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## **The Canadian Wheat Board: Government Guarantees and Hidden Subsidies**

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*The operations of the Canadian Wheat Board (CWB), a state trading enterprise, have generated controversy over the years, partly because of an alleged lack of transparency in its operations. This study examines one aspect of operations that is not well understood – the government guarantee of CWB borrowing and export credit sales. The CWB is able to take advantage of this special privilege to generate a “financial cushion,” or non-market based revenue, that it can use to enhance returns to producers, discount export prices, or pay administrative expenses. Current WTO negotiations should build on U.S. and EU proposals on STEs and export credit guarantees to address potential trade-distorting practices of STEs such as the CWB.*

Keywords: *Canadian Wheat Board, financial cushion, state trading enterprise, World Trade Organization*

The December 15, 2003 announcement by the Canadian Wheat Board (CWB) of a C\$85 million wheat pool deficit added fuel to the long-standing debate about the ability of state trading enterprises (STEs), and specifically the CWB, to engage in undisciplined trade-distorting practices. The detractors of STEs note that the Uruguay Round Agreement on Agriculture (URAA) contains no meaningful disciplines on STEs, unlike the specific obligations members of the World Trade Organization (WTO) undertook on export subsidies and trade-distorting domestic subsidies.

The U.S. wheat industry has persistently claimed that the CWB is able to undercut commercially offered export prices in select markets or sell higher-quality wheat at discounted prices, but can offer only limited anecdotal evidence to support those claims. The CWB claims it has the ability to price discriminate in different markets and that it is able to return premiums to producers by virtue of its single-desk selling and other privileges. (3, 9)

Even if one assumes global commodity markets are competitive and STEs do not have market power, “State trading enterprises are an enigma.” (10) Remarkably little, either theoretical or empirical, is actually known about the alleged trade-distorting effects of state trading enterprises. A better understanding of these effects is crucial because STEs often control a significant share of world commodity trade. In this case, the CWB has historically been the world’s single largest wheat exporter, accounting for 15-20 percent of world wheat exports.

The crux of the answer to these contradictory views is that the CWB, as an STE, is granted unique and special privileges by the Government of Canada (GOC), that allow it to operate in a manner fundamentally different from a private commercial enterprise. This possibility exists because the CWB can generate a “financial cushion,” not from its market-based activities but as a result of its use of the special privileges. The financial cushion encompasses both explicit benefits (for example, additional non-sales revenue) as well as implicit benefits (for example, reduced financial risk), and can be used in

various ways – to enhance returns to producers, to discount prices in export markets, to pass on benefits to processors, to pay administrative expenses, or some combination of these.

In recent years farm groups in Canada have begun analyzing CWB operations, especially the financial and credit operations, demanding better accountability and transparency. This paper builds on those efforts, using the limited data available from the CWB annual reports and the Government of Canada’s (GOC) Public Accounts, to examine one of the CWB’s special privileges – the GOC guarantee of CWB borrowing and export credit sales. The paper examines how the CWB makes use of this privilege to generate the financial cushion, and how the CWB potentially uses the cushion in its operations and sales. The final section discusses some options for reform of agricultural export STEs in the WTO.

### **Generating a Financial Cushion From Government Guarantees**

The CWB has been granted unique privileges and special rights by the GOC, including monopsony procurement and monopoly selling rights for wheat and barley, a government-guaranteed initial price, and preferential access to the grain handling and transportation system. A third and less well-known privilege is the GOC guarantee of all CWB borrowings and the guarantee of principal and interest on export credit sales.<sup>1</sup>

#### Preferential Borrowing Activity

The CWB borrows funds to finance various activities, including for the initial and interim payments to producers, to administer the cash advance programs, and for investment activities. These borrowings are undertaken with the approval of the Minister of Finance. (2, 2000/01 report, pg. 30) Since 1994/95, annual CWB

