

Question: Food & Ag 01

Topic: Food Processing Technologies [Key technology areas under the National Food Industry Strategy Centres of Excellence program]

Hansard Page: 13

Senator O'Brien asked:

Can you give us a list of the key technology areas that you are referring to?

Answer:

The key technology areas identified are functional foods and food safety. Within the area of functional foods, the Centre of Excellence in Functional Foods has focussed on development of foods which address nutritional issues across the human life cycle. Within the area of food safety, the Centre of Excellence in Food Safety has focussed on predictive microbiology and microbiological risk analysis.

Question: Food & Ag 02

Topic: Food Innovation Grants Technologies [under the National Food Industry Strategy Centres of Excellence and Food Innovation Grants programs]

Hansard Page: 14

Senator O'Brien asked:

Can you perhaps identify those new products and technologies on notice?

Answer:

Seven rounds of funding have been announced under the Food Innovation Grants (FIG) with 41 companies receiving grants for projects valued at \$71 million. The FIG contribution to this new investment in innovation and R&D in the food industry totals more than \$30 million. Further details of the grants may be obtained from the National Food Industry Strategy Ltd website <http://www.nfis.com.au/>.

New products and technologies are emerging as grant projects are now being completed. These include: a functional ingredient which is incorporated in icecream and in a number of functional beverages in the UK and other export markets; new value added pasta which is on sale in Australia and the UK; new milk powder sacks which allow more efficient stacking; a clear "glasslike" plastic pack for abalone, which is being sold on export markets; and a unit for reprocessing of potable water to wash potatoes, which is now operational.

The Centre of Excellence in Functional Foods is focussing on development of foods which address nutritional issues across the human life cycle. The Centre's work on human and nutritional modelling has been incorporated in a "Kids' Food" project which has secured significant industry co-investment.

The Centre of Excellence in Food Safety is focussing on becoming a world leader in predictive microbiology and microbiological risk analysis. The Centre's refrigeration index has been incorporated by Australian Quarantine and Inspection Service in revised Export Meat Orders. The Centre's Food Safety Toolkit is being used by Food Safety Authorities in Australia and Singapore.

BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 03

Topic: National Food Industry Strategy expenses

Hansard Page: 17

Senator O'Brien asked:

Can you give us some indication of how much money is involved for this and the next financial year?

Answer:

Departmental funding for programs managed by the Department of Agriculture, Fisheries and Forestry under the National Food Industry Strategy in 2005-06 is \$5.1 million and, for activities managed by National Food Industry Strategy Ltd, \$4.4 million.

Departmental funding for National Food Industry Strategy programs managed by the Department in 2006-07 is \$5.4 million and, for activities managed by National Food Industry Strategy Ltd, \$4.5 million.

Question: Food & Ag 04

Topic: New Industries Development Program

Hansard Page: 25

Senator O'Brien asked:

How many enterprises—new or otherwise—have gained skills and resources that have enabled them to commercialise new products? Can you quantify that?

Answer:

There have been 167 Pilot Commercialisation Projects and 60 In-Market Experience Scholarships funded to date through the New Industries Development Program.

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE
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Department of Agriculture, Fisheries and Forestry
Food and Agriculture Division

Question: Food & Ag 05

Topic: PCP Grants: New Industries Development Program

Hansard Page: 25

Senator O'Brien asked:

There was a mid-term review. There must be some objective data.

Mr Souness—There was an internal review.

Senator O'BRIEN—I do not know whether it was mid-term or internal—I am not sure whether I missed it.

Mr Souness—It was undertaken by an independent consultant. That is available. It was done about a year ago.

Senator O'BRIEN—Where is it available? Can you supply it to the committee?

Mr Souness—It is available and we can make it available to the committee.

Answer:

Mr Souness apologises to the committee as the report that he referred to is older than he indicated to the committee. It was delivered to the Department of Agriculture, Fisheries and Forestry in May 2002. Please see attached hardcopy.

Question: Food & Ag 06

Topic: Horticulture Code Administration committee

Hansard Page: 28

Senator O'Brien asked:

As to the code administration committee, I know that farmers were looking for increased representation on that committee, which they see as being stacked at present in favour of wholesalers and retailers. What representations has Mr Truss made to his ministerial counterpart Mr Macfarlane about those concerns?

Answer:

This matter falls within the portfolio responsibility of the Minister for Small Business, the Hon Fran Bailey MP. The former Minister for Agriculture, Fisheries and Forestry, the Hon Warren Truss MP, did not make any formal representations to the Minister for Industry, Tourism and Resources, the Hon Ian Macfarlane MP, or the previous Minister for Small Business, the Hon Joe Hockey MP, about the make up of the Produce and Grocery Industry Code Administration Committee (PGICAC) (formerly known as the Retail Grocery Industry Code Administration Committee).

The three year review of the Produce and Grocery Industry Code of Conduct (the "Buck report") recommended that there be increased representation of growers on the PGICAC. The Australian Government agreed to work with the PGICAC to increase the representation of growers. The Office of Small Business within the Department of Industry, Tourism and Resources advises that the PGICAC has unanimously agreed to increase the number of grower representatives from one to four.

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE
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Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 07

Topic: Regional Advisory Groups [for Secretariat services]

Hansard Page: 51

Senator O'Brien asked:

What is the estimated cost of the provision of the secretariat services for Regional Advisory Groups?

