed August 11, 2025).

[8] IHS Markit, *Impact of Brazil's Import Tariff on US Ethanol* (July 2021), available upon request.

[9] *Id.*

Figure 1: U.S. Ethanol Trade with Brazil



As U.S. ethanol lost market share in Brazil, Brazil's domestic producers, incentivized by the tariffs and other regulatory programs, stepped in to fill the demand. Brazil produces sugarcane and sugarcane-derived ethanol, often in the same plant, and the spread between ethanol and sugar prices is the main driver for Brazilian mills to decide how to shift a greater share of their production capacity in a way that maximizes profit. Brazil's policies on tariff increases drove higher prices for domestically produced sugarcane ethanol, which the Brazilian industry pursued, investing resources in more ethanol production. Increased profits from an expanded ethanol market – with American imports effectively pushed out – allowed the Brazilian industry to flourish.

Brazil's policies have also allowed Brazilian ethanol and co-product exports to flourish at the expense of U.S. exports. Notably, earlier this year in May, Brazil and China signed agreements to facilitate Brazilian exports of distiller dried grains with solubles (DDGS) an ethanol co-product that is used in animal feed.[10] Given the timing, when trade relations between the United States and China were at their most strained, the Brazil-China announcement was understood as signaling a future challenge to U.S. DDGS export market share in China.

These Brazilian exports reflect growing farm capacity fueled by its domestic programs, beyond the needs of its own domestic consumption. The resulting oversupply is then shipped to foreign markets, snatching up market share that would otherwise be captured by the United States.

U.S. ethanol exporters have sought to address these issues with Brazilian regulator CAMEX. However, CAMEX operates in an unreasonably opaque manner and further denies fair and equitable treatment to U.S. interests. NCGA submitted a letter to the Brazilian government, seeking information about its tariff policies and urging the government to ensure fair, non-discriminatory access to imports, but to no avail. NCGA's partner organization, the U.S. Grains and Bioproducts Council also submitted letters to the Brazilian government on this issue for

[10] Reuters, China to allow Brazil's ethanol by-product amid Lula visit, US-China trade war, (May 13, 2025) (last accessed August 11, 2025).

several years without ever receiving substantive responses. CAMEX has simply refused to engage in any dialogue with these important U.S. stakeholders.

Taken together, the actions at issue arguably constitute "export targeting" under Section 301(d)(3)(B)(ii). Export targeting is defined under Section 301(d)(3)(E) as "any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof, the effect of which is to assist the enterprise, industry, or group to become more competitive in the export of a class or kind of merchandise." The combined impact of Brazil's tariff and non-tariff policies protects and incentivizes the expansion of Brazilian production to meet growing demand at home and abroad. At the same time, Brazil's policies appear designed to suppress the development of U.S. ethanol production, thereby undermining U.S. competitiveness, both in its home market and in third-country markets. In short, Brazil's trade policy and regulatory structure of its ethanol industry, as its acts and practices at issue have unreasonably denied fair and equitable treatment to U.S. exporters while simultaneously seeking to crowd out American ethanol interests abroad.

IV. BRAZIL'S ACTIONS ARE DISCRIMINATORY

Brazil's acts, policies, and policies deny reciprocal treatment to U.S. ethanol producers, and thus are discriminatory, pursuant to Section 301(d)(5).[11]

First, and most obviously, Brazil's higher tariffs specifically target its domestic producers' main competition, which happen to be U.S. producers. In contrast, of course, Brazilian producers are free to sell in their own market without facing the tariff that U.S. exporters must face.

Second, Brazil has impeded the use of U.S. ethanol in RenovaBio since the program launched in 2019. The program was designed to promote renewable energy in the transportation sector, and to reduce greenhouse gas ("GHG") emissions in the production commercialization and use of biofuels to meet Brazil's commitments under the 21st Conference of the Parties ("COP21") of the United Nations Framework Convention on Climate Change in Paris. The program created a market for the sale and trade of decarbonized carbon credits ("CBios"). Certified producers and importers can sell CBios. The program is voluntary for biofuel producers and importers but mandatory for fuel distributors. The number of CBios that each party can sell depends on the volume of biofuel sold and the party's efficiency rating, as determined by RenovaCalc.

