



# **Export Contracts & Documentation**

**Workshop is hosted by:**



**GRAIN TRADE AUSTRALIA**

**21-22 May 2020**

**Day 1 Presentation Slides**



## GTA Export Contracts & Documentation Course

Pat O'Shannassy – CEO, Grain Trade Australia

May 2020



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### Export Contracts & Documentation

- GTA & Overview
- Formation of Contracts
- Aligning Contracts with Customers
- Executing Contracts
- Documentation and LCs
- Freight
- Charter Party & Bills of Lading
- Biosecurity & Export Certification
- Quality and Superintendents
- Cargo Assembly
- Containers



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Industry driven and managed

Grain Trading Standards

Trade Rules & Contracts

Dispute Resolution Services

Trade & Market Access

Training & Development

**GTA Mission**  
*"To facilitate & promote trade by providing products, services and advocacy for the Australian grain value chain."*



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### Core Task – Facilitation of Trade

<b>Grain Trading Standards</b>  Reflect Requirements & capabilities in: 1. Regulation 2. Production Sector 3. Supply Chain 4. Consumptive Sector	<b>Trade Rules &amp; Contracts</b>  Ensure confidence in commercial dealings by providing legal rigour	<b>Dispute Resolution Services</b>  Underpins Contractual Arrangements	<b>Trade &amp; Market Access</b>  Engaging with Policy makers to ensure fair & equitable trade and access to domestic & global markets	<b>Training &amp; Development</b>  Increase Industry capacity by providing vocational training and development programs
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*Industry driven and managed  
"Self Regulatory Framework"*

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### The Australian Grain Industry Supply Chain

- Involves breeders, growers, storage providers, transport operators, domestic processors and exporters
- Industry includes the domestic grain market, but majority of grain exported to many countries

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### Industry Driven and Managed Framework to Facilitate Trade

<b>Breeding &amp; Classification</b>  Driven by Market Signals to ensure customer & End Product Focus	<b>Grain Trading Standards</b>  Reflect Requirements and capabilities in: 1. Regulation 2. Production Sector 3. Supply Chain 4. Consumptive Sector	<b>Trade Rules &amp; Contracts</b>  Improves Market Efficiency. Ensures confidence in commercial dealings by providing legal rigour	<b>Dispute Resolution Services</b>  Underpins Contractual Arrangements & Performance	<b>Trade &amp; Market Access</b>  Engaging with Policy makers to ensure fair & equitable trade and access to domestic & global markets	<b>Industry Skills &amp; Capability</b>  Increase Industry capacity by providing vocational training and development programs
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*Industry driven and managed*

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### Technical Comm's – key strength of GTA

- ☞ Draw on industry knowledge & experience
- ☞ Develop policy & products
- ☞ Involve & engage members
- ☞ Advise Board on technical matters & industry perspective
- ☞ Oversight by Technical Charter & guidelines with oversight by Board
- ☞ Includes & **Needs** Production sector Representation



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### Technical Committees...

#### Standards

- Committee – cross section
- Criteria
  - Regulatory
  - Production
  - Supply Chain
  - End-use
- VRSG, Weed Seed Apps
- New Season Process
  - Issues – Bar
  - Rd 2 Submissions
- Food Safety
- Refer Fact Sheet

#### Commerce

- LD Process
- Contracts reviewed
- Trade Rules
- Broker /Agent Guidelines
- Arbitration Process
  - Links Contract performance with market confidence
  - Arbitrators
  - Contractual confidence => value
  - Commercial Arbitration Act
  - Rules & guidelines updated 2020



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### ...Technical Committees

#### Trade Market Access

- Industry Market Access Projects
- DAWR – Consult Committee
- China Barley
- IA-CEPA
- Container & Sampling Working Groups
- Export Legislation Review
- IGTC – ISPM, Plant Breeding Tech, e-phytos
- MRL Strat, CRA – Indo, Vietnam
- NTMs – Regional work
- PBI & Market Choices Framework
- AGIC Asia

#### Transport Ports Storage

- COR & NHVR
- Transport Code Review
- TGDs
- Contamination in supply chain
- In-land Rail



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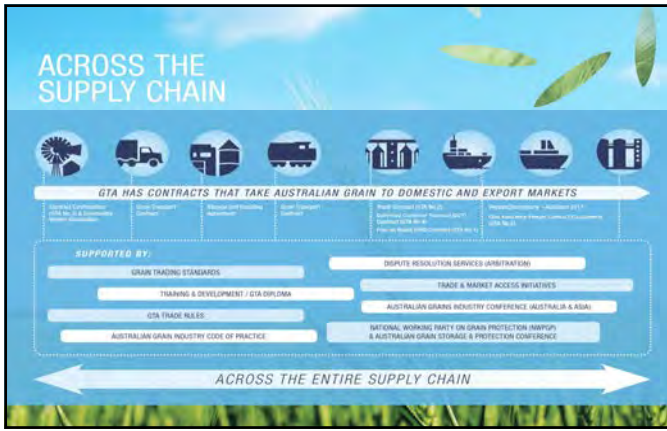
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GTA – Facilitation of Trade					
Advocacy & Market Access Trade	Commerce	Grain Quality and Assurance	Grain movement & logistics	Data & Information	Stewardship & Capability
<ul style="list-style-type: none"> <li>✓ Policy - Trade &amp; Market Access Committee (TMAC) - Policy</li> <li>✓ Market Access – TMAC &amp; NWPGP, NTMs</li> <li>✓ Market Choices Framework (PBI)</li> <li>✓ Framework – IGTC (IPPC, LLP, MRLs)</li> <li>✓ Operational – GPPEICC &amp; GIMAF</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>GTA Commerce Committee</b></li> <li>✓ GTA Trade Rules</li> <li>✓ GTA Contracts</li> <li>✓ GTA Dispute Resolution Service</li> <li>✓ Inventory Valuations (LDs)</li> <li>✓ Operating Guidelines for Pools &amp; Brokers/Agents</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>GTA Trading Standards Committee</b></li> <li>✓ GTA Code of Practice &amp; TGDs</li> <li>✓ NWPGP</li> <li>✓ NRS</li> <li>✓ Technical Engagement</li> <li>✓ TGDs</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>GTA Transport Ports and Storage Committee</b></li> <li>✓ GTA Industry Working Groups</li> <li>✓ Storage and Handling Agreements</li> <li>✓ Transport Code of Practice and Contracts</li> <li>✓ Chain of Responsibility</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>GTA Information Technology Advisory Committee</b></li> <li>✓ AGIC Conferences, Grain Storage Conference</li> <li>✓ GTA Member Updates and Market Notifications</li> <li>✓ Industry Databases</li> </ul>	<ul style="list-style-type: none"> <li>✓ Increase Industry capacity by providing vocational training and development programs</li> <li>✓ Code of Practice</li> <li>✓ COR &amp; Training</li> <li>✓ Strong Governance</li> </ul>
<i>Industry driven and managed</i>			GRAIN TRADE AUSTRALIA		

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### GRAIN TRADE AUSTRALIA

## GTA Contracts along the Supply Chain

- About GTA
- Grain Rules & Conditions
- Grain Trading Standards
- Trade & Market Access
- Training & Development
- Dispute Resolution
- Grain Protection (IPPC/PLP)
- Codes of Practice
- Part Owners & Publications
- Partners - Grain Programs
- Industry Links
- Members
- Contact GTA

**GTA Trade Rules, Contracts & Vendor Declarations**

- A contract for every occasion!
- Standard Form Contracts & Trade Rules facilitate trade
- Oversight by SOPs & Industry & Board Committees

**GTA Trade Rules – April 2019**

**GTA Contracts**

**GTA Storage Charter – April 2019**

**GTA Brokers' Note & GTA Agents Note**

**GTA Grain Transport Contract**

**Commodity Vendor Declarations**

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### At the end of the day, GTA...

- ⦿ Well informed Industry
- ⦿ Better skilled Industry
- ⦿ Access to more effective tools & processes
- ⦿ More harmonious & co-operative environment
- ⦿ Self Regulatory Framework
- ⦿ Enhanced innovation & leadership
- ⦿ Industry Stewardship, self reliance, appropriate Gov't support as required.



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Industry driven and managed

- |                         |                         |                             |                       |                        |
|-------------------------|-------------------------|-----------------------------|-----------------------|------------------------|
| Grain Trading Standards | Trade Rules & Contracts | Dispute Resolution Services | Trade & Market Access | Training & Development |
|-------------------------|-------------------------|-----------------------------|-----------------------|------------------------|

GTA Mission  
*"To facilitate & promote trade by providing products, services and advocacy for the Australian grain value chain."*

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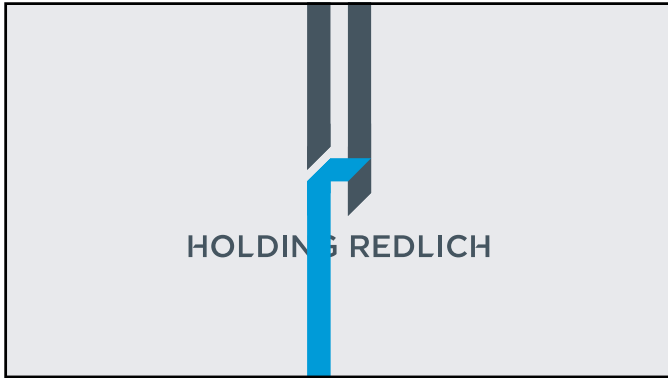
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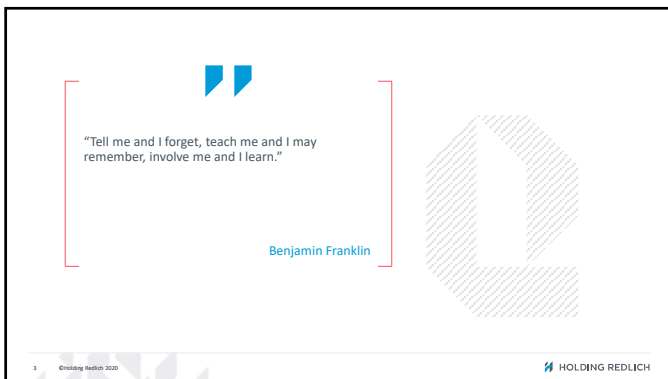
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### Introduction

What do we want to get out of this session??  
 What are we covering?  
 What won't we be covering, and why?

