

# NewsInGrain

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## MANAGING CUSTOMER REQUIREMENTS

### QUALITY SYSTEMS IN THE AUSTRALIAN GRAIN INDUSTRY

Significant debate has arisen in recent months on the need for additional measures to be implemented in the industry to meet the requirements of our customers. This is not new for the Australian grain supply chain. Debate on the effectiveness of existing and potential new programs and processes and their place in the grain industry has occurred many times over the last 20 years.

So why have additional regulations and systems such as recognised Quality Assurance (QA) programs been talked about but not adopted widely throughout the supply chain? There are many reasons but one could be that processes have to date been sufficient to supply grain of a quality that meets customer needs.

#### Processes Required

There are a range of activities undertaken when participating in the supply of grain to customers. These arguably may be distilled down to seven key elements:

- Commitment to be a part of a sustainable long term and profitable industry
- Control of suppliers of products and services
- Control of production and other activities for an enterprise operating along the supply chain
- Knowledge of product through inspection, sampling and testing
- Documentation controls and record keeping
- Product identification and traceability, and
- Compliance with regulations and industry standards

#### Existing Processes

While the grain industry is complex, involving many stakeholders, a key theme is the promotion of industry common good and the desire for self-regulation. Some of the processes and players involved are outlined below, noting this is by no means a complete list.

#### Pre-Production

This sector operates in the supply chain before grain is commercial grown by producers. Technology providers produce grains or material with traits designed to meet market requirements. Potential material is trialled in a range of environments under programs such as **National Variety Trials**. If judged suitable, the material is developed and seed is eventually made available for commercial sale.



A range of promotional material extolling the virtues of each variety, and the opportunities to maximise its quality, are provided with each variety.

Prior to release of this seed for commercial production, organisations such as **Wheat Quality Australia** and **Barley Australia** may require grain to be assessed under their classification guidelines in order to verify the quality of the grain for the marketplace. Strict classification rules exist that ensure new varieties released will meet the needs of the customer.

The **Australian Seed Federation** has a range of controls over the quality of seed produced, labelled and sold commercially. Companies selling such material generally do so under various legislative controls and may use **Plant Breeder's Rights** to obtain revenue for their efforts.

#### Grain Production

Producers undertake a range of on-farm activities to maximise the quality and quantity of grain produced. Seed is selected and graded to maximise the potential of the grain sown. The growing of the crop is managed to minimise contamination, maximise crop yield and quality. Regulations set by various government departments covering a range of activities must be complied with, such as chemical application to the growing crop through **Australian Pesticides and Veterinary Medicines Authority** (APVMA) governance.

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A range of agronomic practices are implemented. Third party providers' knowledge and equipment may assist. Much of this agronomic information is provided through activities of organisations such as the **Grains Research and Development Corporation** (GRDC), grower groups or State Departments of Primary Industries. A significant benefit to all involved in the pre-farm gate sector arises from co-ordination of a research strategy by the GRDC. (While the range of activities conducted by the GRDC focuses on on-farm grain production, some research, extension and communication is also invaluable to the post-farm gate sector).

Grain is harvested keeping in mind quality standards set by the marketplace and the needs of other sectors of industry. Grain may be stored on-farm, delivered direct to the market or commercial storage providers.

Records are kept to identify parcels of grain and to provide relevant information with the grain as required by the marketplace.

#### Grain Receival, Storage and Transport

Grain is received and stored according to individual storage providers operating procedures outlining the range of activities conducted at each premises. Some storage providers implement recognised quality assurance systems such as those complying

# MANAGING CUSTOMER REQUIREMENTS

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with the International Standards Organisation (ISO). Staff is trained to ensure grain is correctly classified. Equipment used in the sampling and testing process is checked prior to and during use, to comply with regulations such as those set by the **National Measurement Institute**.

Grain is supplied with a Commodity Vendor Declaration (CVD) form detailing relevant information such as chemical use. Grain is sampled using industry sampling protocols. Grain testing occurs according to methods and standards set by various industry organisations such as the Australian Oilseeds Federation, Pulse Australia and Grain Trade Australia (GTA). Most standards define:

- varieties to be received by grade
- quality standards by grade
- methods and procedures for applying the standards.

During storage, grain is monitored to ensure its quality and integrity is maintained. Grain may be protected from stored grain insect attack using a range of measures including chemical and non-chemical.