**Table 1: CWB Borrowings and Repayments 1994-2003\***

Period	CWB Sales Revenue	CWB Net Borrowing	CWB Gross Borrowing	CWB Repayments	Balance on Borrowing
<i>Million C\$</i>					
1994/95	4,526	6,492	45,478	45,440	7,320
1995/96	5,829	6,459	51,904	52,848	6,377
1996/97	6,111	6,241	61,968	61,872	6,474
1997/98	4,758	6,716	184,969	184,745	6,698
1998/99	4,011	6,769	48,858	48,770	6,786
1999/00	4,457	7,264	85,663	79,119	6,544
2000/01	4,221	7,645	85,266	84,627	7,182
2001/02	4,379	7,336	31,185	30,618	7,749
2002/03	3,340	6,431	26,167	27,101	6,815

\* The first two columns are from the CWB annual reports. Data are on an August 1 – July 31 year. The last 3 columns are from the Public Accounts of Canada, which are on an April 1 – March 31 fiscal year.

*net* borrowing ranged from C\$6.2 - C\$7.6 billion, which exceeds annual sales revenue every year over the same period (table 1). Net interest earnings have increased steadily and correspond with the growth in accounts receivable from rescheduled debt from past credit sales (table 2). These accounts receivable are treated as an asset in the CWB financial statements and serve as a basis for future borrowing.

One analysis estimated taxpayer costs from government guarantees at C\$2.50 per ton, based on an estimate of C\$60 million in annual net interest earnings. (7) As this analyst noted, “This suggests that if the Canadian taxpayer had only given more credit to Iran, Iraq, FSU, etc., the underwriting “benefit” would far exceed the \$60 million per year!”

Every year the debt goes unpaid means the CWB has to borrow more money to cover the unpaid principal and interest. For a private company trying to service unpaid debt, this would represent a financial burden, but for the CWB it represents a financial gain. The role of the GOC in this process is paramount. If the GOC decided to write off the debt, it would have to make good on its guarantee to the CWB, which is now almost C\$6 billion.

#### Debt Relief and Reduction Agreements

There is another financial aspect to the CWB credit sales. Beginning in 1990/91, as part of debt rescheduling and relief arrangements between the GOC, the CWB, and the foreign buyer, the GOC began to make direct payments to the CWB (table 3). “Under these debt reduction arrangements, amounts that

otherwise would have been paid by the debtor government are paid to the Corporation [the CWB] by the GOC.” (2, described in the financial notes, various issues).

A Canadian farm group, using data from Finance Canada, reports that payments from the GOC to the CWB between 1991 and 2000 were C\$1.8 billion, mostly interest payments associated with debt forgiveness for Poland and Egypt (table 3). (14) The data reported by the CWB apparently do not include all interest and principal payments resulting from the debt forgiveness for (primarily) Poland and Egypt, thus understating the financial benefit to the CWB from the GOC’s debt reduction programs.

Agriculture and Agri-food Canada (AAFC) also reports on debt service or debt reduction payments to the CWB. (1) These data are not strictly comparable to the other series because they also include grants for product promotion and market development. In its methodology section, AAFC notes that “The debt reduction payments to the CWB are incorporated in the federal time series from 1991/92.”

The increase in 1995/96 reflects a “contingent liability” of the GOC of C\$138.9 million under the export credit guarantee. A contingent liability is recorded in the Public Accounts when it becomes likely that a government payment will be made and a reasonable and reliable estimate can be made.<sup>4</sup> This entry suggests there was a default (or multiple defaults) on payments under a credit sale and the GOC made a payment to the CWB to cover the principal. There is no mention of this payment

**Table 2: CWB Accounts Receivable from Credit Sales, Net Interest Earnings, and Administrative and General Expenses (C\$ mil.)**

Year	Accounts receivable	Net interest earnings	Adm/general expenses	Year	Accounts receivable	Net interest earnings	Adm/general expenses
1983/84	3,012	15	25	1993/94	6,997	63	41
1984/85	3,684	-10	26	1994/95	6,727	58	44
1985/86	3,517	0	28	1995/96	6,654	81	43
1986/87	3,465	4	27	1996/97	6,418	83	47
1987/88	3,581	24	28	1997/98	7,023	76	54
1988/89	3,708	36	29	1998/99	6,876	73	57
1989/90	4,649	38	30	1999/00	7,207	71	64
1990/91	5,425	-2	33	2000/01	7,179	75	66
1991/92	6,214	52	35	2001/02	6,965	92	61
1992/93	6,772	77	37	2002/03	5,904	55	67

Source: (2).