- Agenda
- > International Contracts
  - > Incoterms
  - > International Dispute Resolution

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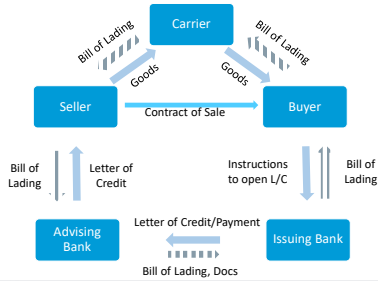
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### Basic Transaction Structure



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### An International Sale

- > Secure supply of grain
- > Discovering the export market – CIF, or FOB?
- > Negotiating the contract and establishing a price (incl “fobbing costs”; freight, if CIF)
- > Concluding the contract (inc freight, if CIF; shipping slots from loading terminal)
  - > Execution
  - > Establish a workable LC;
  - > Obtain/pack containers;
  - > AQIS; Customs; WEA; other “commercial documents
  - > Meet crucial shipping deadlines

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**Contracts for the International Sale of Goods**

- › Contract Basics
  - › What is a contract and **when** is it formed?
  - › Offer, Acceptance and Consideration
  - › Proving that a contract exists (or doesn't exist)
- › Interpretation and **objectivity**
- › Electronic Transactions
- › Incorporation of terms

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**International Contracts**

Essentials

- › Identity of the Parties
- › Product sold/specifications
- › The Price
- › Delivery
- › Payment

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**International Contracts**

Other important terms

- › "force majeure" clauses
- › limitation of liability
- › choice of law clauses
- › choice of forum/arbitration clauses

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**International Contracts**

- › Breach of contract
- › Remedies for breach of contract
- › Vienna Convention on the International Sale of Goods (CISG)

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**INCOTERMS 2020**

What are they?

- › Terms to define responsibility of parties to an international contract of sale
- › International agreed interpretation of trade terms
- › First published by International Chamber of Commerce in 1936
- › Most recent amendment in 2020

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**INCOTERMS 2020**

How are they used?

- › In sale contracts
- › 20,000 MT soya beans FOB Sydney
- › Determine responsibilities for seller and buyer
- › Degree of responsibility depends on term used
- › Four categories of terms - E, F, C, and D
- › E terms buyer most responsibility, D terms seller most responsibility

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### INCOTERMS 2020

Common terms and abbreviations

	Abbreviation	Phrase
"E" term	EXW	Ex Works (named place)
"F" terms	FCA (a) and (b)*	Free Carrier (named place)*on-board notation on b/l
	FAS	Free Alongside Ship (named port shipment)
	FOB	Free on Board (named port shipment)
"C" terms	CFR	Cost & Freight (named port destination)
	CIF	Cost Insurance Freight (named port destination)
	CPT	Carriage Paid To (named place destination)
	CIP	Carriage & Insurance Paid To (named place)
	"D" terms	DAP
	DPU	Delivered at Place Unloaded (named port destination)
	DDP	Delivered Duty Paid (named place destination)

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### EXW - Ex Works

- › Seller only required to make goods available at seller's premises (usually packed ready for export)
- › Risk passes to the buyer when goods are collected from seller's premises
- › Buyer responsible for loading and collecting goods, carrying to load port, clearing customs, arranging and paying for freight, arranging and paying for insurance, clearing customs, and carriage to end destination

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### FCA - Free Carrier

- › Seller responsible for all costs, freight and risk of loss/damage to the point at which goods placed into charge of carrier as specified by the buyer (includes loading)
- › Buyer responsible for all costs and insurance risk from that point
- › Under INCOTERMS 2020, option for requiring a 'shipped on board' notation on bill of lading

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### FAS - Free Alongside Ship

- › Seller delivers the goods by placing them alongside the vessel at the named port of shipment, cleared for export
- › Buyer responsible for arranging and paying for carriage, marine insurance, clearing goods for import and carriage from discharge port
- › Reversal of FAS in Incoterms 1990, where buyer had to clear goods for export

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### FOB - Free on Board

- › Seller has to deliver goods to port, clear customs, and load goods onto the vessel
- › Risk passes to the buyer when the goods pass the ship's rail at the load port
- › Buyer has to tell seller where to load, pay for carriage, insure the goods during carriage, clear customs at the discharge port, and carry to ultimate destination
- › GTA FOB Contract published 2018

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### CFR - Cost & Freight

- › Seller has to deliver goods to port, clear customs, load goods onto vessel, and pay for carriage to the named port of destination
- › Risk passes to the buyer when the goods pass the ship's rail at the load port
- › Buyer has to insure the goods during carriage, clear customs at the discharge port, and arrange any further carriage to inland destination

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### CIF - Cost, Insurance & Freight

- › Seller has to arrange carriage to the port, clear customs, arrange and pay for carriage to port of destination, and arrange marine insurance (only minimum insurance cover)
- › Risk passes when the goods arrive at the port of destination
- › Buyer responsible for unloading from vessel, clearing customs, carriage to inland destination

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### CPT - Carriage Paid to ...

- › Seller pays costs and freight to deliver goods to named destination
- › Risk passes to the buyer when the goods are delivered to the carrier at the load port
- › Seller required to clear goods through customs ready for export

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### CIP - Carriage & Insurance Paid to...

- › Seller pays costs and freight to deliver goods to named destination, also takes out carriage insurance for goods (minimum cover required)
- › Risk passes when goods arrive at discharge port
- › Buyer responsible to clear customs

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### International Dispute Resolution

- › Benefits of Arbitration
  - › Private
  - › Specialist\*
  - › Enforceability – New York Convention
  - › Fast and Cheap (?)
  - › Limited recourse/appeal
- › *International Arbitration Act 1974* (Cth) adopts the UNCITRAL Model Law

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### Questions



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### Contacts

	
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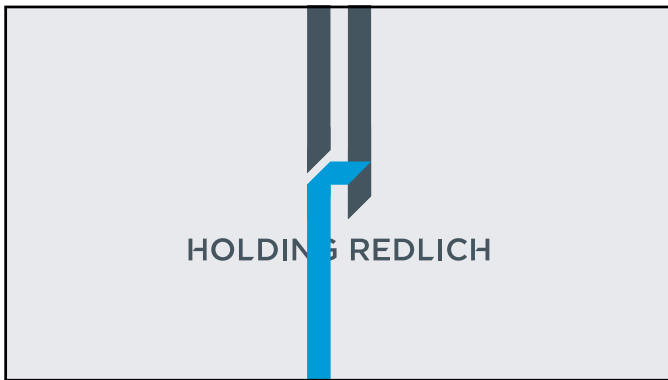
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## Aligning the Contract to Customer Requirements

By Gerard McMullen for  
GTA Export Contracts & Documentation Course  
May 2020



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## What does the Customer Require?

- “The right grain, at the right price, delivered on time and at the correct specification” = QUALITY



Customer Satisfaction Can Be Easy!



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## What does the Industry Require?

- Compliance with the Code of Practice
- Compliance with Technical Guideline Documents



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### What is in the TGD?

Certification Statement by Trader	Certification Supporting Information	
	Considered Suitable	Not Considered Suitable
Fit for human and/or animal consumption	Visual assessment of defects and contaminants. Chemical residue, mycotoxin tests as per membership organisation guidelines.*	No visual assessment conducted. No analysis as per membership organisation guidelines.*
Grain is "considered" insect free	Sample grain, visual assessment of representative sample, treatment history of grain reviewed and considered based on voyage time to market.	Reliance on DAWE inspection of grain at export. Reliance on visual inspection at grain receipt. No consideration of grain treatment history.
Grain meets the quarantine requirements of the importing country	Review quarantine requirements listed in MICO. Sample and assess for parameters to meet "fit for human consumption"	No endpoint inspection for objects of quarantine or for parameters to meet "fit for human consumption".

\* Each organisation requires specific sampling & testing i.e., GAFTA, ISTA



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### What is Mandatory?

Whether stated or not, in all cases you must:


- Determine country regulations for
  - Quarantine - pests & diseases
  - Chemicals, heavy metals, mycotoxins
  - Quality that may be listed in regs.

AND

ensure you comply



**Food Safety & Quarantine is a given**



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### It's all in the Contract – or is it.....?

- Customer expectations vary by Contract
  - Do they tell you/is it documented
  - Is it understood by you
  - Are expectations the same as requirements
    - e.g., milling functionality
- Requirement for
  - Particular varieties
  - Particular ports
  - Or "any port"





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**It's all in the Contract – or is it.....? cont.**

- > Various pesticide residue limits may or may not be listed
  - > Individual country, International (e.g., Codex) or NO REFERENCE
  - > "Pesticide Residue Free" – whatever that means
- > Various Codex and national regulations with an increasing focus on matters such as
  - > Sustainability
  - > GM status
  - > Mycotoxins
  - > Heavy metals
  - > Radiation

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**It's all in the Contract – or is it.....? cont.**

- > Mandatory use of independent inspection companies
  - > For sampling
  - > For certification
  - > At loading and/or discharge
  - > Beware samples provided by BHC and "Based on samples provided"
- > A range of general statements to be met e.g.,
  - > Free from harmful or toxic seeds
  - > Good quality
  - > Millable





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**When Reviewing the Contract consider.....  
YOUR GRAIN SUPPLIER**

- > Obligations of your grain supplier
  - > Standards will they agree to - e.g., for pulses
    - > Farmer Dressed Receival or
    - > Farmer Dressed Export or
    - > Machine Dressed Export
  - > Variations in their S&H Contract e.g., may not guarantee
    - > PRF, Variety or any test not done at receival
    - > Split/Broken for pulses
    - > Falling Number/RVA for wheat & barley
    - > Nil tolerance such as mould, bin burnt, pickled given stds.
  - > Tolerances around tests & sampling variability
    - > Do you want these in contracts also?

RE-NEGOTIATE THE CONTRACT OR TEST

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**When Reviewing the Contract consider.....**  
**TIMELINES**

- > Timeline for obtaining cargo representative samples, testing, certification either before or following shipment if part of the L/C
- > Any Independent Certification required
  - > Is access to collect samples needed and how is this to be worded on certificates to meet the contract?
    - > Submitted sample v sample collected by inspection company
  - > Nature of & specifics of tests required
    - > Inspection company test or some-one else (e.g., a lab)?
- > Is the timeline for providing certification adequate?
- > Is quality final at load-port or is there a role for the inspection company to sample, test and certify at discharge port?

RE-WORD and/or RE-NEGOTIATE THE CONTRACT




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**When Reviewing the Contract consider..**  
**THE GOVERNMENT**



- > There are mandatory Import Permit requirements
  - > Exporter must present latest info to DAWE - MICoR is guideline only (e.g., free from weed seeds, soil)
  - > If Import Permit required, must obtain
  - > Are there Protocols that over-ride contract (i.e., China/South Korea) – what do they really mean
- > May be mandatory pre-shipment (or post-shipment) sampling, testing and certification
  - > Can fumigation, sampling & disease testing be done!
  - > Is lead-time sufficient to present documents?

CONTACT DAWE & RE-NEGOTIATE THE CONTRACT IF NECESSARY – A LENGTHY PROCESS

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**When Reviewing the Contract consider....**  
**THE GOVERNMENT**



- > Cannot place commercial aspects on government documents
- > Clause 19 on Phytosanitary Certificate is sufficient, an added declaration is not needed nor provided by DAWE unless they agree with the IP statement....