The **National Working Party on Grain Protection** (NWPGP) is a focal point for reference and advice on market requirements and chemical use. It discusses a range of matters to assist industry to safely and effectively store grain. Chemicals are applied to storages and/or grain according to those defined on the registered label by APVMA, and to comply with market limits as documented in the NWPGP document **“Australian Grains Industry Post Harvest Chemical Usage Recommendations and Outturn Tolerances 2012/13”**. Meeting Codex and national regulatory levels is a key focus of that document.

Non-chemical insect and quality control measures may be applied in storage. Again, the GRDC provides a range of reference material for industry to



consider. Both chemical and non-chemical strategies occur according to industry best practice and legislation on chemical use. For example the **CRC for National Plant Biosecurity** provides advice to industry on prolonging the use of phosphine through their document “Strategy to manage resistance to phosphine in the Australian grain industry”.

**Transport Codes of Practice** exist for both road and rail – either industry codes or individual company codes. These include a range of measures to ensure the integrity of grain is maintained and grain is not contaminated by prior loads.

## Grain Outturn, Marketing and Processing

Grain is purchased and marketed according to individual customer contracts or using recognised industry contracts and trade rules such as those set by GTA. Grain is supplied with relevant documentation, showing compliance with quality, food safety and other contractual terms, whether documented in the contract or not. Again, CVDs are used where required.

Grain for export must only be shipped from **Department of Agriculture, Fisheries and Forestry** (DAFF) approved Registered Establishments. Prior to loading, all containers or vessel holds must meet DAFF requirements to show the absence of quarantine material such as stored grain insects. Independent inspections may also occur to ensure freedom from material that may compromise the quality of grain loaded.

During loading, grain is inspected by DAFF Authorised Officers to ensure it meets the quarantine requirements of the importing country (such as freedom from particular pests and diseases). Industry works closely with **DAFF Biosecurity** and the Trade Marketing Group through organisations such as the Grains Industry Market Access Forum to ensure market requirements for phytosanitary

and non-phytosanitary parameters are not unnecessarily restrictive.

All grain outturned must be free of live stored grain insects, as determined by industry in consultation with DAFF and documented in government legislation. Grain is also inspected to ensure compliance with market requirements and industry standards.

Where required, independent service providers are used to sample, test and certify grain outturned. For the majority of exports and for some grain supplied to the domestic market, testing independent of industry is conducted. For example, the **National Residue Survey** conducts testing for a wide range of chemicals on grain to ensure compliance with regulatory limits set in Australia and overseas.

Once grain is received, end-processors implement a range of systems, including QA systems and codes of practice to produce the end-product prior to consumption.

## The Future

As can be seen from the brief listing of processes and organisations listed in this article, the production and marketing of grain in Australia is complex and diverse. The Australian grain supply chain involves a wide range of stakeholders.

The supply chain is getting better at producing, storing and marketing grain. More robust processes are being developed to show compliance with customer and regulatory requirements. As market requirements continue to evolve there will be an ongoing need for both informal and formal QA systems to be developed and used, especially in niche areas of the industry.

History has shown the industry does not and should not rest on its laurels and rely on past performance. It is up to all in the industry to continually strive to meet market requirements through the use and development of whatever systems and processes are required. The grain industry has shown it is highly capable in this area.

It is hoped that the recently drafted GTA Code of Practice, which covers many of the industry best management practices listed above, will be a sound basis for that to continue in future.

# GRAIN BROKER OR GRAIN AGENT – IS THERE A DIFFERENCE?

## YES THERE IS!

The above terms are not interchangeable and reference needs to be made to the GTA Trade Rules under Definitions.

**Agent** means a person who is not a Broker and who is authorised to act on behalf of a Principal.

**Broker** means an independent person, firm or electronic trading platform engaged or used by others, at least partially on a commission basis, to facilitate contracts under instructions from buyers and sellers, relative to goods to which it does not have actual or constructive possession.

A person is not a Broker:

- (a) who has possession and absolute control of goods supplied to him or her to sell and collect the price (Therefore, a commission agent to whom a commodity is consigned for sale is not a Broker.)
- (b) who only acts for one Principal to the exclusion of all others

These definitions are aligned to common law definitions.

A major issue, from a GTA perspective relates to the following Trade Rule:

### Rule 3.1 – Powers of a Broker

1. A Broker's Note shall be prima facie evidence of the terms of the contract between the parties. **To the extent of any inconsistency between a Broker's Note and a document generated by a party, the Broker's Note shall prevail.** For the avoidance of doubt, a Broker is not a party to the contract and does not represent or act as agent for either party.

Arbitration awards attest to the precedence that a Brokers Note has over documents generated by a party where there is an inconsistency.



