

**REPORT OF THE WORKING GROUP ON  
MARKETING FREEDOM**

Submitted to  
The Honourable Gerry Ritz, PC, MP,  
Minister, Agriculture and Agri-Food Canada

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## INTRODUCTION AND CONTEXT

The purpose of this report is to make recommendations to the Minister of Agriculture and Agri-Food (Minister) on the future of the grain marketing and transportation system (the system). Overall, these recommendations address how the system, which includes a voluntary Canadian Wheat Board (CWB), can take full advantage of the opportunities for improved efficiency and coordination.

In preparing the report, the Working Group focused on how the system will adapt in the transition from the current administered system to an open market that includes voluntary marketing pools. The Working Group was guided by the Terms of Reference in Annex B, and the report provides responses to the task: “to provide a report to the Minister by September 15, advising how the grain marketing system can adapt to a voluntary CWB.”

Working Group members’ contributions stem from their own experience and knowledge of the grain system in Canada and their personal desire to help smooth the transition so that producers and others in the grain trade can realize the greater opportunities that an open market will bring. The members’ views are their own and do not necessarily reflect those of the organizations they represent.

Through its deliberations, the Working Group developed a number of general principles that provide a framework for assessing the transition to voluntary marketing:

- Predictability and certainty are essential to a smooth transition, pointing to the need for clear decisions, firm timelines, and effective communication of information about the changes taking place.
- A competitive market creates opportunities for efficiency and growth through new business arrangements, new approaches and new ideas.
- A key objective of these changes in the grain marketing and handling system is to improve opportunities for producers and others in the grain trade to serve customers better, in both domestic and foreign markets. All participants in Canada’s grain trade have a stake in this outcome.
- The system needs to work as an integrated supply chain, from farm to final delivery to the customer, with all parts sharing information and contributing to system-wide solutions.
- The system needs to embrace research into new crop varieties and value-added production methods, supporting investment in these areas.
- The Government should let the open market function, and intervene only where necessary to address actual market failures.

Moving to voluntary wheat and barley marketing represents a significant evolution in Canada's grain system, and is expected to produce a more responsive and competitive industry. There was some concern in the Working Group that the negative implications of change have been exaggerated. About half of Canada's grain system already operates in an open market, profitably and efficiently for producers and grain companies alike, so the adjustment to voluntary marketing in CWB grains for many in the industry can be based on real-world experience. The change in policy is significant, and the Working Group is of the view that the opportunities will outweigh and overcome any potential challenges.

*“Nothing is more important than clarity for the wheat and barley value chain. The government has stated its position and direction. It must now follow through and be decisive in its decisions. The transition will not be without issues, which farmers recognize but staying the course will build trust in and acceptance of the transition process.”*

**— Western Barley Growers Association**

The open market approach is currently used for marketing all western Canadian crops, except for wheat, durum and barley sold for export and domestic human consumption. The Working Group drew upon the extensive experience that western Canadian grain producers, marketers and transport system stakeholders already have with the open market in making recommendations on how the CWB grains could transition smoothly to the voluntary marketing system. The fact that the open market works effectively for non-Board grain volumes nearly equal to the volume of CWB grains provides considerable evidence to suggest that the system can work effectively when the entire market is open. Commercial arrangements, while sometimes complex, are capable of effectively governing relationships among the players despite differences in size and market presence.

There was much discussion within the Working Group, in light of presentations made by farmers and other stakeholders, about how differences in market power can be an issue in some circumstances (not unlike what the Rail Freight Service Review Panel has observed) and how monitoring of competitive conditions may be needed during the transition period.

Many stakeholders want assurance that the system will be based on legitimate competition and that market-based solutions will prevail. This is clearly a critical issue for a successful transition to a less regulated, market-based system. Where there is clear evidence of anti-competitive behaviour, government suasion and intervention may be required. Overall, the Working Group feels that the market should as much as possible be left to operate freely and unencumbered by unnecessary government regulation.

Building on these principles and perspectives, the Working Group examined a wide range of issues associated with the system. Change implies disruption of current practices, and shifts in market power among players. If an integrated systems approach is adopted, there is much potential for improvement in how the system works. The consensus of the Working Group was that voluntary marketing will provide growth opportunities for producers and others in the grain trade. The Working Group emphasized the need for the

Government to support a market orientation that allows for continued competitive activity of a voluntary CWB and yet is sensitive to the performance of small and medium size players, as well as large ones. A voluntary CWB must be given the opportunity to operate in such a way that producers will benefit from the choice of a voluntary pool, as well as the wealth of other marketing options that a freer market will provide.

Finally, many stakeholders recognize that this fundamental reform of Canada's grain marketing approach has to be aligned with and supported by modernization of the *Canada Grain Act* and the Canadian Grain Commission (CGC), as well as timely implementation of the Government's responses to the Rail Freight Service Review. A highly effective system depends on certainty about the performance of the transportation and handling network, and the availability of the most modern, efficient and effective oversight services from the CGC.

## ISSUES, OPTIONS AND RECOMMENDATIONS

### *Access to elevators, rail and ports*

#### **Issue**

The CWB's current status as a statutory entity with regulatory control over elevators and railways has ensured that CWB grains have access to elevators, rail and ports. With the assumption that the regulatory authority will be removed, there are questions about whether all of the current market participants, particularly the smaller players without port terminal facilities and the voluntary CWB, will have effective, competitive access to the entire grain logistics chain from farm to vessel. Similar issues were raised with the Working Group with respect to short lines and access to producer cars, which are addressed later in this report.

The Working Group felt that access is the single most important issue and a priority for government to consider as implementation occurs. A range of views and possible approaches were discussed. Some Working Group members felt this issue is one where challenges can be exaggerated, as there is considerable evidence in the open market of commercial access agreements which are effective.

