



**Timing is everything: the privatisation  
of the Australian Wheat Board and the  
Oil For Food program**

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On 29 January 2007, the first shipment of bulk wheat was exported from Australia by a company other than AWB Limited.<sup>1</sup> AWB was the number one offender identified by the Volcker Inquiry into the Oil-for-Food scandal. The permit for this departure from the 'single desk' arrangement, and other shipments to follow, was issued by the Minister for Agriculture, Fisheries and Forestry under a temporary arrangement agreed by Cabinet in December 2006. It has been put in place for six months while the government conducts an inquiry into wheat export marketing. The inquiry began with the establishment of a Wheat Export Marketing Consultation Committee 'to consult widely with the Australian grains industry, particularly growers, about their wheat export marketing needs'<sup>2</sup> and the issuing of a Discussion Paper to kick things off. The Committee is to report to government by 30 March 2007.

For anyone who has followed the recent history of wheat marketing in Australia this process seems eerily familiar. The current wheat marketing system is the result of a grower-run process in the mid-1990s which led to the establishment of AWB Limited, a private company listed on the ASX with an effective veto over the export of wheat. The privatisation process coincided with the operation of the Oil-for-Food program. Much of the media and other commentary on the Oil-for-Food scandal has focused on attempts to uncover evidence of government culpability for AWB Limited's behaviour and has sought out gaps in accountability processes. However, it is worth considering what the changing status of the Australian Wheat Board and its employees during the course of Oil-for-Food meant for the company's relationship with DFAT.

### **Parallel policy processes**

Throughout 1995 the Australian grains industry was engaged in a process of considering the future of the statutory Australian Wheat Board. This was part of a process of strategic planning in various areas of the grains industry. In 1995 a tripartite working group comprising the industry body, the Grains Council of Australia (GCA), the Australian Wheat Board and the then Department of Primary Industries and Energy (DPIE) developed some options for the future of wheat

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<sup>1</sup> The author was manager, strategic planning, at the Grains Council of Australia, 1995-96.

<sup>2</sup> Australian Government, 2007, *Wheat Export Marketing Committee Consultation Committee: Discussion Paper* p 3

marketing. These options were discussed at 22 grower meetings across the wheat belt in September and October 1995. These meetings were billed as grower consultations providing growers with the opportunity to obtain information about the various options to enable them to decide on the future of the Australian Wheat Board. The Australian Wheat Board itself actively advocated privatisation but with retention of its export monopoly.

After several months of negotiation and discussion, the Grains Council endorsed a privatisation model at its Grains Week Conference in April 1996 and the process towards privatisation began. Legislation was passed in 1997 and 1998 giving effect to the change and on 1 July 1999 the Australian Wheat Board passed from government-to grower-ownership as AWB Limited. Statutory responsibilities of the old Australian Wheat Board were transferred to a new industry 'regulator' the Wheat Export Authority (WEA). The WEA's role is to manage the export monopoly and to 'oversight the ... use of the export monopoly to ensure it is being used in accordance with the intentions of parliament'.<sup>3</sup> AWB Limited was subsequently listed on the Stock Exchange with its first day of trading on 22 August 2001.

This is one half of the picture. The other half relates to the implementation of the Oil-for-Food Program by the United Nations. Such a program, designed to ease the impact on ordinary Iraqis of sanctions against the Iraqi government, had been proposed by the UN for some time before it was accepted by Iraq. In April 1996 the Iraqi government agreed to the Distribution Plan for Iraq and signed a Memorandum of Understanding with the UN, thereby giving effect to a program which allowed Iraq to sell oil and use the proceeds for much-needed humanitarian imports. As we now know, as the program proceeded the Iraqis devised a number of schemes to limit its effectiveness as a mechanism for denying Saddam's regime access to hard currency.

AWB negotiated its first wheat sale to Iraq under Oil-for-Food in December 1996. Evidence before the Cole Inquiry shows that by mid to late 1999, AWB was complying with Iraq's schemes to bypass elements of the sanctions regime. Initially

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<sup>3</sup> Anderson, 1998 *Wheat Marketing Legislation Amendment Bill 1998: Second Reading Speech*, House of Representatives Hansard, 14 May 1998 p 3332

this was through payment of ‘inland transportation’ charges but in 2000 the sanctions evasion escalated with the imposition of an after sales service fee.

