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Official Committee Hansard

SENATE

STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE
AND TRADE

ESTIMATES

(Budget Estimates)

TUESDAY, 29 MAY 2007

CANBERRA

BY AUTHORITY OF THE SENATE

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**SENATE STANDING COMMITTEE ON
FOREIGN AFFAIRS, DEFENCE AND TRADE
Tuesday, 29 May 2007**

Members: Senator Payne (*Chair*), Senator Hutchins (*Deputy Chair*), Senators Mark Bishop, Ferguson, Forshaw, Hogg, Sandy Macdonald and Trood

Participating members: Senators Adams, Allison, Bartlett, Bernardi, Boswell, Brandis, Bob Brown, Carol Brown, George Campbell, Carr, Chapman, Conroy, Crossin, Eggleston, Chris Evans, Faulkner, Fielding, Fierravanti-Wells, Fifield, Heffernan, Hurley, Joyce, Kemp, Kirk, Lightfoot, Ludwig, Lundy, Ian Macdonald, Marshall, McGauran, Mason, Milne, Nash, Nettle, Parry, Polley, Robert Ray, Scullion, Siewert, Sterle, Stott Despoja, Watson, Webber and Wortley

Senators in attendance: Senators Allison, Carr, Chris Evans, Faulkner, Ferguson, Fifield, Forshaw, Hogg, Sandy Macdonald, Nettle, Payne and Trood.

Committee met at 9.02 am

FOREIGN AFFAIRS AND TRADE PORTFOLIO

Consideration resumed from 28 May 2007

In Attendance

Senator Coonan, Minister for Communications, Information Technology and the Arts

Department of Foreign Affairs and Trade

Portfolio overview

Mr Doug Chester, Deputy Secretary

Mr James Wise, First Assistant Secretary, Corporate Management Division

Ms Ann Thorpe, Chief Finance Officer

Ms Lynette Wood, Assistant Secretary, Executive, Planning and Evaluation Branch

Output 1.1: Protection and advocacy of Australia's international interests through the provision of policy advice to ministers and overseas diplomatic activity.

1.1.1: North Asia

Mr Peter Baxter, First Assistant Secretary, North Asia Division

1.1.2: South-East Asia

Mr Paul Grigson, First Assistant Secretary, South-East Asia Division

1.1.3: Americas

Mr Les Luck, First Assistant Secretary, Americas Division

1.1.4: Europe

Mr Jeremy Newman, First Assistant Secretary, Europe Division

1.1.5: South and West Asia, Middle East and Africa

Ms Deborah Stokes, First Assistant Secretary, South and West Asia, Middle East and Africa Division

Mr Paul Robilliard, Head, Iraq Task Force

1.1.6: Pacific

Mr David A. Ritchie, First Assistant Secretary, Pacific Division

1.1.7: Bilateral, regional and multilateral trade negotiations

Mr Christopher Langman, First Assistant Secretary, Office of Trade Negotiations

Mr Peter Baxter, First Assistant Secretary, North Asia Division

Mr Paul Grigson, First Assistant Secretary, South-East Asia Division

Ms Deborah Stokes, First Assistant Secretary, South and West Asia, Middle East and Africa Division

Mr Les Luck, First Assistant Secretary, Americas Division

Mr Jeremy Newman, First Assistant Secretary, Europe Division

Mr David A. Ritchie, First Assistant Secretary, Pacific Division

Mr Ric Wells, First Assistant Secretary, Trade Development Division/Head, China FTA Task Force

Mr Nic Brown, Assistant Secretary, Trade and Economic Analysis Branch

Mr Tim Yeend, Special Negotiator Agriculture

1.1.8: Trade development/policy coordination and Asia-Pacific Economic Cooperation

Mr Ric Wells, First Assistant Secretary, Trade Development Division/Head, China FTA Task Force

Mr Nic Brown, Assistant Secretary, Trade and Economic Analysis Branch

1.1.9: International organisations, legal and environment

Mr Michael Potts, First Assistant Secretary, International Organisations and Legal Division

Ms Libby Schick, Assistant Secretary, International Organisations Branch

Ms Penny Richards, Senior Legal Adviser

Ms Jan Adams, Ambassador for the Environment

Ms Katrina Cooper, Assistant Secretary, Domestic Legal Branch

1.1.10: Security, nuclear disarmament and non-proliferation

Ms Jennifer Rawson, First Assistant Secretary, International Security Division

Mr John Carlson, Director General, Australian Safeguards and Non-Proliferation Office

Mr Andrew Leask, Assistant Secretary, Australian Safeguards and Non-Proliferation Office

Output 1.2: Secure government communications and security of overseas missions.

