



CALIFORNIA DRIED FRUIT EXPORT ASSOCIATION

Organized under the Webb-Pomerene Export Trade Act

June 8, 2005

Deborah A. Garza, Chair
Jonathan R. Yarowsky, Vice Chair
Antitrust Modernization Commission
1120 G Street, NW
Suite 810
Washington, DC 20005

Dear Ms. Garza and Mr. Yarowsky:

On behalf of California Dried Fruit Export Association, CDFEA, I am writing in response to the Federal Register notice of May 19, 2005 requesting comments on issues being studied by the Commission. In particular, CDFEA would like to voice its support for the Export Trading Company Act and Webb-Pomerene Acts and strongly urge that the Commission not recommend the elimination or limitation of these laws to the President and Congress.

CDFEA, founded in 1925, includes merchant and packer exporters in California that export 95% of California dried fruit and tree nut production. The Association is a nonprofit mutual benefit corporation organized under California law for the purpose of promoting export trade under the provisions of the Webb-Pomerene Act, U.S. Code, Title 15, Sections 61-65. The Association is formed for the purpose of engaging in any lawful act or activity for which a nonprofit corporation may be organized under the law, including but not limited to the following:

1. Providing a forum for exporters of dried fruit and tree nuts to gather and discuss issues relevant to business of packing and shipping dried fruit, tree nuts and kindred products.
2. Providing leadership and act as a liaison between the dried fruit, tree nut and other related exporting industries.
3. Promoting export trade of dried fruit, tree nuts and kindred products.
4. Providing an array of specialized services to the dried fruit, tree nut and related industries.
5. Striving to improve the overall business conditions of persons engaged in exporting dried fruit, tree nuts and kindred products.

CDFEA members regularly employ over 5,000 workers with export sales of over one billion dollars. While it is unknown what the costs associated with the elimination of the exemption, it could be substantial. If our members become less competitive, not only do our members lose, but also so does the United States by reducing agricultural export trade, therefore creating a higher trade imbalance.

CDFEA needs joint export trade in order to succeed and compete effectively in foreign markets. The clarity of these acts allows our industry to engage in joint export trade. This law helps reduce variable costs of transportation, warehousing and handling by enabling U.S. exporters to negotiate better rates for larger volumes of trade. It allows exporters to consolidate market research and administrative costs and to mitigate risks associated with non-payment by buyers, demand slumps, or disruption in deliveries caused by political or natural events in particular markets. At a time when U.S. trade deficits are routinely setting record highs, it would be unthinkable for the Antitrust Modernization Commission to come to the conclusion that these laws merit repeal.

Although the joint export trade provisions (with huge benefits and zero costs) can easily satisfy whatever standards the AMC may choose to apply in its review, we strongly reject the notion that supporters should have to bear the burden of proving that the benefits of an existing law exceed its costs. It should go without saying that the burden rests with anyone attempting to alter an established law of Congress. In this same vein, the joint export trade provisions should not be subject to a "sunset" provision. If these laws continually were up for renewal at regular intervals, the legal certainty and protections they afford would be cast into doubt, and it would impinge on the long-term planning and contracting in which joint exporters engage.

Any attempts to change U.S. antitrust law should, at a minimum, do no harm to the U.S. economy. There can be no doubt that the repeal of the ETC and Webb-Pomerene Acts would harm the U.S. economy, including exporter's associations such as CDFEA.

Thank you for your consideration of these comments.

Sincerely,

Rick Murphy
Assistant Secretary

Cc: [Members of Congress]

Submit by email to comments@amc.gov. Letter should be an attachment in PDF or MS Word format.