# GTA Storage & Handling Agreement

In 2009, GTA released a Storage & Handling Agreement. This agreement was borne out of an identified need where grain producers had warehoused grain without any formal documentation being executed.

Serious issues arose when the financial capacity of the warehouse operator was questioned. The major issue was that administrators challenged organisations who had warehoused grain to be able to prove title in comingled grain. The GTA Storage and Handling Agreement, whilst not tested at court, sets out to address this issue.

As applies to all GTA contracts and agreements, this agreement can be amended to suit the specific needs of the parties. It was designed for the storage and handling of all grain types and could, with appropriate review by legal advisers, be used for on farm storage of grain.

Key terms covered include:

1. **Agreement:** the client agrees to store the commodity identified in Schedule 1 to the agreement for the fees as specified in Schedule 1. The storer agrees to store that commodity subject to the terms and conditions of this agreement in clean, dry, ventilated and in all circumstances appropriate storage facilities including without limitation silos, storage bins and/or covered bunkers. Under this agreement, any weighbridge docket and quality testing results shall be conclusive evidence of the quantity and specification of the commodity being stored.
2. **Receival:** the storer will sample, provide quality testing services, classify into available grades, weigh, store and load (if available) rail or (if available) road transport or transfer the commodity to another party under this agreement. The storer will receive and load the commodity in accordance with

recognised receival specifications and sampling methodology unless otherwise agreed. The storer may, at its discretion, accept or refuse to receive the commodity for storage and/or warehousing, based on quality, hygiene, safety and its capacity and efficiency. The client will immediately remove the commodity from the storage upon receipt of a notice from the storer requiring it to do so.

3. **Storage:** the commodity received and stored/warehoused may be comingled with commodity of the like type and specification, in which case all comingled commodity shall be jointly owned by all parties whose commodity has been so comingled to the exclusion of all other persons including but not limited to the storer.
4. **Chemical treatment:** the storer may at its expense treat the commodity with chemicals in accordance with industry practice.
5. **Interest:** payable at a rate of 1.5% per calendar month, calculated daily.
6. **Insolvency:** in the event of the insolvency of the storer, the client or any purchaser remains the owner of the commodity. The client will be entitled to immediate discharge of its commodity, on demand, subject to any lien.
7. **Insurance:** the storer is under no obligation to insure commodity against loss, damage, and/or destruction. The client will at all times during this agreement keep the commodity insured against all risks while it is held at the nominated facility/facilities.
8. **Rules of Trade:** Trade Rules of GTA to apply.
9. **Dispute Resolution:** Dispute Resolution Rules of GTA to apply.

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The full agreement can be sourced from the GTA website under **Storage and Handling**.

## GTA Voyage Charterparty – AusGrain

**Prior to deregulation of the Australian wheat export market, AWB was the custodian of the Australian Wheat Charter (Austwheat), as endorsed by the Baltic and International Maritime Council (BIMCO), the most recent edition being Austwheat 1990 (amended 1991).**

The Austwheat Charter has become one of the most commonly used charter forms in the Australian export grain trade. In recent times, members have reported that it is becoming less common to find an unamended version of an Austwheat Charterparty that was not out of date.

Following representations from members, GTA was asked to consider becoming the new custodian of the Austwheat Charterparty and consider the need to update the Charterparty in line with the current market environment.

GTA coordinated the appointment of an Australian Grain Industry Charterparty Development Committee, consisting of industry representatives with significant experience in export contracts and documentation.

The Committee considered that changes to the existing Charterparties were necessary and meet on several occasions to develop an appropriate draft document for initial consultation with shipowners and brokers.

The Committee has released the first draft of the GTA Charterparty (Member Update 21 of 12) and submissions are now being considered.

It is GTA's intention to constantly maintain and review the Charterparty where necessary and attempt to secure BIMCO endorsement of this Charterparty as part of the process.

The Charterparty will be released for use by members by June 2013.

# Trade & Market Access

As part of its Strategic Direction for 2012/2013, GTA has undertaken to increase its involvement in trade and market access activities. This activity will be coordinated by the GTA Trade & Market Access Committee. GTA is a member of the International Grain Trade Coalition which is composed of like organisations from across the global importing and exporting countries.

## Proposed International Standard for Phytosanitary Measures (ISPM) – International movement of grain

A project of the International Plant Protection Convention

### Who or what is the IPPC?

Australia, via DAFF Biosecurity, is a member of the International Plant Protection Convention (IPPC) which is administered by the Food and Agriculture Organization of the United Nations. IPPC is an international agreement on plant health with 177 current signatories.