RenovaBio's implementation discriminates against U.S. ethanol production in two important ways. First, because applications for use of U.S. ethanol production must utilize the "default data" factor, U.S. ethanol faces a ***300 percent penalty***. RenovaBio offers no scientific justification for the imposition of a penalty, much less this particular penalty amount, or for its blatantly punitive impact on U.S. producers. Yet, it naturally falls heavily and disproportionately on U.S. corn-based ethanol production, and thus it blatantly and heavily advantages Brazilian sugarcane ethanol producers. Brazil simply discriminates against U.S. corn ethanol on the basis of the way the commodity data is collected, without regard for any particular consideration of the feedstock's actual emission impact.

[11] 19 U.S.C. § 2411 (d)(5).

Second, Brazil has so far refused to provide mutual recognition of the U.S. "aggregate model" of compliance as an alternative compliance assessment mechanism to demonstrate conformity with ANP Resolution No. 984,[12] despite the long history of U.S. success in protecting forest lands and despite fact that the U.S. regulation's 2007 cut-off date for deforestation is eleven years earlier than required under ANP Resolution No. 984. The U.S. "aggregate model" approach is consistent in spirit with the suite of U.S. conservation programs through which the U.S. forests acreage has actually risen over the past century, to the point where U.S. forest acreage was actually twelve million acres higher in 2012 than it was in 1910, despite a tripling of U.S. population growth.[13] The reforestation of U.S. lands stands in stark contrast to the rapid deforestation that continues apace in Brazil. Regardless, ANP's refusal to properly recognize the U.S. conformity assessment procedures leaves U.S. ethanol producers with no viable way of demonstrating fulfillment of the regulation's ostensible objectives, despite clear evidence that U.S. biofuels are not produced on deforested land.

In both respects, RenovaBio's implementation operates as a technical barrier to trade, in violation of Brazil's obligations under the World Trade Organization's Agreement on Technical Barriers to Trade ("TBT Agreement").[14] It imposes restrictions not based in sound science that needlessly restricts access by U.S. exporters to Brazil's biofuels program, in violation of the national treatment obligations established in Article 2 of the TBT Agreement. It also fails to recognize the U.S. "aggregate compliance" model as an acceptable conformity assessment procedure, per Article 5 of the TBT Agreement.

At a minimum, the fact that ***no*** U.S. corn-based ethanol exports have ever been approved to participate in RenovaBio strongly suggests Brazil's program, and its eligibility and certification requirements, are overly trade-restrictive.

In comparison, Brazilian ethanol is fully eligible to participate in the U.S. ethanol market, unfettered by any discriminatory U.S. federal or state restrictions. Brazilian exports are regularly utilized in satisfaction of the U.S. Renewable Fuel Standard Program ("RFS"), eligible to receive half of a Renewable Identification Number ("RIN") credit. Brazil has also acquired significant market access in California, where the carbon intensity calculation does not factor in the transportation distances of Brazilian shipments, a tremendous and arguably scientifically unsound benefit to Brazilian ethanol. Regardless of the wisdom of California's approach, the generous treatment of Brazilian ethanol exports further underscores the non-reciprocal nature of the bilateral trade in ethanol between our two countries.

Finally, U.S. exporters also face unnecessary and discriminatory barriers to participation in Brazil's SAF National Program, which places a premium value on the country's multi-cropping system – without sufficient scientific justification – to the disadvantage of U.S. corn-based ethanol. The effect is to shut out U.S. biofuels from access to Brazil's SAF market. As other countries look

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[12] *See* ANP Resolution No. 984 (June 16, 2025), *supra* note 1.

