

**Subject: Comments to Federal Registration note of 05/19/05**

**Date:** Thursday, July 14, 2005 4:32 PM

**From:** Sabrina Schumacher <[REDACTED]>

**To:** <comments@amc.gov>

July, 14, 2005

Antitrust Modernization Commission  
Attn: Public Comments  
1120 G Street, N.W.  
Suite 810  
Washington, DC 20005

Dear Ms. Garza and Mr. Yarowsky:

I am writing you as the Director of Operations for American Commodity Company, LLC in response to the Federal Register notice of May 19, 2005 requesting comments on issues being studied by the Commission. In particular, ACC would like to voice its support for the Export Trading Company Act (ETCA), 15 U.S.C. §§ 4001-21. We strongly urge 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.

ACC is a member of the Association for the Administration of Rice Quotas, Inc. (AARQ), which was created as a not-for-profit membership corporation in 1997 for the express purpose of managing tariff-rate quotas (TRQs), the system for maintaining market access to the European Union (EU) for U.S. brown and milled rice agreed upon by the EU and the United States under the U.S. - EU Enlargement Agreement of 1996 (Enlargement Agreement). AARQ has successfully managed the TRQ system since 1998 under an ETCR issued pursuant to the ETCA. AARQ comprises over 40 rice millers and exporters located in 15 states. AARQ auctions the TRQs for brown and milled rice to any U.S. bidder through an open tender process. This system has benefited U.S. rice processors and exporters by maintaining competitive market access for U.S. rice in the face of prohibitive EU tariffs. AARQ also benefits U.S. rice farmers located in rice-producing states by designating 22% of the quota auction proceeds to research and development related to rice production and equipment. AARQ disburses the balance of its proceeds, after minimal administrative expenses, to its Members based on their percentage shares by volume of exports worldwide.

AARQ would not be able to carry out its mission without the imprimatur of the U.S. government provided by the ETCA. To ensure that the U.S. rice farmers, millers, and exporters that are the intended beneficiaries of the TRQs obtain those benefits, the United States negotiated with the EU for management of the export quota in the United States. However, because the U.S. Government does not have legal authority to manage export quotas and is unlikely to seek or obtain that authority in light of the advantages of leaving such activity to the private sector, management of export quotas is entrusted to the U.S. industry, operating with the approval of the U.S. Departments of Commerce and Justice under an Export Trade Certificate of Review approved under the ETCA. The ETCA is the only mechanism currently available under U.S. law that provides antitrust immunity and authority for U.S. industry management of export quotas. In the case of

AARQ, the authorization of the U.S. Government was a prerequisite to the EU's acceptance of a U.S. industry-managed quota system.

AARQ, like other ETCs, benefits the U.S. economy as well as state and local economies, while helping to offset America's growing trade deficit. In particular, AARQ benefits U.S. rice farmers, millers and exporters by auctioning rice quotas for shipments to the EU. Additionally, AARQ allocates millions of dollars annually through The Rice Foundation to national and rice-producing state research and development funds. These funds support a multitude of projects, such as the development of environmentally sound rice management practices, the enhancement of uniformity and stability in rice grain quality, and the identification of gene variation impacting rice end-use quality. Without the ETCR under which the AARQ operates, the U.S. rice industry would not reap the full benefits of the TRQ.

ACC has benefited materially from its membership in AARQ in terms of an improved competitive position in export markets for rice and resulting in enhancement of its revenues. ACC would anticipate similar benefits in the future.

In sum, the ETCA has been instrumental for U.S. industries, and the rice industry in particular, in gaining antitrust immunity for and authorization of industry-managed export quotas, thereby securing for U.S. industries the intended benefits of U.S. government-negotiated market access. 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 AARQ as well as any U.S. industry that may need to manage export quotas under 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,

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