Answer:

Funding of \$3.02 million has been allocated over five years for Sugar Executive Officers (SEOs). Part of the SEOs' duties is to provide secretariat services to the Regional Advisory Groups.

BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 08

Topic: Sugar Reform Package [Funding provided under assistance packages for the sugar industry]

Hansard Page: 53

Senator O'Brien asked:

...how much will have been spent over the four reform packages since 1998?

Answer:

Sugar Industry Reform Program (SIRP) 2004

As at 10 June 2005, approximately \$116 million has been provided under the program's various components since commencement.

2002 Sugar Industry Reform Program

Approximately \$26 million was provided under this program in the 2002-03 and 2003-04 financial years before it was superseded by the SIRP 2004.

2000 Sugar Industry Assistance Package

Approximately \$60 million was provided under this package during the 2000-01 and 2001-02 financial years.

1998 Sugar Package - Research

In 1998, the Australian Government provided funding of \$13.45 million over four years for priority research in the sugar industry.

1998 Sugar Package - Export

In 1998, the Australian Government approved funding of \$1 million to help the NSW sugar industry develop a greater export focus. The money, which was paid in June 1999, was used as a contribution to a joint-venture with Grainco to provide sugar export shipping facilities by constructing a multi-purpose bulk storage and ship loading facility at Fisherman Islands near Brisbane. The facility was opened on 29 July 1999.

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE
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Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 09

Topic: Sugar industry 'patching'

Hansard Page: 55

Senator O'Brien asked:

'Can you give some examples of the patching proposed?'

Answer:

Please refer to the response provided for Question Food & Ag 10.

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 10

Topic: Regional Advisory Groups (R.A.G.) ‘patching and repairing’

Hansard Page: 56

Senator O’Brien asked:

Can you supply on notice examples of the particular items the regional advisory groups were talking about when, as you describe it, they were taking a patching and repairing approach?

Answer:

The Industry Oversight Group (IOG) has expressed the view that the draft regional plans submitted to date emphasise “repair and patching the existing”, rather than genuine structural reform and do not provide assurances that the industry will become viable or sustainable in three years’ time – the planning horizon that the IOG is using.

The IOG believe that final plans will need to demonstrate that progress towards reform has been made and include the following:

- specific, realistic and measurable targets;
- detail on how structural change will occur, when changes will be completed by and what changes will achieve;
- quantification and provision of appropriate evidence of the added benefits to the region of changes being implemented; and
- contingency plans where identified strategies for change are not successfully implemented to provide regions with the flexibility to identify alternative paths to achieve the region’s goals.

BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food &Ag 11

Topic: Assistance to develop business plans applications [Sugar Industry Reform Program 2004 – rejection of Re-establishment Grant applications]

Hansard Page: 56

Senator O'Brien asked:

Can you get us a breakdown of the 107—not individually, of course, but how many rejections fall into which category?

Answer:

As at 13 May 2005, 107 applications for re-establishment grant assistance had been rejected. This comprised 104 cane grower applications and three cane harvester applications.

Of the 104 cane grower applications, 33 did not meet the definition of eligible cane grower, 48 were still farming sugar cane, two were proposing lease arrangements that were not on commercial terms, 15 had assets above the allowable limit, two were not effectively in control of the sugar farming enterprise and four were rejected for other reasons that are not reported as separate categories.

Of the three cane harvester applications, one did not meet the definition of eligible cane harvester, one was still harvesting cane and one was rejected for other reasons that are not reported as a separate category.

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE
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Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 12

Topic: Rejected Industry Advisory Group recommendations

Hansard Page: 57

Senator O'Brien asked:

Can you say on how many occasions the minister has not accepted the recommendations of the industry advisory group, and that is consistent with responses that, for example, Finance and Public Administration has received in relation to the consideration of ACC recommendations by the Minister for Transport and Regional Services in approving or not approving Regional Partnerships grants?

Answer:

On one occasion, the former Minister for Agriculture, Fisheries and Forestry, the Hon Warren Truss accepted three of the five Regional Community Projects recommended to him by the Industry Oversight Group.

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE
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Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 13

**Topic: I.A.G. approved recommendations [Projects recommendations
for approval under Regional and Community Projects]**

Hansard Page: 57

Senator O'Brien asked:

I would like a breakdown of the number of projects recommended for approval by the industry oversight groups and the number of projects recommended not to be approved and also, as I have already said, the number of occasions on which the minister has not accepted the oversight group's recommendation.

Answer:

70 applications for funding were received under round one of Regional and Community Projects. The Industry Oversight Group recommended five projects be funded. The former Minister for Agriculture, Fisheries and Forestry, the Hon Warren Truss announced three successful applicants in round one.

SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE
BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 14

Topic: Department and I.A.G. [Regional and Community Projects – IOG advice]

Hansard Page: 57

Senator O'Brien asked:

On how many occasions did the Department disagree with the advice of the IOG in this regard?

Answer:

The Department of Agriculture, Fisheries and Forestry has not disagreed with the Industry Oversight Group's advice in relation to Regional and Community Projects.

Question: Food & Ag 15

Topic: Applications for Intergenerational Transfer

Hansard Page: 58

Senator O'Brien asked:

Can you give us a breakdown, perhaps on notice, of the reasons for rejection of the 20 applications?