The change to voluntary marketing of wheat and barley is intended to allow industry players greater freedom to make new types of business arrangements. The Working Group believes this process should be allowed to work, building on the experience with non-CWB grains. That being said, given shifting power relationships in the grain trade, the Government needs to monitor developments, as well as system performance, and be prepared to use suasion and intervene if necessary to address anti-competitive behaviour.

There was considerable discussion about the competitive environment at terminal elevators. A number of industry players and Working Group members stressed that there is competition among terminal elevators, and that these businesses depend very heavily on volume to ensure profitability and long term survival. Some from the industry argued that a small number of companies own most port terminal capacity, and could exert significant market power. Industry players and Working Group members acknowledged that terminal owners have invested in their facilities, and expect to gain from that investment. However concern was expressed about competitive access for the many market participants who do not own terminal facilities, and who currently are part of the competitive environment in grain marketing.

This part of the report will focus on elevator access, as the issue of rail access is raised later. There was generally greater concern about access to terminals than to country facilities, except for the voluntary CWB, which could face access issues at both country and terminal positions. Some Working Group members considered that the voluntary CWB was unique among the players, as it would have to contract for both country and terminal access to continue its model of marketing grain with relationships from farmers

to end-use customers. The geographical dispersion of the farmers likely to want to deal with the voluntary CWB will make it necessary for the voluntary CWB to have handling agreements with most of the handling companies. However, the voluntary CWB will have significant advantages as well: its established relationships with buyers, a group of farmers willing to use it, and a volume of grain that facility owners will want to handle.

### ***Options Reviewed***

Options that have been considered for elevator access include:

a) Let market forces work.

The logic in support of this option is that elevators need grain volume for profitability, so facility owners are expected to actively seek agreements with other players in order to handle additional grain. Industry players pointed out that there are a number of examples of existing contractual arrangements between terminal operators and non-terminal companies. The Western Grain Elevator Association (WGEA) publicly stated that its members would be prepared to enter into commercial arrangements with the voluntary CWB to handle the grain that it originates.

b) Let the market forces work, but set up a system for monitoring access during the transition period to determine if problems occur. If they do, then the industry will have the data to problem-solve together or the Government will have evidence of a need to intervene.

Some stakeholders were of the opinion that the Government needs to monitor commercial relations during the transition to voluntary marketing in order to identify problems that companies may experience in acquiring access to facilities. Some thought that monitoring and increased transparency about problems would be sufficient to pressure facility owners into reasonable negotiations. Others thought that monitoring would be difficult to do and could set expectations for government intervention. There was a concern that if government intervention was a threat, then private investment in facilities could be discouraged. On the other hand, there was the challenge that if an access problem was identified, any company denied competitive access, including the voluntary CWB, could go out of business before a government intervention could be implemented.

c) Establish some regulation to legally require facility owners to offer competitive access to other companies.

Some stakeholders believe that facility owners who are also grain marketers will use their facilities to give themselves advantages over their competitors, and that some government intervention is needed to ensure competition. Other stakeholders do not agree, saying there is no evidence of lack of competition, and that government intervention would tend to prevent beneficial changes in the handling system and discourage investment.



The analogy of the Rail Freight Service Review was raised, where market power imbalances between grain shippers and railways are to be addressed through facilitated attempts to establish service level agreements between the players, backed by some type of legislative recourse in the event that commercial negotiations were not able to conclude agreements.

Nevertheless, some Working Group members said that railways are a natural monopoly that has historically been regulated. The *Canada Transportation Act* contains a common carrier requirement that railways must accept traffic offered to them, as well as a much broader set of shipper protection provisions, including a requirement for railways to provide adequate service to shippers and Final Offer Arbitration on rates. Thus, the addition of a Service Level Agreement provision for railway-shipper interaction is a modest addition to the railway regulatory structure. Although grain elevators are regulated under the *Canada Grain Act*, the addition of this type of service requirement for elevators would be a more significant change. There were doubts that terminal elevators constitute a natural monopoly.

A range of possibilities for the regulation were discussed, including:

- access measures such as Australia has adopted, where to obtain accreditation to export wheat the terminal owners have to undertake to provide reasonable access to others;
- a regulatory provision providing the right of grain shippers to a facility access agreement, with provisions for binding arbitration if a commercial agreement cannot be reached; and
- regulated maximum elevator charges and treating elevators as public warehouses with an obligation to provide service to others.

Some presenters and Working Group members pointed out that the Government already has some tools at its disposal, including the *Competition Act* and the Competition Bureau, to address anti-competitive behavior in the grain industry.

### **Recommendation**

The Minister and the Government should give market forces every opportunity to work, and government intervention should be considered only as necessary to prevent anti-competitive behavior. There were some differences among Working Group members about whether the Government should prepare a regulatory

*"Grain companies currently offer handling services to third parties who do not own elevators or port terminals, many of whom are direct competitors. It makes good commercial sense for grain companies to provide services to the CWB, especially in circumstances where the volume of wheat and barley to be handled is significant."*

— **Wade Sobkowich,**  
**Executive Director of the WGEA**

intervention in the future only if there is clear evidence of anti-competitive behavior, or prepare the regulatory intervention now so that it can be applied quickly if needed. Some members were of the opinion that more preparatory work should be done on regulation in advance of August 1, 2012. Some were particularly concerned about the idea of any new regulation that could be applied to grains not currently subject to CWB control.

The majority of the Working Group feels that the goal of allowing market forces to work favours the responsive approach, and the Minister should put in place monitoring to determine if there is anti-competitive behavior with respect to access. Corrective action would be a possibility should the situation merit. As well, it was generally agreed that the trigger or bar for government intervention should be set high, as commercial agreements need to be given a significant opportunity to be negotiated, and government should only intervene to address systemic problems, as opposed to firm-specific commercial agreements or contracts.

