



Mr Anthony Wing  
General Manager  
Transport and General Prices Oversight  
ACCC  
GPO Box 520  
MELBOURNE VIC 3001

3 September 2009

**Re: Access to Ports and Grain Terminal facilities by Superintendence and Inspection companies as a part of wheat export operations.**

**This submission relates to Port Access Undertakings submitted by Co-operative Bulk Handling Limited and GrainCorp Operations Limited.**

Dear Mr Wing,

Further to our submission of 24 May 2009 we would like to make the following additional comments. We note the recent submissions of CBH and GrainCorp as well as the ACCC draft decisions. CBH assert that matters covered by our submission were not relevant to this process. GrainCorp on the other hand made extensive comments on many of the points made in our original submission. In response we would simply like to re-iterate the key points of our original submission.

The fact of the matter is that independent, third party inspection, sampling and testing of grain at loading by a Superintendent company is a standard and very common practice throughout the global grains industry and more often than not, it forms a key part of contract terms. Secondly, the current restrictions placed on the activities of third party inspection companies by the port operators may well result in the Superintendant company's inability to provide our clients with the level of service they expect or that is required by their contracts.

Some of the potential impacts of these restrictions were discussed in our original submission and hence do not bear repeating other than to re-iterate the point that the services grain exporters require from their appointed Superintendant companies are often fundamental to globally accepted standard trade contracts and other import regulations. Obviously then, the failure of the Superintendant companies to fully perform their tasks to accepted standards may result in problems with executing the contract. While GrainCorp assert that they are not aware of this ever having happened, one might well argue that this may be due to good luck rather than good management, so to speak.

CBH submitted that the Port Access Undertaking process does not cover third party access to ports and indeed the ACCC appeared to support this view. We however believe that their must be an obligation to allow such access particularly where that third party plays a crucial role in the execution of grain exports and where port operators place unjustified restrictions on their activities.

GrainCorp made extensive comments in relation to our original submission and we do not intend to, nor do we see value in addressing these individually. We would however like to make two points. The first relates to safety. To that end, I would like to make it very clear that SGS have never, nor would we ever sanction unsafe practices to be undertaken in meeting requirements. In fact I can see no reason that SGS, or any other inspection company for that matter, would need to access areas or conduct operations within a port facility that are not

already standard day to day functions of either AQIS or port staff currently working at port facilities throughout Australia.

The second point we would like to make referring to the GrainCorp submission relates to sampling regimes. The merits of one sampling regime over another are irrelevant to this discussion. SGS, in their role as an independent third party, do not endorse one regime over another. The role of the Superintendant company is simply to conduct sampling, testing and inspection against agreed standards, that is the standard set out in the contract or other relevant situation (e.g. a government regulation of an importing country). In this context then, it is very clear that there is a problem if the sampling regime employed is not fully in compliance with contract requirements. Whether one party has an opinion about the superiority or otherwise of the regime employed is irrelevant.

To conclude, SGS felt moved to make its original and indeed this further submission for one simple reason; our clients, all of whom are licensed wheat exporters and many of whom are key players on the international market, are frequently asking SGS in Australia to provide a level of service that we cannot currently provide due to restrictions on our activities placed on us by port operators. These activities are not safety issues and they do not include inappropriate or unscientific sampling regimes, rather they are standard requirements, common throughout the global grain trade and have been for many years indeed. By way of example, SGS has been providing these types of services to the global grain trade since the company's inception in 1878.

We do not wish to make any prejudgement as to why port operators put these restrictions in place. Rather we wish to make the point that we and our clients believe that these restrictions are inappropriate and detrimental to the Australian grains industry. We trust that, through both this process and also through working through any real issues with the port operators, we will be able to reach a point where both grain exporters and port operators' requirements can be met. In order for that to occur, we believe an obligation to allow such access forms a crucial, albeit small, part of the Port Access Undertakings.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D Robey', is positioned above the printed name.

Darren Robey  
**National Operations Manager**  
**SGS Australia – Agricultural Services.**