Answer:

Centrelink advises that the 20 unsuccessful applicants for Intergenerational Transfer were rejected because:

- 12 had income above the permissible limit;
- three had assets above the permissible limit; and
- five were not eligible canegrowers.

Question: Food & Ag 16

Topic: Commonwealth spending on South Johnstone Mill

Hansard Page: 59

Senator O'Brien asked:

What legal costs did the Commonwealth incur?

Answer:

The total legal costs incurred for the period from the initial advice sought by the Commonwealth in August 2000 is \$383,551 (exclusive of GST).

This total includes litigation costs of \$217,398 (exclusive of GST) that the Commonwealth incurred in relation to the settlement.

BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 17

Topic: South Johnstone Mill meetings

Hansard Page: 59

Senator O'Brien asked:

Can you provide a list of all meetings which the minister, his staff, officers of the department or officers of other Commonwealth departments attended to discuss the financial situation facing the South Johnstone Mill in 1999 and 2000?

Answer:

To fully answer this question would require an extensive review of files to be undertaken. If there is a specific meeting which is of concern, details of that meeting may be able to be supplied subject to any commercial in confidence concerns. The Department of Agriculture, Fisheries and Forestry does not hold records of any meetings which may have been attended by officers of other Departments.

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Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 18

Topic: South Johnstone Mill legal framework

Hansard Page: 60

Senator O'Brien asked:

Surely you can tell us what safeguards the department, or any agent on behalf of the department, put in place to protect the interests of the Commonwealth and Australian taxpayers prior to providing for the financial assistance to the South Johnstone mill, the financial matters having been resolved?

Answer:

The provision of the Commonwealth's assistance package was subject to a significant number of conditions, which were designed in consultation with the Australian Government Solicitor to limit the Commonwealth's potential risk exposure. Conditions were set out in a letter of 14 June 2000 from the Minister to CANEGROWERS and the National Australia Bank (NAB). They included, for example, disclosure by CANEGROWERS and the NAB of the financial circumstances of the South Johnstone Mill to the Commonwealth; a condition that suppliers to the South Johnstone Mill enter an enforceable agreement to repay the loan over two years on the basis of a five per cent deduction from mill receipts; a requirement upon CANEGROWERS to take a second mortgage over the assets of the South Johnstone Mill and a commitment in writing from the NAB that the \$3.4 million loan to South Johnstone would be drawn down in accordance with the Mill's cash flow requirements (rather than as a single lump sum).

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Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 19

Topic: Service fee paid to Department's levies branch

Hansard Page: 62

Senator O'Brien asked:

What is the estimated actual service fee paid to the department's levies branch for the administration of the wheat export charge collection and disbursement and the exporters charge collection in 2004-05?

Mr Taylor—I cannot find a reference at this point but my understanding is that the cost is generally around \$27,000 per year. I will confirm that for you on notice.

Senator O'BRIEN—Would that be your estimate for 2005-06 as well?

Mr Taylor—That is correct.

Answer:

For the 2004-05 PBS financial year (July to June) the estimated actual cost of collecting the wheat export charge is \$26,000.

The correct estimate for 2005-06 is \$34,000.

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Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 20

Topic: Cost to implement review panels recommendations

Hansard Page: 63

Senator O'Brien asked:

So where does the other \$261,000 end up?

Mr Taylor—I do not have that detail with me, unfortunately.

Senator O'BRIEN—It is the lion's share of the \$318,000. Could you give us a rough idea? I accept you will give us the precise detail on notice.

Answer:

The Wheat Export Authority advises that the figure of \$0.318m on page 299 of the 2004-05 Portfolio Budget Statement (PBS) should have read \$0.618m to agree with Output 3 estimated actual figure for 2004-05 of \$0.618m reported on page 294 of the 2004-05 PBS.

A break down of actual estimated expenditure on the 2004 Wheat Marketing Review for 2004-05 is:

2004 Panel and Secretariat Costs	\$0.490m
Salary costs associated with responding to requests for assistance, plus preparing for, and attendance at, meetings with the Review Panel and Panel Secretariat	\$0.086m
Travel to attend meetings	\$0.007m
Overhead allocation covering rent, stationery, phone et al	\$0.032m
Contingency for additional legal, financial and economic advice	\$0.003m

BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 21

Topic: Iraqi Wheat

Hansard Page: 66

Senator Ferris asked:

I was not suggesting that but I would have thought that it fell within principal output No. 2 which, just to contextualise it, says:

To effectively monitor, examine, and accurately report to stakeholders on the export performance of AWBI and the resulting benefits to growers.

AWB Ltd has a chartering division paid by the national pool to provide ocean freight capacity to transport wheat to market and my understanding is that no other freight provider can even bid for business to AWB(I), that is, it is a monopoly. Therefore I would have thought that when a vessel is held up at the other end of a journey, such as the bulk ships that have been outside the Iraqi ports for some months now waiting to discharge wheat, that under output No. 2 it would have been of interest to the WEA to start looking at the effect on the return to growers through the pool of the continuing costs of demurrage. I am particularly interested in the liability for costs for this wheat that has now been held up for quite a long period of time while arguments take place about the quality of the wheat. As I say, I know it is owned by the Iraqis but the demurrage comes back to the pool costs and I would have thought that under output 2 that would have been of interest to you.