**Table 3: Payments Due to the CWB from the GOC Under Debt Reduction Agreements (mil. C\$)**

Marketing Year	CWB Annual Report	Finance Canada	AAFC
1991/92	NA	109	NA
1992/93	NA	180	NA
1993/94	135	138	157
1994/95	61	62	145
1995/96	131	347	349
1996/97	53	236	281
1997/98	57	173	205
1998/99	57	171	258
1999/00	58	175	238
2000/01	54	176	211
2001/02	31	NA	170
2002/03	26	NA	147(e)

NA = not available. Sources: (1, 2, 14)

in the CWB annual reports. These conflicting sources of data reinforce the lack of transparency in CWB reporting.

### **How the CWB Uses the Financial Cushion**

Despite these extraordinary arrangements for turning non-performing, rescheduled debt into revenue-generating activities, the CWB portrays itself as a fully commercial entity responsible only to its farmer-members, with no government involvement in its sales or marketing operations. (18, para. 6.119) This section discusses how the financial cushion made possible by the government guarantees are used by the CWB, although the lack of transparency and reporting makes this a problematic exercise.

### **Net Interest Earnings and CWB Expenses**

Net interest earnings from the credit receivables are recorded in the pool accounts to which the original credit sales related. The CWB Act specifies that interest earnings are to be treated as a cost and used to pay “expenses incurred by the Corporation in its operations.” (11) The CWB charges its administrative and general expenses to the pool accounts. Beginning in 1988/89, with the exception of 1990/91 and 2002/03, net interest earnings have more than covered the costs of running the CWB (see table 2).

Net interest earnings in the four pools generally ranged from C\$1 - C\$5 per ton per commodity (table 4). The exception has been the feed barley pool, where allocated net interest earnings have recently ranged from C\$8 -

**Table 4 – CWB Operating Costs and Net Interest Earnings (C\$/ton) 1\***

Item	1995/96	1996/97	1997/9	1998/99	1999/00	2000/01	2001/02	2001/02	2002/03
<b>Wheat</b>									
Net interest earnings	-4.26	-3.30	-4.30	-4.15	-2.91	-4.18	-5.23	5.23	4.54
Total oper. costs	5.15	5.85	3.39	3.93	5.40	5.14	1.14	19.73	24.02
<b>Durum wheat</b>									
Net interest earnings	-2.35	-2.29	-2.81	-2.05	-1.90	-2.21	-3.68	3.68	2.24
Total oper. costs	6.56	5.18	4.57	17.29	21.32	23.97	17.35	32.64	26.16
<b>Feed barley</b>									
Net interest earnings	-4.71	-3.15	-18.39	-22.34	-7.90	-14.11	-145.54	145.54	137.70
Total oper. costs	2.71	7.52	3.13	-11.19	-0.51	-2.45	-135.62	2.53	26.16
<b>Malting barley</b>									
Net interest earnings	-1.75	-1.27	-2.01	-2.24	-1.69	-1.03	-0.92	0.92	1.52
Total oper. costs	0.48	0.97	1.53	1.37	3.16	5.15	5.46	6.98	10.82

\* In the 2002/03 annual report, the method of reporting revenue and costs was substantially changed, especially the items included as costs, based on recommendations by Canada's Auditor General. Both methods are reported for 2001/02 for comparison. For example, the category of "total operating costs" was replaced by "Direct costs" which is reported in the last 2 columns. Net interest earnings are reported as a positive. See the CWB 2002/03 annual report, page 25, for an explanation. Source: (2).

C\$146 per ton. Because the CWB has historically treated them as a *negative* cost, net interest earnings have the accounting effect of reducing CWB costs. Since 1998/99 the large net interest earnings mean total operating costs for the feed barley pools have actually been *negative*.

#### Distortion From Net Interest Earnings

The large net interest earnings per ton for feed barley has arisen because feed barley exports have fallen sharply over the past five years, primarily due to a significant increase in domestic feed use from expanding livestock inventories. Net interest earnings do not vary greatly with the current size of the pool (because they mostly reflect past credit sales and rescheduled debt payments), so a smaller pool size translates into higher interest earnings per ton (table 5).

