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FOR IMMEDIATE RELEASE

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RITZ'S CWB BILL ILL-CONCEIVED, UNWORKABLE, AND UNNECESSARY

SWIFT CURRENT, Sask.— MP Gerry Ritz's Private Members Bill C-300 would create a host of unintended consequences, trigger trade challenges that may close the border for Canadian processed foods, and it would create all these negative effects in an attempt to solve a problem that really doesn't exist.

Bill C-300 would create the potential for every mill and processing facility in the world to bypass the CWB. "C-300 purports to give an advantage to farmer-owned Canadian plants. But the reality is that a corporate-controlled joint-venture flour mill in Japan could just as easily take advantage of the Bill's provisions," said NFU President Stewart Wells. He continued "C-300 is an attempt to sugar coat a poison pill for the CWB." He also pointed out that the myriad of unintended consequences triggered by C-300 are an indication, not only of the sloppiness of the Bill, but of the inescapable difficulty that arises in trying to exempt certain activities and not others. For more analysis, see attached backgrounder.

Bill C-300, because it would create legislated cost advantages for some processors and not others, would almost certainly trigger trade actions by US processors, probably leading to a closed border. "C-300 is a law that would give some Canadian processors the right to access grain at a lower price than their US competitors. A countervail would almost certainly follow. Anyone who has watched the softwood case knows that such cases can be protracted and damaging. Bill C-300 could effectively close the Canada-US border to Canadian pasta, cereals, flour, and processed foods containing flour. The financial effects may be similar to those triggered by BSE," said Wells.

Not only is C-300 reckless and damaging, it is largely unnecessary. Proponents point to the need to facilitate farmer deliveries to ethanol and bio-diesel plants. But farmers can already deliver wheat directly to ethanol plants—non-food wheat is exempt from CWB jurisdiction. And bio-diesel is made from canola, a non-CWB oilseed. "Ritz's Bill would have zero effect whatsoever on farmer-owned food-based fuel plants," said Wells. Further, so long as farmer-owned food processing plants are willing to pay North American prices for wheat and barley (which they must do if Canada is to avoid trade challenges), farmers can set up as many milling and processing plants as they like. Stated another way: as long as NAFTA exists, C-300 would change little with regard to farmers' abilities to build and profit from food processing plants.

Wells concluded: "This is bad legislation that would effectively destroy the CWB and damage trade. No changes to the CWB should be introduced or debated unless farmers democratically request such changes."

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**An analysis of MP Gerry Ritz’s Private Members Bill C-300:
An Act to Amend the CWB Act
National Farmers Union — June 15, 2006**

For every complex problem, there is a solution that is simple, neat, and wrong. —H.L. Mencken

MP Gerry Ritz’s Bill C-300 is admirably brief: two sentences, 148 words. In its simplicity, however, C-300 duplicates an error common in CWB debate: attempting to impose a simplistic solution on a complex international grain marketing system.

C-300 would create numerous unintended consequences and trade challenges—probably closing the Canada-US border for a range of processed food goods. And it would create these disastrous consequences all in an attempt to solve a problem that really doesn’t exist. Ritz’s bill is ill-conceived, poorly executed, unworkable, and unnecessary.

Ill-conceived: A net of loopholes

At the core of the Bill, C-300 would give farmers the right to “sell grain ... directly to an association or firm engaged in the processing of grain if a majority interest in the association or firm is held by a producer or producers based in Canada.” But, consider the following scenarios:

1. Foreign locations

A group of Canadian farmers buy a processing plant in North Dakota. C-300 would seem to give all western Canadian farmers permission to haul their grain across the border to that facility.

C-300 requires ownership by Canadian-based producers, but it does not require that the actual facility be located in Canada. Further, because C-300 would apply “Notwithstanding any other provision” in the *CWB Act*, the Bill would effectively trump existing export restrictions. It is unclear how our government would ensure that grain destined for a particular facility in the US would not be diverted once outside Canada.

2. Corporations could qualify

A US-based milling corporation spins-off one of its flour mills to a holding company that the corporation controls and collects the profits from, but that is 51% owned by a landowner with a permit book.

C-300’s terminology is vague: a “firm engaged in the processing of grain if a majority interest ... is held by a producer ... based in Canada.” There isn’t a transnational miller operating here that couldn’t make its mills qualify, either through imaginative ownership and contracting agreements or through a joint venture.

3. Everyone could qualify

A Japanese mill takes on a Canadian farmer partner. Again, that mill can now circumvent the CWB.