The policy making component of the IPPC is the Commission on Phytosanitary Measures (CPM), which facilitates cooperation between contracting parties (globally) to protect the world's cultivated and natural plant resources from the spread and introduction of pests of plants, while minimizing interference with the international movement of goods and people.

All activities have associated measures of success to enable progress with achievement to be monitored. IPPC's core activities include;

- Governance
- Standards setting
- Information exchange
- Dispute settlement
- Capacity building
- Reviewing the global status of plant protection

As a member of the IPPC, Australia is bound by the determinations of the IPPC.

A key policy document of the IPPC is the;

- "Phytosanitary Principles for the Protection of Plants and the Application of Phytosanitary Measures in International Trade"

This document provides guidance to IPPC members on how to conduct phytosanitary activities within the boundaries of the;

- legislative requirements of the exporting and importing countries, and
- contractual obligations of the exporter and importer

Importantly, there is recognition that;

"Contracting parties should apply phytosanitary measures with minimal impact. In this regard, the IPPC provides that they "shall institute only phytosanitary measures that ... represent the least restrictive measures available, and result in the minimum impediment to the international movement of people, commodities and conveyances."

In other words IPPC outcomes, in the case of the grain industry, need to be mindful of commercial activities and should not inhibit bona fide grain trade flows.

Currently, the Commission on Phytosanitary Measures is considering implementing a standard which would be prescriptive for all grain phytosanitary certification. The standard would apply to all exporting and importing countries who are IPPC signatories.

**Adoption of such a standard would impede DAFF Biosecurity's ability to implement the phytosanitary certification process in a manner that is suitable for Australian conditions and contracting requirements.**

Via representation to DAFF Biosecurity, GTA will be advocating for the retention of the current process and opposition to the adoption of a global "one size fits all" standard. This position is aligned to the positions adopted by other members of the International Grain Trade Coalition which is comprised of grain trade organisations from importing and exporting countries.

## Adoption of a Low Level Presence policy by Australia

### What is Low Level Presence?

Low-level presence (LLP), also referred to as adventitious presence, is the unintentional and incidental commingling of trace amounts of one type of seed, grain or food product with another. LLP is an unavoidable reality of plant biology, seed production and the distribution of commodity crops.

### What is the issue?

The issue comes to the fore with genetically modified crops. It is impossible to have separate supply chains for non GM and GM crops. They need to co-exist across common supply chains. This is a worldwide phenomenon.

In 2009, a shipment of linseed from Canada was found to contain a trace amount (down to 0.01%) of a GM linseed event that was not approved in Europe. The shipment was rejected at significant cost, with additional ongoing costs for testing and segregation over the period 2009 to 2011.

A soybean shipment to Europe that contained trace amounts of corn dust suffered a similar fate.

### Could a similar situation affect an Australian wheat shipment?

YES

A bulk or container shipment of Australian conventionally bred grain could be adversely impacted, if trace amounts of an unapproved GM event were detected in the Australian grain with residue from a previous cargo.

A zero tolerance policy is unworkable and a trade inhibitor.

### What needs to be done?

All companies exporting to countries that do not have a LLP policy, i.e. the importing country has a zero tolerance policy, are potentially exposed to the same type of issues as the Canadian linseed exporter.

To deal with trace amounts of an unapproved GM event in the country of import, a LLP policy is required that identifies tolerances for unapproved events in the country of import.

### Need for countries to adopt LLP policies

Canada has agitated for the adoption of LLP policies and is in the process of implementing such a policy as a lead to other countries.

It is critical that all countries adopt a policy that allows trace amounts of an unapproved event in the country of import. Interestingly, there is a global tolerance for arsenic via the CODEX standards.

# GTA PROFESSIONAL DEVELOPMENT PROGRAM

Following the success of the 2012 Professional Development Program (PDP), Semester 1 of the 2013 GTA PDP has now commenced.

GTA's objective is to provide a range of targeted, practical courses designed to meet the expanding educational demands of the grain value chain. From producers to exporters, the GTA PDP courses offer something for everyone, whether you are new to the industry or looking to update and expand your existing skillset.

