



## Submission

### Senate Rural and Regional Affairs and Transport References Committee – Iraq Wheat Debt Inquiry

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#### Glossary

- AWB** Pre 1999, refers to the Australian Wheat Board – after 1999 refers to AWB International, the company under the Wheat Marketing Act with the nominated exemption from controls placed over the export of wheat
- EFIC** Export Finance and Insurance Corporation
- GCA** Grains Council of Australia
- WAF** West Australian Farmers Federation
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#### The Grains Council of Australia

The Grains Council of Australia is an incorporated association registered in the ACT, with a membership consisting of 6 state farm organisations.

The policies of the GCA are developed from policy positions of its members and become the policies of the Grains Council as a result of discussion and consultation between the members.

GCA policies represent an agreement by its members to a 'national policy position', reached through consensus or via majority decisions.

The Grains Council has NO policy positions arrived at independently of the policy development process described above.

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#### History

The AWB exported wheat to Iraq between 1987 and 1990, the exports to this market accounted for approximately 11.7% of sales of all pool wheat across those 3 years.

At the time, the AWB was selling on credit, the sales to Iraq were insured with EFIC.

Our understanding of the insurance contracts is that the maximum insurable component of any exposure was 80% and a condition of the insurance was that the remaining 20% (or the uninsured component of the credit amount) was to be assigned to the insurer for possible recovery.

This effectively means that the uninsured portion of the credit risk was equivalent to an 'excess' in a standard insurance agreement.

When Iraq invaded Kuwait and the United Nations Security Council imposed sanctions on Iraq, the total credit exposure insured by AWB for sales to Iraq on credit was US\$480.4 million.

The AWB exercised its right to claim the sums it had insured; the claimable amount was US\$381.2 million. On payment of the claim, EFIC became the 'owner' of the balance of the payment default which was US\$99.2 million, as per the conditions of the credit insurance contract.

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At the time the sanctions were imposed, the Commonwealth Government purchased from the AWB a shipment of wheat that was on its way to Iraq, using this shipment as food aid for Egypt. The proceeds from this shipment went into the 1990 wheat sale pool.

The GCA sent a delegation to meet with then Prime Minister Hawke on 28 August 1990 to discuss possible compensation measures.

Following continual negotiation between the Commonwealth Government and the Grains Council, ex gratia payments were made to the grains industry via the AWB in October 1991 of \$31 030 103 for loss of gross profits on the sale of 350 000 T of wheat, increased costs due to alternative sales and losses on technical assistance programs.

This ex gratia payment was distributed to producers via the pools open at that time.

The Hansard record from 28 April 1992 notes a statement by Mr Crean that "The AWB accepted the payment (of the \$31 million) as full and final settlement with the Government for their losses".

At the time of settlement of this issue, in October 1991, GCA members agreed that the Government had discharged its legal obligations to industry in a 'full and final' manner.

Between 1991 and early 2004, the members of GCA discussed and kept a 'watching brief' on the economic and political situation in Iraq, with the specific interest on the possibility of recovery of the outstanding US\$99.2 million.

During this period, industry leaders and producers may not have been fully aware of the nature of the debt owed by Iraq and the fact that the AWB and its privatised successor AWB Ltd had no legal claim to any portion of the original \$480.4 million payment default.

This was because the Commonwealth became the owner of 100% debt US\$480.4 million) on payment of the claimable 80% (US\$381.2 million) of the insured amount, as laid out in the original insurance contract.

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## **Present Day**

With the second war in Iraq and the collapse of its economy, the Paris Club of creditor nations commenced discussions in early 2004 about ways of aiding post conflict reconstruction of Iraq. It was proposed that one way of aiding reconstruction was to provide debt relief. Australia, as a creditor to Iraq, was a party to this process.

In early May 2004, the Trade Ministers office and representatives of AWB raised the issue of a possible plan to participate in a debt forgiveness program as part of the Paris club process with representatives from the GCA.