Answer:

The Wheat Export Authority (WEA) has previously reported publicly on the chartering arrangements between AWB Ltd and the National Pool through the WEA's annual Growers' Report. (2003 Growers' Report pages 16-17 and 2004 Growers' Report page 12). In summary, the WEA reported that the chartering arrangements deliver a number of benefits to the National Pool, are more transparent and an improvement over previous arrangements.

The WEA routinely reports the costs to the National Pool, which includes the aggregated demurrage costs.

Demurrage clauses are a standard inclusion in the majority of dry bulk charter contracts worldwide, including coal, iron ore, minerals, cement, grains, salt and steel products. At the time of negotiating sales contracts, the prices negotiated with the buyer by Australian Wheat Board (International) (AWB(I)) generally factor in such things as the length of the buying and selling relationship, the risks associated with the delivery of the wheat, and the prevailing world market conditions at the time.

The situation in Iraq is still unfolding, although the latest reports are that the ships are now being unloaded. The actual costs finally accruing to the National Pool would be dependent upon current negotiations and the specific arrangements entered into at the time of the contract, which is a commercial matter for the AWB(I) and not yet finalised.

Question: Food & Ag 22

Topic: AWB Ltd amended services agreement

Hansard Page: 68

Senator Ferris asked:

At page 16 of your 2004 report there is reference to the amended services agreement between AWB Ltd and AWB International. A wholly owned subsidiary, AWB Services, was formed to supply services to AWB International. Does the subsidiary supply services to AWB Australia, the domestic trading division? If so, how does AWB(I) ensure that the base fee of \$65.1 million is not cross-subsiding the operations of the domestic division?

Answer:

During the 2003-2004 performance monitoring period, the Wheat Export Authority (WEA) examined and reported on the governance arrangements between Australian Wheat Board (International) (AWB(I)) and Australian Wheat Board (AWB) Ltd and the safeguards in place to protect growers' interests (page 15 - 2004 Growers' Report).

The WEA also conducted a detailed examination of the Base Fee and the costs of operating the National Pool (pages 18 and 19 – 2004 Growers' Report). The WEA was satisfied that the Base Fee was consistent with the reported operating costs and were not cross-subsidising the operations of the domestic divisions.

In addition, the WEA examined the scope for cross subsidies between the National Pool and the commercial areas of the AWB Group of companies. In conducting this assessment, the WEA looked at transactions relating to foreign exchange and commodity hedging, Chartering and Risk Assist.

In all cases, the WEA was satisfied that there was an appropriate separation between the National Pool and the commercial activities of the AWB Group.

Question: Food & Ag 23

Topic: WEA staff profile

Hansard Page: 69

Senator O'Brien asked:

How many of your staff were born overseas with English as a first or second language?

Answer:

Of the 15 Wheat Export Authority staff members, five were born overseas, all of whom speak English as a first language.

BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 24

Topic: WEA member expenses

Hansard Page: 70

Senator O'Brien asked:

In addition to remuneration, what member expenses does WEA fund or reimburse? ...
Would it be a problem to provide us with a breakdown for the current financial year?

Answer:

The Wheat Export Authority (WEA) reimburses Members for out of pocket expense incurred in attending Board and industry meetings. The WEA pays a motor vehicle allowance in accordance with the Remuneration Tribunal Determination 2004/03, for the use of a private vehicle.

A breakdown of reimbursements for the period 1 July 2004 to 30 April 2005 is as follows:

Category	Amount
Taxi fares	\$95.16
Parking	\$699.00
Incidentals	\$714.00
Accommodation	\$815.09
Meal Allowance	\$2,522.00
Mileage Allowance	\$5,587.04

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Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Question: Food & Ag 25

Topic: WEA meeting locations and costs

Hansard Page: 71

Senator O'Brien asked:

Where was each board meeting held in the current financial year and what was the associated cost?

Mr Besley—We can provide that. Do you want the direct costs—travel costs?

Senator O'BRIEN—Travel costs, venue and accommodation.

Answer:

Board Meetings 1 July 2004 to 30 April 2005

Date	Location	Travel Costs \$	Travel Allowance \$	Accomm \$	Catering \$	Total \$
15 July 2004	Canberra	2,082	78	162	97	2,419
27 July 2004	Melbourne	5,898	290	1,018		7,206
25 August 2004	Melbourne	7,168	700	982		8,850
3 September 2004	Melbourne	7,093	919	982		8,994
22 September 2004	Canberra	2,927	416	418	65	3,826
22 October 2004	Canberra	2,523	86	320	65	2,994
8 November 2004	Melbourne	5,566	108	178		5,852
24 November 2004	Canberra	3,299	187		53	3,539
2 December 2004	Canberra	3,205	266		58	3,529
25 January 2005	Sydney	2,684	143			2,827
9 February 2005	Canberra	3,381	297	156	117	3,951
7 April 2005 (**)	Brisbane	3,740	169	673		4,582
Total		49,566	3659	4,889	455	58,569

Note ** This meeting was held during Grains Week 2005. Only the additional costs of Wheat Export Authority Secretariat staff travel to attend the Board meeting have been included.

Question: Food & Ag 26

Topic: WEA Correspondence from Mr Walter

Hansard Page: 71-72

Senator O'Brien asked:

On what date did Mr Walter notify the minister and the WEA he would be standing aside from duties as at 27 July last year?

