



Appendix C – Code of Conduct Committee documents



GRAIN TRADE AUSTRALIA

Code of Conduct Development Committee

To oversee the process, a Code Development Committee (CDC) will be established and report to the Minister for Agriculture, Fisheries and Forestry. All major stakeholders will be represented on the Committee.

The CDC will be convened by an independent chairman, who will be an individual of significant standing in the Australian grain industry and accepted by members of the CDC to be independent of commercial conflict for the purpose of the Code.

Membership of the CDC will comprise representatives of key stakeholders, and include nominees appointed on behalf of the following organisations:

- Established port owners;
- Major users;
- Production sector;
- Industry sector.

Representatives of Department of Agriculture, Fisheries and Forestry (DAFF) and the Australian Competition and Consumer Commission (ACCC) may attend Committee meetings as observers and provide advice where necessary.

The CDC will be required to consult widely and undertake a thorough examination of the issues by stakeholders in formulating the Code, which will be release for public prior to finalization.



Name	Company	Representing
Tom Keene	GTA	Chairman
Chris Aucote	Bunge	AGEA
Mitch Morison	Cargill	AGEA
David Mattiske	Glencore	AGEA
Paul Scott	CBH	CBH
Richard Codling	CBH	CBH
Caroline Rhodes	Viterra	Viterra
Neil Johns	GrainCorp	GrainCorp
Andrew Weidemann	GPA	GPA
Pete Mailer	GPA	GPA
Paula Fitzgerald	GGL	NFF
Geoff Honey	GTA	Industry
John Warda	Emerald	Emerald
Peter Ottersen	DAFF	Observer
Des Naughton	DAFF	Observer
Roxy Auld	DAFF	Observer
Lyn Camilleri	ACCC	Observer
Richard Weksler	ACCC	Observer
Kim Parker	ACCC	Observer
Ben Smith-Stubbs	Minister's Office	Observer
Rosemary Richards	AGEA	Observer
Sean Flanery	GTA	Secretariat



GRAIN TRADE AUSTRALIA

Tuesday 3 April 2012

MEDIA RELEASE

PORT ACCESS VOLUNTARY CODE OF CONDUCT

In accordance with the recommendations contained in the Productivity Commission Report into Wheat Export Marketing Arrangements, the requirement for port terminal operators to pass an Access Test as a condition for exporting bulk wheat requirement will cease on 30 September 2014.

The legislation to enable these changes has been introduced by the Australian Government and will transition the wheat export market to full deregulation.

From 1 October 2014, access to port terminal services will be governed by a voluntary industry code of conduct (the Code) and general competition law, subject to the Code meeting legislative requirements and the approval of the Australian Government. Recognising the need to coordinate industry to develop a Code, Grain Trade Australia (GTA) in its capacity as the secretariat, has formed an industry driven Code Development Committee (CDC).

The CDC consists of established port owner/operators, Australian Grain Exporters Association (AGEA), Grain Producers Australia (GPA), National Farmers' Federation (NFF) and Grain Trade Australia (GTA). Mr Tom Keene, the GTA Chairman, has been appointed as the Chairman of the CDC.

The CDC will develop a non-prescribed voluntary code of conduct for port terminal access for the export of bulk wheat and will report directly to the Minister for Agriculture, Fisheries and Forestry the Hon. Joe Ludwig.

Mr Keene commented that, "The successful implementation of the Code will require the participation of infrastructure owners which will ensure coverage of all bulk grain export terminals in Australia in meeting the Codes objectives."

The CDC will undertake a thorough examination of all the issues in relation to the current port access requirements and will liaise closely with key stakeholders, Department of Agriculture, Fisheries and Forestry (DAFF) and the Australian Competition and Consumer Commission (ACCC) throughout the development process.

"The Code must remain consistent with ACCC guidelines for developing effective voluntary codes of conduct and include continuous disclosure rules." Mr Keene further noted that "The Code will ensure that Australian grain producers will enjoy maximum competition with exporters enjoying the surety of access to port facilities."

Further information:

Geoff Honey – Grain Trade Australia, 02 9235 2155

Grain Trade Australia develops the grain standards and contracts that are used across the Australian grain industry and has over 250 member organisations ranging from regional family businesses to large national and international trading/storage and handling companies.

Members operate within all sectors of the grain industry in Australia. Organisations involved in related commercial activities such as banking, communications, grain advisory services and professional services (solicitors and accountants) are also members.

Terms of Reference
CODE DEVELOPMENT COMMITTEE
Relating to the
PORT ACCESS VOLUNTARY CODE OF CONDUCT
For
AUSTRALIAN BULK WHEAT SHIPMENTS

The Australian Government has announced its policy intent to transition the wheat export market to full deregulation, in accordance with amendments to the *Wheat Export Marketing Act 2008* to be introduced to Parliament in 2012. From 1 October 2014, the market will be fully deregulated and access to port terminal services will be governed by a voluntary industry code of conduct (the Code) and general competition law.