The GCA President, Keith Perrett wrote to the Prime Minister on May 17<sup>th</sup> 2004, notifying him of the decision, after discussions with GCA members, of their "...acceptance of the inevitability..." of a decision to provide debt relief to Iraq, considering their crippling debt burden. The letter also noted that a public announcement to grant debt relief to Iraq may cause 'significant concerns' for some grain producers. (See Attachment 1)

The policy communicated to the Prime Minister was a unanimous decision taken by members of GCA and was in line with the policy of GCA decided by its members in 1991 to accept that the governments ex gratia payment to the industry represented 'full and final' settlement of the compensation issue.

This indicated that GCA had not changed its policy position from 1992.

On June 1<sup>st</sup> 2004, GCA President wrote to the Trade Minister Mark Valie advising him of the unanimous support of the members of GCA for the governments publicly announced in-principal support for allocation of funding to a grain processing facility in Iraq. (See Attachment 2)

GCA issued a press release on June 2<sup>nd</sup> 2004, supporting the announcement made by Minister Valie. (See Attachment 3)

The matter of Iraq, the proposed Paris Club debt relief process and the Commonwealths in-principal support for funding the establishment of a grain processing facility in Iraq were discussed internally at GCA Council meetings on May 24<sup>th</sup>, July 15<sup>th</sup>, August 25<sup>th</sup>, October 13<sup>th</sup> and December 8<sup>th</sup>.

At each meeting possible changes to the policy of GCA were raised by representatives from WAFarmers. Following discussions the members of GCA decided not to change their policy in a manner determined in line with the GCA constitution.

The policy of GCA, that the ex gratia payments made in 1992 discharged the Commonwealths obligations in a full and final manner has thus not changed since it was originally set in 1992.

The December 8<sup>th</sup> meeting of the GCA Council took place after the announcement of the Paris Club agreement to institute a process that would, if it were fully implemented, see the eventual forgiveness of up to 80% of the current foreign debt owed by Iraq of over US\$150 billion.

As a result of a decision taken at that meeting, the President of the GCA wrote to the Prime Minister seeking an undertaking from the Commonwealth that, should any monies be recovered from Iraq that would be considered part of the uninsured component of the original payment default, initial disbursement of funds be made proportionally to producers who delivered wheat into the pools impacted.

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## **Conclusion**

Unfortunately much of the controversy surrounding the 'Iraq Debt' matter stems from;

- An historic misunderstanding of the original nature of the original EFIC and National Interest Account credit insurance cover and the related settlement procedures.
- A misunderstanding of the full nature of the contractual obligations between the AWB and individual producers, particularly relating to the 'ownership' of grain once part pool payment has been received by producers and relevant matters relating to individual or group credit risk via the pooling mechanism.
- Potentially misleading statements made by representatives of AWB in correspondence to producers or producer groups relating to possible recovery of default payment and potential reimbursement of producers.
- Some poor communication between AWB and the Grains Council and its members.
- Intentional misrepresentation of the actual facts of the payment defaults by individuals for political or personal reasons, particularly in the lead up to the 2004 federal election.

It is regrettable that this issue has been and continues to be a matter dispute and division in the grains industry.

GCA has, where possible, attempted to set the record straight by pointing out factual errors in much of what has passed for 'public debate' relating to this issue.

Unfortunately, several agendas have been running that has kept this issue 'alive'.

The original policy of the GCA communicated publicly in 1992 has, while being the subject of debate during 2004, not changed.

17 May 2004

The Hon John Howard MP  
Prime Minister  
Parliament House  
CANBERRA ACT 2600

Dear Prime Minister

### **Iraq Wheat Debt**

I am writing to you with regard to the Iraq Wheat Debt and the expected announcement by the Federal Government of a decision to grant substantial debt reduction to Iraq.

The Grains Council of Australia understands the Federal Government's desire to finalise this issue, dating as it does from mid 1990 and accepts the inevitability of the Government's decision to grant debt relief.

However, a final announcement of the decision not to pursue this debt will cause significant concerns for many grain producers still owed money from the pools affected by the United Nations decision to impose sanctions in 1990.

There is an expectation on the part of many producers that eventually the outstanding debts would be repaid.