## *Access to producer cars and short lines*

### **Issue**

Currently, about 97% of producer car shipments are CWB grains, and a significant proportion of the traffic on short lines is producer cars. Stakeholders raised concerns that producer car shipments could decrease significantly along with the change to voluntary marketing. The Working Group believes there are some misunderstandings in this area. The right to producer cars is ensured by the *Canada Grain Act* and it is the Canadian Grain Commission which allocates these cars to producers. Although some stakeholders think access to a producer car for CWB grains is independent of a sale, the CWB in fact organizes producer cars to fit into its sales program. A farmer must have a sufficient amount of grain in a CWB contract call in order to be allocated a car for CWB grain.

Producer cars and short lines are somewhat different issues, as producer cars can be delivered to a range of loading sites on CN and CP as well as on short lines, and not all short line traffic is made up of producer cars. However, the majority of the Working Group held the view that the future viability of producer cars and short lines were linked closely enough to be examined together.

The Working Group heard from producers who use or have used producer cars. There was a common approach that producer car shipping is an option to be considered, based on the return they provide on particular shipments at particular times. Currently, about four per cent of Canadian grains are shipped by producer cars. Most producers had used producer cars, some quite extensively, but they only do so if the returns are higher than if they were to deliver directly to a primary elevator. The Working Group heard examples where the competition provided by producer cars and short lines helped encourage delivery incentives at neighboring elevators, thereby creating competitive opportunities for producers. There is a consensus among stakeholders that producer cars should remain an option for producers.

Stakeholders have given a variety of reasons why they think producer car numbers might drop with voluntary marketing, including:

- the primary elevation charge is now transparently itemized on the cash ticket for CWB grains. For other grains, the elevation, handling and transport charges are combined into a “basis” relative to the relevant futures contract pricing position of the grain. Assuming the same approach will be used for grains currently under the CWB in the future, the charge that producers could avoid through loading a producer car would be less transparent;
- the CWB takes care of terminal authorization for CWB grains now, fitting them into their sales program, but it is uncertain if a voluntary CWB could provide comparable terminal authorization;

- stakeholders point to the situation for non-CWB grains, where it is difficult to find an interested buyer at port, or the price differential between terminal and country locations is not great enough to make the producer car option financially attractive.

### ***Options Reviewed***

a) Status quo – keep the producer car right in the *Canada Grain Act* for producers.

The right to producer cars is in the *Canada Grain Act*, and the Canadian Grain Commission allocates these cars to producers. This is not expected to change with changes to the CWB. Producers and short lines should be able to make commercial arrangements with grain companies to market their grain.

b) Remove the right to producer cars.

This would entail removing the right to producer cars from the *Canada Grain Act*. Producers would be able to deal directly with railways to acquire cars to load, under the same rules as all other shippers.

c) Monitor the number of producer cars and any barriers to access.

Under this option, the change to CWB marketing would take place and the Minister of Agriculture and Agri-Food would monitor the use and availability of producer cars. If challenges were identified, corrective action could be considered.

d) Regulate that a fixed percentage of cars allocated each week should be reserved for producer cars.

Under this option, producer cars would be given priority over other shippers up to a certain percentage of cars allocated per week. This would provide regulatory assurance that producer cars will continue to be allocated, but such a regulation would be seen as unfair to the other shippers. This could also disrupt the efficiency of the system if the cars allocated do not fit into a sales program or a railway's allocation of cars to other shippers.

e) Require that CN and CP adjust their multi-car freight rate incentive rules so that short lines are not disqualified if they meet all of the conditions except that the cars are from multiple shippers.

The Working Group heard from short line operators that the railways' multi-car incentive rates require a minimum number of cars from a single shipper at a single origin going to a single destination in order to be eligible. Short lines are generally not eligible, as they collect cars from several shippers at several points of origin. However, the short line delivers a multi-car block of cars to the mainline carrier at a single interchange point, so they feel they should receive the multi-car incentive. The mainline carrier sees it as

additional paperwork to keep track of cars from multiple shippers, and might expect the short line to share the freight reduction by taking a lower origination fee. CN or CP generally set the freight rates at the short line stations, and they pay an origination fee per car to the short line for moving the cars to the main line interchange point.

Railways have flexibility to set their rates, as long as their total annual revenue for shipping grain to ports is under their regulated rail revenue cap. As a result, there is currently no regulatory way to force the railways to apply incentive rates in any particular way, other than that shippers have the right to Final Offer Arbitration on rates.

### **Recommendations**

a) The Minister should ensure that the right to ship producer cars remains in the *Canada Grain Act*, and encourage communications to producer car shippers that these shipments must continue to be tied into a sales program. Producer car shipments should move to port in response to orders for the grain from customers, rather than in response to a wish by producers to push grain into the system.

*“The success of shortlines like BTRC (and by extension the success of our farm customers) depends on high traffic volume, which in turn depends on the continued competitiveness of shipping by producer car.”*

— **Boundary Trail Rail Company**

b) The Minister of Agriculture and Agri-Food should monitor the use and availability of producer cars. The Minister of Transport, Infrastructure and Communities should continue implementation of Rail Freight Service Review initiatives on service agreements between railways and shippers (i.e., a facilitation process to develop template service agreements that railways and shippers can implement commercially, and legislative provisions that allow a shipper to obtain a service agreement when commercial negotiations fail). These initiatives will give producer car shippers the ability to establish service agreements with the railways, promoting more predictable and efficient service.

c) Short line railways and producer car shippers should ask CN and CP to change their multi-car rate incentive rate requirements to make it easier for shippers on short lines to qualify when they interchange a block of cars to the mainline carrier, provided that they can meet all of the requirements, except for single origin and single shipper.

## *How to organize and fund market development and research activities for wheat and barley*

### **Issue**

The *Canadian Wheat Board Act* includes a provision for check-offs from producer final payments to fund wheat and barley research. These funds go to the Western Grains Research Foundation (WGRF). In addition, the CWB provides funds to the Canadian International Grains Institute (CIGI) and the Canadian Malting Barley Technical Centre (CMBTC). The Government of Canada also provides funding to CIGI and CMBTC through its AgriMarketing Program, some of which is based on matching producer contributions provided by the CWB. With the change to voluntary marketing, these activities will need to be funded and organized differently for these organizations to continue their work.

