

Testimony of Mr. Gary C. Martin, President and CEO
North American Export Grain Association
1250 Eye Street NW., Suite 1003
Washington, DC 20005

Regarding U.S. Agricultural Sales to Cuba: Certain Economic Effects of
U.S. Restrictions, RE: Investigation No.: 332-489

May 1, 2007 - Before the U.S. International Trade Commission

Thank you for this opportunity to discuss an important component of US Agricultural Exports. It is an honor to appear before you and with this panel.

My name is Gary Martin. I am the President and CEO of the North American Export Grain Association (NAEGA). My comments are primarily based on the input and consideration of the membership of NAEGA.

NAEGA is a not for profit trade association, established in 1912, whose membership consists of private and publicly owned companies and farmer-owned cooperatives that are involved in and provide services to the bulk grain and oilseed exporting industry. NAEGA members are responsible for the vast majority of US exports grain, oilseeds and their products. NAEGA's mission is to promote and sustain the development of commercial export of grain and oilseed trade. NAEGA acts to accomplish this mission from its office in Washington D.C., and in markets throughout the world.

Members of NAEGA work jointly to foster a grain and oilseed export industry that provides the best environment for all stakeholders – from producer to consumer. Membership in NAEGA requires a commitment:

1. to integrity in a commercial environment supported by free trade and competition in commerce involving grain and other agricultural products;
2. to eliminate abuses relative thereto; to eliminate or secure freedom from unjust, unlawful and oppressive exactions in commerce;
3. to promote certainty in the customs and usages of trade and commerce;
4. to promote a more enlarged and friendly exchange among persons engaged in business;

5. and to cooperate to the fullest extent practicable with all governments, governmental departments, governmental and private corporations, partnerships, associations and groups with an interest in providing for global food security and efficient international commerce.

Given the mission of NAEGA and the commitment of its members we are concerned with the trade distorting effects of political restrictions placed on trade. Likewise we are committed to adherence and support for US law. We are fundamentally opposed to export sanctions that prohibit the provision of food.

When the U.S. imposes restrictions on trade and recognizes the necessity of continuing the availability of US agricultural products within the sanction provision, our interest is most often related to maintaining contract integrity and providing for optimal terms of trade under the U.S. restrictions.

Much to the benefit of US agriculture, Cuba has become a significant buyer of US food. Since 2000 when such sales were first authorized by Congress the total value of United States exports of agricultural products has grown from less than 10 million dollars in annual sales to over 300 million the past three years. According to USDA and excluding transportation, port fees, and insurance costs beyond the port of exportation shipped to Cuba, we have exported over \$1.4 billion of US agricultural products in the past 5 years.

Given the proximity of Cuba to the U.S., the opportunity to establish the U.S. as preferred and reliable supplier of agricultural products to Cuba is excellent. NAEGA members look forward to the opportunity to expand our agricultural trading relationship with Cuba.

With respect to Cuba trade NAEGA's interest is centered on the actions of the Commerce Departments Bureau of Industry and Security (BIS) licensing procedures as defined in the Export Administration Regulations for the export of agricultural commodities to Cuba. NAEGA is on the record in commending BIS for a job well done in administration and communication of the licensing procedures. Our experience is that BIS has been very effective in this regard. In keeping with the cooperative and progressive relationship we have enjoyed with BIS, we continue to emphasize two suggestions for further improvements:

1. We believe the BIS should provide for greater consistency in the timing of the approval process. Our members indicate they have had applications cleared in as little as five days and some in as many as fourteen.
2. We further suggest the BIS should improve on the overall time it takes for approvals. Based on statistics from the BIS website and reports from industry, it appears as if BIS is taking longer to approve requests to export agricultural goods to Cuba.

The effectiveness of BIS licensing procedures for the export of agricultural commodities to Cuba is closely tied with the payment requirements that have been the subject of some controversy in the past. The Trade Sanctions Reform and Export Enhancement Act of 2000 requires payment of “cash in advance” for United States agricultural exports to Cuba. Some Federal agencies responsible for the implementation of the Trade Sanctions Reform and Export Enhancement Act of 2000 have expressed the view that “cash in advance” requires that payment be received by a United States exporter in advance of shipment of goods to Cuba. Indeed, in late 2004 payments due United States exporters from purchasers in Cuba were frozen in United States banks while the terms of those payments were reviewed. That action by the Department of the Treasury has created a climate of commercial uncertainty. Most damaging to US interests at the time was the fact that the action cut across pre-existing contracts. As a result, agricultural sales to Cuba under the Trade Sanctions Reform and Export Enhancement Act of 2000 have been inhibited.

Nevertheless exporters are meeting the new advance payment requirements that went into effect in 2005. NAEGA has indicated appreciation to the Department of Treasury Office of Foreign Assets Control (OFAC) for their assistance in communicating and clarifying the payment requirements. We believe that OFAC has recognized the critical understanding that a sale on a cash against documents basis does NOT constitute “financing,” because, by definition, the buyer must come across with the cash before taking possession of the goods (documents). Put differently, it is completely unreasonable to consider time on the water as “financing” for the buyer, since the buyer does not have control/ownership of the goods at that point. To insure compliance with the law is well understood, there is a need to clarify that “payment of cash in advance” means, the payment by the purchaser of an agricultural commodity or product and the

receipt of such payment by the seller prior to the transfer of title of such commodity or product to the purchaser; and the release of control of such commodity or product to the purchaser.

U.S. Agricultural exports to Cuba are an important contributor to the US economy. Our products are an excellent fit for Cuba's food demand. We have a significant logistical advantage over competitive sources. In today's market environment of high commodity and freight prices, the US advantage in supply to Cuba is even more pronounced. The opportunity for the contribution to US economy to expand significantly is anticipated by many.

The US can better engage the market opportunity that Cuba represents. I think most commercial interests recognize restrictions to travel and payment requirements as significant barriers to expanded sales. I agree with many that the implementation of the Trade Sanctions Reform and Export Enhancement Act of 2000 needs to be further clarified to provide for the direct payment from Cuba to US Banks. I also agree with logic of and need for expanded and more predictable business travel for US commercial interests to Cuba. A general business travel license would provide for much needed information gathering and establishment of more sustainable and predictable lawful trade with Cuba.

Thank you again for taking these comments into consideration and making them available to others. I look forward to addressing any questions you may have.