The 2001/02 feed barley pool illustrates how net interest earnings can lead to market distortions. (13) At the end of the year, the feed barley pool had shrunk by over 85 percent to only about 54,000 tons. With so few sales, per ton net interest earnings were incredibly large – C\$276 per ton, considerably larger than the value of the barley. To keep the total payment to producers in line with the Pool Return Outlook (the PRO, a forecast producer return for each class in each pool) that had been projected throughout most of the year at C\$180 (table 6), the CWB directors decided put about C\$5.5 million (out of almost C\$8 million in net interest earnings) from the feed barley pool into a contingency fund. (4)

It is not clear just exactly how the PRO was determined. Some farmers complained that the CWB kept the PRO too high to attract barley into the pool (the PRO was

generally above other feed barley prices through much of the year), while others said that the CWB sold into low-priced export markets, and others believed that farmers who delivered to the feed barley should have kept all the revenue. (12). The CWB said the PRO reflected its judgment as to what was a "reasonable return" to the feed barley pool, based on factors such as malting barley prices, domestic feed prices, and expected exports. (5)

The furor surrounding the feed barley pool in 2001-02 was basically repeated in 2002/03. How the CWB may use net interest earnings in export pricing decisions or determining returns to producers remains unclear.

**Table 5: Feed Barley Pools 1/**

Fiscal Year	Sales Revenue	Net Interest Earnings	Sales Revenue	Net Interest Earnings
	<i>Mil. C\$</i>		<i>C\$/ton</i>	
1994/95	120.3	4.7	113.54	4.45
1995/96	266.6	6.0	210.30	4.71
1996/97	386.0	7.7	158.18	3.15
1997/98	32.7	4.8	124.84	18.39
1998/99	38.3	6.2	138.39	22.34
1999/00	90.3	5.3	134.38	7.90
2000/01	63.2	6.4	139.13	14.11
2001/02	8.9	7.9	162.86 2/	145.54
2002/03	6.7	5.5	168.28 3/	137.70

1/ The 2001/02 data are from the 2002/03 annual report, which uses the new accounting procedures. The 2001/02 report showed sales revenue at C\$9.5 million and C\$174.82 per ton. 2/ C\$130.85 was placed in a contingency fund. 3/ C\$127.89 was placed in a contingency fund. Source: (2).

**Table 6: Barley Prices, Crop Year 2001-02**

Month	PRO 1/	Winnipeg 2/	U.S. 3/	U.S. 4/	EU Export	Black Sea Export
<i>C\$ per metric ton</i>						
Feb 2001	146	133	106	172	NA	NA
June 2001	149	135	105	160	NA	NA
July 2001	162	152	105	164	155	149
Aug 2001	165	156	106	163	164	147
Oct 2001	180	160	109	171	161	153
Dec 2001	180	160	113	170	166	164
Feb 2002	180	158	114	172	161	161
Mar 2002	180	154	113	168	150	151
April 2002	180	140	112	161	147	143
May 2002	180	140	109	160	141	136
June 2002	180	154	108	158	135	132
Season Avg.	180 5/	156	109	165	153	148

1/ No. 1 CW, Vancouver. 2/ Average closing prices, Winnipeg Commodity Exchange, for the furthest out contract (Dec. 2001, March 2002, and July 2002). 3/ No. 2, feed, Duluth. 4/ No. 2, feed, Portland. 5/ Total feed barley pool payment. Sources: Economic Research Service, USDA, *Feed Outlook*, various issues; Foreign Agricultural Service, USDA for EU and Black Sea prices; CWB PRO announcements from its website; Canada Grains Council, *Statistics Handbook*, various issues; Agriculture and Agri-food Canada market reports

One study concluded, “A few Western Canadian farmers are the beneficiaries of a government-sponsored program (guarantees) that *contribute to or supports the prices received via the CWB pools.*” (italics added) (13)