There was general consensus among stakeholders and the Working Group that the research and market development activities being carried out by the above organizations are vital for the western Canadian grain industry, and ways need to be found to continue these activities without disruption. It was also felt that individual grain companies might not invest optimally in branding Canadian grain, and carry out research that would advance Canada's grain industry as a whole; but these beneficial functions could and should continue even as we move to voluntary marketing.

The Working Group felt it would be beneficial for commodity groups representing all field crops to take steps to better coordinate and direct resources for research, promotion and market access. Canada's major field crops face common challenges in the international trade environment – the need to differentiate high quality Canadian products and reliability from competitors; high tariffs; all manner of non-tariff trade barriers and protectionism; sanitary and phyto-sanitary issues, and more. In all of these cases, value can be gained from working more closely together and developing common strategies and best practices across the grain system. Similar coordination and focus can be brought to the research area. Clearly, each field crop is different and has unique needs and commodity groups representing each can continue to do so. In these areas, a lot can be gained from closer coordination and collaboration.

For the producers, growing field crops in rotation, a common effort to promote and represent them internationally builds efficiency and value. Additionally, in research, market development and market access, governments are key partners with industry. Field crop organizations could be better served coordinating their approach and partnership with governments rather than competing with each other for government attention and action.

There were a variety of views shared with the Working Group regarding the right organizational model for directing and funding research and market development work. These models varied by geography (provincially-based structures, prairie-wide or

national), by function (variety research, broader research, market development, market promotion, technical support, market access) and by crop (malting barley only, single crop, wheat and barley together, cereals, broader range of grains/oilseeds/pulses).

### ***Options Reviewed***

- a) Let the funding lapse and allow the sector to determine what needs to be done.

There was significant support among stakeholders and Working Group members for leaving these funding issues to the sector to work out how to organize and provide for market development and research activities. Yet, there was also general agreement that August 2012 is too soon to expect the sector to be ready with replacement models. For this reason, the Working Group feels that the Government would need to help with short-term solutions to allow time for longer-term solutions to be developed by the sector itself.

- b) Government to re-create a funding mechanism in federal legislation.

There was significant support from stakeholders and the Working Group for the Government to re-create a check-off in federal legislation. This could be in place only temporarily, allowing the sector time to establish check-offs under the existing channel of provincial and federal regulations, or it could be permanent, allowing the wheat and barley industry to retain a check-off under federal authority.

The Working Group considered various models for how to provide a check-off, including through the *Farm Products Agencies Act* and through the creation of provincial commissions for wheat and barley. In time, industry may elect to use a different approach than federal legislation. For example, wheat and barley growers may decide to create provincial commissions. But this takes time and the need for a method to maintain funding for these important organizations is immediate.

Putting in place a federal check-off with a sunset clause, could be legislated concurrently with CWB reforms to resolve the immediate problem while encouraging and allowing different approaches in the long term.

- c) Government to provide transition funding to allow time for the sector to organize itself and establish new provincial check-offs.

Some stakeholders have requested that the Government provide transition funding, rather than re-creating a short-term check-off. However, others do not want to see the Government provide funding as they believe it would shift control to the Government and away from the sector, and remove incentives for research and market development to become more industry-led.

## **Recommendation**

The Minister should include in the legislation a provision to re-create a short-term five year check-off, covering research, market development and technical marketing support. The check-off should replace the funding currently provided by the CWB. It should be applied to sales that currently go through the CWB, without extending or reducing the current coverage. The check-off

should be voluntary through a mandatory collection/optional refund model, and broad enough to provide transition funding to WGRF, CIGI and CMBTC.

*“Producers and governments have for many years supported the principle of producer-funded and directed research as a vital component of the overall research efforts in agriculture. Ensuring that there continues to be a WGRF check-off for wheat and barley variety research will sustain and advance this widely adopted principle.”*

**— Western Grains Research Foundation**

The funding levels under the new legislation should be set at levels that would generate an amount equal to the CWB current check off for WGRF, as well as the CWB’s current contributions for market development through CIGI and CMBTC. The check-off would, where applicable, qualify as industry matching funds under the existing rules of the AgriMarketing Program.

The five year life of the new check-off would set a deadline and allow time for industry to develop long-term solutions for funding these activities.

The Working Group supports the call for industry to develop a multi-commodity organization and encourages industry to begin these discussions, with facilitation from AAFC as appropriate and as endorsed by the Minister. The creation of the check-off as a short-term measure will encourage the industry to move forward with the development and implementation of a longer-term multi-commodity approach.



## *Rail logistics*

### **Issue**

The Working Group discussed the need for action on the Rail Freight Service Review, and held a special session on issues related to the transportation system. Working Group members indicated that particular problems that needed to be overcome were the lack of predictability in car order fulfillment and car allocation fulfillment at country locations and unplanned variability in transit time of rail cars enroute to delivery ports. This has been an ongoing challenge for both CWB and non-CWB shippers. The general consensus of Working Group members was that the change to the CWB made it even more important for rail freight service issues to be addressed quickly.

There was considerable discussion by both presenters and Working Group members about the role the CWB currently plays in car allocation and how this may change with voluntary marketing. Some farmers and stakeholders believe that the CWB's role in car allocation helps improve system efficiency. However, a number of stakeholders who have experience in grain marketing expressed the view that the rail logistics system would operate more effectively in an open market than it does now. These stakeholders said that companies would gain efficiency if they controlled the full supply chain from their country origin through to ports and on to vessels. The CWB introduces greater complexity as it creates a second logistics system operating beside the one for non-Board grains, and, at times, the CWB is shipping grain to port that is not needed for immediate sales, thereby tying up system resources. This view is supported by the earlier reviews of the grain transportation system carried out by Justice Estey (Grain Handling and Transportation Review, 21 December 1998) and Arthur Kroeger (Stakeholders' Report – Consultations on the Implementation of Grain Handling and Transportation Reform, September 1999).

