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national farmers union

In Union Is Strength

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Response to Proposed Amendments to the Canada Grain Act in regard to the Canadian Grain Commission

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The National Farmers Union (NFU) welcomes the opportunity to respond to proposed changes to the Canada Grain Act that would affect the Canadian Grain Commission and ultimately grain producers. The NFU is Canada's largest democratic national voluntary direct membership organization. It is financed almost entirely by membership dues and member donations. The NFU is made up of members from across the country, many of whom are grain producers. The NFU works for economic and social justice for family farmers.

The Canadian Grain Commission (CGC) celebrates its 100th Anniversary this year along with the Canada Grain Act. The CGC has been an extremely important institution for Canada's grain producers throughout this time period. Its importance remains undiminished at this time and there is no reason to expect that would change in the future, except of course if changes are made which destroy the rationale for its existence. There is a very real danger of this if the changes considered are implemented.

The CGC was the result of long agitation by prairie grain producers who were regularly cheated on grades, dockage and weights for their grain. They were also disadvantaged by favouritism and conditions that discriminated as to who got access to elevators and rail transport services. Farmers, as individuals, had little power dealing with oligopolistic grain companies and railways. They understood that they needed an independent agency to act in their interests to balance the huge power differentials that existed between them and the previously mentioned grain companies and railways. They needed an institution that regulated the grain trade and whose decisions would be binding on both the trade and farmers.

The governance of the CGC was very carefully constructed to both balance powers in the institution itself and to make sure it would be relatively free of political interference by governments. The structure of three Commissioners was created to settle any disputes at the head of the organization by majority decision and to ensure that the Commission was not taken in directions that either harmed farmers or to which it was not intended. The terms of office are longer (7 years) than the terms of office of government to prevent the threat of dismissal with each change of government. The source of funding for Commissioners is also outside the Ministry of Agriculture in order to prevent interference from the Minister (they are paid by the Public Service administration). In addition, to

ensure that the three Chief Commissioners fulfilled their duties, six Assistant Commissioners were appointed who were paid separately from the Commission and had, therefore, the independence to raise issues if the Chief Commissioners were acting outside the mandate of the CGC or in some other harmful way. It is because the importance of grain and grain producers' fair treatment to the economy of Canada is, and was, widely recognized that this balancing of powers in the institution itself was carefully built in. It was also well known that financing the CGC fully from the public purse returned great dividends to the country as a whole.

The NFU recommends that Assistant Commissioners be reinstated and fully funded to carry out the important role they have in the CGC and as representatives for farmers when they experience difficulties with the grain and rail systems. There have been numerous examples of how they fulfilled this role, not only to the benefit of grain producers but also to the smooth functioning of the grain handling and transportation system as a whole. The NFU also recommends that the Government of Canada return to full financing of the CGC's operations.

The proposal to replace the Commissioners with one CEO/President ignores the careful governance structure that we have briefly described above. It would allow for interference and influence without a counterbalance. It also will establish a model for the eventual privatisation of the CGC ignoring the public-good function of the CGC.

One of the most important pieces of the Canada Grain Act is Section 13 which outlines the mandate and purpose of the CGC. It reads as follows:

Objects of the Commission

13. Subject to this Act and any directions to the Commission issued from time to time under this Act by the Governor in Council or the Minister, the Commission shall, IN THE INTERESTS OF THE GRAIN PRODUCERS, establish and maintain standards of quality for Canadian grain and regulate grain handling in Canada, to ensure a dependable commodity for domestic and export markets.

The proposal is to clarify the mandate by making the CGC's mandate to be "as acting in the interests of the country as a whole including the grain producers." It would be a fundamental and profound error to change the CGC's mandate to act in the interests of the country as a whole.

The proposal seems benign and even democratic in itself, but it would destroy the rationale and scope of the CGC. It would put the CGC in the position where it could not differentiate between grain producers and grain companies, railways, and the myriad of other interests in the food system. These interests are often in conflict and adversarial. The interest of the farmer, for example, is to be paid the highest possible price for the quality of the grain he/she is offering for sale. It is in the grain company's interest to pay the lowest price possible for the grain. The company can accomplish this through making grain grades very difficult to achieve for the farmer or by simply not buying the grain for

its proper grade and quality stating they have no demand for that quality but they will, however, buy it for a lower grade and price. This is exactly what occurred in the past where country elevators bought wheat in the countryside deeming it Number 2 or 3 but miraculously when audits were conducted over a million bushels of Number 1 appeared at those same companies' terminals or port elevators for sale. The CGC system eliminated this possibility by acting in the farmers' interest by giving the farmer the right to have his/her grain independently graded with binding results on the companies as well as the farmers.

The CGC also works to maximize the grading possibilities in any given harvest where particular problems in production may show up, such as bleaching from excess moisture conditions at harvest time, by adjusting the grading tolerances to work for farmers because it knows that blending will take place which will upgrade the crop as a whole from the prairie region. This is possible because the region is vast and that there is almost never a time when all the crops across the region run into problems. Grain companies would want grading to be strictly defined for the farmers so that they could absolutely minimize the price they paid to those farmers with difficulties and capture for themselves all the benefits of upgrading by blending. This is but one example of where the interests of farmers and grain companies are in conflict. How would the CGC behave with a mandate that did not require them to act with the specific interests of the grain producers in mind in a situation like this?

The Canadian Grain Commission, under the proposed changed mandate, could focus on the strict requirements of ensuring quality standards and guaranteeing availability of a dependable product without regard to producer interests. Indeed, a hostile Chief Commissioner (or if changed to a CEO/President) favouring grain companies could fulfil the new mandate and severely disadvantage farmers at the same time. The setting of standards favourable to grain companies could result in specifications set so high that it will be difficult to achieve top grades and thus leave farmers' grain discounted.