Mr Besley—It would have been about that date. I do not have his letter with me, but we could tell you precisely what it was. He wrote to the minister and stood aside.

Senator O'BRIEN—Could we have copies of the correspondence?

Mr Mortimer—That is an issue for the department for the minister if Mr Walter wrote to the minister, but we are happy to see whether the minister is happy to do that.

Senator O'BRIEN—He wrote to the board as well. Can we have a copy of the letter to the board? There were two different letters.

Mr Besley—I would need to check that.

Senator O'BRIEN—Are you saying the minister got a copy of the letter to the board or vice versa?

Senator Ian Macdonald—Why don't we take it all on notice, check facts and see whether the minister is happy to release it?

Answer:

Mr Walter wrote separately to the Wheat Export Authority (WEA) Board and the Minister.

The release of correspondence to the Committee between Mr Walter and the Minister is at the discretion of the Minister. Having inquired on the release of the correspondence to the Committee, the Minister's Office granted approval for the release of the letter from Mr Walter.

Mr Walter has also given his approval for copies of his correspondence to the WEA Board and the Minister to be released to the Committee.

Copies of the correspondence between Mr Walter and the WEA Board and Mr Walter and the Minister are attached.

Question: Food & Ag 27

Topic: Advice on 'presiding member'

Hansard Page: 72

Senator O'Brien asked:

Yes, they did seek advice on the situation that the WEA board was faced with, with the chairman standing aside. That advice outlined for the WEA what scope it had and what options it had to function in the absence of a chairman.

Senator O'BRIEN—I wonder if the board would provide a copy of that advice to this committee.

Mr Besley—From the Government Solicitor?

Senator O'BRIEN—Yes.

Mr Besley—Again, I think the advice is a matter for the department. David, is it not?

Mr Mortimer—It is probably a board matter.

Mr Besley—If the board can do it, I do not have a problem at all with it. I am told that we sought it, and I see no problem in providing that advice.

Answer:

A copy of the advice is attached.

BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

-----Original Message-----

From: Lahy, Peter [mailto:Peter.Lahy@ags.gov.au]

Sent: Thursday, 29 July 2004 1:39 PM

To: glen.taylor@wea.gov.au

Cc: Blight, Jake

Subject: Acting Chairperson

Importance: High

Hi Glen

I refer to our conversation earlier today about the possible appointment of an acting Chairperson of the Wheat Export Authority (WEA). We have given consideration here to the various issues that you have raised with me and also carried out some research. Our comments in relation to those issues are set out below for your consideration. We are happy to discuss them further with you after you have had an opportunity to look at them.

'Standing aside' of present Chairperson

We understand from the conversation this morning that the current Chairperson is proposing to 'stand aside' from his role as Chairperson for some months. We also understand in this context that he has written to the Minister advising the Minister of his desire in this regard and seeking the Minister's approval. As noted in our conversation it would be necessary for the Chairperson to obtain the prior consent of the WEA so as to avoid any risk that his appointment as Chairperson would be subject to termination by virtue of the operation of s.8(2)(c) of the *Wheat Marketing Act 1989* (the WM Act).

We note that the remuneration of the Chairperson is currently set out in Determination 2004/12 of the Remuneration Tribunal (a copy of which you have provided to us). In accordance with that Determination, the Chairperson is entitled to \$69,930 per annum (and see s.9 of the WM Act). Given that the remuneration of the Chairperson is fixed on a per annum basis it presently appears to us that he would continue to be entitled to the remuneration set out in the Determination notwithstanding the fact that he has 'stepped aside' for some months. This may be an issue for the Minister to consider, for example, in relation to whether it would be appropriate to appoint another person to act as the Chairperson, were that person to expect to be paid at the same rate as the Chairperson (and see our comments below about remuneration of an acting Chairperson).

Possible appointment of acting Chairperson

As Jake had mentioned in the e-mail sent to you yesterday evening, there does appear to be scope to rely on s.33(4) of the *Acts Interpretation Act 1901* (the AIA) to appoint a person to act as a Chairperson while the Chairperson has 'stood aside'. In this context, it appears possible to equate the 'standing aside' with an 'absence' of the Chairperson (in the present context, 'absence' is the relevant word used in s.33(4) of the AIA).

You have mentioned a possibility that the independent member (see s.6(1)(d) of the WM Act) be the acting Chairperson. It appears to us that, if it is intended that the independent member be appointed as the acting Chairperson, that that member take leave of absence with the WEA's consent from his office of member. That is to say, we presently doubt whether under the WM Act a person could, at the same time, be carrying out activities as a member and as an acting Chairperson. (The member's leave of absence would not prevent the WEA from carrying out its functions and powers even if another person was not appointed to be an acting member. That is because the quorum requirements are that there be 3 members.)

Remuneration of possible acting Chairperson

BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Another issue that presently appears to arise is the remuneration of a person who has been appointed as an acting Chairperson in accordance with s.33(4) of the AIA. It presently seems doubtful to us whether an acting Chairperson would presently be covered by the Determination. In this regard, there does not appear to be a statutory mechanism that *automatically* applies the Chairperson's rate of remuneration to an acting Chairperson. That is not to say that it would not be possible to make remuneration arrangements for an acting Chairperson. However, such arrangements would presently seem to require further action by the Remuneration Tribunal or possibly the making of a regulation for the purposes of s.9 of the WM Act.