## Semester 1 - Courses, Dates & Locations

### Understanding Grain Markets – Trade

Date	Location
06 March	<b>VIC – Melbourne</b> – Cliftons, 440 Collins Street, Melbourne
14 March	<b>WA – Perth</b> – Cliftons, Parmelia House, 191 St. Georges Tce, Perth
21 March	<b>QLD – Toowoomba</b> – Cedar Centre, 36 Baker Street, Toowoomba
04 April	<b>NSW – Dubbo</b> – Cattlemans Motor Inn, 8 Whylandra Street, Dubbo
05 June	<b>SA – Adelaide</b> – Cliftons, 80 King William Street, Adelaide

### GTA Trade Rules & Contracts #

Date	Location
12 March	<b>NSW – Dubbo</b> – Cattlemans Motor Inn, 8 Whylandra Street, Dubbo
09 April	<b>SA – Adelaide</b> – Cliftons, 80 King William Street, Adelaide
10 April	<b>WA – Perth</b> – Cliftons, Parmelia House, 191 St. Georges Tce, Perth
01 May	<b>VIC – Melbourne</b> – Cliftons, 440 Collins Street, Melbourne

### GTA Dispute Resolution Service & Arbitration #

Date	Location
13 March	<b>NSW – Dubbo</b> – Cattlemans Motor Inn, 8 Whylandra Street, Dubbo
02 May	<b>VIC – Melbourne</b> – Cliftons, 440 Collins Street, Melbourne
21 May	<b>SA – Adelaide</b> – Cliftons, 80 King William Street, Adelaide
22 May	<b>WA – Perth</b> – Cliftons, Parmelia House, 191 St. Georges Tce, Perth

### Grain Merchandising

Date	Location
02 & 03 May	<b>QLD – Toowoomba</b> – Cedar Centre, 36 Baker Street, Toowoomba
30 & 31 May	<b>NSW – Dubbo</b> – Cattlemans Motor Inn, 8 Whylandra Street, Dubbo
20 & 21 June	<b>VIC – Melbourne</b> – Cliftons, 440 Collins Street, Melbourne
03 & 04 July	<b>WA – Perth</b> – Cliftons, Parmelia House, 191 St. Georges Tce, Perth
10 & 11 July	<b>SA – Adelaide</b> – Cliftons, 80 King William Street, Adelaide

### Grain Accounting

Date	Location
18 April	<b>QLD – Toowoomba</b> – Cedar Centre, 36 Baker Street, Toowoomba
12 June	<b>NSW – Dubbo</b> – Cattlemans Motor Inn, 8 Whylandra Street, Dubbo

Full details of all the courses available in 2013 are on the GTA website including registration forms, dates and prices as well as a full colour PDF brochure.

#### In-house training

GTA also offers customised In-house training, where we come to you. Whether you have a specific need, find it difficult to attend the scheduled sessions or looking to provide team training within the company we can offer a customised solution. Conditions apply so please contact the GTA Office to discuss the options that are available.

Benefits of In-House training include:

- reduction in travel and staff costs
- tailoring of training to meet specific need
- team building
- flexibility of delivery (date and time)

#### Development of Industry Key Competency

GTA is working closely with AgriFood Skills Australia to review and endorse a key competency within

## AUSTRALIAN GRAIN INDUSTRY CODE OF PRACTICE

**With evolving market conditions and the industry's desire to demonstrate a high level of quality, integrity and self regulation, GTA Members and the broader grain industry have identified the need to develop a Code of Practice which formally defines processes and procedures.**

GTA has developed a draft Australian Grain Industry Code of Practice (Code) that will come into effect June 2013. The Code will be mandatory for all GTA Members at the commencement of the 2013/2014 Membership year.

GTA strongly encourages all Members to review the Code carefully, to determine their obligations and provide feedback when drafts of the Code are released for comment.

The purpose of this Code of Practice is to describe practices that the grain industry use to ensure Australian grain and grain products meet domestic or export customer requirements. Customer requirements include those stipulated in contracts and regulatory requirements at the Australian State, Territory and Federal levels and international and overseas country level. There are also a range of industry standards that are covered under the Code.

The processes employed by industry at each point along the grain supply chain vary depending on the outcome required. Each industry participant manages their own operations based on the needs of their customers and their own internal procedures and systems.

The Code focuses on those common standards, operating procedures and documented processes. The Code assumes that all participants in the grain supply chain will have in place established practices that ensure compliance with this Code.

By following this Code, the grains industry, including all sectors related to the grains industry, governments, researchers and consumers will gain confidence that processes exist in Australia to successfully produce, store and supply grain that meets the expectations of the entire grain supply chain.

The grain industry is committed to self-regulation. This Code assists that purpose by providing a process that is transparent and which outlines minimum requirements of all involved in the Australian grain supply chain.

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A copy of the draft Code is available on the GTA website [www.graintrade.org.au](http://www.graintrade.org.au).

the industry that has been identified as high risk to the sector; Sample and Test Grain and Related Commodities.

Endorsement of this key competency will provide industry best practice across the country when dealing with grain throughout the value chain.