Some presenters expressed concerns that there may be some logistical challenges experienced in Canada, as supply chain players adjust to changing roles, and new players enter the market.

### **Recommendations**

a) The Ministers of Agriculture and Agri-Food and Transport, Infrastructure and Communities work together to implement the government's plans announced on March 18 regarding the Rail Freight Service Review as quickly as possible.

*“Proper rail service remains absolutely vital to doing business. We trust that the government's progress towards creating rail service agreements will continue and that appropriate measures will be in place to allow smaller industry participants access to required rail service, in order to continue to provide a competitive option for farmers.”*

**— Inland Terminals Association  
of Canada (ITAC)**

These plans, which include drafting and enactment of a legislated backstop to ensure the availability of Service Level Agreements between shippers and railways will facilitate the implementation of marketing choice.

b) Real-time monitoring.

The Government should remove any roadblocks to quick availability of the data that is currently collected, and facilitate the collection and sharing of additional metrics of system performance identified by industry.

The Working Group recommends that performance data on the system be collected from, and made available to, the whole supply chain so that problems can be identified and resolved and the efficiency of the end-to-end supply chain from farm to final customer can be maximized. The availability of data would facilitate commercial negotiations and commercial solutions to respond to identified shortcomings. It would also allow better planning throughout the supply chain.

With respect to the data collected by the Grain Monitor, it needs to be made available much closer to the end of the review period than is currently the case.

c) Conduct the grain logistics study.

The Ministers of Agriculture and Agri-Food and Transport, Infrastructure and Communities should conduct the grain logistics study announced on March 18, 2011 and this study should focus on providing the information needed to facilitate greater integration across the supply chain.

## *Delivery of the Advance Payments Program*

### ***Issue***

One of the issues that the Working Group was originally asked to address is whether the CWB should continue to administer AAFC's Advance Payments Program (APP). This is an administrative decision at the discretion of the Minister.

The Working Group heard from producers that the APP is an important program that should continue. In general, the program for non-Board grains is administered by not-for-profit commodity groups or producer groups; no private for-profit companies currently deliver the program. There were no strong views from farmers about who should administer the program for wheat and barley. Nevertheless it was pointed out several times that the Canadian Canola Growers Association (CCGA) effectively delivers the APP for other crops in volumes roughly equal to those the CWB administers, so it could likely take over administration for CWB grains. There may be greater efficiencies for farmers as well, since there is a 40% overlap of producers who use both the CWB and the CCGA to access advance payments. Farmers stressed the importance of providing certainty as quickly as possible, and avoiding disruption should a decision be made to change the administrator.

### ***Recommendation***

APP should continue to be offered, with no disruption to farmers during the transition. The Working Group recognizes that identifying the organizations that should deliver the APP is at the discretion of the Minister of AAFC, and the priority should be to provide a decision in a clear and timely manner.

## *Farmer information requirements*

### **Issue**

The change to voluntary marketing represents a significant change to the system, and there were questions about what information farmers would need to assist them in the transition. The Working Group and a subcommittee of the Working Group met with a number of farmers, including farmer associations and individual farmers. These farmers were specifically asked to speak to the Working Group about what they would see changing in their businesses and what information they would require.

Farmers generally said they were used to pricing and contracting of non-CWB grains, so they anticipate being able to easily adapt to a voluntary marketing system for wheat and barley. They believe that price transparency will improve with the change, and pointed out that farmers have real-time access to price information through technology. Farmers generally have accepted that the change to voluntary marketing will occur, and many stressed that it's time to get on with implementing the decision. The main issues raised related to predictability and certainty about when the system will change and what role the new CWB will play. Many farmers expressed frustration that the CWB has not taken more steps to elaborate its plans for voluntary marketing. Many farmers and other stakeholders indicated that the Government needs to be decisive and not waver from its stated objective of voluntary marketing by August 1, 2012. Some farmers also expressed the view that some regulatory mechanisms may be needed to ensure that a voluntary CWB can obtain competitive access to grain handling and transportation services.

### **Recommendations**

a) The Minister should communicate details of the plans as well as changes to the system as soon as possible, to ensure certainty for farmers. For example, farmers need to know when they can start forward contracting for the 2012/13 crop year.

b) If requested by farm groups, the Minister should ask that information sessions be organized to explain the new system and respond to questions. These sessions could begin over this coming winter.

*“I very much appreciated having the opportunity to give you my input and feel it was taken into account. I think it's important that farmers have the chance to put forth their opinions on the proposed elimination of the single desk marketing. I think this change will give way to great opportunities for Western Canadian farmers.”*

— **Fred Lutz, Producer**

## *The role and importance of price transparency and tools for forward price discovery*

### ***Issue***

At its first meeting, members of the Working Group agreed that price transparency is critical for producers to make planting and marketing decisions. Stakeholders emphasized too that price transparency was important to a properly functioning marketplace. Most presenters and Working Group members felt that price transparency would improve with voluntary marketing. It was brought to the attention of the Working Group that ICE Futures is planning to introduce new wheat and durum contracts.

### ***Recommendation***

The Minister should provide maximum predictability and certainty to the industry about the change to voluntary marketing, which will allow private sector risk management tools to be implemented for wheat and barley.

*“Farmers need to know clearly what choices they have and what a post monopoly Wheat Board is able to do for them.”*

— **BC Grain Producer Association**

*The characteristics, tools and business model a voluntary CWB might need to compete (based on Working Group expectations of how the grain handling system will work)*

### **Issue**

The Terms of Reference for the Working Group assumed that “the Board will propose a business plan to continue the CWB as a voluntary marketing entity”. Stakeholders and Working Group members alike stressed the need to hear the CWB’s plans for its future existence as a voluntary marketing entity, and then the Government’s response, in order to have predictability and certainty as the implementation of voluntary marketing occurs. The timelines for implementation are short. Given the need for clarity for farmers and the industry, many felt the current focus should be on how to implement the change to a new system.

