



Northwest Fruit Exporters

June 21, 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 Northwest Fruit Exporters, 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, Northwest Fruit Exporters, (NFE), would like to express its support for the Export Trading Company Act and Webb-Pomerene Act and strongly urges that the Commission not recommend the elimination or limitation of these laws to the President and Congress.

Northwest Fruit Exporters, based in Yakima, WA is a non-profit organization representing 89 exporters of apples and 17 exporters of cherries located in the Northwest states of Washington, Oregon, and Idaho. NFE was incorporated in 1978 under Webb-Pomerene for the purpose of facilitating export of fresh sweet cherries to Japan. In 1992 NFE expanded to include fresh apples, mainly to manage export protocols and related financial matters associated with export of apples to Mexico, Japan, and China. Northwest Fruit Exporters has held an Export Trade Certificate of Review, (ETC), for 21 years.

Authorized activities covered by NFE's Export Trade Certificate include: negotiating of agreements with foreign governments and/or buyers, establishing and managing export protocols, management of funding issues relating to fulfilling phytosanitary requirements and covering expenses of foreign governmental officials, assessing members for recovery of costs associated with preparation of product for export, disseminating information and assisting members through the various stages of growing, harvesting, storage, grading, packing, labeling, quarantine treatment, and quality control in order to meet foreign government import requirements.

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In the past four crop years, it is estimated that NFE members have made fob sales of \$458 million dollars to Mexico, Japan, and China; export markets in which we directly utilize activities authorized by the ETC. Volumes for apples are 27 million standard 42 lb. cartons or 571,000 tons, (annual average volume of 6.8 million cartons). Cherry volume of 2.2 million 20 lb. cartons represents 22,000 tons of fresh cherries, (annual average volume of 548,000 cartons).

A recent economic impact study¹ concluded that the Washington tree fruit industry adds nearly \$6 billion annually to the state's economy and creates 140,000 jobs. Fresh apples and sweet cherries account for \$1.8 billion annually in fob sales, (approximately 73% of all tree fruit revenues). Of the total crop, on average 29% of apples and cherries are sold to export markets translating to approximately \$525 million annually. Of these export sales, a very substantial portion is made by members of Northwest Fruit Exporters under the umbrella of the Export Trade Certificate.

Northwest Fruit Exporters needs joint export trade in order to succeed and compete effectively in foreign markets. The clarity of Export Trade Act allows our industry to engage in joint export trade. This law helps create efficiencies in 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, negotiate agreements, and pool resources. 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 exporters such as the 106 members of Northwest Fruit Exporters.

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Thank you for your consideration of these comments.

Sincerely,

Northwest Fruit Exporters



James R. Archer
Manager

cc: U.S. Senator Patty Murray
U.S. Senator Maria Cantwell
U.S. Senator Ron Wyden
U.S. Senator Gordon Smith
U.S. Senator Larry Craig
U.S. Senator Mike Crapo
U.S. Representative Jay Inslee
U.S. Representative Richard Larsen
U.S. Representative Brian Baird
U.S. Representative Doc Hastings
U.S. Representative Cathy McMorris
U.S. Representative Norman Dicks
U.S. Representative Jim McDermott
U.S. Representative Dave Reichert
U.S. Representative Adam Smith
U.S. Representative David Wu
U.S. Representative Greg Walden
U.S. Representative Earl Blumenauer
U.S. Representative Peter DeFazio
U.S. Representative Darlene Hooley
U.S. Representative C. L. Otter
U.S. Representative Mike Simpson

¹ ECONOMIC IMPACT OF THE TREE FRUIT INDUSTRY IN
WASHINGTON AND THE NORTHWEST, William S. Jensen, Ph.D., August
2004