

AWB Limited

Submission to

*Senate Rural and Regional Affairs and Transport
References Committee*

Inquiry into

*'compensation arrangements after the writing off
of the Iraqi wheat debt'.*

Introduction

The Australian Wheat Board

The Australian Wheat Board operated as a statutory marketing authority under the Wheat Marketing Act 1989 with the sole licence to export wheat. It was grower financed with all profits distributed to growers. Borrowings were underwritten by the Australian Government.

The Australian Wheat Board reported and was accountable to the Minister for Primary Industries and Energy.

Corporatisation of the Australian Wheat Board

In 1989, the Government established the Wheat Industry Fund, imposing compulsory levies on wheat sales. This fund was held and managed by the Australian Wheat Board and by July 1999 was approximately \$600 million.

In 1992 the Commonwealth Government, with bipartisan support, decided to cease the Government guarantees on borrowings, and therefore an alternative structure was required to finance borrowings. Four years later the Minister for Primary Industries and Energy, John Anderson, indicated that the statutory arrangements could not continue and that growers would be responsible for their own financing from July 1999.

A Working Group was subsequently formed to facilitate growers' input into the restructuring process, with representation through the Grains Council of Australia, AWB and the Department of Primary industries and Energy. After detailed examination the Working Group agreed that the best model for the new AWB would be a dual-class share structure, called the "Grower Corporate Model". The Government's broad agreement to the new recommended structure was announced in April 1997.

In June 1998 the assets and liability of the statutory authority (other than the Wheat Industry Fund) were transferred to AWB and AWBI, then wholly owned subsidiaries of the statutory authority.

In July 1999, the Wheat Industry Fund was transferred to AWB and B Class shares were issued to the holders of units in that fund, A Class Shares were issued to persons who met the definition of "growers" in AWB's constitution. Upon the issue of these A Class and B Class shares, AWB became a grower-owned and controlled corporation.

AWBI is the successor in title to the Australian Wheat Board's rights and obligations concerning the contracting and invoices during the period affected by trade sanctions.

In August 2001, AWB was publicly floated with B-Class shares listed on the Australian Stock Exchange.

AWB (International) Limited and the National Pool

AWB (International) Limited (AWBI) is a wholly owned subsidiary of AWB Limited which manages the AWB National Pool as a requirement of the AWB constitution and the *Wheat Marketing Act 1989*. It is responsible for maximising returns to growers who deliver to the Pool.

AWBI is the vehicle through which the Single Desk system for wheat marketing operates. AWBI disburses to growers all the revenue it receives from the wheat sales made through the National Pool.

Integrated marketing services are provided by AWB to AWBI for a fee under a commercial services agreement approved by the boards of both companies.

A pool is a system by which grain is acquired, managed, marketed and accounted for separately according to its specified quality and variety for the purposes of sale.

Wheat pools give growers the ability to aggregate their production with that of other growers, to provide a more consistent quality supply to customers and to facilitate consistent market access and more stable returns.

AWB International Limited is the only entity in Australia that may export bulk export overseas without the approval of the Wheat Export Authority under the terms of the Wheat Marketing Act (1989). This operation is commonly referred to as the Single Desk system.

This role comes with the obligation to accept all wheat delivered to it, thereby providing a guaranteed buyer to growers.

AWB(I) has a constitutional mandate to maximise net returns to growers.

Wheat Exports to Iraq

Australia has supplied high quality wheat to Iraq for more than fifty years. At the time of the imposition of sanctions, Iraq was Australia's largest grain customer, representing approximately 12% of Australia's wheat exports. Iraq's preference for Australian wheat was reflected in a succession of long term agreements. Between October 1990 - September 1991 year, the Australian Wheat Board had intended to supply the Iraqis with a total of 1.8 million tonnes.

The value of the Iraq wheat market at the time was underscored by international wheat prices weakened by high world production, adequate supplies held by customers, the strong Australian dollar and the US and EU subsidising low value sales.

United Nations Sanctions

In 1990, under instruction from the United Nations, trade sanctions were imposed on Iraq and all international funds and assets were seized.

This affected wheat sales made to Iraq over three wheat pools, 1987/88, 1988/89 and 1989/90 ("affected pools"), to the value of US\$480.4 million. The fact that three pools were affected reflects both the length over which pooled wheat is marketed (between 12 to 18 months) and that sales to Iraq were made on repayment terms of up to two years. These credit terms were necessary for Australian companies to compete in global markets distorted by the export credit programs provided by the governments of the United States and Europe.

Export Finance and Insurance Corporation (EFIC)

The Australian Wheat Board submitted annually to EFIC, and subsequently to Government Departments, requests by country for National Interest cover.

AWB's policy was to first seek to obtain commercial insurance cover. However, the commercial credit insurance market was not large enough, nor regular enough to meet the entire commercial needs of AWB, making National Interest cover crucial to continuing sales in specific markets.

The commercial credit insurance markets were not always able to accommodate the credit contract terms of international wheat sales due to the length of payment terms required by some customers and the high value of many contracts. Cover provided by the Government was therefore instrumental in the marketing of Australian wheat.

Insurance coverage for contracts into approved markets ranged from between seventy and eighty percent, depending on contract size and market conditions. Sales of Australian wheat to Iraq were thus insured and upon default, were entitled to claim either 70% - 80% of the value of sales. Insurance coverage was made available for a number of countries on an annual basis. Claims against shipments to these countries were rare. Commercial insurance cover was not sought on the residual amount due to the prohibitive cost of financing such cover relative to the benefit provided.