The table sets out the timing of the privatisation of the Australian Wheat Board and the operation of the Oil for Food program to illustrate how the two ran in parallel.

<b>Date</b>	<b>AWB Restructure</b>	<b>Oil for Food</b>
April 1996	GCA agrees to support the privatisation of the Australian Wheat Board	
May 1996		The UN and Iraq sign a Memorandum of Understanding giving effect to the Oil for Food program
December 1996		AWB announces the negotiation of its first sale to Iraq under the Oil for Food program
1997	Legislation passes the Australian Parliament giving effect to the first phase of the privatisation process	
1998	Further legislation is passed completing the privatisation process	
July 1999	The privatised, grower-owned AWB Limited commences operations on 1 July  Management of the export monopoly transfers to the new Wheat Export Authority	The first contract between AWB Limited which explicitly contains inland transportation charges is signed with Iraq and approved by the UN
October 1999		Two further contracts include clear reference to inland transportation fees
November 2000		The after sales service fee is imposed
August 2001	AWB Limited commences trading on the ASX	
March 2003		Coalition intervention in Iraq ends the Oil for Food Program

There are several important points to be made about this chronology. First, so-called ‘kickbacks’ in the form of inland transportation fees were not paid while the Australian Wheat Board was a statutory authority. Some preliminary discussions took place between a few middle managers and Iraqi officials in June 1999. However, the evidence before the Cole Inquiry made it clear that this was not done as part of a corporate strategy of which the Board was aware but was the activity of a few salesmen who went to extraordinary lengths to disguise their activities – from their

fellow workers and their Board. Secondly, the first three contracts which contained inland transportation fees did so explicitly and were approved by the United Nations (UN). This was a mistake on the part of the UN as the Distribution Plan to which Iraq had agreed specified that Iraq was responsible for the inland movement and distribution of humanitarian goods. The inclusion of such a fee in these contracts should have raised questions at the UN. It did not.

### **Avoiding scandals**

With the 20:20 vision of hindsight, the AWB scandal appears to have been preventable. If DFAT had asked the right questions, if the Board had been more diligent, if ministers had been more suspicious of AWB Limited's denials, perhaps the kickbacks could have been prevented. Or perhaps not: as the table above indicates, the Oil for Food Program commenced while the Australian Wheat Board was a statutory authority and its employees were public servants. The first shipments under Oil for Food were negotiated by government employees. By the time kickbacks were being paid, there was no longer a government official on the board and AWB Limited was a grower-owned company. As a monopoly, the Australian Wheat Board/AWB Limited has also had an effective monopoly on information on the export wheat trade. This was not an issue while its employees were public servants and could be relied on to pass accurate information on to other government agencies on request. Once the monopoly was in private hands, there was arguably an onus on government to develop its own body of expertise. As the table show though, it seems unrealistic for DFAT to have acquired sufficient knowledge of the wheat trade to 'smell a rat' in AWB Limited's dealings with Iraq in the short timeframe that was available. DFAT also did not have legislative backing to investigate or pursue AWB Limited if it suspected anything. Some of Cole's recommendations go to this issue by suggesting that lying on an export permit application and breaching UN sanctions should both become criminal offences. They weren't during the Oil for Food Program.

The government did have a regulatory body with a nominal oversight role; the Wheat Export Authority. The Cole Inquiry found this body to be largely toothless: AWB Limited withheld information from it along with everyone else who asked awkward questions. As Cole noted 'The WEA has no statutory function to inquire into the

operations of AWB save insofar as those operations affect returns to growers. It does not have power to investigate or control AWB or AWBI generally'.<sup>4</sup>

This is one area in which it is hoped the government has learnt from the Oil-for-Food affair. As it considers the report of its committee after 31 March 2007, it has an opportunity to ponder the powers it wants to retain over the operation of the single desk. For example, how much power should the Wheat Export Authority or its successor have to access internal company documents relating to the operation of the export monopoly? While the government considers what the growers want this time round, it should also consider what its objectives are in its role of granting the valuable export monopoly, arguably a form of public asset, to a private company. What safeguards does it want to put in place to ensure the monopoly is not abused, that the monopoly-holder is accountable and that there is reduced chance of future scandals like Oil for Food?

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<sup>4</sup> Cole, 2006, *Report of the Inquiry into certain Australian companies in relation to the UN Oil-for-Food Programme*, Canberra, Commonwealth of Australia, Volume 4: Findings p 1