CONTACT DAWE & RE-NEGOTIATE THE CONTRACT IF NECESSARY – A LENGTHY PROCESS

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**Clause 19 on a PHYTO**

*“This is to certify that the plants, plant products or other regulated articles described herein have been inspected and or tested according to official appropriate procedures and are considered to be free from the quarantine pests specified by the importing contracting party and to conform with the current phytosanitary requirements of the importing contracting party, including those for regulated non-quarantine pests.”*

DAWE RELY ON THIS STATEMENT & PREFER TO  
ISSUE A CLEAN PHYTO

HELP THEM AS THEY SUPPORT INDUSTRY



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**e-PHYTO ( & Covid-19!)**

- IPPC developing
  - A generic ePhyto
  - A documentation hub
- Benefits
  - Will speed the process of document transfer
  - Will harmonise documents
  - More secure
- GeNs is now live
- Working with IGC in several countries to trial



WILL IMPACT ON DOCUMENT TIMELINES AND  
AVAILABILITY BY PAPER



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**Request for Permit**

- DAWE reviewing shipments leaving shore without required paperwork
- Industry aware of practice & practicalities - WG formed:
  - Provided feedback where it applies
  - Provided solutions where fixes can be made
  - Advised instances where cannot be fixed
  - DAWE have responded industry needs to fix it – via working with DAWE

MESSAGE IS ONLY CONTINUE WHERE NOT  
PRACTICAL OR “OPTION” WILL GO



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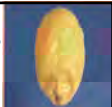
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**Do these Contract Terms Require Clarity?**

- > “Grain of the Current/Latest Season”
  - > Does supplier guarantee?
- > “Meets importing country requirements” or “international limits”
  - > For what? Yes for quarantine pests & diseases....
  - > Freedom from live Stored grain insects is not the only one.....
  - > Are others listed? Weed seeds/chemicals are often not listed
  - > There are no limits set for various mycotoxins etc...
- > “Australian Milling Wheat” or “AWMW”
  - > What grade to supply?
  - > How to get out of the supplier other than a low grade blend!
  - > How to test and certify?

DO YOU SUPPLY FAQ OR PREMIUM?


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**Do these Contract Terms Require Clarity?**

- > “Fit for Human Consumption” or “Sound Merchantable Quality”
  - > For each commodity, IFIA requires analysis of various pesticides, heavy metals, mycotoxins, poisonous seeds, ergot, odour, visual appearance and radioactivity
    - > High cost of analysis (especially containers)
    - > Timeliness of representative sample collection & testing
- > Grain is “considered insect free” or “free from parasites”
  - > What insects or parasites?
  - > Considered by who?
  - > Applies at loading or quality final at discharge?
- > “Free from odour”
  - > All grain has some odour

ABOVE ARE OPEN TO INTERPRETATION DESPITE INSPECTION AT LOADING





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**Do these Contract Terms Require Clarity?**

- > “Fumigation Certification”
  - > What does it mean?
    - > Guarantee of stored grain insect free at discharge?
  - > What fumigant type and rate is required
  - > Is it a quarantine pre-shipment requirement
    - > What information does DAWE need to signoff
      - > Outlined in IAN – and sometimes on IP
    - > Can information be supplied & in timely manner
  - > Who is to provide Certificate
    - > Inspection company, Fumigator, Exporter, DAWE
- > “Free from Sprouted” or Any “Free from” statement
  - > Versus Falling Number specifications in various grades
  - > Risk of Detection of 1 grain.....

ONE OF THE MAIN ISSUES FOR SUPPLY FROM MULTIPLE PARTIES





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**Do these Contract Terms Require Clarity?**

- > “Free from Fungus” or “Free from Salmonella”
  - > Or simply various mycotoxins at various LODs
  - > Which fungus sp, mycotoxins, what levels
- > “Sampling as per Industry”
  - > GTA “receiving/trading” standards don’t refer to outturn sampling methods.
  - > Rarely use ISO 605, GAFTA, FOSFA or other international standards as too onerous.
  - > Rely on protocols of the port to obtain a representative sample.
  - > Method is not consistent across operators.
    - > Limited container representative sampling
    - > Totally different than at discharge.....
  - > DAWE Biosecurity protocols are often used.
  - > “Submitted” v Independently inspected and sampled.

IS THIS A RISK v QUALITY/QUARANTINE FINAL CLAUSE?



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**Do these Contract Terms Require Clarity?**

- > “Testing methodology i.e. GTA, FOSFA, AOF”
  - > GTA/AOF have field and reference tests
  - > Australian testing methods different than USA, Canada
  - > Not all tests are referenced
  - > Does a buyer have a VRSG for all defects and understand our interpretation v theirs/USDA method!
- > “Free from foreign matter”
  - > Not unless it is seed for sowing maybe...

WHAT DOES IT MEAN TO YOU v THE CUSTOMER?

CLARIFY DISPUTE PROCEDURE



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**Do these Contract Terms Require Clarity?**

- > “Scope of Analysis - GTA”
  - > Meaningless....
  - > At a minimum clarify with testing lab what’s needed
- > Quality listed only as “APW2 /No.2 grade” or
  - > Protein 10.5% min
  - > Falling No 300 sec min
  - > Test Weight 78kg/hl min
  - > Screenings 5% max
  - > Moisture 12.5% max
- > Does supplier guarantee the above
  - > What about other specs
  - > DBS complication
  - > Minimum grade guarantee only by supplier....
  - > Average over the Hatch, vessel, container, cargo or.....

CLARIFY DISPUTE PROCEDURE



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### Some Common Contract Terms - Chemicals

- There are chemical use regulations and international and national MRLs that must be complied with:
  - As per grain industry Code of Practice "Industry is committed to complying with relevant Australian and International chemical regulations"
- However contracts:
  - May not refer to chemicals at all
  - May refer to "as per Codex"
  - May state "relevant international limits"
  - May stipulate "comply with 'country X' regulations"
  - May refer to a limited number of specific chemicals
  - May simply say "Pesticide Residue Free"
  - Country default limits vary and are confusing!



MUST TEST AND NOT RELY ON/REFER TO NRS



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### What is PRF? Maybe it is based on testing for..

Chemical Name	Wheat Codex MRL (mg/kg)	MRL to Apply (mg/kg)
Chlorpyrifos-methyl	3.0	0.01
Deltamethrin	2.0	0.01
Dichlorvos	7.0	0.01
Fenitrothion	6.0	0.01
Methoprene	10.0	0.01
Piperonyl butoxide	30.0	0.01
Pirimiphos-methyl	7.0	0.01
Pyrethrins	0.3	0.01
Spinosad	1.0	0.01
Methyl Bromide*	50	50.0
Phosphine	0.1	0.01
Sulfuryl fluoride	0.05	0.01
Carbaryl	2.0	0.01



\* Measured as Inorganic Bromide



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### Australian Grains Industry Post Harvest Chemical Usage Recommendations and Outturn Tolerances 2019/20

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**Australian Grains Industry Post Harvest Chemical Usage Recommendations and Outturn Tolerances 2019/20**

**Wheat to China** – China has its own MRL listing. Previously, wheat exported to China was PRF wheat and exporters are strongly recommended to continue this practice.

Chemical Name	MRL (mg/kg)
chlorpyrifos-methyl	5.0
dichlorvos	0.1
fenitrothion	5.0
pirimiphos-methyl	5.0
deltamethrin	0.2#
piperonyl butoxide	30.0
methyl bromide	5.0*
phosphine	0.05
spinosad	1.0~



# As agreed by Australian livestock industries, APVMA, the chemical registrant and grains industry, for use only under an approved QA or the approved Stewardship Program.  
 \* Measured as inorganic bromide arising from methyl bromide fumigation and natural occurrence.  
 ~ For use by Bulk Handlers. For use on-farm under permit only.



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**Australian Grains Industry Post Harvest Chemical Usage Recommendations and Outturn Tolerances 2019/20**

**Malt Barley to Taiwan (not Feed)**

Chemical Name	MRL (mg/kg)
chlorpyrifos-methyl	3.0^
deltamethrin	1.0#
dichlorvos	0.02
fenitrothion	0.5
methoprene	2.0
phosphine	0.1
piperonyl butoxide	15.0
pirimiphos-methyl	5.0^
spinosad	1.0-^

^ The Australian Barley industry has an agreed position that malting barley is not to be treated with chlorpyrifos-methyl, pirimiphos-methyl or spinosad.  
 # As agreed by Australian livestock industries, APVMA, the chemical registrant and grains industry, for use only under an approved QA or the approved Stewardship Program.  
 ~ For use by Bulk Handlers. For use on-farm under permit only.



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**Other Certificate Requirements**

- > “Weight”
  - > Who provides
  - > Based on what information.....
  - > What guarantees (supporting evidence in dispute)
- > “Quality”
  - > What to include?
- > “Ships Hold Cleanliness”
- > “Radiation”
  - > Based on sample testing or routine monitoring of crop
  - > Who provides
  - > What statement required & what method? E.g., CS134 & CS137
- > “GMO”
  - > Based on not commercially released or testing of what sample?
  - > Wording of Freedom (no!) v LOD v OGTR .....

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**Minimising Your Exposure**

Consider it is all about ensuring your contract does not place you at greater risk than that of your supplier....

ALL ASPECTS TO ASSIST YOU TO MEET YOUR CUSTOMER REQUIREMENTS ARE OUTLINED IN THE GRAIN INDUSTRY CODE OF PRACTICE

- ENSURE YOUR COMPANY AND YOUR SUPPLIER USE IT!