Between February 1991 and December 1992, claims were paid to the Australian Wheat Board by EFIC, under the Comprehensive Shipments Policy for unpaid invoices from Iraq totalling US\$480.4 million. This included a small quantity of rice, which was exported to Iraq, upon request from the Rice Growers Association, who sought access to the Iraq market but did not have EFIC cover .

EFIC paid a total of US\$ 381.2 million in accordance with the terms of the Policy, representing between 70%-80% of each invoice. This was distributed in full to participants of the affected pools.

Growers were advised of the status of the claim through the publication of annual Pool Realisation Statements and media releases issued at the time.

In accordance with its legal obligation under the Policy, AWB assigned its rights to the total debt to EFIC to enable participation and debt recovery through the Paris Club. AWB was informed by EFIC that the Paris Club, which involved all G7 governments and disciplines of IMF, was the best forum in which to maximise recoveries for Australian wheat growers.

Under the Policy, when AWB assigned the total debt to EFIC, AWB undertook to do everything EFIC reasonably asked in any recovery action it may take. AWBI requested EFIC to use its best endeavours to rigorously pursue recovery of the remaining debt, so that wheat growers could be recompensed.

Despite EFIC now owning the total debt, in accordance with the Policy, AWBI retains the right to receive pro rata payments of any amounts recovered by EFIC concerning the debt.

Payments to Growers

Growers who participated in the affected pools will be paid their share of any monies recovered by EFIC and passed onto AWB, whenever they are received.

It is recognised that the nature of some farm business structures and grower details will have changed since the debts were established and a process will be established to analyse these once a resolution to the debt issue is reached. It is believed this process could be difficult, potentially costly and time consuming.

AWB has retained records of growers who delivered to the affected pools. Upon individual request, AWB has supplied details to growers of tonnes delivered to the affected pools.

	87/88	88/89	89/90	Total
Receival tonnes Million	10.7	12.9	12.9	36.6
Debt outstanding US\$ Million	3.8	41.6	52.1	98.1
Debt outstanding US\$/tonne	0.36	3.21	4.06	2.68 (average)

Ex-gratia payment

On the day that the export prohibition was enforced, the Australian Wheat Board had existing contracts with Iraq which could no longer be executed. As a consequence, AWB was forced to sell substantial quantities of wheat, which had been held for Iraq, in a world market which was severely affected by US and EC subsidies (Iraq was expected to purchase up to 2 million tonnes of wheat during the 1989-90 year).

In October 1991, the Federal Government made ex gratia payments of A\$32.9 million, compensating the grains industry for direct losses for existing contracts arising from the imposition of the UN trade sanctions and compensation for the opportunity cost of lost sales revenue.

These funds were paid in full to the National Pool and distributed to growers.

Closure of Pools

Affected pools were closed to avoid the substantial administrative cost of keeping the pools open for an unspecified period. While debts were effectively written off, records of grower entitlements were maintained and the capacity retained to make further payments to growers holding equity in the pools, in the event that monies were recovered.

It was stated in the Pool Realisation Statements for each of the three seasons' pools, 'Due to the continuing UN sanctions, repayment from Iraq is still uncertain. The pool is therefore being closed excluding the Iraq debt repayments. However, a record of growers' entitlements in the pool will be maintained for at least three years and any payments from Iraq received during that time will be paid to the growers concerned. At the end of a three year period, a decision will be made regarding the future treatment of any of the debt still outstanding.'

AWB has subsequently retained the record of the debt, including the records of growers' delivery details and tonnages in the relevant seasons' polls for the purpose of determining their potential share of any future proceeds from the uncollected debts.

Trade with Iraq

From 1992 to 2004, AWB has exported approximately 12.5 million tonnes into Iraq, under the United Nations' Oil for Food Program, to an approximate value of US\$2.2 billion.

Iraq continues to be an extremely important market for the Australian wheat industry. Since March 2004, AWB has sold, on behalf of growers, 1.5 million tonnes.

Australia faces strong competition from other wheat exporting countries in the Iraq market, in particular the United States of America, whose companies have sold an estimated 560,000 tonnes.

AWB position on the retirement of debt to Iraq

With a constitutional mandate to maximise net returns to growers, AWBI's first preference has been for Iraq to repay the debt in full.

However, given the indebtedness of Iraq, AWBI is realistic about the likelihood of recovering the full debt and understands the Federal Government's decision to retire a portion of debt owed to Australia.

AWBI has been insistent that any funds recovered by EFIC be returned to growers on a pro-rata basis.

The Iraqi Grains Board, who has acknowledged the debt owed to Australian wheat growers, has expressed gratitude at the decision to retire a portion of Iraq's debt with Australia, in line with actions of other wheat exporting countries, such as the United States, Canada, Russia and France.

AWBI believes it can best assist growers through focusing on the long term viability of Iraq as a market for Australian wheat.

To this end, AWBI supports the Federal Government's announcement to commit, in principle, \$20 million to an integrated grains processing facility in Iraq, subject to feasibility.

The Integrated Grains Processing Facility was proposed by the Australian Advisory Team in Iraq, who identified the deficiencies in the food process sector. Grain is the main staple in Iraq and a grain processing facility is the best way to ensure an adequate food supply. Iraq is deficient in storage, handling, testing and processing practices, which undermines the amount that can be extracted from local and imported grains.

It is proposed the facility will educate and train the grain processing industry on the importance of the highest grain and flour standards, thereby reinforcing demand in Iraq for high quality wheat, such as that provided by Australia.

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