#### Commerce Findings on the Government Guarantees on CWB Borrowing and Lending

In the 2003 countervailing duty investigation against Canadian wheat, the U.S. Department of Commerce found that the combined effect of the government guarantee of the CWB initial price, borrowing, and lending confer a benefit to wheat of 4.94 percent; that is, the value of subsidy was equal to about 5 percent of the value of the wheat.<sup>5</sup> (16) Commerce noted that without the GOC’s lending guarantee, lenders would examine the quality of the CWB’s pool of accounts receivable to ascertain the appropriate credit rating for the CWB, and the CWB would have to borrow at a higher rate. The accounts receivable would likely become non-performing assets because some of this debt is 25 years old and is owed by financially risky countries. The CWB’s operating costs would no longer be “paid for” by net interest earnings and producer returns would be lower.

#### **Prospects for Reform of STEs in the WTO**

Because of the government guarantees, the CWB is able to generate and use a financial cushion potentially worth, in the extreme feed barley case, many dollars per ton.

The CWB can use the financial cushion as a domestic or export subsidy by enhancing returns to producers or discounting export prices by not charging full value for quality or services. These practices can affect competition in world markets.

Are the current disciplines in the WTO sufficient for addressing potential trade-distorting activities of STEs such as the CWB? Or do the practices of the CWB that flow from the government privilege require new WTO disciplines? Three possible WTO disciplines are currently available for addressing potential trade-distorting practices of STEs – GATT Article XVII, export subsidy provisions of the URAA, and the WTO Agreement on Subsidies and Countervailing Measures (SCM agreement).

#### Current WTO Disciplines

The U.S. has attempted to use one current discipline, GATT Article XVII that governs STEs, to address CWB export practices.<sup>6</sup> (See Appendix 1 for the relevant portions of GATT Article XVII and the *Ad* note.) The U.S. argued that the CWB “export regime,” or the legal framework that grants the special and exclusive privileges, including the government guarantee on CWB borrowings and credit sales, necessarily resulted in export sales that were inconsistent with GATT Article XVII that requires “purchases or sales solely consistent with commercial considerations.” The panel concluded that GATT Article XVII is intended to prevent STEs from behaving like “political” actors and, absent this behavior, CWB sales were consistent with commercial considerations. (18, pg. 155)

Another potential avenue for disciplining STEs can be found in Article 10(1) of the URAA that deals with circumvention of export subsidy commitments, including through use of “non-commercial transactions” (see Appendix 1). The financial cushion provided through the GOC guarantees on borrowing and lending may allow it to export through non-commercial transactions. The U.S. Commerce Department finding in the CVD investigation supports a claim of non-commercial transactions as an export subsidy. But the lack of a definition in Article 10(1), and the absence of data on actual CWB sales that could be clearly demonstrated as being “non-commercial,” suggests a circumvention case against the CWB would be difficult.

A last avenue is found in the SCM Agreement and items (j) and (k) in the Illustrative List of Export Subsidies, which govern the use of export credits (see Appendix 1).

There is no public information available on the long-run operating costs and losses of the CWB's export credit programs to evaluate a charge under item (j). It is also not clear how the ability to generate revenue from rescheduled debt under export credit guarantees, or the GOC payments of interest and principal to the CWB on behalf of debtors, would be treated under items (j) and (k). If nothing else, a charge that the CWB's export credit activities violated these provisions would shed more light on the programs and the role of the GOC.

### WTO Proposals on Export STEs and Export Credit Guarantees

In 2002 the U.S. put forth a proposal to discipline export STEs, as part of its comprehensive proposal for the current negotiations in the WTO Doha Development Round. It will come as no surprise that this proposal is aimed mainly at the CWB, given the long-standing and contentious bilateral dispute between certain U.S. wheat interests and the CWB. It contained three elements:

- to end exclusive export rights to ensure private sector competition in markets controlled by single desk exporters;
- to establish WTO requirements for notifying acquisition costs, export pricing, and other sales information for single desk exporters;
- to eliminate the use of government funds or guarantees to support or ensure the financial viability of single desk exporters;<sup>7</sup>

The third element targets the GOC guarantees of CWB borrowing and credit sales. If this proposal were adopted, presumably the CWB financial structure would look significantly different. Borrowing costs would be higher, net interest earnings would mostly disappear, and the government payments for debt reduction would not be available. Just how these changes would affect the quantity and pricing of wheat and barley exports is unclear. For example, if net interest earnings were no longer available to the pools, even without the absurd levels in the feed barley pools, the CWB pricing structure for individual sales would likely have to be adjusted.