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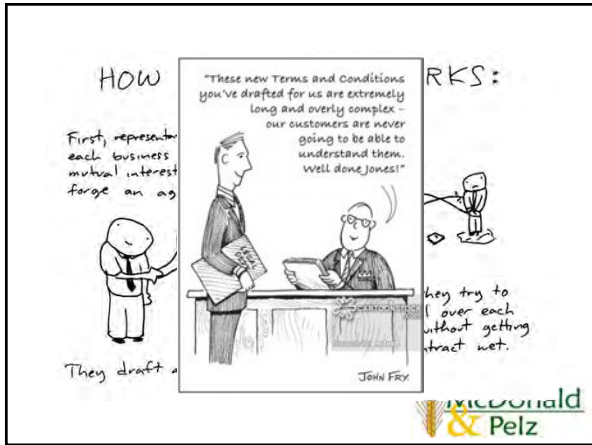
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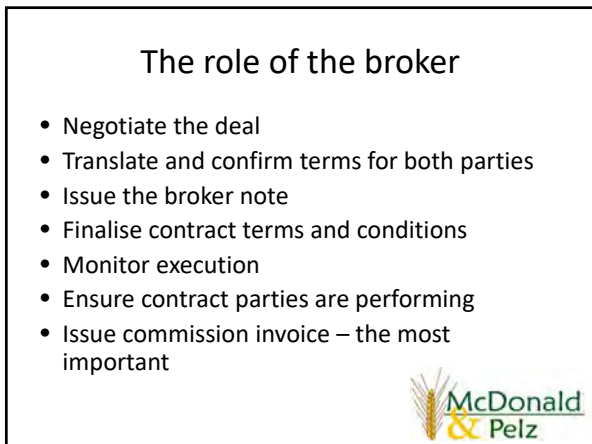
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### Communication

- 21<sup>st</sup> century comms
- Of course voice
- Record/history of discussions
- Detail
  - Don't leave it unsaid
- Buyer and seller may use different media
- Clarity and language



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### Market info

- Advantage of the broker is to collect info from many buyers and sellers and present a market to clients
- Depth and quality of buyers and sellers
- Likely market trade levels
- Actual offers and bids
- Protect identity of clients
- Terms of trade



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### The deal

- Price
- Date
- Volume
- Parity – FOB/CFR/TRACK/DCT/Delivered
- Delivery period
- Location – FOB SA, CFR China, etc
- Load terms – Can be differences
- Payment term
- Any relevant other term –
  - Documents
  - Testing
  - Duties and taxes
- Base contract – GTA / GAFTA / Sellers/Charter Party



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## Right of rejection.....

- Before the deal is agreed
  - Counterparties have the right to reject one or the other
    - Longer term ramifications exist
    - “Subject to credit” can be an issue – needs clarity at negotiation
  - Terms need to be agreed within commercial reason
    - No place to apply overly stringent terms to frustrate a negotiation
    - Time.....
- Intent to trade



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## Good offer.....

Please see below our offer:

<b>Seller:</b>	XXXXX
<b>Buyer:</b>	XXXXX
<b>Commodity:</b>	APW and AH11.5
<b>Packing:</b>	In Bulk in 20ft or 40ft containers at sellers option
<b>Specifications:</b>	As per GTA's standards
<b>Quantity:</b>	1/ 1,500mts of AH11.5 at 272USD/mt CFR Yangon, Myanmar 2/ 2,500mts of APW at 258USD/mt CFR Yangon, Myanmar
<b>Tolerance:</b>	+/-10% at Seller's option and at contract price.



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## Good offer.....

Please see below our offer:

<b>Seller:</b>	XXXXX
<b>Buyer:</b>	XXXXX
<b>Commodity:</b>	APW and AH11.5
<b>Packing:</b>	In Bulk in 20ft or 40ft containers at sellers option
<b>Specifications:</b>	As per GTA's standards
<b>Quantity:</b>	1/ 1,500mts of AH11.5 at 272USD/mt CFR Yangon, Myanmar 2/ 2,500mts of APW at 258USD/mt CFR Yangon, Myanmar
<b>Tolerance:</b>	+/-10% at Seller's option and at contract price.



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Please see below our offer:

## Good offer.....

**Shipment** 01 July 2017 – 31 July 2017  
 Both dates included with GAFTA extension.  
 Transhipment and partial shipment allowed.  
 THC at disport to be for buyer's account and buyer is responsible for the clearing of the containers within the time allowed at the port.  
 14 days free detention / demurrage combined at destination port to be applied. The combination of free time shall be determined by the shipping line and any additional demurrage incurred shall be for buyer's account.

**GAFTA Extension** Seller shall make an allowance to buyer, to be deducted in the invoice from the contract price, based on the number of days by which the originally stipulated period is exceeded, in accordance with the following scale :-

1 - 4 additional days	0.50 % of the gross contract price
5 or 6 additional days	1.00 % of the gross contract price
7 or 8 additional days	1.50 % of the gross contract price
9 or 10 additional days	2.00 % of the gross contract price
11 or 14 additional days	2.50 % of the gross contract price

**Weight / Quality** Final at loading and shipment as per certificate issued by independent surveyor nominated by the seller.

**Insurance** For seller's care and account.



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## Good offer.....

**Payment** Cash against documents by telegraphic transfer within 3 banking days after presentation of original documents at Buyers nominated bank.

**Documents** Full set of documents to include:  
 Original commercial invoice from seller.  
 Original bills of lading.  
 Packing list.  
 Certificate of weight and quality issued by independent surveyor nominated by seller.  
 Certificate of origin issued by official entity.  
 Phytosanitary certificate if required issued by official entity - The commodity name on this certificate reflected as "WHEAT" is acceptable and certificate showing partial name and address of Buyer is acceptable.  
 Fumigation Certificate  
 Insurance Certificate  
 Non GMO Certificate  
 Crop Year Certificate  
 Third party documents acceptable.

**Import License** Any import or other taxes, duty, levy etc in country of destination for buyer's account. Import licence for buyer's account and risk. Buyer to guarantee import licence. Any consequence, cost, expense, damage etc sustained by sellers due to delay or failure by buyers to obtain import licence shall be for buyer's account. Failure to secure import licence cannot be invoked as force majeure.

**Arbitration** Any claim or dispute arising out of or in connection with this contract shall be referred to and resolved by arbitration in Singapore in the English language in accordance with the International Arbitration Act of Singapore (Cap 143A).

**Law** This contract is governed by the laws of Singapore.

**General Conditions** All other terms, conditions and rules not in contradiction with the above, contained in Form No.88 of the Grain and Feed Trade Association (GAFTA) in force at time of shipment are applicable to this contract. The details being given above shall be taken as having been written into such Form in the appropriate place.



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## But an offer could be....

- " 2kt H1 CFR Thailand USD300 July"
- " Terms same as previous"
  - What if conditions changed at disport port?
  - Sellers contract terms can change over time as well
  - Dox requirements may have changed or it's a different end buyer
  - Which "previous"??
- Sent by Skype / Text / Email / Whatsapp
- Indications and not firm!!
  - Know the market as a broker
  - Sellers keen / buyers keen - are u likely to trade?
  - Bullish or bearish - market direction
  - Time delays between offer/bid and negotiation
- Credit could be an issue
  - Right time to disclose contract parties
  - Market "norm"



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**Confirmation**

- Email or Verbal or other!!
  - Export better to email immediately
- Basic terms with any explicit requirement
- Contract follows
  - Final terms to be finalised
- There may be many drafts!!
- Final
  - What is an appropriate amount of time to “Settle or finalise” the contract



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**“Final” contract states.....**

*Copied straight from one of our Broker notes;*

- Please communicate any discrepancies to us within one business day of receipt of this written confirmation. if no discrepancies are reported it is assumed that all parties involved accept and agree to all terms as outlined in the above business confirmation.
- Buyer and seller remain responsible for all execution issues including timely vessel nomination. both parties are to provide McDonald and Pelz with their execution email addresses which will be exchanged



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**“Final” contract**

- Unless otherwise agreed Broker contract/note prevails
- There are some variations
  - Some buyers agree/want copy of sellers contract
  - Sellers “want” their contract signed
- Broker note/Contract may reference sellers terms
  - Should be provided along with Broker note
  - EG. Std FOB terms and conditions - LONG FORM
- “As per previous” .....care needed
  - Were there any agreed changes during execution of previous?
- “Best Endeavours” - avoid
- Reference numbers – the more the better
  - BN
  - Sellers / Buyers
  - Shipment #



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### “Final” contract – seller or buyer

- Checking broker contracts
  - In the event of a dispute GTA Arbitrators will consider the brokers note to prevail as the agreed terms & conditions
  - Are all the major points covered – compare to your internal confirmation.
  - Are GTA or relevant trade rules and arbitration expressly included in the contract
  - Check against your confirmation – Omissions
    - has something been omitted in the brokers note
    - request in writing that it is added to the brokers note and that is sent to the buyer and seller.



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### Example – broker error

- Broker note issued 10<sup>th</sup> March as follows;

**Goods:**  
Australian Prime Hard Wheat No.2 (APH2)

**Quantity:**  
20 FCL's total, approximately 25mt per container, quantity approximately 2,000mt (+/- 5% less at Seller's option at contracted price).

- Sellers contract confirmed;

**Commodity:** Australian Prime Hard Wheat (APH2)

**Packing:** Bulk, in 20 ft containers

**Quantity:** 2000 MT (+/- 5% at Seller's option and at contract price)



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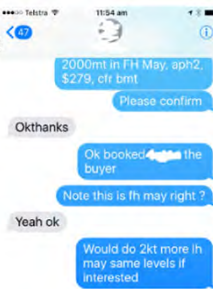
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### Example –broker error

- Shipment delays in May.....
- Buyer checks their position and questions volume??
  - Trac initiated the deal had resigned
- What's turned out to be....



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**Example –broker error**

- Lesson.....
- Check everything – time is of the essence
- Don't take short cuts (even me!!)
- Make sure the deal is clearly laid out on confirmation
- Follow up with formal Broker Note ASAP
  - Usually within 24hrs, sooner if repeat business
- Seen this issue repeated with;
  - Disport variations – especially container terminals
  - Delivery period – FH/LH etc
  - Documents – “Certs I need....”



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**Broker role – contract execution**

- Introduce executing parties
  - Direct communications better
- Ensure timely conveyance of any message
  - Sometimes needs to be “screened”
  - Make sure its passed through and seen
- Sort out issues
  - Assuming you have a good contract in place – no issue
  - Negotiate a resolution if disputed
- “Time is of the essence”
  - Dox
  - Notices
  - Sorting out disputes
- Post execution finalisation
  - Dem/Desp



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**Contract issues – at inception**  
*things that occur even when “agreed”*

- Documents
  - Additional testing
  - Additional documents
  - Requirements not normally specified for market (MICOR)
- DEM/DES min/max, as per C/Party....
- Payment terms – subject to credit or MTM approval
- Vessel age
  - Older = cheaper – for some every \$ counts
  - However vessel survey failure a big problem and costly
  - Loadport BHC charges and penalties
    - “Vessel variation”
- Fumigation
  - Needed?
  - Possible?
  - Who pays ?
  - Was it negotiated
- Explaining / negotiating contract variations
- Variation in cargo – when is too late? Costs?



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### Contract issues – Buyer confusion

- “As per relevant port protocol issued by bulk handler”
  - State by state differences
  - Offshore buyers can be unaware of nitty gritty in large protocol documents
- “...where not in conflict with <seller's contract> all other terms as per <GTA FOB No.1 / GAFTA 81>”
  - + seller base FOB contract term differences
- Charter party references – there are differences
  - Auswheat 2009
  - Ausgrain 2015
- Shipment Period vs Delivery date
  - GTA “DELIVERY PERIOD: Vessel to arrive and tender valid NOR at first loading port between \_\_\_\_\_, (“Delivery Period”) both dates inclusive.”
  - When does it load???
  - No GAFTA extension in Australia on bulk
    - Containers yes!!