Some stakeholders said the voluntary CWB will need a capital base for an interim period where the Government of Canada borrowing guarantee would continue to enable the CWB to borrow operating funds. Other stakeholders underlined the need to have a commercial system, without permanent advantages for some competitors over others. Some stakeholders pointed out that the CWB extends inventory financing to some grain companies based on the government guarantee.

### **Recommendation**

The Working Group believes that farmers, the whole supply chain and customers need predictability and certainty as soon as possible. The Working Group therefore considers that the CWB needs to get on with preparing for implementation. If the CWB will not do so, the Working Group recommends that the Minister consider measures to facilitate the development of a business model for a voluntary CWB that will be available to farmers on August 1, 2012.

## CONCLUSION

The Working Group is grateful for the opportunity to review all these important issues and to make recommendations concerning the future of Canada's grain trade and handling system. In conclusion, there are four issues members would like to emphasize:

### ***Improving system efficiency***

- The Working Group is of the view that the deregulation of wheat and barley marketing, together with the implementation of the Rail Freight Service Review follow-up and the modernization of the *Canada Grain Act*, will help the system become more efficient, and will provide greater opportunities for producers and others in the grain system. The Working Group stressed the need for all participants in the supply chain to work together to optimize the performance of the system in meeting buyer needs. This will require participants to develop different commercial relationships and to collaborate more closely. The removal of the regulatory structure of the monopoly provides an opportunity to do so. The Working Group is reluctant to replace one regulatory structure with other regulatory structures until or unless the actual experience of the transition to voluntary marketing clearly demonstrates a need.

### ***Transparent and timely performance data***

- In order to allow this new open market system with a voluntary CWB to succeed, monitoring during the transition period and the publicizing of metrics regarding the performance of the supply chain are essential so that any issues can be seen and addressed, in the first instance by industry, and if necessary by government.

### ***Adapting and adjusting to change***

- The Working Group also heard issues raised by some stakeholders about the change to voluntary marketing. The Working Group believes that some of the concerns represent fear of change rather than real roadblocks that would prevent producers and the system from adjusting. As with any major change, there is inevitably some uncertainty about where the change will lead, but the Working Group is confident in the ability of the sector to adjust and adapt so that it will be stronger after the transition. Working Group members observed that other

*“Farmers have always been willing to adopt new methods and technology to help their businesses. We know that farmers will be able to adjust to this and we ask that the Government of Canada show its support for innovators. During this period of change, those willing to take large risks -- whether they be in production, niche marketing of identity-preserved products or in finding innovative transportation solutions -- deserve public support.”*

— **Keystone Agricultural Producers**

markets, such as Australia and Ontario, have rapidly and successfully adjusted to a similar change to a deregulated wheat market. The Working Group noted that Australia remains a strong wheat exporting nation.

***Ensuring regular communication and information to producers***

- Lastly, the Working Group believes the requirement for information and communication with producers, grain companies, foreign and domestic buyers and Canadians will emerge as a top priority especially in the lead up to voluntary marketing and throughout the first crop year with voluntary marketing. Responding to these information needs can help provide predictability and certainty for all players in the trade, especially producers.



# ANNEX A

## *Recommendations*

### **1. Access to elevators, rail and ports**

The Minister and the Government should give market forces every opportunity to work, and government intervention should be considered only as necessary to prevent anti-competitive behavior. There were some differences among Working Group members about whether the Government should prepare a regulatory intervention in the future only if there is clear evidence of anti-competitive behavior, or prepare the regulatory intervention now so that it can be applied quickly if needed. Some members were of the opinion that more preparatory work should be done on regulation in advance of August 1, 2012. Some were particularly concerned about the idea of any new regulation that could be applied to grains not currently subject to CWB control.

The majority of the Working Group feels that the goal of allowing market forces to work favours the responsive approach, and the Minister should put in place monitoring to determine if there is anti-competitive behavior with respect to access. Corrective action would be a possibility should the situation merit. As well, it was generally agreed that the trigger or bar for government intervention should be set high, as commercial agreements need to be given a significant opportunity to be negotiated, and government should only intervene to address systemic problems, as opposed to firm-specific commercial agreements or contracts.

### **2. Access to producer cars and short lines**

a) The Minister should ensure that the right to ship producer cars remains in the *Canada Grain Act*, and encourage communications to producer car shippers that these shipments must continue to be tied into a sales program. Producer car shipments should move to port in response to orders for the grain from customers, rather than in response to a wish by producers to push grain into the system.

b) The Minister of Agriculture and Agri-Food should monitor the use and availability of producer cars. The Minister of Transport, Infrastructure and Communities should continue implementation of Rail Freight Service Review initiatives on service agreements between railways and shippers (i.e., a facilitation process to develop template service agreements that railways and shippers can implement commercially, and legislative provisions that allow a shipper to obtain a service agreement when commercial negotiations fail). These initiatives will give producer car shippers the ability to establish service agreements with the railways, promoting more predictable and efficient service.

c) Short line railways and producer car shippers should ask CN and CP to change their multi-car rate incentive rate requirements to make it easier for shippers on short lines to

qualify when they interchange a block of cars to the mainline carrier, provided that they can meet all of the requirements, except for single origin and single shipper.

### ***3. How to organize and fund market development and research activities for wheat and barley***

The Minister should include in the legislation a provision to re-create a short-term five year check-off, covering research, market development and technical marketing support. The check-off should replace the funding currently provided by the CWB. It should be applied to sales that currently go through the CWB, without extending or reducing the current coverage. The check-off should be voluntary through a mandatory collection/optional refund model, and broad enough to provide transition funding to WGRF, CIGI and CMBTC.

