



July 13, 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:

Please accept these comments in response to the Federal Register notice of May 19, 2005 concerning issues being studied by the Commission. The Corn Refiners Association (CRA) would like to voice its support for the Export Trading Company Act (ETCA), 15 U.S.C. §§ 4001-21, and strongly urges the Commission to recommend that Congress retain the ETCA. As explained in more detail below, the ETCA has unique application in the implementation of certain trade agreements negotiated between the United States and foreign governments and enables U.S. industries to obtain the intended benefit of export quotas.

About CRA

CRA is the national trade association that represents the U.S. corn refining (wet milling) industry. CRA's membership comprises every domestic producer of high fructose corn syrup (HFCS). CRA became an Export Trading Company (ETC) under the ETCA in January 2003 for the express purpose of managing TRQs for HFCS to be granted by Mexico upon completion of negotiations between the United States and Mexico. This TRQ management system will benefit U.S. HFCS producers by maintaining competitive market access even in the face of prohibitive Mexican tariffs on HFCS.

To ensure that the U.S. HFCS producers and exporters, the intended beneficiaries of the proposed TRQ with Mexico, obtain the intended benefits of the TRQ, the quota must be managed in the United States. However, the U.S. Government has neither the legal authority to manage export quotas nor the interest in doing so, particularly in light of the advantages of leaving such activity in the private sector. Therefore, U.S. management can only be effectuated through an industry-managed system. An Export Trade Certificate of Review (ETCR), issued under the ETCA with the approval of the U.S. Departments of Commerce and Justice, is the only mechanism currently available under U.S. law that provides U.S. Government authorization for industry management of export quotas. The ETCR, under which the CRA has been given authority to manage the HFCS quota system, is therefore necessary for the U.S. HFCS industry to obtain the benefit of a TRQ with Mexico.

CRA's Quota Management Is Designed To Be Pro-Competitive

CRA's management of a TRQ for HFCS exports to Mexico is designed to maintain and foster export competition through quota access; by definition, it would have no effect on domestic

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competition, and it involves no joint export activity. All U.S. producers of HFCS are eligible to participate in the TRQ system, and the current membership represents all U.S. producers of HFCS. Furthermore, any future HFCS producer is eligible to participate in the TRQ system. Under the ETCR, the system is to be managed by an independent third-party administrator, who must maintain the confidentiality of any competitive information.

Economic Benefits of CRA's Quota Management

CRA's quota management under the ETCA, like other ETCs, will benefit the U.S. economy as well as state and local economies by promoting exports, thus helping to offset America's growing trade deficit. In particular, CRA's allocation of HFCS quotas to U.S. HFCS producers, is designed to permit foreign market access by allowing all interested industry participants to make shipments of HFCS to Mexico.

In sum, the ETCA is instrumental for a number of U.S. industries, including the HFCS industry, because it provides limited antitrust immunity for and authorization of industry management of export quotas, permitting U.S. industries to obtain the intended benefits of foreign market access negotiated by the U.S. Government. Elimination of the only workable mechanism through which the U.S. Government can provide its official sanction for industry management of export quotas would cause economic harm to the U.S. HFCS industry as well as other U.S. industries that currently manage export quotas or may need to manage export quotas in relation to future market access agreements. We therefore urge the Commission to recommend that Congress retain the ETCA.

Thank you for your consideration of these comments.

Sincerely,



Audrae Erickson
President

cc:

The Honorable Allen Johnson, Chief Agricultural Negotiator, Office of the United States
Trade Representative

The Honorable Rhonda Newman Keenum, Acting Under Secretary, International Trade
Administration, United States Department of Commerce

The Honorable J.B. Penn, Under Secretary, Farm & Foreign Agricultural Services, United States
Department of Agriculture