[13] *See* "U.S. Forest Resource Facts and Historical Trends," at 7 (2012), (Aust 2014), https://www.fs.usda.gov/sites/default/files/legacy_files/media/types/publication/field_pdf/forestfacts-2014aug-fs1035-508complete.pdf (last accessed August 13, 2025).

[14] *See* Agreement on Technical Barriers to Trade, Article 2 and Article 5, https://www.wto.org/english/docs_e/legal_e/tbt_e.htm.

to adopt their own SAF blending models, Brazil's example provides a roadmap to implementation, but only to the benefit of Brazilian ethanol due to the flawed GHG emissions calculations.

V. BRAZIL'S ACTIONS BURDEN U.S. COMMERCE

Brazil's unfair trading practices in the ethanol market have resulted in significantly declining U.S. exports since Brazil first imposed its ethanol tariff. In contrast, the United States has historically been one of the largest destinations for Brazilian ethanol exports. From 2015 to 2020, the United States accounted for 51 percent of total Brazilian ethanol exports. Once Brazil implemented the 18 percent tariff on ethanol, U.S. ethanol exports dropped from a peak of $761 million in 2018 to $53 million in 2024 – a ***93*** percent drop in three years.[15]

Brazil's failure to allow U.S. ethanol participation in the RenovaBio program also imposes a clear and significant burden on U.S. exporters. The current design of RenovaBio and its carbon scoring mechanism, RenovaCalc, disadvantage U.S. ethanol producers relative to the lifecycle assessment of corn, accreditation of land use traceability standards, and extensive data requirements for corn-ethanol plants. By limiting access, U.S. ethanol producers suffer lost market access and eroding competitiveness against Brazilian ethanol in its home market. Meanwhile, the United States has allowed Brazilian participation in its RFS Program. Brazil enjoys significant market share of the California ethanol market and better scoring than domestic producers due to efficiency calculations that do not account for the distance traveled by imported ethanol. For U.S. producers, this means lost market access in Brazil and increasing market competition at home, because of decisions made by government policymakers in both countries.

Unfortunately for U.S. exporters, Brazil is also an influential player in international standards-setting fora for biofuels, such as ICAO and the International Maritime Organization ("IMO"). The U.S. industry now faces the risk that other foreign markets that are important to U.S. producers of industrial-use ethanol may accept Brazil's influence, to the potential detriment of U.S. ethanol exports and to the advantage of Brazil's.

The larger effect of the Brazil's model land conversion assumption is to unscientifically, unnecessarily and unfairly devalue the lifecycle assessment score of U.S. corn ethanol vis-à-vis Brazil corn ethanol due to the use of indirect land use change (ILUC). Land emissions, such as ILUC, are assigned across all biofuel production countries. International concerns that biofuels incentives would prompt the conversion of non-cropland to biofuel production has led to the European Union and the United Kingdom placing restrictions on food-based crops for biofuels, as well as on international modeling for ILUC.

At the heart of Brazil's particular methodology is an assumption – weighted with great irony in Brazil's favor – that biofuel feedstocks are less responsible for emissions when they are produced on land on which another crop has already been produced. This means that Brazil's system for double-cropping on land that was recently deforested is considered better from a carbon emissions perspective under Brazil's emissions modeling than U.S. corn-based ethanol produced from a single-crop on old cropland in a country undergoing a process of ***re***forestation. In other

[15] USITC DataWeb.

words, U.S. producers are ironically penalized, while Brazilian ethanol producers are rewarded, by international concerns to deter the conversion of land to biofuels production, which is precisely what is happening in Brazil.

To the extent these international bodies and other foreign markets accept Brazil's sustainability assertions of its multi-cropping systems, without adequate technical analysis and scientific justification of sustainability requirements, U.S. export competitiveness will be seriously damaged, hurting U.S. producers, undermining the commercial value of U.S. farm production and the farmland where U.S. biofuel feedstocks are grown. In turn, these barriers translate into lost export sales, lower profits, lower land values, and higher financing risks and costs for farmers, ethanol producers, the banks that lend to them, and the surrounding rural economies that depend on their economic vitality.