A decision to grant debt relief at this time could cause significant angst.

If the government were to provide in-principal support for the establishment of grain handling and processing infrastructure in Iraq and enhanced market development activities in the Middle East, I am sure the majority of Australian grain producers would see the potential and benefit in such initiatives.

Initiatives of this type will be aiding both the Iraqi people and Australian grain producers, by enhancing the possibility of increasing technology transfer from Australia, a measure wholeheartedly supported by the Grains Council. This will ensure that Australia will continue to have a significant presence in the important Middle East market.

Yours sincerely,



**KEITH PERRETT**  
**PRESIDENT**



Hon. Mark Vaile  
Minister for Trade  
Parliament House  
Canberra ACT 2600

Dear Minister

I am writing to formally advise you of the support of Grains Council and its five state members for the Federal Government proposals to extend debt forgiveness to Iraq and in-principle commitment to help fund a Grains Facility in Iraq.

While all of the five organisations affiliated to the Grains Council, AgForce Grains, NSW Farmers, VFF Grains, SAFF Grains and WAFF, expressed some concerns over the debt forgiveness issue, all of the organisations mentioned understand the inevitability of the situation faced by the government and industry.

We note that the proposals to forgive debt will not impact on the current outstanding debt owed to the wheat pools. We are comforted by the government's assurances that it will continue to pursue any portion of the debt that is not forgiven.

With regard to the proposed grain facility in Iraq, there is unanimous support for the investment that has been given in-principal support by the government.

We urge the government to continue with this project, as it will be a major contribution to the future stability of the important Iraq grain market.

It is the view of the Grains Council and its five state affiliates that this initiative brings to a close any further discussions regarding the Federal government's liabilities for outstanding debts resulting from the imposition of United Nations sanctions in 1991.

We thank you for the consultation and the open and frank manner in which these issues have been progressed and for your personal involvement and that of your dedicated staff.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Keith Perrett". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Keith Perrett

President

Tuesday, 1 June 2004

# NEWS RELEASE

Released Wednesday 2 June 2004



## Grains Council Welcomes Iraq Initiative

Grains Council of Australia President Keith Perrett welcomed the announcement by the Federal Government of an in-principle commitment to help fund a Grains Facility in Iraq. This commitment is worth approx. A \$ 20m.

'The announcement of the support for this facility by the government is a major win for the Australian grains industry' said Mr. Perrett.

'Iraq has been an important wheat market for Australia for over 50 years. Australia has built a strong partnership with the people of Iraq through our trade links and the support for the grain processing facility that has just been announced strengthens these ties'.

The proposed investment in Iraq will be modelled after the successful Australian operated Five Star milling facility in Egypt.

'Investing in processing in the wheat value chain in important markets like Iraq is an investment in future market access for Australian wheat' said Mr. Perrett. 'It also allows us to build stronger relationships with key individuals in these markets, which is a very important aspect of marketing grain'.

'This initiative is in line with the recently released Single Vision 2005 – 2025 industry strategy, that says very clearly that the Australian industry must make off shore strategic investments'.

Following extensive consultation, the Government and Industry (Grains Council of Australia and its affiliates AgForce Grains, NSW Farmers, VFF Grains, SAFF Grains and WAFF and AWB Ltd) considers the interests of wheat growers are best served by accepting the inevitability of debt forgiveness and concentrating on the future Iraqi wheat market.

Mr. Perrett acknowledged and sympathised with the disappointment that will be felt by some grain producers over the debt forgiveness decision.

"Grains Council and AWB Ltd have worked hard over the last decade to try and bring some resolution to the debt issue".

"We have to understand the difficult position the government and industry has been put in by the collapse of the Iraq economy. Iraq owes its global creditors over US \$150 billion and debt relief is essential if the country is going to get back on its feet".

"It's doubly important for Australian wheat producers that the Iraqi economy recovers, as it is an important market for our wheat exports."

"The decision on how much debt is to be forgiven has yet to be made. However the government has assured us they will continue to pursue the un-forgiven portion and we hope that over time this money can be repaid".