The U.S. also has a proposal on export credits and credit guarantees, which clearly applies to export STEs, not just to governments. The proposal aims at some of the CWB practices under the credit guarantee programs, including rescheduled debt and net interest earnings.<sup>8</sup> The proposal reflects the contentious negotiations on export credit disciplines, began after the Uruguay Round under the auspices of the OECD. In November, 2000, all

participants signaled their acceptance of a compromise agreement except Canada, which, revealingly, made clear it would never accept a proposal that required the disciplines be applied to an export STE, for which the proposal called.<sup>9</sup>

### Alternative Views of STEs and WTO Disciplines

The European Union (EU) has called for additional WTO disciplines on STEs. The EU noted that the exclusive and special rights granted STEs can result in market power and unfair competition in world markets. Through cross-subsidization, price discrimination, and price pooling, STEs can circumvent export subsidy commitments. The EU proposal called for increased transparency and stricter notification requirements with respect to indirect export subsidies.<sup>10</sup>

Another study analyzed the ability of agricultural STEs to distort world markets and provided a classification scheme for STEs to aid in trade negotiations. (17) The authors state "the most effective way of ensuring that STEs do not subsidize exports is to ensure that these are self-financing institutions that are insulated from government." As the authors note, "the major concern about these bodies [export STEs], heightened by alleged lack of transparency, is the possibility that they may be used as a means of covert export subsidization." (17, pg. 88) The authors state any subsidies associated with the CWB, such as from pool deficits or export credit guarantees, are in conformity with WTO commitments.

Subsidies associated with the government guarantees, such as identified in the U.S. CVD investigation, not only have never been notified, they have never even been acknowledged as a subsidy by the GOC or the CWB. (The 2002/03 wheat pool deficit will be the GOC's first opportunity to notify such a subsidy, and it will be interesting to see whether it is notified as an export or domestic subsidy.) The direct cash infusions for debt reduction agreements, reduced borrowing costs, the impact of net interest earnings on pool revenue and pricing, and the lack of transparency in reporting strongly support the contention that the CWB is not self-financing, is not insulated from the government, and may indeed benefit from covert export subsidies.

### **Conclusions**

The government guarantees of all CWB borrowing and export credit sales allows the CWB to generate a financial cushion – non-market based revenue – which can be used to pay operating expenses, enhance returns to producers, or discount export prices. The role of the government in generating the financial cushion is paramount. The lack of transparency and reporting



makes it difficult to ascertain exactly the size and use of the financial cushion. In the highly competitive world grain market, a margin of even a few dollars per ton can be crucial in making a sale over a competitor. Current WTO disciplines cannot capture the complex and non-transparent activities of the CWB. The U.S. and EU WTO proposals, which should be considered along with other proposals to discipline or eliminate all export subsidies and export credit guarantees in agriculture, are good starting points to begin addressing practices of export STEs in agriculture.

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### Appendix I – GATT and WTO Articles

#### Article XVII State Trading Enterprises

- 1.\* (a) Each [Member] undertakes that if it establishes or maintains a State

enterprise, wherever located, or grants to any enterprise, formally or in effect, exclusive or special privileges,\* such enterprise shall, in its purchases or sales involving either imports or exports, act in a manner consistent with the general principles of non-discriminatory treatment prescribed in this Agreement for governmental measures affecting imports or exports by private traders.

(b) The provisions of sub-paragraph (a) of this paragraph shall be understood to require that such enterprises shall, having due regard to the other provisions of this Agreement, make any such purchases or sales solely in accordance with commercial considerations,\* including price, quality, availability, marketability, transportation and other conditions of purchase or sale, and shall afford the enterprises of the other [Members] adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales.