This is why the U.S. State Department has lodged objections at ICAO. USTR should join the State Department's efforts to address Brazil's troubling influence in these international markets.

VI. SECTION 301 ACTIONS AGAINST BRAZIL ARE APPROPRIATE, FEASIBLE, AND SHOULD BE TAKEN

In light of Brazil's unreasonable and discriminatory ethanol market practices, NCGA respectfully urges USTR to consider the following steps protect U.S. producers against Brazil's unfair practices, pursuant to Section 301(b)(2):

- NCGA has long supported fair trade on a level playing field, including through the reduction of tariffs and non-tariff barriers between the United States and its trading partners and seeks the same with Brazil. With this aspiration in mind, NCGA supports negotiations with an outcome to remove tariffs that impede trade in ethanol between our countries.

- NCGA also urges USTR to work with Brazil to remove the discriminatory barriers that effectively block participation of U.S. ethanol in RenovaBio, including the onerous and unnecessary data requirements that force on U.S. ethanol producers a 300 percent default factor. USTR should also work with Brazil to ensure acceptance of the U.S. aggregate model of compliance as an alternative mechanism to demonstrate compliance with Brazil's deforestation requirement.

- In the meantime, until Brazil's tariff and non-tariff barriers are removed, NCGA supports the 50 percent tariffs enacted by the administration on July 30, 2025. NCGA further encourages USTR to consider stacking the *ad valorem* duties imposed under Section 301 on top of any existing tariffs based on the unfair practices which are harming U.S. farmers specifically.

- NCGA also urges USTR to consider working with intergovernmental counterparts to prohibit the use of Brazilian ethanol in the U.S. Renewable Fuel Standard Program until U.S. producers are granted reciprocal eligibility in Brazil's RenovaBio program.

- NCGA urges USTR to remove Brazil's Generalized System of Preferences designation. As demonstrated, Brazil has failed to provide "equitable and reasonable access to its markets" and should no longer receive the status of a beneficiary country.

- USTR should also consider seeking recompense from Brazil for damages to U.S. ethanol producers. Compensatory payments to U.S. ethanol producers or U.S. corn growers could offset the damages to lost export sales from Brazil's programs. Compensation payments could be drawn as rebates from tariff revenues collected from Brazilian ethanol imports. While other proposed remedies would help prevent future losses, such compensation payments or similar methods of remedial action would further help American producers recover from losses already incurred due to Brazil's discriminatory, export targeting practices.

- Finally, NCGA proposes the creation of a joint U.S.-Brazil working group to specifically address Brazil's flawed emissions modeling approach in international fora in order to eliminate the unfair and scientifically unsound burden Brazil's model imposes on U.S. export competitiveness. This joint working group could also serve as a forum through which both countries discuss their respective approaches to supporting the development of a robust global market for ethanol and the removal of barriers to trade between them. The United States could seek to establish this working group within 90 days following the conclusion of this investigation. The NCGA would welcome the opportunity to work with USTR to further develop the specific objectives and timeframes for the working group's mission.

In sum, NCGA believes that Brazil's ethanol and trade-related policies amount to an unreasonable, discriminatory, and unfair burden on American farmers and restriction on U.S. ethanol exports. NCGA encourages USTR to continue its efforts in prioritizing fair and reciprocal trading relationships and to seek remedies for U.S. producers with a goal of unfettered market access into Brazil.

Thank you again for the opportunity to submit these comments. We stand ready to assist USTR's investigation further on behalf of U.S. corn growers and U.S. ethanol producers. We would also welcome a meeting with USTR to further discuss our concerns and aid USTR in crafting the appropriate Section 301 remedies. To arrange, please contact Nancy Martinez, NCGA's Director of Public Policy, Trade and Biotechnology at martinez@ncga.com.

Sincerely,

Kenneth R. Hartman, Jr.
President
National Corn Growers Association