Work on the Diploma qualification is progressing and is anticipated to be completed by late 2013.

## ESTABLISHMENT OF ARBITRATION TRIBUNAL CHAIR (EXPORT CONTRACTS)

Export contracts being used by GTA members are increasingly referencing the GTA Dispute Resolution Service (DRS) due to the cost efficiencies and convenience of GTA arbitration as opposed to alternative systems.

Potentially, disputes relating to export contracts will be characterised by technical complexity and substantial quantum of damages. Accordingly, the GTA Board approved the creation of a panel of suitably qualified arbitrators who will act as Arbitration Tribunal Chair (Export Contracts) (the Chair) for these arbitrations.

### Nomination requirements

#### General requirements for arbitrators

Arbitrators, in general, shall meet the following criteria:

- be well versed in the practices and customs of the grain trade
- have a thorough understanding of the GTA Trade Rules and GTA Arbitration Rules
- have not less than five years experience in the grain trade or grain related industry, or is a professional arbitrator
- not be bankrupt, insolvent, or in receivership, and
- not be convicted of a felony

#### Additional professional requirements required by the Chair

- Nominees will be drawn from GTA members.
- Nominees will possess legal qualifications with experience in maritime law and/or export grain contracts.

### Responsibilities

- The Chair will be responsible for the conduct of the Arbitration and direct the GTA secretariat in arbitral matters as needed.
- The Chair will act as the legal adviser to the Tribunal as required.
- The Chair will convene the hearings of the Tribunal and draft, circulate and finalise the award in conjunction with other Tribunal members.
- Selection of the Chair will be at the discretion of the GTA CEO.

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Refer to the GTA website for a full list of approved Arbitration Tribunal Chairs (Export Contracts).



## AUSTRALIAN GRAIN INDUSTRY CONFERENCE

**Australia's pre-eminent and longest running grains industry conference takes place from 29 to 31 July in Melbourne, Australia. The Australian Grains Industry Conference (AGIC) is Australian owned and run by the industry for the industry.**

It provides a one-stop opportunity to hear the latest developments in the industry, meet with clients and catch up with friends and colleagues. It is the must attend event on the grains industry calendar and once again will tackle the big issues influencing the Australian and global grain industries.

With over 850 delegates and over 25 exhibitors, AGIC offers unparalleled networking opportunities with delegates, speakers and trade exhibitors.

AGIC 2013 is the best opportunity for anyone interested in the Australian or global grains industry to hear the latest news, outlook and trends shaping the industry's future. The Conference is the opportunity to reach decision-makers in the Australian grains industry, hear the latest outlook, debate industry issues, and network with old and new colleagues.

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**The Australian Grains Industry Conference is hosted by the Grain Trade Australia, Australian Oilseeds Federation & Pulse Australia.**

## PORT ACCESS – CODE OF CONDUCT

In February 2012, GTA convened a Port Access Code Development Committee that was tasked with developing an industry agreed Code. The major imperative for the Committee was to agree on the key principles to be covered by the Code and a sanctions regime that would cover all operators of bulk terminals, whether they were covered by current access undertakings or not. Also, the reporting of stocks information was agreed by industry to be part of the Code.

The Committee was to release a draft Code for industry comment in December 2012.

The passing of the amendment to the Wheat Export Marketing Act on 29 November 2012 overtook the Committee deliberations and the Government has determined that the Code will not be governed

by industry but by the Australian Consumer & Competition Commission (ACCC).

The Government is looking to industry to provide the guiding principles and key elements to be included in the mandatory Code. Accordingly, the Committee has agreed to a new Terms of Reference and is now the Code Development Advisory Committee (CDAC). It will provide the key principles industry believe should be covered in the Code, enabling the commencement of drafting by mid-March 2013.

Sanctions for the Code will be determined and regulated by the ACCC. The issue of the provision of stocks information is still to be determined.

It is anticipated the Code will be ready for release by 30 September 2013.

# GRAIN INDUSTRY EXPORT CONTAINER FORUM

Proudly hosted by Grain Trade Australia (GTA)

**Grain Trade Australia (GTA) invites industry participants to attend the Grain Industry Export Container Forum to be held at the Rydges Hotel Exhibition Street, Melbourne, on Thursday 16 May 2013.**

In recent years Australian containerised grain exports has been a growth sector of the Australian industry. Wheat exports in containers have increased from 846,000 tonnes in 2007 to a staggering 2,232,000 tonnes in 2011. This represents an industry sector growth of 264% in just five [5] years. Containerised wheat exports account for over 11% of all wheat exports, with consignments being placed in over 42 countries, many of them first time users of Australian wheat.