Another very likely scenario is one where a farmer who would like to sell his/her crop might be confronted with a situation where achieving the deemed 'quality' may only be achieved by planting varieties to which grain companies have exclusive rights. The next step would be the exclusion of farm-saved seed, as standards would only be met on conditions of varietal purity supplied by certified seed. The changes in mandate would move the agency from embodiment of farmer's rights to a place that specifies farmers' duties to produce to specifications as ultimately defined by grain companies.

The NFU recommends that the mandate of the CGC must remain specifically as presently defined in Section 13 of the Canada Grain Act. The CGC mandate must guide the institution to act specifically "in the interests of the grain producers." Grain companies know how important this is to farmers; that is why they want it changed. Unfortunately, farmers may not fully understand how important this is. To change the mandate would ignore the reality that grain companies and railway economic power must be balanced if farmers are to be treated fairly. The CGC has been essential in helping to make this happen.

The next proposal under consideration is in regard to producer security. The idea being proposed is to change the basis upon which a producer is guaranteed payment from one where licensed companies must post a bond sufficient to cover their monthly transactions to one where insurance is used. The object of the existing requirement is to ensure that there is money in place to be distributed to farmers for the grain that they have sold in the event of company bankruptcy or closure. Shifting away from the bonding requirement reduces the transaction costs for a company doing business but increases them for farmers. We are assuming that the proposal would have farmers either wholly or partially finance the costs of the insurance scheme.

Another piece of this Bill is to eliminate inward inspection services of the CGC. Inward inspection is the weighing and grading of grain that arrives at export terminals from the countryside. It serves as a continuous audit so that grades and volumes issued at primary elevators match those at terminal position. It is also essential to the functioning of producer cars so that they are graded when they arrive at the terminals. Inward inspection prevents discrepancies where companies buy for one grade in the countryside and sell for a higher grade at export position, beyond what is achieved by blending upwards. An example (that we have used earlier in this brief) from over a century ago shows what became the rationale for enforcing inward inspection: “In 1909 in an audit of grain terminals at the Lakehead it was discovered that stocks and shipments of No. 1 Northern, in the case of two terminals, exceeded receipts by over 1 million bushels. There were corresponding shortages in the lower grades.” Pg.17, A History of the Canadian Grain Commission (1912-1987) J. Blanchard.

The loss of inward inspection would eliminate the jobs of many dedicated CGC employees. The idea is that one can hire private service providers to do some of this work. But history shows us, to quote J. Blanchard again: “By the 1880’s it was felt grain inspectors should be government employees as they would be unduly influenced by those who paid the fees.” There is no reason why this would not be the case today.

The NFU recommends that inward inspection remain and that CGC employees carry out this duty. The idea of accredited service providers being selected by the receiving elevator as proposed would again put the power of the elevator company ahead of farmers and their institution. One could see pressure by the accredited agency to lean towards favouring the one it viewed as its customer (the grain company). An accredited agency does not have the legislated mandate to act in the grain producers’ interest. This is the inherent problem with the concept of accreditation and the questions remain: To whom does the accredited employee owe his allegiance and who pays the wage? The same would apply to accredited private service providers.

The NFU further recommends that the Grain Appeal Tribunal be maintained. The NFU agrees that outward inspection should be maintained. This should, however, continue to be conducted by CGC employees. We would disagree with changing the role of the CGC in outward weighing. We believe that CGC employees should be directly involved with outward weighing of the grain and that their oversight is essential. Without

inward weighing by the CGC it does bring the audit function of outward weighing into question. One needs to know that grades and weights inward and outward correctly correspond so that producers are properly paid for all their grain.

The last topic to be addressed is to have the CGC enforcement tools defined by monetary penalties rather than the existing tools of suspension of licences, issuing orders and directives and prosecution for offences. It would be severe folly to eliminate the enforcement tools that the CGC currently has to make sure that the measures of the Canada Grain Act are respected. We now have consolidated players in the grain system that are so big and economically powerful that monetary penalties would be looked at as just a cost of doing business, and anyway they can always pass those costs onto farmers. The ability to suspend licences and to issue directives ensures that issues are addressed and not just papered over or dealt with by paying the fines. Farmers' interests are not advanced or maintained by having the CGC only able to impose monetary penalties.

It is important to realize that the CGC is as important today as it ever was and that the carefully thought-out governance and mandates of the past are totally relevant today. Grain companies and railways are even larger and more powerful today than they were 100 years ago at the birth of the CGC. Changes will of course bring change, but not necessarily for the better. What we see in these discussion areas is a subtle wish list by the grain industry to have the CGC restructured to act ultimately in their interests. The CGC, acting in the interests of the grain producers, benefits all farmers across the country and it ultimately benefits all of Canada by making farming a somewhat fairer occupation to engage in. Without farmers who have some chance at economic justice what will be left of Canadian agriculture? Without Canadian agriculture, what will those companies who operate here exist on?

In closing, we must emphasize again how important the mandate is as it exists, particularly now when the grain trade in Canada is increasingly dominated by international grain companies. If they are allowed to capture more of farmers' revenue it could mean significantly less money in circulation in the Canadian economy. It will certainly mean less in farmers' pockets. The mandate "in the interests of the grain producers" is paramount.

It has been my pleasure as President of the NFU to prepare this brief on behalf of the organization. I sincerely look forward to further discussion on these and other topics.

Respectfully Submitted by:

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NATIONAL FARMERS UNION