



U.S. SENATE COMMITTEE ON

# Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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## Grassley Puts Hold on Export-Import Bank Nominee Over Brazilian Ethanol Dispute

WASHINGTON – Sen. Chuck Grassley, chairman of the Committee on Finance, today placed a formal hold in the Senate on the nomination for president of the Export-Import Bank of the United States. The hold means the full Senate cannot act on the nomination. Grassley placed the hold because the Export-Import Bank helped to finance the construction of an ethanol plant in Trinidad and Tobago to produce dehydrated ethanol -- using wet Brazilian ethanol -- for export to the United States. The deal appeared to violate the bank's authorizing statute.

Grassley is concerned that the Export-Import Bank, by possibly not following its authorizing statute in helping to finance the plant in Trinidad and Tobago, is unfairly harming American ethanol producers. Iowa is the U.S. leader in ethanol production and currently has 22 ethanol refineries with the capacity to produce nearly 1.3 billion gallons annually.

“For months, I’ve been trying to get a satisfactory explanation from the Export-Import Bank of the United States of why it saw fit to finance this deal,” Grassley said. “I haven’t been satisfied with the answers I’ve received. I’m putting a hold on the nomination until the bank commits to appointing an inspector general who will analyze and explain this deal as one of his or her very first acts.”

The text of Grassley’s statement submitted to the full Senate on his action follows.

Mr. President, today I’m placing a hold on the nomination of James Lambright to serve as President of the Export-Import Bank of the United States. I’m placing this hold on Mr. Lambright’s nomination as I have major concerns regarding the issuance of taxpayer-guaranteed credit insurance by the Export-Import Bank for an ethanol project in Trinidad and Tobago. Specifically, the approval of this credit insurance by the Export-Import Bank appeared to violate the Bank’s authorizing statute. Let me explain.

In March 2004, the Export-Import Bank approved the issuance of \$9.87 million in taxpayer guaranteed credit insurance to help Angostura Holdings Limited, of Trinidad and Tobago, finance the construction of an ethanol dehydration plant in Trinidad. The purpose of this credit insurance was to enable Angostura to purchase equipment to be used to dehydrate up to 100 million gallons of Brazilian ethanol annually. Angostura would then re-export the resulting dehydrated ethanol to the United States duty-free under the current Caribbean Basin Initiative trade preference program.

But section 635(e) of the Export-Import Bank’s authorizing statute – the Export-Import Bank

Act of 1945 – states that the Bank is not to provide credit or financial guarantees to expand production of commodities for export to the United States if the resulting production capacity is expected to compete with U.S. production of the same commodity and that the extension of such credit will cause substantial injury to U.S. producers of the same commodity. The statute goes on to provide that “the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production.”

As of 2004, when the credit guarantees for Angostura were approved, the total 100 million gallon capacity of the Angostura facility was nearly 4 percent of U.S. production. This amount clearly exceeded the 1 percent threshold for causing substantial injury to the U.S. ethanol industry as spelled out in the Export-Import Bank’s authorizing statute.

So it appeared to me that the approval of credit guarantees for Angostura by the Export-Import Bank violated the Export-Import Bank’s authorizing statute. Moreover, as the amount financed by the Export-Import Bank was less than \$10 million, no detailed economic impact analysis was conducted by the Bank. I note that the amount approved by the Export-Import Bank – \$9.87 million – was conveniently just below this \$10 million threshold amount.

In the Consolidated Appropriations Act of 2005, Congress asked the Export-Import Bank for an explanation of the credit guarantees for Angostura. Specifically, the 2005 Act required the Export-Import Bank to submit a report to the Committees on Appropriations of the Senate and the House containing an analysis of the economic impact on U.S. ethanol producers of the extension of credit and financial guarantees for the development of the ethanol dehydration plant in Trinidad and Tobago. Congress also required that this report determine whether such an extension would cause substantial injury to such producers, as defined in section 2(e)(4) of the Export-Import Bank Act of 1945.

In January of last year, the Export-Import Bank provided its report. In its report, the Export-Import Bank avoided the issue of whether its credit guarantees for Angostura caused substantial injury to U.S. producers, and thus whether the approval of these guarantees was in compliance with the Export-Import Bank’s authorizing statute. The Export-Import Bank avoided the issue by claiming that the Angostura plant will not “produce” dehydrated ethanol. Rather, the Export-Import Bank stated that this plant will merely “process” dehydrated ethanol by removing water from wet ethanol produced in Brazil, thus merely “adding value” to the wet ethanol from Brazil.

However, despite the semantics of the Export-Import Bank, the Angostura plant will clearly be producing dehydrated ethanol. This is common sense. An ethanol dehydration plant -- of course -- produces dehydrated ethanol.

Moreover, the Customs Service recognizes that ethanol dehydration plants in Caribbean Basin Initiative countries produce dehydrated ethanol.

While the Export-Import Bank currently does not have an Inspector General, the Conference Report for the Foreign Operations Appropriations bill for FY 2006 directs the Export-Import Bank’s Inspector General – once appointed – to look into this credit insurance approval. Specifically, the Conference Report provides that the Inspector General shall provide a written analysis to the Finance Committee and the Committee on Appropriations, within 90 days of appointment, as to whether the loan guarantees provided to the ethanol dehydration plant in Trinidad and Tobago met the provisions

of the Export-Import Bank's charter. The analysis shall include whether "value added" methodology is routinely used by the Bank to determine whether or not a proposed loan guarantee or export credit meets the statutory test regarding the definition of substantial injury found in the Bank's authorizing statute. The Inspector General shall also make recommendations as to whether it is appropriate to use such methodology in making a determination of substantial injury.

As the Export-Import Bank currently does not have an Inspector General, I'm placing a hold on Mr. Lambert's nomination until such time that I receive assurances from him that, first, the Export-Import Bank will act quickly to appoint an Inspector General, and, second, that Mr. Lambert will see that the Inspector General will indeed provide a written analysis on the credit insurance approval within 90 days of appointment.