This growth in export tonnage has not been without its challenges, from the logistics of obtaining food grade containers to both regional and metropolitan based packing facilities, to phytosanitary certification and contractual issues.

Recognising a need, GTA has increased its support for members operating in this sector in a number of ways from Chairing the recently completed AQIS Ministerial Task Force to developing specialist contracts.

This Grain Industry Export Container Forum will enable exporters, packers, shippers, Government agencies, product & service providers, with the opportunity to discuss the issues that matter, including;

- Container industry outlook
- Fumigation and Documentation
- Container Logistics
- Grain Quality, Hygiene and Packing
- WHS
- Export Certification Process
- Market Access
- GTA's role in the facilitation of container trading

The speakers are industry participants with sound experience in their chosen field. One of the great strengths of the Australian grain industry is the willingness of industry participants to share knowledge and experiences, in recognition that the industry collectively benefits.

GTA is proud to be hosting this Forum and would encourage your participation.

For further details please visit the GTA website.



## GTA Photo Competition is on again



Following the success of the 2012 Photo Competition the competition is being held again. GTA is looking for interesting photos with a strong focus on grain.

The top 20 entries will be selected and displayed at the Australian Grains Industry Conference in Melbourne.

The winning photo will feature on the front cover of the 2013 GTA Annual Report and will receive a prize. So start collecting your photos now to be in the running.

## GTA Visual Recognition Standards Guide



The second edition of the *GTA Visual Recognition Standards Guide* is available for order now.

The Guide was originally developed by the GTA Standards Committee through comprehensive consultation with the major bulk handling companies, including CBH, Viterra, Cargill and GrainCorp.

The new Guide covers a wide variety of commodity defect definitions and photographic references for wheat, barley, oats, sorghum, maize, chick peas, and canola.

Robert Parkes, Chairman of GTA Standards Committee and General Manager – Quality and Technical for Ridley Agri-Products, said, *“This Guide provides samplers and grain quality assessors with an effective tool to determine defective grain, and every sample stand should have one. The new Guide provides industry with*

*the reference needed to help minimise doubt in the assessment of unacceptable defects”.*

The *GTA Visual Reference Standards Guide* is available for immediate order and delivery by visiting the GTA website.

## Cattle Trade Rules and Contracts

GTA has an agreement with Meat Livestock Australia (MLA) to act in an advisory capacity in the development of a cattle contract with associated Trade Rules which have been modelled on GTA documents.

From GTA's perspective, it is pleasing that other commodities have recognised the need for robust contractual documentation that has legal enforceability.

The contract has been endorsed by:

- Australian Lot Feeders Association (ALFA)
- Australian Livestock and Property Agents (ALPA)
- Australian Meat Industry Council (AMIC)
- Cattle Council of Australia (CCA) & their affiliates

The cattle contract and trade rules are on the GTA website.

## GTA Welcomes Mrs Virginia MacCarthy

**GTA would like to welcome Mrs Virginia MacCarthy to our team**

On the 7th January, Virginia joined the team as the Member Services Co-Ordinator. Virginia will coordinate and promote GTA's Professional Development Program (PDP), customised In-house training and lead the development of GTA's Diploma.

Virginia was born in Quirindi and grew up in the Tamworth region. She has recently relocated to the Central Coast region.

For the past 5 years Virginia has been working within the Vocational Education and Training (VET) Industry within the government and not-for-profit sectors. During this period, Virginia led the development and implementation of quality compliance systems within the training sector and reviewed the development of courses to assist in addressing the needs and demands of industry.

Virginia looks forward to working with and meeting our members.

# GTA Calendar of Upcoming Events

Date	Program	Event	Venue
16 May 2013	One day	Grain Industry Export Container Forum	<b>VIC – Melbourne</b> – Rydges Hotel Exhibition Street, Melbourne
18 & 19 June 2013	Two days	National Working Party for Grain Protection	<b>VIC – Melbourne</b>
29, 30 & 31 July 2013	Three days	Australian Grain Industry Conference	<b>VIC – Melbourne</b> – Crown Melbourne

## NEW GTA MEMBERS

GTA WOULD LIKE TO WELCOME TO THE MEMBERSHIP THE FOLLOWING ORGANISATIONS IN THE 2012/2013 FINANCIAL YEAR.