As mentioned above, we would be happy to discuss the issues further.

Regards

Peter

Peter Lahy

Senior General Counsel

Australian Government Solicitor

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BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Food and Agriculture Division

Our ref. 2099027701

26 February 2004

Kyle Thoms
Manager Corporate Services & Communications
Wheat Export Authority
Edmund Barton Building
BARTON ACT 2601

Dear Mr Thoms

Wheat Export Authority - Upcoming Vacancies within Membership of Authority

1. We refer to your email requesting advice, dated 18 February 2004, addressed to Jake Blight of this office in relation to upcoming vacancies within the membership of the Wheat Export Authority (the WEA).

Background

2. We understand that the tenures of the Chairperson and the Western Grower States member of the WEA will be expiring on 30 June 2004. You seek advice in relation to the position of the WEA after that date, in the event that there is no decision made by the Minister to extend the tenure of the Chairperson or to appoint a new Chairperson under the *Wheat Marketing Act 1989* (the WM Act).

Short Answer

3. Our short answer to your question is as follows:

Q. *Is there any provision under the WM Act, the Commonwealth Authorities and Companies Act 1997 or any other pertinent statute that might allow a member of the Authority to deputise in the Chairperson's place once the Chairperson's tenure has ended?*

A. In our opinion, the WEA has no power to 'deputise' a member to act as Chairperson except in relation to presiding at a meeting of the WEA. We do not consider that election to preside at such a meeting would allow the member to exercise specific statutory duties of the Chairperson. In any event, we consider that the Minister is under an implied obligation to fill the vacancies that will be created within a reasonable time. He may choose to appoint a new Chairperson or new member in the ordinary way or appoint an acting Chairperson or acting member.

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Reasons

Role of Chairperson

4. The WM Act sets out a number of duties which may only be exercised by the Chairperson of the WEA. These include presenting reports to the Grains Council and being available for questioning in relation to those reports (section 15), informing the Minister about changes in the operational plan of the WEA (subsection 16(3)) and signing certificates relating to proceedings for offences against section 57 (subsection 57(4)).
5. Pursuant to subsection 6(4) of the WM Act, it is the Minister who has the power to appoint members, including the Chairperson. Neither the WM Act, the *Commonwealth Authorities and Companies Act 1997* nor any other Act confer power on the membership of the WEA to appoint a Chairperson or select any of its members to act in the capacity of the Chairperson, except in relation to presiding at meetings. Subsection 10(5) of the WM Act states that where the Chairperson is not present at a meeting, the members present must elect a member to preside.
6. We do not think that a 'presiding member' elected under subsection 10(5) of the WM Act could exercise any of the specific statutory powers of the Chairperson at those meetings. In our opinion, the 'presiding member' is elected only to control the conduct of meetings, not to exercise any of the powers specifically conferred upon the Chairperson. In any event, there are clearly some functions of the Chairperson which could not be carried out at such meetings. For instance, it is the Chairperson who must be available to the Grains Council for questioning following the submission of a report (paragraphs 15(1)(c) and 15(2)(c)).

Requirement to fill vacancies

7. Subsection 6(4) of the WM Act states that "Each member is to be appointed by the Minister...". Although this language is not in mandatory terms, in our opinion the fact that the duties of the Chairperson as detailed above in paragraph 4 are necessary for the operation of the statutory scheme created by the WM Act obliges the Minister to appoint a Chairperson. There is, however, no explicit time-frame for making such appointments, although at common law it must be within 'reasonable' time. Given the specific functions of the Chairperson, it may be considered reasonable for the Minister not to appoint a new Chairperson for a time, if the Minister has reasons to do so, as those functions may not be required to be exercised immediately after the expiration of the present Chairperson's tenure. It is not possible to give an exact time-frame but in the present case we think it would be necessary for the Minister to appoint a Chairperson or acting Chairperson before the duty to be available to the Grains Council to respond to questions under section 15 arises.
8. The position with respect to the appointment of a new member is not so clear as, unlike the Chairperson, members are not conferred with specific powers or

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obligations. Our understanding is that the member whose term is due to expire is a member referred to in paragraph 6(1)(b) of the WM Act, being a member nominated by the Grains Council who was ordinarily resident, at the time of their appointment, in Western Australia or South Australia. Section 6 of the WM Act establishes a representative membership of the WEA by providing for 1 member nominated by the Grains Council who is ordinarily resident, at the time of appointment, in New South Wales, Victoria, Queensland or Tasmania and 1 member nominated by the Grains Council who is ordinarily resident, at the time of appointment, in Western Australia or South Australia.

9. We consider that this representative structure would be defeated if the Minister was not under an implied duty to appoint a member within a reasonable time. As such, we consider that the Minister is under an implied obligation to appoint a new member nominated by the Grains Council who is ordinarily resident, at the time of appointment, in Western Australia or South Australia.