The funding levels under the new legislation should be set at levels that would generate an amount equal to the CWB current check off for WGRF, as well as the CWB's current contributions for market development through CIGI and CMBTC. The check-off would, where applicable, qualify as industry matching funds under the existing rules of the AgriMarketing Program.

The five year life of the new check-off would set a deadline and allow time for industry to develop long-term solutions for funding these activities.

The Working Group supports the call for industry to develop a multi-commodity organization and encourages industry to begin these discussions, with facilitation from AAFC as appropriate and as endorsed by the Minister. The creation of the check-off as a short-term measure will encourage the industry to move forward with the development and implementation of a longer-term multi-commodity approach.

### ***4. Rail logistics***

a) The Ministers of Agriculture and Agri-Food and Transport, Infrastructure and Communities work together to implement the government's plans announced on March 18 regarding the Rail Freight Service Review as quickly as possible.

These plans, which include drafting and enactment of a legislated backstop to ensure the availability of Service Level Agreements between shippers and railways will facilitate the implementation of marketing choice.

b) Real-time monitoring.

The Government should remove any roadblocks to quick availability of the data that is currently collected, and facilitate the collection and sharing of additional metrics of system performance identified by industry.

The Working Group recommends that performance data on the system be collected from, and made available to, the whole supply chain so that problems can be identified and resolved and the efficiency of the end-to-end supply chain from farm to final customer can be maximized. The availability of data would facilitate commercial negotiations and commercial solutions to respond to identified shortcomings. It would also allow better planning throughout the supply chain.

With respect to the data collected by the Grain Monitor, it needs to be made available much closer to the end of the review period than is currently the case.

c) Conduct the grain logistics study.

The Ministers of Agriculture and Agri-Food and Transport, Infrastructure and Communities should conduct the grain logistics study announced on March 18, 2011 and this study should focus on providing the information needed to facilitate greater integration across the supply chain.

### ***5. Delivery of the Advance Payments Program***

APP should continue to be offered, with no disruption to farmers during the transition. The Working Group recognizes that identifying the organizations that should deliver the APP is at the discretion of the Minister of AAFC, and the priority should be to provide a decision in a clear and timely manner.

### ***6. Farmer information requirements***

a) The Minister should communicate details of the plans as well as changes to the system as soon as possible, to ensure certainty for farmers. For example, farmers need to know when they can start forward contracting for the 2012/13 crop year.

b) If requested by farm groups, the Minister should ask that information sessions be organized to explain the new system and respond to questions. These sessions could begin over this coming winter.

### ***7. The role and importance of price transparency and tools for forward price discovery***

The Minister should provide maximum predictability and certainty to the industry about the change to voluntary marketing, which will allow private sector risk management tools to be implemented for wheat and barley.

***8. The characteristics, tools and business model a voluntary CWB might need. Based on Working Group expectations of how the grain handling system will work, what the new CWB needs to compete***

The Working Group believes that farmers, the whole supply chain and customers need predictability and certainty as soon as possible. The Working Group therefore considers that the CWB needs to get on with preparing for implementation. If the CWB will not do so, the Working Group recommends that the Minister consider measures to facilitate the development of a business model for a voluntary CWB that will be available to farmers on August 1, 2012.

## **ANNEX B**

### *Consultation with industry leaders on marketing freedom*

A Working Group was struck in July, 2011 to examine the transition to marketing choice, comprised of experts with a broad range of industry knowledge and experience, and guided by the Terms of Reference below. The individuals in the group were not asked to represent any organization that they work for or belong to. In addition to inviting representatives from stakeholders along the entire value chain to share their respective expertise and knowledge, the Working Group also created subcommittees to broaden the consultations to ensure it gathered the information it needed. The list of stakeholders that the Working Group heard from is attached in Annex D. Stakeholders were advised that there would be no attribution of individual comments, in order to have frank discussions. Where quotations appear in this Report, it is with the express permission of the individual or group.

This Working Group and report are one of many inputs the Government is considering in preparing and finalizing its plan for marketing choice, including consultations held in and since 2006.

#### ***Terms of reference***

The Working Group will take as given that:

- all grains will be removed from the monopoly by August 2012.
- the Board will propose a business plan to continue the CWB as a voluntary marketing entity.
- the marketing and transportation systems will adjust to marketing choice.

Issues to be addressed by the Working Group:

- access to elevators, rail and ports.
- access to producer cars.
- how to organize and fund market development and research activities for wheat and barley.
- delivery of Advance Payments Program

- any other business related transition issues that concern the grain marketing and transportation systems as well as the supply chains under a “marketing choice” approach for wheat and barley.

The Working Group will consult with other interested stakeholders as appropriate to explore the issues.

We are targeting up to four meetings in Winnipeg between mid-July and early September, with video/teleconferencing as required. The Department will reimburse invited participants for approved travel expenses.

The Working Group will provide a report to the Minister by September 15, advising how the grain marketing system can adapt to a voluntary CWB.