(c) No contracting party shall prevent any enterprise (whether or not an enterprise described in subparagraph (a) of this paragraph) under its jurisdiction from acting in accordance with the principles of subparagraphs (a) and (b) of this paragraph.

*\*Ad Article XVII*

The charging by a state enterprise of different prices for its sales of a product in different markets is not precluded by the provisions of this Article, provided that such different prices are charged for commercial reasons, to meet conditions of supply and demand in export markets."

Article 10(1) of the Uruguay Round Agreement on Agriculture

1. Export subsidies not listed in paragraph 1 of Article 9 shall not be applied in a manner which results in, or threatens to lead to, circumvention of export subsidy commitments; nor shall non-commercial transactions be used to circumvent such commitments.

Illustrative List of Export Subsidies from the Agreement on Subsidies and Countervailing Measures

(j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programs, of insurance or guarantee programs against increases in the cost of exported products or of exchange risk programs, at premium rates which are inadequate to cover the long-term operating costs and losses of the programs.

(k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and other credit terms and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

Provided, however, that if a Member is a party to an international undertaking on official export credits to which at least twelve original Members to this Agreement are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original Members), or if in practice a Member applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement.

**Endnotes**

1. The CWB is a well-known institution in western Canada and the author assumes readers are generally familiar with the CWB structure and function. See (11) for a complete description of the CWB. The first two have been extensively examined in the literature and will not be discussed here, although the CWB's use of those privileges clearly contributes to the financial cushion. A longer paper that discusses all three elements is available from the author.

2. In response to questions posed by the U.S. government during consultations held on January 31, 2003, the GOC stated in a written reply on March 10, 2003, that the CWB had informed them that the figure of C\$185 billion was incorrect and should be C\$47 billion. See *Canada – Measures Relating to Exports of Wheat and Treatment of Imported Grain*, (WT/DS276), First Written Submission of the United States of America, August 1, 2003. <http://www.ustr.gov/enforcement/briefs.html>
3. The Paris Club is an informal international forum through which governments of debtor and creditor countries establish mutually agreed terms for the rescheduling and/or reduction of debts owed to the creditor government and their public agencies. It first met in 1956.
4. Public Accounts, Summary Reports and Financial Statements, Section 10, Contingent Liabilities, Table 10.8, 1995-96.
5. The Commerce Department noted “the facts and circumstances surrounding the subsidy program at issue here [the comprehensive financial guarantees] are exceptional, particularly to the degree to which its various elements are interrelated.” In its preliminary ruling on March 10, 2003, Commerce also found that the payments the Canadian Government made to the CWB as part of the debt forgiveness were export subsidies because the payments were contingent on export. But exports to the U.S. did not benefit from the payments, so Commerce did not find them countervailable. (20)
6. At the U.S. request, a WTO panel, *Canada – Measures Relating to Exports of Wheat and Treatment of Imported Grain*, was formed on March 31, 2003, and a second panel was formed on July 11, 2003, following a procedural dispute. The panel issued its final report on April 6, 2004. On June 1, 2004 the U.S. filed a Notice of Appeal. The report can be found at [http://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_status\\_e.htm#2003](http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm#2003). U.S. submissions can be found at <http://www.ustr.gov/enforcement/briefs.html>.
7. See <http://www.fas.usda.gov/itp/wto/disciplines.htm>.
8. *Ibid.*
9. The document, *The Chairman’s Revised proposal for a Sector Understanding on Export Credits for Agricultural Products*, is dated July 9, 2002, revised from the first November 2000 draft. It can be found at <http://oecd.org/dataoecd/31/12/1939746.pdf>. The document notes that a full consensus was not achieved. On May 17, 2001 Reuters reported that “Canada’s refusal to join an OECD agreement that would scale back government export credit guarantees for agricultural products means the effort will have to be negotiated by the World Trade Organization...” Canada was the lone holdout on the issue among the 30 industrialized nations that make up the OECD, a group that requires consensus for reforms to be put in place.”
10. See G/AG/NG/W/34, “European Communities Proposal: Export Competition,” at [http://docsonline.wto.org/gen\\_search.asp?searchmode=simple](http://docsonline.wto.org/gen_search.asp?searchmode=simple)



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