To oversee this process, a Code Development Committee (the CDC) will be established and report to the Minister for Agriculture, Fisheries and Forestry (the Minister). All major stakeholders will be represented on the Committee.

The CDC will be convened by an Independent Chairman, who will be an individual of significant standing in the Australian grains industry and accepted by members of the CDC to be independent of commercial conflict for the purpose of the Code.

Membership of the CDC will comprise representatives of key stakeholders, and include nominees appointed on behalf of the following organisations:

- Established port owners - CBH, GrainCorp, Viterra and ABA (Emerald). (4 nominations)
- Major users - Australian Grain Exporters Association (AGEA) (3 nominations)
- Production - Grain Producers Australia (GPA) (1 nomination)
- Production - National Farmers' Federation (NFF) (1 nomination), and
- Industry - Grain Trade Australia (GTA) (1 nomination).

Representatives of Department of Agriculture, Fisheries and Forestry (DAFF) and the Australian Competition and Consumer Commission (ACCC) may attend Committee meetings as observers and provide advice where necessary.

The CDC will be required to consult widely and undertake a thorough examination of the issues raised by stakeholders in formulating the Code, which will be released for public comment prior to finalisation. All submissions will be made publicly available on the GTA website.

The CDC is required to commence its work by 22 February 2012 and report to the Minister for Agriculture, Fisheries and Forestry no later than June 2012.

Context

The *Wheat Export Marketing Act 2008* establishes an 'Access Test' relating to the provision of port terminal services to accredited bulk wheat exporters. The requirement for port terminal operators to pass the Access Test as a condition for exporting bulk wheat will remain in place until 30 September 2014.

The CDC will be responsible for the development of a non-prescribed voluntary code of conduct for all grain export terminals. The Code should meet the needs of both growers and exporters, be consistent with ACCC guidelines for developing effective voluntary codes of conduct and include continuous disclosure rules.

The Australian Government has signalled in its policy that abolishment of the Access Test in 2014 will be conditional on the Code being implemented by 30 September 2014.

Scope of the Code

The scope of the Code will include the following matters relating to port terminal access:

1. Cover all bulk port terminals involved with the shipment of bulk wheat;
2. Obligations on port terminal operators not to discriminate or hinder access in the provision of port terminal services to third parties;
3. Obligation to publish port loading protocols for managing demand for port terminal services;
4. Obligation on port terminal operators to provide port terminal services on standard terms and prices to third parties and provide third parties with a framework to negotiate non-standard terms and prices and the requirement to publish a shipping schedule in accordance with the 'continuous disclosure' obligations of the Access Test and other information
5. The Code will not specify the commercial terms required to be contained in port loading protocols or the standard terms and prices. Dispute resolution will be limited to the compliance with the Code and not relate to matters of a commercial or operational nature which shall be governed by each party's respective contractual relationship.

Role of the Code Development Committee

The CDC is established to develop a non-prescribed voluntary code of conduct for port terminal access relating to the export of bulk wheat, in accordance with the:

- Australian Government's response to the Productivity Commission recommendations on wheat export marketing arrangements
- Access Test provisions of the *Wheat Export Marketing Act 2008*, as amended
- ACCC guidelines for developing effective voluntary industry codes of conduct, and
- the *Competition and Consumer Act 2010*.

The CDC will give consideration to issues relevant to the development of the Code, including but not limited to:

- Specific standards of conduct for the Australian wheat export industry in relation to port terminal access.
- Continuous disclosure rules, including the publication of the 'shipping stem' for each port terminal service.
- Data collection and publication of key port terminal information and performance indicators.
- Compliance and accountability, including sanctions for non-compliance.
- Code administration arrangements, including industry awareness and education initiatives, compliance monitoring and Code review procedures.
- An effective system of complaints handling.
- An appropriate dispute resolution mechanism
- Consideration of funding and resource allocation required to administer the Code.
- Any other factors required by the Access Test provisions in gaining Ministerial approval for the implementation of the Code.

The successful implementation of the Code will require the direct participation of infrastructure owners and coverage of all bulk grain export terminals in Australia, in meeting the objectives of:

- Promoting the development of a bulk wheat export marketing industry that is efficient, competitive and responsive to the needs of wheat growers; and
- Providing an industry framework to allow exporters to access services at all port terminal facilities within Australia that export bulk wheat.

The CDC should aim to reach decision by consensus wherever possible.

Consultation

In developing the Code, the CDC will consult widely with key industry stakeholders, including growers and their representative groups, industry bodies, companies and government agencies. The draft Code will be published for public consultation with a **[No.]** week period to respond, with further rounds of public consultation as deemed necessary by the CDC in achieving a high level of engagement.

The CDC will accept written submissions from interested parties at any time:

Email cdc@graintrade.org.au

Mail Secretariat – Port Access CDC
Grain Trade Australia
PO Box R1829
Royal Exchange NSW 1225

Secretariat

DAFF will assist GTA with secretariat services for the purposes of developing the Code.

Tenure

The CDC will cease operations on completion of its role under these Terms of Reference.

For further information please contact Grain Trade Australia, Secretariat, on +61 2 9235 2155.