Minister can make acting appointments

10. Pursuant to subsection 6(4) of the WM Act, the Minister may appoint a new Chairperson or member of the WEA. Alternatively, the Minister may choose to appoint a Chairperson or member on an interim basis pursuant to subsection 33(4) of the *Acts Interpretation Act 1901* (the Interpretation Act) which provides as follows:

(4) Where an Act confers upon any person or authority a power to make appointments to any office or place, the power shall, unless the contrary intention appears, be construed as including a power to appoint a person to act in the office or place until:

- (a) a person is appointed to the office or place, or
(b) the expiration of 12 months after the office or place was created or became vacant, as the case requires:

whichever first happens, and as also including a power to remove or suspend any person appointed, and to appoint another person temporarily in the place of any person so suspended or in place of any sick or absent holder of such office or place:

Provided that where the power of such person or authority to make any such appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, such power to make an appointment to act in an office or place or such power of removal shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority.

11. The effect of this subsection in the present case is that the Minister, who has power to appoint the Chairperson and other members of the WEA, also has the power to appoint an acting Chairperson or acting member for a period of up to 12 months. We note that with respect to the replacement of a member referred to in paragraph

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6(1)(b) of the WM Act, the relevant preconditions as to nomination must be satisfied even where the appointment is on an 'acting' basis. In this case, the new member would need to be nominated by the Grains Council and be ordinarily resident in Western Australia or South Australia.

12. Subsection 33(2) of the Interpretation Act provides for the holder of an office for the time being to possess all the powers and functions conferred upon that office. In other words, an acting Chairperson or member will be able to exercise all the powers and functions of a Chairperson or member appointed for the full 3 year term under subsection 6(4).

Decisions of the WEA not affected by vacancy

13. Subsection 6(6) of the WM Act states that the performance of functions and the exercise of powers by the WEA is not affected by any vacancy in its membership. This means that generally vacancies will have no effect on the performance of the WEA's functions including controlling the export of wheat pursuant to section 57 of the WM Act. Of course, a minimum number of members must be appointed and be present at a meeting in order to achieve a quorum pursuant to subsection 10(3) of the WM Act. In the present case, 3 members are required for a quorum, one of whom must be a member referred to in paragraph 6(1)(b).
14. If you have any queries in relation to this matter, please do not hesitate to contact us.

Yours sincerely

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Question: Food & Ag 28

Topic: Grain Council of Australia reimbursements

Hansard Page: 74

Senator O'Brien asked:

What reimbursements have been provided for meetings in 2004-05 to date?

Answer:

The Grains Council of Australia (GCA) invoice was authorised for payment by the Wheat Export Authority (WEA) on 13 September 2005. The invoice is for \$42,804.38 and will be paid within 7 days.

Question: Food & Ag 29

Topic: WEA International travel

Hansard Page: 74

Senator O'Brien asked:

It appears that in 2003-04 representatives of the WEA, members and/or staff travelled to Vietnam, New Zealand, China and Italy. I would like to know what the total cost of overseas travel in that financial year and the current financial year has been.

Answer:

The total cost of overseas travel in 2003-04 was \$125,749. No overseas travel has been undertaken or is planned in the current financial year.

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Question: Food & Ag 30

Topic: Cost to produce growers and ministers report

Hansard Page: 74

Senator O'Brien asked:

One of the authority's key functions is to prepare a report on AWBI's export performance that examines and reports on how growers benefit from that performance. You produced two reports, one for the minister and one for the growers. Can you tell me what it cost to produce the 2004 report to the minister and the 2004 growers report?

Answer:

The cost to produce the 2004 PMR report on the performance of Australian Wheat Board (International) (AWB(I)) for the Minister was \$2,745. One copy was provided to the Minister, and additional copies were provided to the Board of the Wheat Export Authority (WEA), the Board of AWB(I), AWB(I) Management and WEA file copies.

The cost to produce the 2004 Growers' Report on the performance of AWB(I) was \$25, 018, which provided 42,000 copies.

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Question: Food & Ag 31

Topic: WEA insurance contract

Hansard Page: 75

Senator O'Brien asked:

A final question which goes to the issue of accountability to wheat growers and the parliament: page 58 of your annual report says the WEA's insurance contract 'prohibits the disclosure of the amount of premiums payable by the authority'. I would have thought the growers that fund the organisation and therefore pay the bills and the parliament that authorise the compulsory collection of that funding would be entitled to know every last detail of your finances. Who do you insure with?

Mr Taylor—I am not sure of the basis of that statement, but I would be happy to take that on notice and get back to you, if that is okay.

Senator O'BRIEN—I would like to know who insures and what the premium is, because I believe that growers are entitled to know. Can you quantify the value of the benefit of the single desk to Australian wheat growers after five years in existence?

Answer:

The Wheat Export Authority (WEA) arranges its insurance through Comcover. Consistent with the provisions of the insurance contract with Comcover, the WEA has sought and received Comcover's approval to disclose that the WEA's insurance premium for the period 1 July 2004 to 30 June 2005, was \$37,722.27.

In relation to the second part of the question which refers to "the value of the benefit of the single desk to Australian wheat growers after five years in existence?" the answer to this part of the question was provided in the course of the hearing. Please refer to the Hansard transcript of Wednesday, 25 May 2005, page 75, lines 18-29.

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Question: Food & Ag 32

Topic: AWBI assessment of the single desk benefit

Hansard Page: 75

Senator O'Brien asked:

What parts had to be withdrawn? You are starting to get my curiosity up here. They were put out by—

Mr Besley—They put out some fact sheets, which we took a little bit of umbrage at. They accepted that it was reasonable for us to take umbrage. They withdrew it or they did not circulate it anymore.

