



**SUBMISSION NO. 3  
Wheat Export Marketing  
Amendment Bill 2012**



**SELECT COMMITTEE ON THE GRAIN HANDLING INDUSTRY**

13 April 2012

Committee Secretariat  
House Standing Committee on Agriculture, Resources, Fisheries and Forestry  
Parliament House  
Canberra  
ACT 2600

**Submission**

**Wheat Export Marketing Amendment Bill 2012**

**INTRODUCTION**

This submission is from the Parliamentary Select Committee into the Grain Handling Industry that was appointed in March 2011 by the South Australian House of Assembly to inquire into various aspects of the grain industry. The grain industry is the largest export industry for South Australia and far outweighs the resources and manufacturing sectors in terms of export dollars. The appointment of the Select Committee was prompted by difficulties encountered in the management of the 2010/11 harvest.

The Select Committee is still to conclude its inquiry and has not, as yet, settled on specific recommendations to submit to the South Australian Parliament. The overall objective is to ensure the legislative and administrative processes governing the industry within South Australia will provide the basis for a successful wheat industry that can continue to be an essential part of the State's social and economic well-being.

The principles that underpin deregulation of wheat export markets are generally supported by the Select Committee and evidence received to date indicates that recent reforms have the potential to establish the basis for a viable and sustainable industry.

**SPECIFIC COMMENTS ON THE BILL**

**1. Abolition of Wheat Exports Australia (WEA)**

It is noted that the intention of the legislation is to abolish WEA and post September 2014 to replace the access tests currently administered by WEA with a non-prescribed voluntary industry code of conduct covering access to grain export terminals. Once the code is in place all aspects of the industry are to be administered under general competition law by the ACCC.

The Select Committee has concerns with these proposals.

It is accepted that the role of WEA needs to be changed to effectively deal with the next stage of deregulation and a rapidly changing industry. The arguments in favour of concentrating expertise in competition policy within one agency are logical. Nevertheless, the Select Committee's view is that the wheat industry is of such importance to Australia that it warrants the attention of an agency that concentrates on issues specific to the industry. It would be preferable to retain an authority that is recognised as the central point of contact, particularly during the next two years when the process of transition to a fully deregulated environment will continue. The current proposals as outlined in the Amendment Bill establish the basis for administration to be carried out by the Secretary of the Department of Agriculture, Fisheries and Forestry with the ACCC administering the application of general competition law.

The Select Committee notes that these proposals put the wheat industry on similar footing as applies to other primary industries. However, the Select Committee believes that the Bill does not recognise the importance of the wheat export industry and the need for timely decisions and appropriate arrangements. Nor does it ensure there is a recognised authority responsible for efficient resolution of problems to support the industry during a further period of change. There is a cost associated with retaining a separate authority such as the WEA but that cost would be minimal, in the scheme of things, while continuing to provide benefits that will improve the productivity of the industry. A revised WEA could sit administratively within the main Department and report to an independent Board of industry experts with the capacity to quickly respond to issues. The Select Committee believes that the industry would welcome the retention of a revised or reformed WEA and would recognise that agency as responsible for dealing with industry specific issues.

What has become clear to the Select Committee is that deregulation has established a basis for rapid change and this will result in major changes to infrastructure and support services that are essential for an efficient wheat industry. In South Australia we have already witnessed significant changes in ownership of key infrastructure. Much of the existing infrastructure is nearing obsolescence and the industry will need to work closely with Governments at all levels to facilitate the planning and construction of new infrastructure. This will place pressure on communities and involve careful planning for change. The WEA in its present form has been successful in seeing the implementation of the early stages of deregulation and it makes sense to continue with a similar body that has the experience and knowledge to facilitate the next phase of deregulation. There would obviously be a need to change the objectives and powers of a reformed WEA to manage the next phase.

Essentially, the Select Committee does not believe the transition to deregulation has been completed, as evidenced by the proposals in the Wheat Export Marketing Amendment Bill, and it is the view of the Select Committee that the WEA is a knowledgeable agency that has the capacity to play a valuable role in completing the move to a deregulated industry.

## **2. Access to port facilities**

The issue of access to port facilities, and access to rail services, are consistent themes encountered by the Select Committee. It has been difficult to establish the veracity of claims that have been made to the Select Committee with regard to access to facilities that are controlled by the major players in the industry. The claims appear to be in direct contravention of the formal "rules" and this leaves the Select Committee wondering about the effectiveness of the responsible agencies in enforcing compliance with approved access regimes.

The Bill as currently drafted proposes replacement of access tests established through a rigorous process involving the ACCC and WEA with a non-prescribed voluntary industry code of conduct. In our view this is a very weak form of control and simply sweeps the issue under the carpet. It removes any rigour and transparency and sets up a situation that will

become nothing more than a bureaucratic process. If the Commonwealth insists on a voluntary code of conduct then it should include provisions in the legislation prescribing the issues to be covered in the code. This would then give the Parliament the opportunity to endorse the principles to underpin what is a central issue for the wheat export industry. The proposed arrangements as evidenced in the draft legislation place too much authority with the bureaucracy to set the boundaries. This matter is of such importance that it warrants Parliament to establish the principles in legislation. It is also important to include strong commercial incentives in the legislation to encourage compliance such as tying compliance to the licence to export.

The issue of port access is a central consideration for the wheat industry. Based on evidence so far heard, it is the view of the Select Committee that a dedicated, experienced agency, such as the WEA, with responsibility for the administration of port access arrangements is required. Furthermore, the development and administration of a voluntary code of conduct could be assigned to a revamped WEA.

### **3. Foreign ownership of infrastructure**

This is not an issue that is directly related to the Bill that is currently under consideration. However, recent changes in South Australia in particular have raised concerns in the minds of some farmers who have given evidence to the Select Committee. There is a sense of unrest in those sections of the farming community who view these changes as loss of control and fear exploitation. These are not views endorsed by the Select Committee but nevertheless they are views that need to be acknowledged. The Select Committee recognises that Australia benefits from international investment. The value of the assets, the stability of our economy and general reliability and skills of farmers, all combine to ensure there is a strong future for the industry. The presence of major international companies confirms the confidence in the Australian wheat industry.

There is, however, a need to be able to respond to those who are concerned about foreign "takeovers" and to point to specific legislation and formal approvals that must be met by foreign companies entering the industry. The Bill before your Committee may therefore benefit from a specific reference to the legislative controls that deal with foreign investment in Australian companies.

### **SUMMARY**

The Select Committee welcomes the opportunity to comment on the Bill that is before the House of Representatives. At this stage we have not finalised our review of the wheat industry in South Australia. However, the evidence before us indicates there is widespread support for the continuation of Wheat Exports Australia.

The Select Committee recognises change to a deregulated market is still in progress and the Bill is simply the next stage of deregulation. Nevertheless, our view is that the management of that next stage would benefit from the presence of a revised WEA that becomes a central reference point for the industry as it goes through the introduction of the changes contained in the Bill. Also, we are not convinced that the proposed legislation provides sufficient control of access to port facilities and services.

**GEOFF BROCK MP  
CHAIRMAN  
SELECT COMMITTEE ON THE GRAIN HANDLING INDUSTRY**