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### Example 2. Pulse execution 2017/18

- GOI applies 60% duty to Desi imports
- Cargo on the water – 1<sup>st</sup> class C/P sells to 1<sup>st</sup> class C/P buyer
- But who does the buyer sell to.....
  - In this case
    - Indian domestic C/P's financially stressed
    - Multiple documentary changes – 2kt contact being amended in 5FCL lots!!
      - Destination and notify parties changing
    - Requests to delay at transhipment
      - Who pays?? Get it Explicitly agreed, Time issues
- Delays and changes in banks for presentation
  - “Payment 3 days after presentation at buyers bank acceptable to seller”
  - Not so easy if bank not nominated
- Subsequent to discharge
  - Shortage claims
  - Quality claims



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### Example 2. - Pulses

- Brokers role...
  - Accurately transmit messages
  - Vet for erroneous content
  - Attempt to “pre-negotiate” malicious claims
  - Ensure seller is made “whole”
  - Keep it in writing



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### Example 2. Quality claim

- Container arrived – consignment of 5 FCL
  - Buyer discharged and noted quality issue
  - Claimed 224kg loss x USD375/mt
  - Seller agreed in full (to be deducted from “next invoice”)
- Luckily one more shipment to come.



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### Example 3. Insects “quality final at load”



“We are not happy with AH  
It is infested please see picture attached  
We are placing phosphine tablets but not sure if this will fix the problem  
Kind regards”

1. Need independent assessment of infestation - if marine surveyor competent use them
2. Get surveyor to take samples and get master to sign off the samples are true
3. Work our costings with a fumigator
4. Check insurance for any coverage for delays due to this
5. We can make a claim on seller for costs (remember contract is written quality final at load - but this shouldn't have happened as all cargoes are assessed by govt for the phyto)



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### Other execution issues

- Disport detention
- Disport demurrage
- Variation in disport “Free time” –
  - “I need 21 days free time”
- Excluded shipping lines
- Notification of Bank for Dox presentation
  - Late/Delayed
- Slow response from buyers – delays dox / loading/shipment bookings



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**Other contract issues –  
Port protocols and base contract forms**


Then add some Charter Party forms

- Auswheat 1990 – Time counting favours buyer
- Ausgrain 2002 – better load terms for seller
- Ausgrain 2009 – lots of allowed load time
- Ausgrain 2015 – Costly if vessel fails – loads faster

- Endless contract options
- Issues with tradability of contracts

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Qld Graincorp  
Gavilon



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**Contract issues – Terms mismatch**

- Brokers need to careful not to cross-up terms
- Real example
  - One vessel
  - 2 load ports
  - 2 sellers
  - Can the contracts operate in tandem??
    - Rarely!!!



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**Contract issues – Terms mismatch**

- Vessel loading delayed Port #1
  - Tendered within contract term
  - Loads late – still within contract term
  - Seller #1 still in contract
- Sails to Port #2
  - Vessel tendered outside “Delivery period”
  - Seller #2 cancels!!
  - Price re-negotiation!!
  - Cost buyers USD13/mt



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**Summary**

- The deal is NOT done at inception
- Brokers role
  - Provide advice
  - Interpret
  - Get a solution
  - Equitability/Reasonable
- Keep sellers and buyers happy and calm
- Earn repeat business and trust



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**End**



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### LETTER OF CREDIT

An arrangement involving :

1. Buyer/Importer
2. Buyer's Bank - Issuing Bank
3. Beneficiary's Bank - Nominated Bank
4. Seller/Exporter

Issuing bank undertakes to pay provided:

- a) The stipulated documents are presented
- b) Terms and conditions of the L/C are complied with

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### KEY FEATURES

Banks only deal with *documents*

Letter of Credit is *independent* of the underlying contract

Onus is on the buyer and seller to ensure that the terms and conditions of the L/C is suitable for the underlying contract

Letters of Credit are typically subject to Uniform Customs and Practices for Documentary Credits (*UCP600*)

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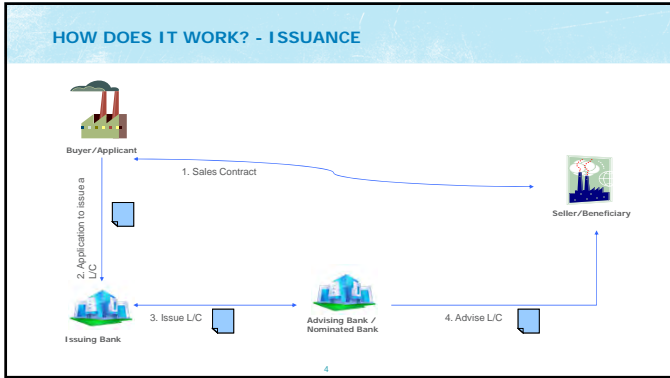
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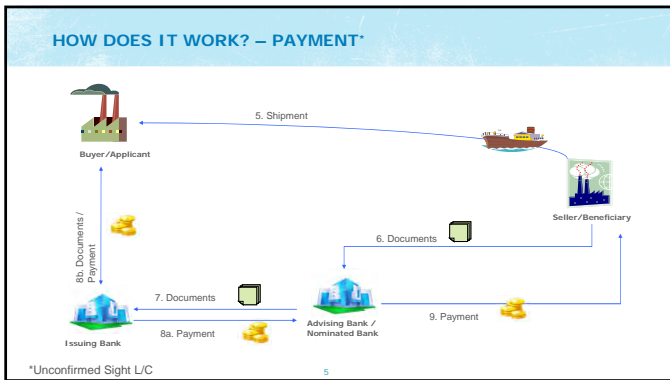
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### ADVANTAGES OF LETTERS OF CREDIT

- Removes buyer's credit risk
- Removes buyer's country risk and issuing bank credit risk (if confirmed)
- Terms cannot be amended without consent
- Payment despite contract dispute
- Possibility of finance without using own credit facility (if confirmed)
- Subject to uniform rules of practice – UCP600



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**KEY CONSIDERATIONS FOR GRAIN L/C'S**


✓ L/C's requiring certificates 'issued at port of loading'

(a) Certificate of Weight issued by ABC Ltd. at load port.  
 (b) Certificate of Sampling & Analysis issued by ABC Ltd. at load port.

**ABC Ltd.**  
Sydney, Australia


**Certificate of Weight**  
Loading Port: Melbourne, Australia

\*This is to certify that the weight of Wheat loaded on Board the vessel as determined by draft survey at loading port is: XX Metric Tons\*

  
ABC Ltd. Sydney


**Certificate of Sampling and Analysis**  
Loading Port: Melbourne, Australia

\*This Certificate is issued at load port

  
ABC Ltd. Sydney

**Certificate of Sampling and Analysis**  
Loading Port: Melbourne, Australia

\*This Certificate is issued at load port



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**KEY CONSIDERATIONS FOR GRAIN L/C'S**

✓ L/Cs issued with **ambiguous** specifications

Contract	Letter of Credit	Commercial Invoice
Goods Description: 235.00 M/Tons of Australian Wheat at USD 250.00 per M/Ton Specifications: Purity 97% Moisture 14% MAX Foreign 3% - 4% Typical Material Defective 5.0% MAX	Goods Description: 235.00 M/Tons of Australian Wheat at USD 250.00 per M/Ton Specifications: Purity 97% Moisture 14% MAX Foreign 3% - 4% Typical Material Defective 5.0% MAX	Goods Description: 235.00 M/Tons of Australian Wheat at USD 250.00/MT Specifications: Purity 99% Moisture 13.5% Foreign 2.8% Material Defective 6.0% MAX

- Have clear specifications including maximum or minimum range
- Avoid ambiguous terminology like 'Typical', 'Approx' etc for specifications (avoid unintended consequences)
- Where no range is provided, banks will look for exact value

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**KEY CONSIDERATIONS FOR GRAIN L/C'S**

✓ Excessive details required on documents

*Example:*

By L/Cs issued out of sub-continent (India, Pakistan, Bangladesh)

- L/C requiring all documents to show L/C No., Contract no., VAT registration number, name of the Issuing bank and address
- All documents to be manually signed (additional care to be taken)
- Documents to be signed in specific ink colour (eg : 'Certificate to be signed in red' or 'Full signature by authorized signatory in Blue ink')

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PREPARING COMPLYING DOCUMENTS – FOR EXPORTERS

UCP600 and  
International Standard Banking Practice for the  
Examination of Documents under UCP600  
(ISBP745)



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**UNDERSTANDING EXAMINATION OF DOCUMENTS**

Examination of documents *'on their face'*

Consistency of data - Data should not *'conflict'* with data in the same document or with any other document or the Credit.

Document must appear to *'fulfill the required function'* of that document



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**EXAMINATION DOCUMENTS ON THEIR FACE**

No requirement to verify data stated in the document

No requirement to verify terms & conditions stated on documents

Does not necessarily imply that banks will examine only the front side of the document

Letter of Credit

Goods Description: 2,000.00 M/Tons of Standard White Australian Wheat

Additional Condition: 1. Shipment of higher grade wheat acceptable

Sorry invoice does not comply

Bank

Commercial Invoice

Goods Description:  
2000.00 M/Tons  
Prime Hard Wheat

It is obviously higher grade, this is acceptable!

Beneficiary

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### EXAMINATION OF DOCUMENTS ON THEIR FACE

No requirement to verify data stated in the document

No requirement to verify terms and conditions stated on documents

Does not necessarily imply that banks will examine only the front side of the document

+ Goods Description: Yellow Corn -  
Grade 2 or better, Crop Year 2019

**Invoice**

Yellow Corn - Grade 1  
Crop Year 2019  
Total amount due

USD 300,000

For Beneficiary

Sorry Invoice does not comply

But this is what we agreed in the contract

Bank

Beneficiary

Did the L/C match the contract?

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### WHAT IS CONFLICT OF INFORMATION?