CHAIR—You would not care to supply that to the committee, would you?

Mr Besley—I forget which one it was, frankly. I think it might have been headed 'Your single desk'.

Mr Taylor—There was a fact sheet associated with it.

Mr Besley—If they have not all been pulped, we can get you one.

Answer:

Australian Wheat Board published a number of Fact Sheets during 2004 with the "Your Single Desk" report.

Fact Sheet Number four was withdrawn following discussions between the Wheat Export Authority (WEA) and Australian Wheat Board (International) (AWB(I)) on the basis that some of the underlying assumptions and calculations were more relevant to a deregulated system than the current wheat export arrangements. In addition AWBI considered that container trade has had a detrimental impact upon the National Pool in some markets. The WEA was concerned the Fact Sheet implied that the impacts of a deregulated system applied to the current wheat export arrangements.

Copies of the fact sheets are attached.

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Question: Food & Ag 33

Topic: Buffalo slaughter levy

Hansard Page: 80

Senator O'Brien asked:

In 2004-05, the buffalo slaughter levy was forecast to be 20,000—that is on page 24 of last year's PBS. It is now estimated to be 5,000. How has that come about?

Ms Standen—I cannot give you any details on the changes in the buffalo slaughter levy. You are specifically asking why there has been a change in the estimates?

Senator O'BRIEN—Yes, why it has been reduced from 20,000 at the beginning of the financial year to an estimated 5,000 at the end of the—

Answer:

The 2004-05 estimate was revised based on the current trend in buffalo slaughter numbers. The decreasing slaughter rate is supported by the level of levy collections and confirmed by Levies Revenue Service regional managers.

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Question: Food & Ag 34

Topic: MLA and Austrade

Hansard Page: 80

Senator O'Brien asked:

So there are no joint programs; it is up to MLA to do the development?

Mr Mortimer—MLA raises funding through levies to do that sort of promotion and activity and the industry is comfortable that those activities are well targeted and effective and so they continue.

Senator O'BRIEN—Is Austrade involved at all, do you know?

Mr Mortimer—I cannot say specifically. My expectation is that MLA would be working with Austrade in different markets, but I cannot say with authority. If you like, I can take it on notice.

Answer:

Advice provided by Meat & Livestock Australia (MLA) is that Austrade works with MLA in a variety of ways in promoting Australia's meat exports. However, MLA as the industry service provider remains the principal program delivery agency.

Question: Food & Ag 35

Topic: Integrity of wine exports

Hansard Page: 81

Senator O'Brien asked:

I wanted to know if you can tell us what the sampling and testing regime is.

Answer:

The Australian Wine and Brandy Corporation (AWBC), an Australian Government statutory marketing authority, has responsibility for export regulation compliance.

An objective of the AWBC is to ensure that Australian wines intended for export are sound and merchantable and do not detract from the established reputation Australian wine exporters have developed. This is achieved by preventing the export of wines that have faults.

Before an exporter can export wine, the *Australian Wine and Brandy Corporation Regulations (1981)* require that the exporter must obtain an export licence. Export approval from the AWBC must be obtained for each export shipment of over 100 litres. An export approval is not issued for a product unless the exporter has obtained continuing approval for the product.

Continuing approval is granted after the wine has been examined by the AWBC. For bottled product continuing approval is granted for 12 months, wine in alternative packaging (including bulk wine) is approved for 3 months or 6 months in the case of fortified wine. The continuing approval means that a number of different consignments can be approved for export based on one assessment.

The process for obtaining continuing approval involves sending two finished samples to the AWBC, accompanied by copies of the labels. The wine undergoes several examinations.

The labelling and analytical detail provided is checked for compliance with domestic requirements. The assessment involves analysis of the specific gravity, alcohol, volatile acidity, titratable acid, sulphur dioxide, residual sugar and pH level. The analysis may be performed by the winery's own laboratory, the bottler, or at another laboratory.

The product is masked and presented to the Wine Inspectors for a sensory evaluation. Following the evaluation the inspectors must satisfy themselves that the wine reasonably reflects the grape varieties claimed on the label, that there is nothing on the label or certificate which is questionable in light of their evaluation, and may require a subsequent independent analysis if necessary. A wine may be rejected if, in the inspector's judgement, it is faulty. An exporter may resubmit the wine for a second evaluation by a different panel of inspectors. If the wine is rejected a second time a further avenue of appeal is available via a review panel consisting of yet another distinct panel of inspectors.

Question: 36

Topic: Insurance Premiums

Hansard Page: 76-77

Senator Heffernan asked:

How many other insurance instances are there where the premium is not disclosed around the traps? Is that uncommon, or common?

Answer:

Annual Report accountability arrangements, under the Commonwealth Authorities and Companies (Report of Operations) Orders, provide for disclosure of indemnities and insurance premiums for agency officers. However, the report of operations need not give details of the insurance coverage to the extent that disclosure of those details is prohibited by the insurance contract.

The Australian Government insurer, Comcover, has advised that it requires all clients to seek its written approval prior to publicly disclosing details regarding premiums and terms and conditions, of insurance contracts in order to protect their financial interests.

As such it is at the discretion of relevant agencies, in consultation with Comcover, to determine whether it is appropriate to specifically outline the detail of insurance premium costs within their annual reporting frameworks.