If we combine Scenario 1 (facilities located outside Canada) with Scenario 2 (any firm can qualify through a joint venture with a Canadian permit-book-holder) we find that C-300 gives *every processing firm or facility in the world* the potential ability to bypass the CWB. Also, because C-300 does not define “processing”, it leaves open the question whether simple cleaning might even qualify.

4. You wouldn’t even need to process the grain

Here’s the big one: A group of farmers set up a milling operation, buy several times more grain than they need, and then export the balance to the US or China, bypassing the CWB.

BILL C-300	
	An Act to amend the Canadian Wheat Board Act (direct sale of grain)
R.S., c.C-24	Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows: 1. The <i>Canadian Wheat Board Act</i> is amended by adding the following after section 45:
	PERMITTED ACTIVITIES
Direct sale of grain	45.1 (1) Notwithstanding any other provision of this Act or the regulations, a producer may (a) sell grain produced by the producer directly to an association or firm engaged in the processing of grain if a majority interest in the association or firm is held by a producer or producers based in Canada; and (b) transport grain for the purposes of any such sale.
No fee payable	(2) No fee shall be imposed under this Act in respect of the sale or transportation of grain in accordance with subsection (1).

C-300 says that the purchasing firms must be “engaged in the processing of grain” in order to bypass the CWB: It does not say, however, that the firm has to process all the grain it buys. According to the letter of the C-300 law, a corporate-farmer joint venture could buy grain, mill 10%, and export 90% unprocessed.

This loophole (unintended or not) is a clear example, not only of the sloppiness of C-300, but of the difficulty that arises in trying to exempt certain activities and not others. The CWB either has a single desk or it doesn't; if you try to slice off pieces, unintended consequences proliferate.

Unworkable: a trade nightmare

Not only would C-300 unleash a flurry of (perhaps) unintended consequences, it would unleash a raft of trade challenges because it would give cost advantages to some processors but not others. More scenarios:

A. NAFTA Chapter 11

A farmer sets up a pasta mill and buys durum from other farmers at a price equal to what those other farmers would receive from the CWB. C-300 bars corporate-owned pasta plants from accessing durum at this lower price. The corporations sue—a la Ethyl Corporation—for lost profits under NAFTA's Chapter 11.

There are two possible scenarios for a farmer-owned mill: 1. the mill pays the North American price, or 2. it pays the CWB price. If the mill-owning farmers were buying grain from themselves, they could employ scenario 1, pay North American price, take their profits through higher grain returns, and probably avoid a trade challenge (because everyone would be paying the same price). A farmer-owned mill would not pay the higher North American price, however, if it was buying grain from non-owner farmers. In that case, the mill-owning farmers would want to pay the CWB price and take their profits from mill operation profits. Corporations barred from such a practice could sue.

B. US millers launch countervail suit

US millers and processors, seeing Canadian-farmer-owned plants able to acquire wheat at lower prices, launch a countervail suit against Canadian pasta, cereals, flour, and processed foods containing flour.

Such a countervail would effectively close the border to Canadian processed foods, hurting corporate and farmer-owned processors alike. The financial effects could resemble those of BSE. The arguments in such a case would be similar to those used in the softwood lumber case or the R-CALF cattle case.

Rather than more processing and higher prices, C-300's short and medium-term effects, and perhaps the long-term effects as well, might be lower prices and less processing.

Un-needed: A solution in search of a problem

“[Ritz's] measure would apply to producers who deliver grain to farmer-owned ethanol or bio-diesel plants,” writes Alex Binkey in the Manitoba Co-operator. No it wouldn't. Wheat for non-food uses such as ethanol is currently exempt from CWB jurisdiction. Canola—for bio-diesel and other uses—is completely exempt. Ritz's Bill would have zero effect whatsoever on food-based fuel plants.

Further, as long as farmer-owned food processing plants are willing to pay North American prices for wheat and barley (which they *must* do if Canada is to avoid trade challenges), farmers can set up as many pasta and milling and processing plants as they like. Stated another way: as long as NAFTA exists, C-300 would change little with regard to farmers' abilities to build and profit from processing plants.

'World' and 'North American' prices

It is not possible to sell the entire Canadian crop into the North American market. The price the CWB pays farmers is a blend of higher-priced North American sales and lower-priced offshore sales. For this reason, the North American price will be higher than the CWB price.

Canadian millers and other processors buy western-Canadian wheat from the CWB and pay a North American price based on Minneapolis or Chicago prices. This is partly a result of NAFTA—the free-flow of flour and bread across the border seems to require that Canadian millers and processors will face the same cost structure as US competitors.