There is no requirement for data to be identical

Missing information does not necessarily create a discrepancy

**Invoice**

5 May XX

Chick Peas  
1000 MT  
Crop year 2018-19

For Beneficiary

**Packing List**

5 May XX

Chick Peas  
1,000,000 eggs  
Packing in 10 bags

For Beneficiary

**Invoice**

5 May XX

Chick Peas  
1000 MT  
Crop year 2018-19

For Beneficiary

**Packing List**

5 May XX

Chick Peas  
1000 MT  
Packing in 10 bags  
Crop year 2017

For Beneficiary

No Conflict

Conflict

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### FULFILLING THE REQUIRED FUNCTION OF A DOCUMENT

+ Certificate of Origin

**Certificate of Origin**

01 Jun XX

10,000 kilograms of Chick Peas for USD 100,000

Bags are marked with Country of Origin

For Beneficiary

●

**Certificate of Origin**

01 Jun XX

10 MT of Chick Peas

Shipment from: Brazil

Shipment to: Singapore

For Beneficiary

●

**Certificate of Origin**

01 Jun XX

Chick Peas

Origin: Australia

For Beneficiary

●

**Certificate of Origin**

01 Jun XX

Produced by Best Chick Pea Factory, NSW, Australia

For Beneficiary

●

**Certificate of Australian Origin**

01 Jun XX

Chick Peas

For Beneficiary

●

It complies with the L/C

Does not fulfil the function of the document

Content of a document must *appear* to fulfil its function

Beneficiary

Bank

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### CHINA AUSTRALIA FREE TRADE AGREEMENT (CHAFTA) CERTIFICATE OF ORIGIN

1. If the L/C calls for a 'Certificate of Origin - Form for China-Australia Free Trade Agreement' is this document acceptable? ●
2. If the L/C calls for a 'Certificate of Origin', is this document acceptable? ●
3. If the L/C calls for a 'Certificate Form for China-Australia Free Trade Agreement' is this document acceptable? ●

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### PHYTOSANITARY CERTIFICATE

**L/C:**  
Phytosanitary Certificate issued by:  
Australian Government  
'Department of Agriculture Fisheries and Forestry'

**Phytosanitary Certificate issued by:**

- Australian Government
- Competent Authority
- Official authority
- Department of Agriculture and Water Resources

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### FULFILLING THE REQUIRED FUNCTION OF A DOCUMENT

+ Packing List

**Letter of Credit**

Goods description:

Green Lentils per contract no. 1234 1000 MT

Packed in bulk

**Packing List**

Lentils

Net Weight 1000 MT

Gross Weight 1050 MT

*[Signature]*  
For Beneficiary

Does the Packing List comply?

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**FULFILLING THE REQUIRED FUNCTION OF A DOCUMENT**

**Letter of Credit**

**Beneficiary** - ABC CO Ltd

**46A: Documents Required**

Crop Year CERTIFICATE issued by XYZ Inspection Service (Country C) certifying that the crop year is 2018

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**XYZ Inspection Service**  
Country C

**Report of Crop Year**

Based explicitly on the information provided by ABC CO Ltd, we hereby reproduce the below statement for the vessel identified above:

ABC Co Ltd hereby confirm that "the cargo loaded on board the above referenced vessel is of Canadian origin and is progeny of 2018 crop"

*XYZ Inspection Service (Country C)*

"The above cargo was not tested for origin or crop year by XYZ Inspection Service, Country C".

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**CHECKLIST FOR PREPARATION OF DOCUMENTS**

Review to ensure the Letter of Credit is as per your Contract

<p><b>Contract</b></p> <p>Shipment to be effected as follows:</p> <p>1000 MT by June 1000 MT by July 1000 MT by August</p>	<p><b>Letter of Credit</b></p> <p>Shipment period:</p> <p>1000 MT in June 1000 MT in July 1000 MT in August</p>
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What's wrong?

It is critical that your staff are aware of UCP600, ISBP745 and the related provisions

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**CHECKLIST FOR EXPORTERS**

- Look out for documents to be issued by the applicant
- + 20% of invoice value will be paid upon receipt of acceptance certificate issued by the applicant
- Ensure that the L/C has been issued by a well known bank
- Watch out for L/C's issued by non-banks
- Ensure L/C is subject to UCP 600
- Avoid providing excessive details in documents

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KEY CONSIDERATIONS FOR DOCUMENT UNDER GRAIN L/CS

- 1. Check if there are any ambiguous clauses or 'non documentary conditions' in the L/C. eg:
  - a) 'Copy of documents must be sent to Applicant within 3 days of shipment'
  - b) Shipment to be effected in FCL
- 2. Thoroughly read the L/C to ensure you understand all clauses. When?
  - a) Can all the required documents be presented?
  - b) Seek clarification from your bank
- 3. Ensure payment is subject to presentation of documents only

+ We will effect payment after goods are successfully cleared through  
 CUSTOMS

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"This document has been prepared based on information that ANZ considers to be accurate and which has been obtained from sources which ANZ considers trustworthy. However, ANZ does not represent or warrant that the contents of this document are accurate, current, complete, verified or reliable, except to the extent (if any) required by applicable and non-excludible law. Nothing in this document constitutes a recommendation or financial, accounting, taxation, technical or legal advice. Any advice contained is general advice only, and the document has been prepared without taking account of your objectives, financial situation or needs. Having regard to those matters, you should consider the appropriateness of this information for you and seek independent advice if required. You release ANZ from any liability it may otherwise have had but for this provision."

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**My Background** OLDENDORFF 

- Worked in Dry Bulk for almost 20 years
- Previous roles include;
  - Morgan Stanley, commodities trading including physical ships and freight derivatives. Traded Iron ore derivatives and freight futures on behalf of clients
  - Handysize, Supramax, Panamax and Capesize Chartering at Rio Tinto. Also involved with iron ore marketing and logistics in China
  - Various Shipowners and ship broker experience
- Been with Oldendorff for 4 years, specialized as an account manager for Australian Grain exporters. On average, ship around 3-4MT of Australian grain per annum. Other parts of Oldendorff are active in the soybean from Sth America shipping, along with other grains from Pacific North West and Black Sea with a total annual volume of seaborne grains of approx. 20M (Total market around 550M)
- Oldendorff is one of Australia's largest grain carrying Ship Owners and pioneered cleanliness surveys and in-house Port Captains to support grain trade

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OLDENDORFF 

## PRE-COVID19 MACROECONOMIC CONDITIONS

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**Relatively Optimistic at the Beginning of the Year** OLDENDORFF 

- Sentiment Indicators Had Rebounded**  
After months of deterioration, the PMI and other indicators in the past 2-3 months were showing signs that global manufacturing had turned a corner. Turns in country PMIs were echoed in sector PMIs such as for electronics and autos. A rollback in tariffs, monetary and fiscal easing, and fading of shocks for Emerging Markets and Developing Economies (EMDEs) were expected to provide a more conducive environment for a recovery in 2020.
- Improvement in PMI Export Orders Hinted at Recovery in Global Trade**  
The signing of the Phase One trade agreement marked a shift to a de-escalation phase, and helped to reduce business uncertainty. The New Export Orders Component in the PMIs of China, US, and Euro-area had bounced off low levels, and pointed to a modest trade recovery ahead.
- Technical Recession Avoided in the Vulnerable Economies**  
Vulnerable economies like Germany, UK, and Singapore had avoided a technical recession in 2019, as they missed by narrow margins due to different reasons. Brexit uncertainty was abating, but negotiations of the long-term trade relationship with EU was expected to be a long and challenging process.
- China: Focus on Governance and Risk Control; Targeted Stimulus to Avoid Hard Landing**  
While there was a low probability of a strong growth recovery, the government was expected to stimulate enough to prevent a hard landing. Politically, President Xi was strengthening governance reforms, leading to more centralized decision-making and lesser local autonomy. The government was focused on a balancing act. Stimulus and reforms measures will be selective and targeted, with a focus on technological upgrading/self-reliance, tax cuts, and infrastructure.

