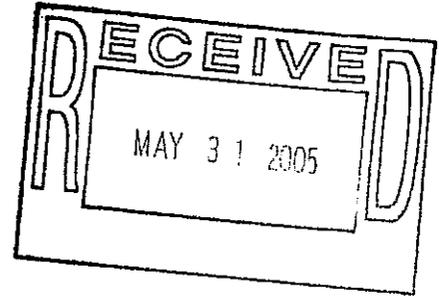




United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

MAY 19 2005



Ms. Deborah A. Garza
Antitrust Modernization Commission
1120 G. Street, N.W.
Suite 810
Washington, D.C. 20005

Dear Ms. Garza:

On behalf of the United States Department of Agriculture (USDA), I am writing to express support for the Export Trading Company (ETC) Act of 1982 and the Webb-Pomerene Act of 1918. As the Antitrust Modernization Commission (AMC) undertakes a review of these antitrust exemptions, USDA requests the AMC strongly consider the vital role these acts play in facilitating U.S. agricultural competitiveness in the global marketplace.

The ETC and Webb-Pomerene Acts serve the interests of thousands of U.S. agricultural exporters and together facilitate \$7-8 billion in agricultural exports annually. Exports facilitated by these acts include rice, almonds, apples, pears, blueberries, citrus, pistachios, kiwifruit, corn sweeteners, cotton, poultry, seafood, and forest products. Interested stakeholders have communicated directly to USDA their strong support for the ETC and Webb-Pomerene Acts.

Exporter associations who register under the ETC and Webb-Pomerene Acts use them to pool resources, identify strategies for specific foreign markets and benefit from economies of scale, without which they might not be able to effectively compete globally. Acting individually, small and medium-sized producers would find it difficult, if not impossible, to secure orders from foreign buyers or obtain bulk rate shipping costs for their exports. Some exporters are only able to access tariff-rate quotas with trading partners through the antitrust exemptions offered by the ETC and Webb-Pomerene Acts.

The export strategy programs under the ETC and Webb-Pomerene Acts are not unique to U.S. legislation. Foreign agricultural exporters in Australia, Canada, India, and Mexico, among others, operate under explicit antitrust exemptions for their export activities. Eliminating these programs would place U.S. exporters at a distinct disadvantage vis à vis their foreign counterparts.

Both the ETC and Webb-Pomerene Acts continue to serve specific agricultural interests without negatively affecting domestic consumers. ETC Act certificate holders are not exempt from U.S. antitrust laws. Under the ETC Act, certificate applicants (i.e., exporter associations) must establish, among other things, that their export activities will *not* decrease competition or impede trade within the United States. Moreover, the annual review required under the ETC Act for re-issuance of certificates ensures continued protection for U.S. consumers.

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As the AMC undertakes its review of the ETC and Webb-Pomerene Acts, USDA urges consideration of the critical role they play in allowing U.S. agricultural exporters to effectively compete in global markets.

Sincerely,



J.B. Penn
Under Secretary for Farm and
Foreign Agricultural Services