## **ANNEX C**

### *Members of the Working Group*

**John Knuble**, Deputy Minister, Agriculture and Agri-Food Canada

**Richard Phillips, Executive Director** or **Stephen Vandervalk**, President, Grain Growers of Canada

**Jim Everson**, Vice President Corporate Affairs or **Jo Anne Buth**, President, Canola Council of Canada

**Gordon Bacon**, Chief Executive Officer, Pulse Canada

**Earl Geddes**, Executive Director, Canadian International Grains Institute

**Murdoch MacKay**, Commissioner, Canadian Grain Commission

**Dr. Paul Earl**, Logistics Expert, University of Manitoba

**Greg Meredith**, Assistant Deputy Minister, Strategic Policy Branch, Agriculture and Agri-Food Canada

**Paul Martin**, Director General, Policy Development and Analysis Directorate, Agriculture and Agri-Food Canada

**Howard Migie**, Consultant, former Director General in Agriculture and Agri-Food Canada

**Annette Gibbons**, Director General Surface Transportation, Transport Canada

**Michele Taylor**, Regional Director General, Prairie and Northern Region, Transport Canada

## **ANNEX D**

### *Working Group Consultations*

Ian White, President and Chief Executive Officer, Canadian Wheat Board  
Gordon Flaten, Vice President Marketing and Sales, Canadian Wheat Board  
Ward Weisensel, Chief Operating Officer, Canadian Wheat Board  
Keith Bruch, Vice President Operations, Patterson Global Foods  
Jean-Marc Ruest, Vice President, Corporate Affairs and General Counsel, Richardson International  
John Heimbecker, Vice President, Parrish & Heimbecker  
Richard Wansbutter, Vice President Government & Commercial Relations, Viterra  
Brant Randles, President and Chief Executive Officer, Louis Dreyfus Canada  
Mark Hemmes, President, Quorum Corporation  
Bruce McFadden, Quorum Corporation  
Marcel Beaulieu, Quorum Corporation  
Hedley Auld, Senior Manager, Canadian Export Grain, Canadian National Railway  
Murray Hamilton, Director Grain, Canadian Pacific Railway  
John Ormrod, Canadian Pacific Railway  
Travis Long, General Manager, Boundary Trail Railway  
Geoffrey Young, Director, Boundary Trail Railway  
Dale Thulin, Supply Chain Consultant, Port Metro Vancouver  
Rob Davies, Chief Executive Officer, Weyburn Inland Terminal  
Keith Degenhardt, Chairman, Western Grains Research Foundation Board  
Don Dewar, Vice Chairman Western Grains Research Foundation Board  
Bob Anderson, Board Exec. Committee member for Manitoba, Western Grains Research Foundation  
Garth Patterson, Western Grains Research Foundation Executive Director, Western Grains Research Foundation  
Terry Scott, Western Grains Research Foundation (former) Acting Executive Director, Western Grains Research Foundation

#### **Producer Panel**

Paul Orsak, Binscarth, Manitoba  
Ron Krahn, Rivers, Manitoba  
Fred Lutz, Red Deer, Alberta  
David Kirby, Scout Lake, Saskatchewan  
Gregor Beck, Rouleau, Saskatchewan  
Brad Hanmer, Govan, Saskatchewan  
Randy Johner, Midale, Saskatchewan

#### **Individuals who met with Sub-Committee**

Greg Marshall, President, Agricultural Producers Association of Saskatchewan  
Humphrey Banack, President, Wild Rose Agricultural Producers  
Doug Chorney, President, Keystone Agricultural Producers  
Matt Sawyer, President, Alberta Barley Commission



Blair Rutter, Executive Director, Western Canadian Wheat Growers  
Rick Istead, Executive Director, Alberta Winter Wheat Producers Commission, for  
Winter Cereals Canada  
Brian Otto, President, Western Barley Growers Association  
Fred Tait, Vice President, National Farmers Union  
Janet Banman, General Manager, BC Grain Producers  
Gordon Harrison, President, Canadian National Millers Association  
Phil de Kemp, President, Malting Industry Association of Canada  
Andy Wilder, Senior Grain Merchant Horizon Milling  
Derek Jamieson, Executive Vice President P&H Milling group  
James Battershill, Keystone Agricultural Producers  
Trevor Peterson, Alberta Barley Commission  
Albert Wagner, Alberta Barley Commission  
Doug Faller, Agricultural Producers Association of Saskatchewan  
Mike Bast, Western Canadian Wheat Growers  
Roger Gadd, Chairman of the Board of the Shortline Railway Association and General  
Manager of Great Western Railway  
Tim Coulter, Producer Car Shippers of Canada  
Paul Stow, Mission Terminal  
Rob Lobdell, West Central Road and Rail

## **ANNEX E**

### *Submissions Received by the Working Group*

Inland Terminal Association of Canada, September 7, 2011, *ITAC submission to the CWB Transitional Task Force*

Wild Rose Agricultural Producers, August 24, 2011, *Presentation to Canadian Wheat Board Transition Working Group*

Western Grains Research Foundation, August, 2011, *Proposed Variety Research Check-Off Plan for Wheat and Barley to Replace Check-Offs Under the Canadian Wheat Board Act*

Western Grains Research Foundation, August 31, 2011, *letter*

Western Canadian Wheat Growers Association, August 23, 2011, *Open Market in Wheat and Barley*

Western Barley Growers Association, August 24, 2011, *Presentation to the sub-committee of the Canadian Wheat Board Working Group*

Western Grain Elevator Association, August 9, 2011, *CWB Transition Issues and Solutions*

Keystone Agricultural Producers, August 24, 2011, *Keystone Agricultural Producers' Submission to the Canadian Wheat Board Transition Working Group*

Canadian National Millers Association, July 4, 2011, *Canadian Wheat Board's Business Relationship with Canadian Wheat Milling Companies*

Brewing and Malting Barley Research Institute, August 22, 2011

B.C. Grain Producers Association, August 23, 2011

West Central Road and Rail, August 11, 2011, *Producer Car Shipper's Life in a Deregulated Wheat Marketing Environment*

Quorum, August 16, 2011, *Grain Monitoring Program- Meeting with the CWB Working Group*

Port Metro- Vancouver, July 22, 2011, *Grain Sector Supply Chain Scorecard*

Transport Canada, August 2011, *Presentation to CWB Task Force*

Canadian Pacific, August 16, 2011, *Grain- Canadian Pacific*

Boundary Trail Railway Company, *Deck to CWB Working Group*

Taskforce on Marketing Choice, August 29, 2011, *Overview of the deregulation of the Australian wheat industry and the current wheat export environment*

Canadian Wheat Board, August 22, 2011, *CWB DECK on Customer Views & Marketing Issues*

Agricultural Producers Association of Saskatchewan, September 14, 2011, *Submission to CWB Working Group*

Canadian International Grains Institute: *background paper - Australian Wheat Market Development Activities*