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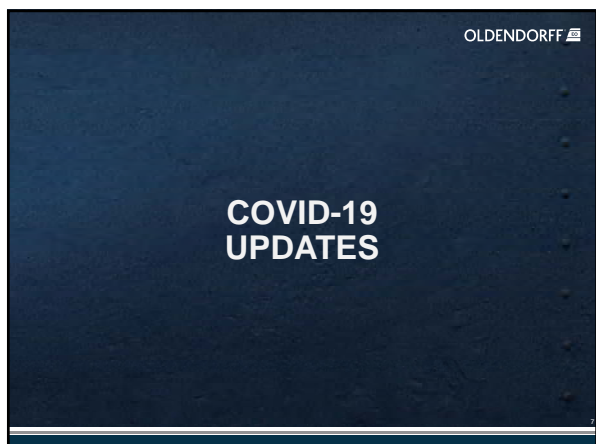
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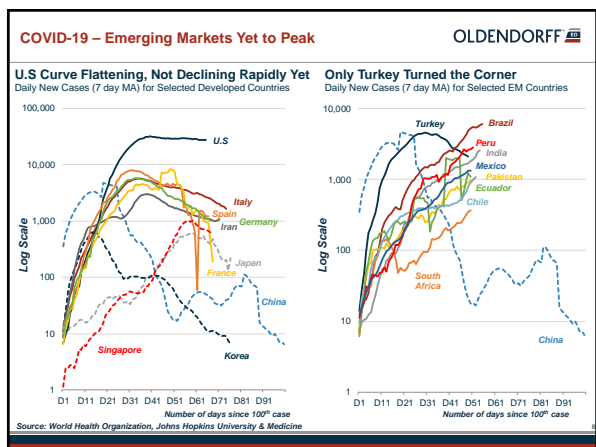
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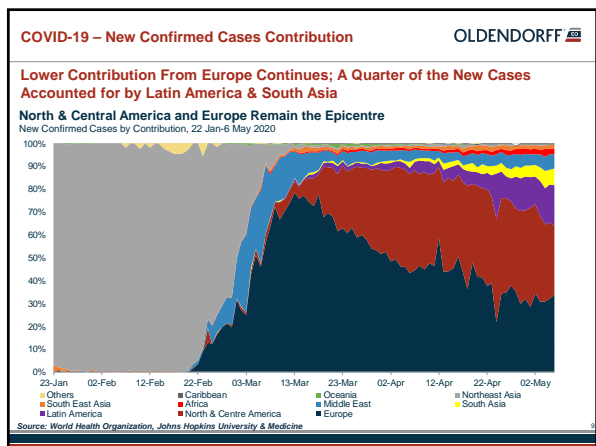
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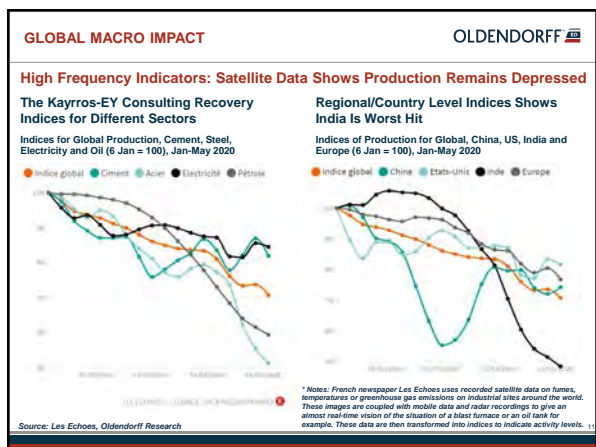
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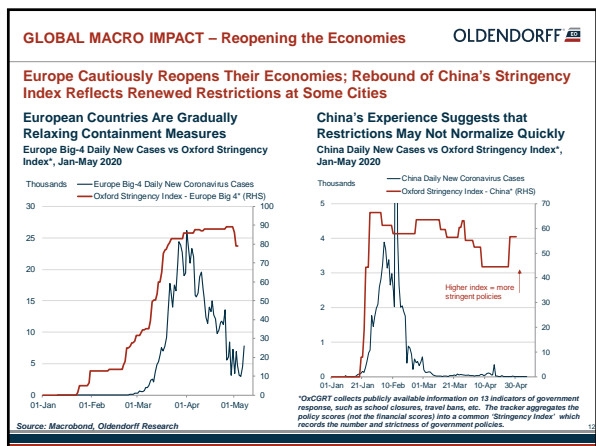
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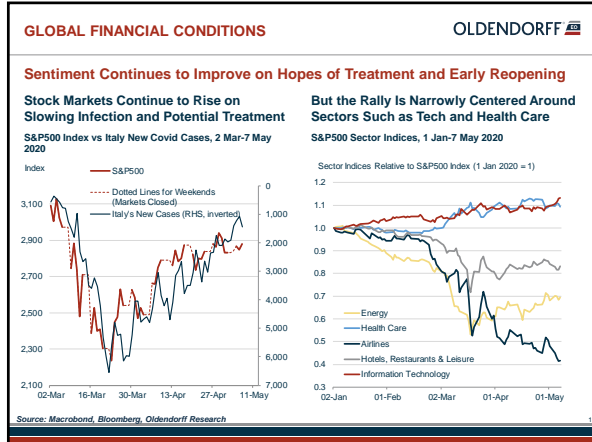
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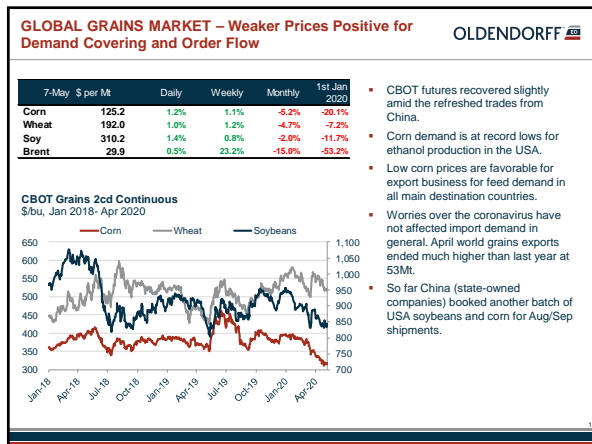
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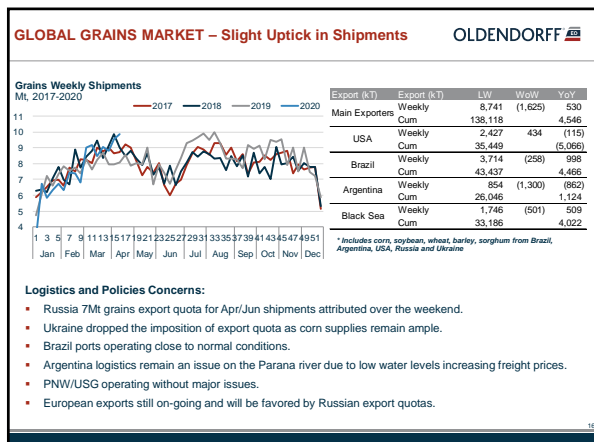
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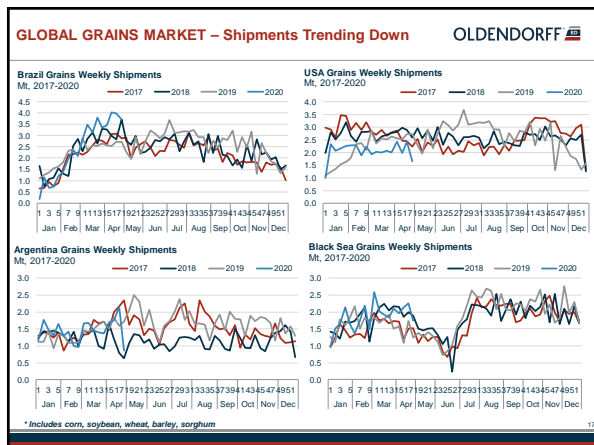
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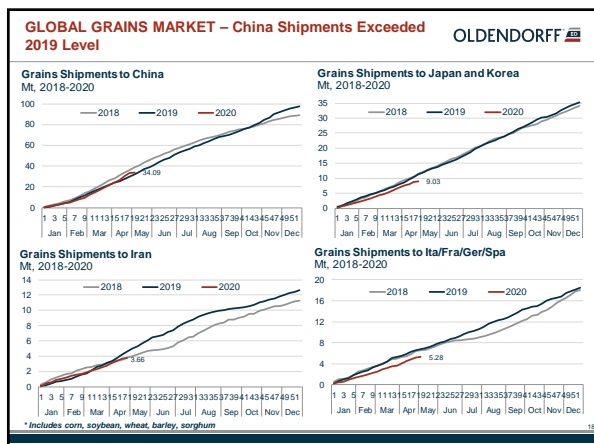
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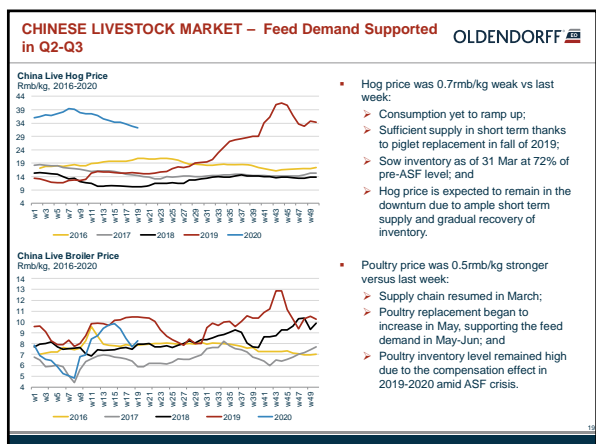
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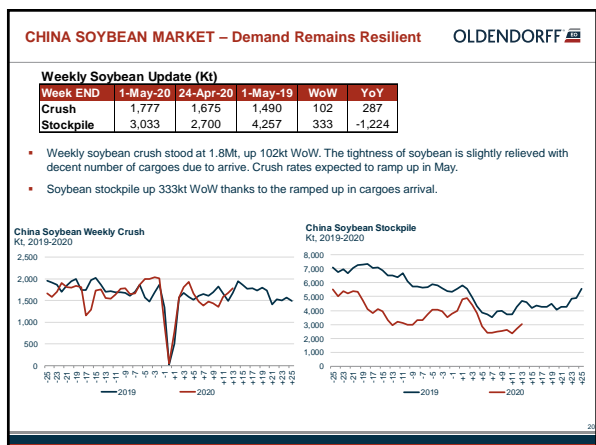
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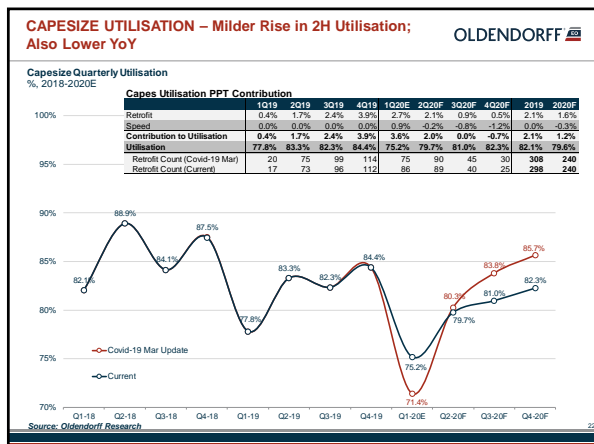


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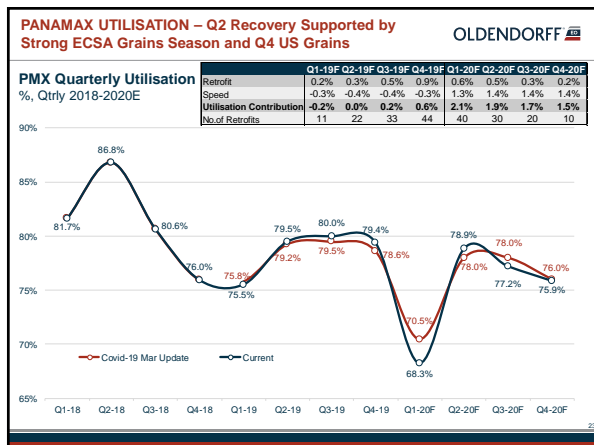
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## FREIGHT MARKET UPDATES

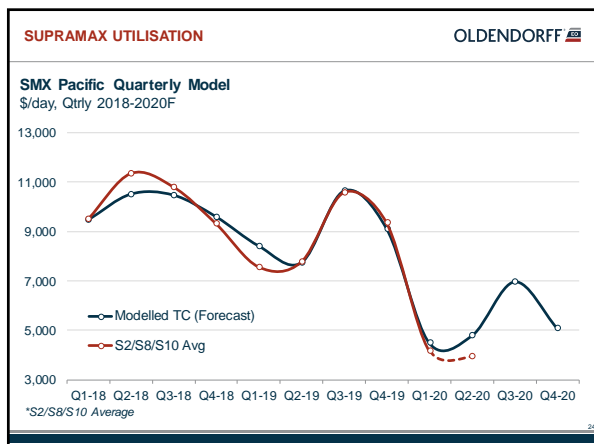
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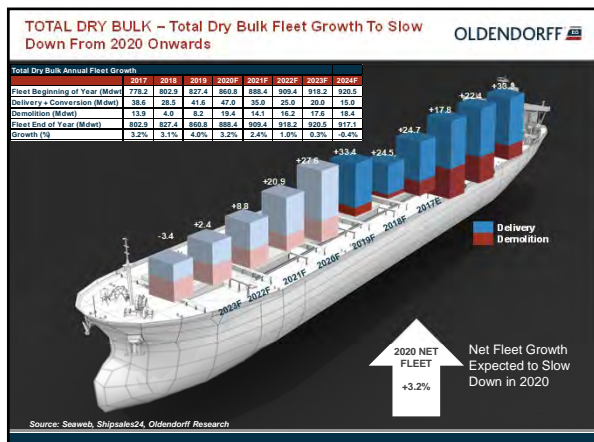
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- ### GRAINS OPERATIONAL ISSUES
- OLDENDORFF
- Strict cleanliness guidelines
  - Failure is costly from reputation and financial aspect
  - Tight cancelling dates with penalties for missing
  - Not always straightforward – slack holds / stability issues mean that extra resource must be dedicated to support the business
  - Despite this, there is no real premium paid for shipping grain

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**Shipping Challenges / Trends to watch** OLDENDORFF 

- IMO 2020 fuel regulations implementation has largely been a success without too many hitches
- Australia remains strictest regime world-wide for vessel cleanliness surveys – must maintain vigilance
- Do we dare mention China / feed barley / trade wars ...
- Turbulent political situations in some of our major markets – eg, Middle East
- Biofouling/security remains topical in Australia – some increased costs creeping in in the form of levies. Will we impose regulations like NZ? If so, could add significant costs and difficulty in shipping
- T-Ports start: slowly slowly – need to find a suitable place for a survey but coming along

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**Shipping Challenges / Trends to watch (Part 2)** OLDENDORFF 

- Fuel forwards now in contango
- Timecharter forwards now in contango
- Does the cautiously optimistic scenario of recovery come true?
- Any other black swan events on the horizon?
- Freight volatility is not necessarily bad for Australian exporters ...

