Bank-Owned Trading Companies

In allowing banks to own and operate trading companies, Congress recognized that if U.S. export trading companies were to be successful in promoting U.S. exports and in competing with foreign trading companies, they should be able to draw on the resources, expertise and knowledge of the U.S. banking system, both in the United States and abroad.

The creation of bank-owned export trading companies (BETCs) was largely publicized by the media and the U.S. Department of Commerce. As of July 1984, 28 BETCs had been or were in the process of being approved by the Federal Reserve Board. These include some well-known banks such as Bank of America, Bank of Boston, Bankers Trust, Citicorp Bank, First National Bank of Chicago, Manufacturers' Hanover Trust Company, Marine Midland Bank, and Security Pacific Bank. With approximately 200 banks in the U.S. with international experience (many of whom are small), there is obviously scope for bank-related trading companies although more time will be needed to determine if in fact this will occur.

The reasons for bank involvement in trading companies, their capitalization, and approaches taken, vary on almost a case by case basis. Reasons include: generating additional revenue activity within other related service activities, increasing trade services that can be offered to existing and potential customers (both for proactive and defensive reasons), generating profit and gaining experience in the trading of goods. Reported capitalization of BETCs varies from $50,000 (U.S.) in one case to $10 million (U.S.) for others, such as Bank of America, Security Pacific, and Bankers Trust.

Approaches taken by U.S. banks in setting up BETCs have included some or all of the following:

(i) combining all trade-related services into a single group;
(ii) providing countertrade services (such as acting as clearing houses or brokers, providing financing, consulting, special accounts, negotiating services, etc.) to assist bank customers;
(iii) investing in or joint venturing with existing trading companies;
(iv) establishing BETCs in partnership with manufacturers;
(v) targeting regional or non-regional small and medium-sized manufacturers who have done little or no exporting;
(vi) performing both exporting and importing functions; and
(vii) acting as procurement agents for overseas customers.

It is too early to determine the level of success to be achieved by banks. A present inhibition to their future development is the restrictive collateral requirement in the Federal Reserve Act for loans to bank-owned trading companies. Nonetheless, there are some positive spinoffs to the initiatives taken by the U.S. government and banks. These include the creation of additional export awareness, improving the image of trading companies and creating new exports and employment.

Export-Import Bank (Eximbank) ETC Loan Guarantee Program

To improve access to working-capital financing by trading companies and exporters that would not have been provided without Eximbank's assistance, the Act provides that loan guarantees may be secured by export accounts receivable, inventories of exportable goods or other appropriate collateral and guarantees. These will be available when the private credit market is not providing adequate financing to enable otherwise creditworthy exporters or trading companies to complete export transactions.

In 1983, only one guarantee involving a trading company was concluded under this program. The apparent lack of success of the program is no doubt due to its very restrictive operating conditions and the fact that applicants must also state why the loan cannot be guaranteed by the Small Business Administration under its Export Revolving Line of Credit program. Clearly, the guarantee loan program was put together at the request of Congress without much support from the Eximbank. It remains in need of amendment if it is to show any substantial results in the future. It appears that measures are being considered to improve this situation.

Expansion in Use of Bankers' Acceptance

This provision under Title II of the Act expands the amount of bankers' acceptances that a bank may have outstanding at any one time. The intent of this provision was to assist the working capital position of trading companies by increasing a bank's ability to carry such financial instruments. Formerly, a bank was limited to 50 per cent of its capital and surplus. This was raised to 150 per cent. Little evidence was uncovered by the Task Force as to any increase in activity by banks or trading houses in this area.

The Antitrust Provisions of the Act

Titles III and IV of the ETC Act address the problem of uncertainty about the application of U.S. antitrust laws to export trade. The concerns addressed by these titles, and the remedies they provide, are applicable to all exporters, not just ETCs. Title III provides for a certification procedure under which any person engaged in export trade can determine in advance whether proposed export conduct qualifies for specific antitrust protection. Title IV clarifies the jurisdictional reach of the Sherman Act and the Federal Trade Commission Act to export trade.

A certificate of review will be issued to an applicant that shows its proposed export activity will not result in substantial lessening of domestic competition, will not unreasonably enhance, stabilize or depress prices of goods or services in the U.S. or constitute unfair methods of competition against competitors engaged in the export of similar goods or services.

The protection provided by the certificate is not limited to trading companies nor is one required to seek such a certificate when exporting. A certificate holder is protected against private treble damage action and U.S. or state government criminal and civil actions arising out of the certified conduct. Parties injured by the conduct can, however, bring suit for actual damages subject to certain conditions.

As of July 1984, 33 applications for certificates had been requested from, and/or issued by, the U.S. Department of Commerce.

Lessons for Canada

While public interest may have tended to focus on the potential for the establishment of very large trading entities, the experience of West Germany, France and Japan suggests that the presence of a large number of small and medium-sized companies, specialized by product categories and/or markets, can make a very substantial contribution to export performance. Even in Japan, the growth and health of the smaller specialized trading house sector indicates that the *soga shosha* approach is not the entire answer, particularly if one takes account of the needs of small and medium-sized manufacturers and producers.