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**Mr. Keith Perrett**  
President  
M: 0419 990 943

**Mr. David Ginns**  
Director  
02 6273 3000  
0409 465 056

IN CONFIDENCE



The Hon John Howard  
Prime Minister  
House of Representatives  
Parliament House  
Canberra ACT 2600

Dear Prime Minister

### **Iraq Wheat Payment Defaults**

As you are aware, the matter of the defaulted payments for wheat shipments to Iraq in the late 1980's and 1990's is still a matter of concern for many wheat producers, in particular for members of the Western Australian Farmers Federation Grain Section.

Since we last wrote to you on 17 May 2004, the matter of the outstanding 20% of the defaulted payments to the then Australian Wheat Board gained a considerable amount of media attention in the lead up to the federal election, particularly in Western Australia.

This attention has been reignited by the announcement of Australia's agreement, as part of the Paris Club creditor group, to participate in the debt reduction scheme announced on 21 November 2004.

At its meeting on 15 July 2004, the Council of the GCA passed the following resolution, to be passed on to government once the Paris Club process had been completed.

*Grains Council of Australia continue its efforts to negotiate with Government, and, once a Paris Club agreement has been reached, ensure that any monies recovered from Iraq wheat contract default payments are disbursed to industry first and that all avenues to recover monies are pursued.*

This resolution was supported by GCA members from Queensland, New South Wales, Victoria and South Australia, but was opposed by Western Australia.

The resolution seeks from the government an agreement that;

- a) After the agreed (Paris Club) grace period of 6 years<sup>1</sup>, the government pursue all avenues to recover the residual debt owed to Australia by the Iraqi government.
- b) Any monies recovered after the grace period of 6 years has elapsed and the recovery period has commenced, be disbursed back to industry (and on to producers) first.

Members of the Grains Council understand that individual wheat producers are not direct creditors and that the contracts that were defaulted on were held by the then Australian Wheat Board on behalf of the pools.

We also understand that individual wheat producers have, as a result of the fact they are not individual creditors, no legal recourse to recover default payments from Iraq. However, as participants in the pools that were effected by the defaulted contracts, individual producers do have a legitimate complaint that they have collectively suffered some degree of financial loss.

Of the three wheat pools impacted, 11.7% of the wheat from these pools was sold to Iraq. As you are aware, the then Australian Wheat Board insured its credit risk with EFIC<sup>2</sup>. In 1992 a claim on this insurance was paid out, equivalent to 80% of the total amount of the defaults.

The residual 20% (US\$98 million) stayed on the AWB International books as a written down liability and carried forward to April 2004, when it was transferred to EFIC by AWB International<sup>3</sup>.

The direct loss to participants in the pools was approximately US\$2.50/T. The following figures provide an analysis of the financial impact per state<sup>4</sup>.

State	%	\$US value without interest
Western Australia	37	36.27
New South Wales	21	20.82
Victoria	14	13.91
South Australia	16	15.93
Queensland	11	11.21

The Government will be sending a strong signal to wheat producers that it is cognisant of the concerns that exist over this matter if an agreement is reached to make initial disbursement of any monies recovered to producers as a priority.

We also want to take this opportunity to reinforce our members strong in principal support for the proposed milling and grain technology cooperative investment in Iraq. This is an extremely positive initiative and we are looking forward to working closely with the government on this matter.

Yours sincerely



Keith Perrett  
President – Grains Council of Australia  
Thursday, 9<sup>th</sup> December 2004

Cc. Deputy Prime Minister, The Hon John Anderson, Minister for Trade, The Hon. Mark Valie and Minister for Agriculture, The Hon. Warren Truss.

<sup>1</sup> It is acknowledged that the 'grace period' of 6 years is dependent upon the implementation of an IMF recovery plan and a successful review of that plan after 3 years, as defined in the Paris Club agreement.

<sup>2</sup> This insurance cover was topped up with National Interest insurance, approved by Cabinet.

<sup>3</sup> We understand this was a requirement of the original insurance contract.

<sup>4</sup> Information extracted from a background briefing document prepared by Senator Ferris (SA) June 2004.