Applicant Name	Membership Category
Grain Industry Association of WA (GIAWA)	Industry Association
Starcom Grain Pte Ltd	Level C
FertInvest Pty Ltd	Level C

## WHEAT INDUSTRY ADVISORY TASKFORCE

The Wheat Export Marketing Amendment Act 2012 (the Act), passed by parliament on 29 November 2012 requires the Minister for Agriculture, Fisheries and Forestry, Senator the Hon. Joe Ludwig, to form a wheat industry advisory taskforce.

This taskforce will examine key issues facing the industry, including:

1. availability of stocks information, and
2. quality integrity

Members of the Taskforce announced on 1 February 2013:

- **Dr Michele Allan—Chair, Victoria** Dr Allan has 30 years of experience in a wide variety of fields in executive and non-executive roles, including Birchip Cropping Group, Grains and Legumes Nutrition, and Food Standards Australia and New Zealand.
- **Mr Mark Barber, New South Wales** Mr Barber

has 20 years of experience in agriculture, including as agribusiness practice leader in one of Australia's largest economic consulting firms, ACIL Tasman.

- **Mr David Fulwood, Western Australia** Mr Fulwood is a Nuffield Scholar and the managing director of a family farm business in Western Australia.
- **Mr Imre Mencshelyi, Western Australia** Mr Mencshelyi is a highly respected and well experienced executive manager in the grains industry. Previously Group Chief Executive Officer of the CBH Group of Companies.
- **Mr Mitch Morison, Victoria** Mr Morison has 20 years of commodity trade management experience in global grain markets. Until recently he was the Commercial General Manager at Cargill Australia Ltd.
- **Ms Rebecca Reardon, New South Wales** Ms Reardon has 19 years of experience in the

Australian grains industry from international and domestic trading companies to bulk handler organisations to grower co-operatives. She is Chief Executive Officer of Walgett Special One Co-operative.

- **Mr Graham Shields, Western Australia** Mr Shields is a highly respected wheat producer with 45 years of grain production in the central wheat belt and the south west wheat belt in Western Australia.

Surplus funds from the Wheat Export Charge will fund the activities of the Wheat Industry Advisory Taskforce. GTA will be placing a submission to the Taskforce.

The Taskforce is required to report to the Minister with recommendations by 1 July 2014.

More information on the Taskforce is available on the GTA website [www.graintrade.org.au](http://www.graintrade.org.au)

## RECENT AWARDS AT ARBITRATION

### GTA Arbitration 159

**Date of Issue: August 2011**

**Claimant:** Producer Seller

**Respondent:** Trader Buyer

**Arbitration Committee (AC)**

- Mr Guy Allen, nominated by the Claimant
- Mr Gerard McMullen, nominated by the Respondent
- Mr Peter Flottmann, Chairman appointed by GTA

#### Claim

At issue in this dispute is:

- the question of the performance of a contract and consequence of breach
- relying on assessment of quality after delivery to discount the contract price
- the claim was for \$186,001

#### Award extract

"it is incumbent on both parties, the buyer in particular, to assess the quality and condition of delivered grain promptly and so advise the seller. it puts the seller at a massive disadvantage if the buyer only notifies the seller well after delivery of any concerns as to quality or condition".

#### Award

Final Award:

- The claim is allowed in the sum of \$97,616.66 payable by the Respondent to the Claimant immediately.
- The Respondent shall pay interest on the damages at the rate of 8.75% per annum from 21 June 2010, being the date on which it made the payment of \$96,626.25.
- The Respondent shall indemnify the Claimant in respect of any fees paid by the Claimant to GTA in relation to this arbitration.

- The Respondent shall pay the Claimant's legal costs on a party and party basis. The parties are directed to attempt to settle costs between them within the next 14 days, failing which the costs shall be assessed by the Supreme Court of New South Wales in accordance with section 33B(5) of the Commercial Arbitration Act (NSW) 2010.

### GTA Arbitration 168

**Date of Issue: December 2011**

**Claimant:** Producer Seller

**Respondent:** Trader Buyer

**Arbitration Committee (AC)**

- Richard Clark, nominated by GTA

This arbitration was conducted as a Fast Track arbitration and hence has only one arbitrator nominated by GTA and approved by the parties.

#### Claim

- Amended delivery period and in particular the agreement to "new grade spreads" not confirmed in writing between the parties.
- Contracted tonnage delivered to a later delivery period and accepted by the buyer against the contract.
- Buyer reduces contract price by \$40/tonne, i.e. the "new grade spreads".
- The claim was for \$20,000, i.e. the discounted contract price X tonnage contracted.

#### Award

Final Award:

- The claim is allowed in the sum of \$20,000.
- The Respondent shall indemnify the Claimant in respect of any fees paid by the Claimant to GTA in relation to this arbitration.