

Export Credits Working Group

September 22, 2009

The Honorable Ronald Kirk
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Kirk,

The Export Credit Working Group (ECWG) has a strong interest in providing critical trade financing to support export of US Agricultural products. Our informal working group comprised of individuals who work together to consider policy in support of the export of US farm products has often focused on the viability and efficiency of USDA's export credit guarantee program GSM-102 (GSM program). Participants in the ECWG appreciate the opportunity to have engaged with USTR and USDA on this subject since the launch of the WTO Doha Round in early 2002.

The undersigned organizations with participants in the Export Credit Working Group are writing with respect to the August 31, 2009 WTO arbitration panel decision as it relates to the GSM program. We wish to:

- Express serious concern;
- Request a meeting with you and relevant colleagues in the Obama Administration;
- And suggest interagency action regarding the August 31 WTO Arbitration Panel ruling with respect to the GSM program.

Attached for your information is a press release conveying the specific concerns regarding the Panel ruling and the GSM-102 program. The press release was issued immediately following that ruling by several organizations dedicated to sustaining exports of US agricultural products. A key point of the press release is that the Panel's decision awards Brazil retaliatory authority based on the future use of a program that attracts no budget subsidy and is in fact generating a positive return to the federal government budget. The release also recognizes the ruling is inconsistent with the current WTO Doha negotiating text, which allows for export credit guarantee programs that have been subject to appropriate operating "disciplines". Appropriately the release also recognizes the efforts of the U.S. government, led by the Office of the U.S. Trade Representative and the U.S. Department of Agriculture, in response to the case.

The ECWG would like to meet with you at your earliest convenience to gain an understanding of USTR's assessment of the impact of the Panel ruling on the program, which has played a key role in maintaining U.S. exports to middle income countries that rely on trade credit for their import purchases of essential food, feed, and fiber products.

**1250 Eye Street NW, Suite 1003
Washington, DC 20005
Telephone 202-682-4030**

Export Credit Working Group

Further, we respectfully urge you to assemble an interagency group to undertake a comprehensive analysis of the Panel ruling and its implications for the GSM program, for U.S. agriculture, and for our global trading interests as a whole.

Please direct any questions and reply regarding our meeting request to Gary C. Martin, President and CEO of the North American Export Grain Association, telephone 202-682-4030.

Thank you for your attention to this matter of importance to the U.S. economy and agricultural trade.

Sincerely,

American Cotton Shippers Association
American Soybean Association
CoBank
National Cotton Council
National Council of Farmers Cooperatives
National Grain & Feed Association
National Oilseeds Processors Association
North American Export Grain Association
U.S.A. Rice Federation
U.S. Grains Council
U.S. Wheat Associates

Cc: James Murphy, AUSTR for Agricultural Affairs

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For Immediate Release
September 2, 2009

Contact: Kevin Natz
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WTO Arbitration Panel Ruling Fails to Recognize Changes to GSM Program; Punishes USA Despite Compliance with WTO

In response to the WTO Arbitration Panel decision on the USDA export credit guarantee (“GSM-102”) program released August 31, North American Export Grain Association, National Cotton Council, CoBank, Farm Credit Council, US Rice Producers Association, and National Council of Farmer Cooperatives released the following statement:

We are very disappointed that the panel based its decision on the GSM program as it existed in 2005, and failed to recognize the significant changes that have been made to the GSM-102 program since 2005. **As a result, we urge the U.S. government to request a new Compliance Panel to update this ruling to reflect the changes in the program made by Congress and the USDA since 2005.**

The extent of the program changes is demonstrated in the President’s budget for fiscal year 2010. According to the U.S. Office of Management and Budget, **in 2010 the GSM program will generate a positive return to the federal government of \$54 million.** In other words, the revenues from guarantee premiums charged to program participants more than offset the cost of program operations, including any credit losses. Under the WTO panel’s obsolete ruling, Brazil would be entitled to place tariffs or other import penalties on an amount of U.S. products based on the use, each year in the future, of a program that is clearly not a subsidy.

The WTO panel also failed to recognize the benefits that have accrued to Brazil’s banks as a result of their significant participation in the GSM-102 program. These benefits far outweigh the costs arrived at by the arbitration panel. **Ironically, Brazil’s banks have been by far the largest users of the GSM-102 program since 2002 – the year in which Brazil initiated its WTO case against the United States. Since that time, Brazilian banks have taken more than \$5.4 BILLION in loans under the GSM-102 program.**

On July 1, 2005, USDA adopted measures to bring its three export credit guarantee programs into compliance with WTO obligations. USDA adopted risk-based guarantee premiums for the GSM-102 Program and the Supplier Credit Guarantee Program and suspended the GSM-103 program.

The U.S. Congress made these changes permanent by enacting them into law as part of the 2008 Farm Bill. As part of that bill, Congress eliminated the GSM-103 program and abolished the statutory one percent “cap” on guarantee premiums that could be charged by USDA. Congress also eliminated the Supplier Credit Guarantee Program, leaving

GSM-102 as the sole remaining USDA export credit guarantee program. In addition, Congress included language in the Farm Bill requiring USDA to operate the GSM-102 program at no net cost to the government, thereby ensuring that the program would not be a subsidy and would comply with the WTO obligation that guarantee premiums received under the program would cover its operating costs and losses.

The panel's decision to award Brazil retaliatory authority in amounts based on the future use of a program that is now compliant with WTO rules makes no sense. The panel's award decision seems to punish the U.S. for its compliance efforts. The panel's decision also is inconsistent with the WTO Doha trade negotiating text which permits export credit guarantee programs that have been subject to appropriate "disciplines."

Notably, the \$2 billion in GSM-102 loans taken by Brazil's banks during the country's 2002-2003 financial crisis constituted a vital source of foreign exchange liquidity at a time when Brazil was virtually cut off from the international credit and trade finance markets. In fact, the liquidity afforded by the GSM-102 program was instrumental in allowing Brazil to avert a collapse of its banking system, its balance of payments, and its economy as a whole. With the onset of the global credit crisis, Brazilian banks have again turned to the GSM-102 program as a source of vital trade finance liquidity, taking more than \$1.1 billion in GSM-102 loans during FY08-FY09.

We commend the efforts of the U.S. government led by the Office of the U.S. Trade Representative and the U.S. Department of Agriculture on this case. They have clearly articulated the modifications to the program that put it in compliance and are consistent with the negotiating text. We look forward to working with any interested party to ensure that the many changes previously made to USDA's export credit guarantee programs are better understood by the WTO and others.

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