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**Freight Matrix – Geography is still important** OLDENDORFF 

Trade  
60000/10 wheat into Phu My + Cai Lan  
Panamax  
Assumed Fronthaul correlation: 1.7 x average TCS

Bunkers (USD per tonne)	Timecharter Rates (USD per day)		
	10000	20000	30000
<b>250</b>			
Kwinana	12.2	18.25	24.5
Vancouver	19.65	29.7	40.2
Novorossiysk	27.95	42.8	50
<b>350</b>			
Kwinana	13.5	19.5	25.75
Vancouver	21.5	32	42.5
Novorossiysk	29.75	44.6	51.9
<b>450</b>			
Kwinana	17.35	25.8	34.25
Vancouver	25.65	37.15	48.65
Novorossiysk	31.25	47	62.8
<b>550</b>			
Kwinana	18.75	27.2	35.65
Vancouver	27.8	39.3	50.8
Novorossiysk	33.05	48.85	64.65

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OLDENDORFF 

# END

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HFW

A ship but no cargo

NOR

Gaps

GTA Voyage Charter - AusGrain 2015

Presenter

What is a charterparty

# Grain Trade Australia export contracts & documentation course

CHARTERPARTIES





Stephen Thompson  
Partner HFW

HFW

A ship but no cargo

NOR

Gaps

GTA Voyage Charter - AusGrain 2015

What is a charterparty

Presenter

# Grain Trade Australia export contracts & documentation course

CHARTERPARTIES



## *What is a charterparty*

A charterparty is:

- a contract;
- by which a ship, either in its entirety or a part of it;
- is let or hired to the charterer by the ship's owner.

Typically, owner and charterer are able to negotiate their own terms free from any statutory interference.

Standard industry forms - i.e. BIMCO

*Types of charterparties*

NOTES:

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# Types of charterparties

## *Voyage Charterparty*

Where the ship is chartered for a **specific voyage** or voyages

## *Time Charterparty*

Where the ship is chartered for a **specific period** of time

## *Variations*

Multiple voyages within stated time limits

## *Demise (or Bareboat) Charterparty*

Where the charterer assumes **total control and possession of the ship**, including the employment of her Master and crew

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# Voyage Charterparty

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- Ship is chartered for an agreed specific voyage or voyages
- **Cargo capacity**

## Other important terms include:

- **Introductory clauses:**
  - Identity of the contracting parties
  - Name of the vessel
  - Agreed voyage
- **Cargo clauses:**
  - Amount and type of cargo
  - May permit a range of cargoes



NOTES:

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HFW

A ship but no cargo

NOR

Gaps

GTA Voyage Charter - AusGrain 2015

Presenter

What is a charterparty

# Grain Trade Australia export contracts & documentation course

CHARTERPARTIES

# ***GTA Voyage Charter – AusGrain 2015***



## 1 - Introduction

- The Owners (Box 3)
- Vessel (Box 5)
- Cargo capacity (Box 6)
- Current position (Box 8)
- Charterers (Box 4)
- Loading port (Box 10)
- Discharge port (Box 11)

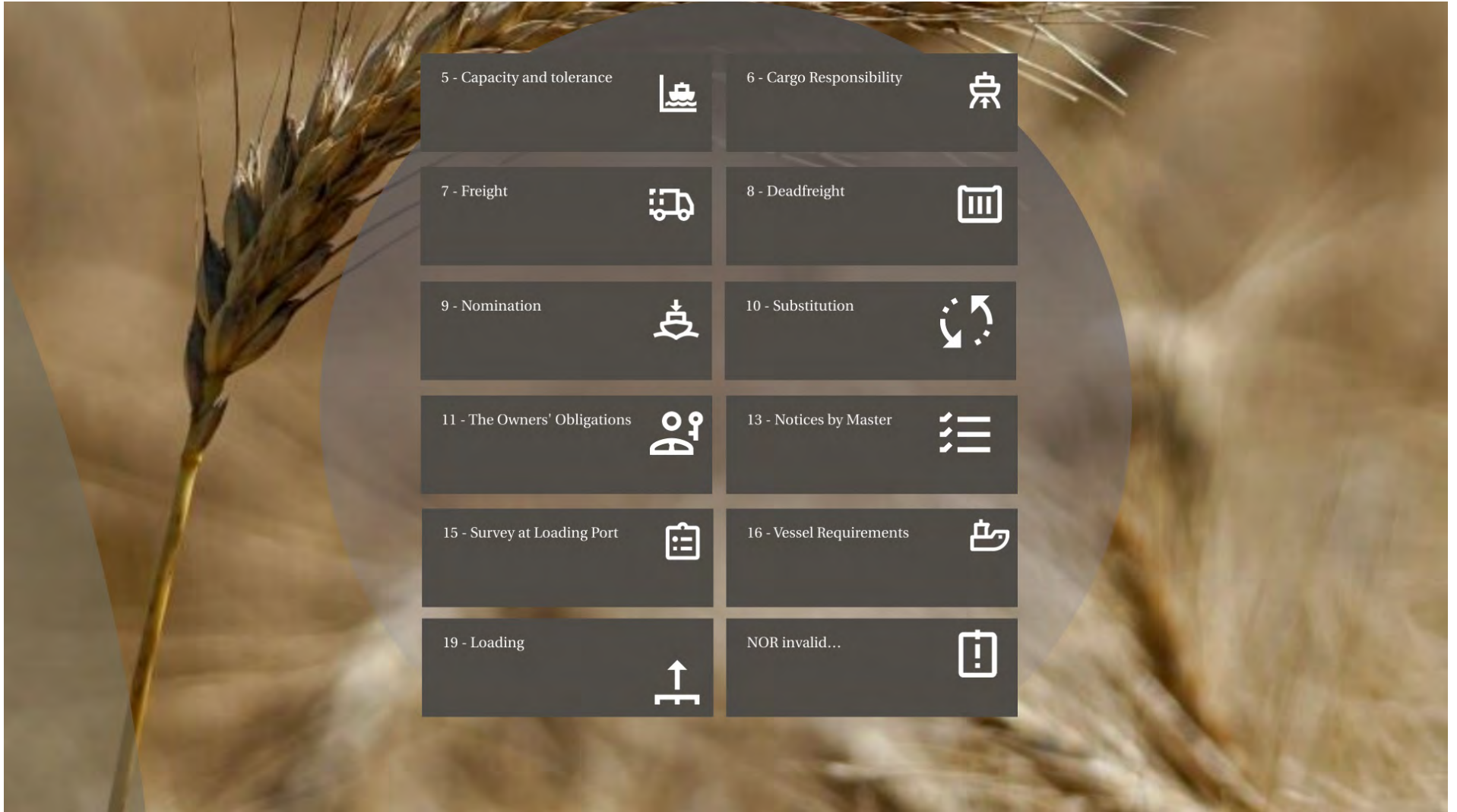
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# 5 - Capacity and tolerance

The Owners warrant that the Vessel is able to load the Cargo with a tolerance stated in Box 12 more or less at the Owners' option.



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# 6 - Cargo Responsibility



The Charterers shall at their expense procure the delivery of Cargo from the silo at the loading port, into the Vessel's holds, loaded, stowed and spout trimmed.

Loading and discharging of Cargo (including covering and uncovering of hatches) will at all times be under the direction and supervision of the Master and the Owners.

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## 7 - Freight

Freight is payable at the rate in Box 15 per tonne of 1,000 kilos according to Bill of Lading weight in accordance with the particulars in Box 16.



NOTES:

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atches) will at all times be under the direction and supervision of the Master and the Owners.

## 8 - Deadfreight

Bill of Lading weight is to be determined by silo weight figures, which are to be final and binding for the purposes of clauses 7 and 22.



NOTES:

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# 9 - Nomination

Apply for loading port orders 96 hours before arrival

Charterers to give within 48 hours of notice for Owners' application.

Narrowing the Shipment Period in Box 9

Box 5 where "TBN" or equivalent, owners to nominate vessel **before the first day of the Shipment Period in Box 9...**



NOTES:

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# 10 - Substitution

Owners may substitute performing vessel if substitute arrives ready in all respects before last day of laycan.



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# 11 - The Owners' Obligations

Procure vessel that can load and discharge at applicable at named ports.



NOTES:

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# 13 - Notices by Master

Master's notification obligations concerning ships arrival at load and discharge port.



NOTES:

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# 15 - Survey at Loading Port



Before **loading is commenced**, and at each loading port, the Vessel must pass the customary survey:

- any **relevant Australian government quarantine and inspection agency authorised officer/surveyor**; and
- an independent Marine Surveyor appointed by the Charterers and acceptable to the Owners (acting reasonably) provided that such survey(s) shall not be required at any second or subsequent loading port unless government agency so directs.

NOTES:

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# 16 - Vessel Requirements



Vessel will present for loading free from loose rust, scale, infestation and/or contamination ...

The Owners warrant that the Vessel is, when nominated, and will remain at all times throughout the performance of this Charterparty

NOTES: 1: 1



NOTES:

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- an independent Marine Surveyor appointed by the Charterers and acceptable to the Owners (acting reasonably) provided that such survey(s) shall not be required at any second or subsequent loading port unless government agency so directs.

## 19 - Loading

Cargo is to be loaded within the laytime allowed

If loading berth is occupied when arrive. **Master entitled to give NOR upon arrival at the port.**



NOTES:

remain at all times throughout the performance of this Charterparty

## NOR invalid...

Where NOR is invalid a fresh NOR must be tendered by the Master...clock starts again.



NOTES:

HFW

A ship but no cargo

NOR

Gaps

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CHARTERPARTIES

***Beware the Gaps between  
standard industry contracts***



NOTES:

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HFW

A ship but no cargo

NOR

Gaps

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*A buyer with a ship  
but no cargo*



NOTES:



HFW

A ship but no cargo

NOR

Gaps

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## *FOB Contract v. Charterparty*



NOTES:

HFW

A ship but no cargo

NOR

Gaps

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