Mr Sam Gerovich, First Assistant Secretary, Diplomatic Security, Information Management and Services Division

Output 1.3: Services to other agencies in Australia and overseas, including parliament, state representatives, business and other organisations.**1.3.1: Parliament in Australia**

Mr Rod Smith, First Assistant Secretary, Consular, Public Diplomacy and Parliamentary Affairs Division

1.3.2: Services to attached agencies

Mr James Wise, First Assistant Secretary, Corporate Management Division

1.3.3: Services to business**1.3.4: Services to state governments and other agencies overseas and in Australia.**

Mr Ric Wells, First Assistant Secretary, Trade Development Division

Output 1.4: Services to diplomatic and consular representatives in Australia.**1.4.1: Services to the diplomatic and consular corps****1.4.2: Provision of protection advice through liaison with the Protective Security Coordination Centre.**

Ms Lyndall McLean, Chief of Protocol

Output 2.1: Consular and passport services.**2.1.1: Consular services**

Mr Rod Smith, First Assistant Secretary, Consular, Public Diplomacy and Parliamentary Affairs Division

2.1.2: Passport services

Mr Bob Nash, Executive Director, Australian Passport Office

Output 3.1: Public information services and public diplomacy.**3.1.1: Public information and media services on Australia's foreign and trade policy**

Mr Rod Smith, First Assistant Secretary, Consular, Public Diplomacy and Parliamentary Affairs Division

Mr Ric Wells, First Assistant Secretary, Trade Development Division

Mr Richard Andrews, Executive Director, Economic Analytical Unit

3.1.2: Projecting a positive image of Australia internationally

Mr Rod Smith, First Assistant Secretary, Consular, Public Diplomacy and Parliamentary Affairs Division

Mr Ric Wells, First Assistant Secretary, Trade Development Division

3.1.3: Freedom of information and archival research and clearance

Mr Rod Smith, First Assistant Secretary, Consular, Public Diplomacy and Parliamentary Affairs Division

Ms Penny Richards, Senior Legal Adviser

Output 4.1: Property management**Output 4.2: Contract management**

Mr Peter Davin, Executive Director, Overseas Property Office

Enabling services

Mr James Wise, First Assistant Secretary, Corporate Management Division

Ms Ann Thorpe, Chief Finance Officer

Ms Lynette Wood, Assistant Secretary, Executive, Planning and Evaluation Branch

Australian Agency for International Development**Outcome 1: Australia's national interest advanced by assistance to developing countries to reduce poverty and achieve sustainable development.****1.1: Policy****1.2: Program management****Administered items—Australia's development cooperation program.****Outcome 2: Australia's national interest advanced by implementing a partnership between Australia and Indonesia for reconstruction and development.****2.1: Australia-Indonesia partnership for reconstruction and development management**

Mr Bruce Davis, Director General

Ms Annmarie O'Keefe, Deputy Director General, Global Programs Division

Mr Scott Dawson, Deputy Director General, Pacific, Papua New Guinea and International Division

Mr Murray Proctor, Deputy Director General, Asia Division

Ms Ruth Pearce, Senior Associate, Corporate Governance and Review Division

Ms Catherine Walker, Assistant Director General, Papua New Guinea Group

Ms Judith Robinson, Assistant Director General, Pacific Group

Ms Stephanie Copus-Campbell, Assistant Director General, Pacific Group

Ms Ali Gillies, Assistant Director General, Fragile States and International Branch

Ms Julia Newton-Howes, Assistant Director General, Development Partnerships Branch

Mr Peter Callan, Assistant Director General, Asia Regional Branch

Mr Michael Wilson, Assistant Director General, Asia Bilateral Branch

Mr Alistair Sherwin, Assistant Director General, Indonesia Group

Mr Alan March, Assistant Director General, Humanitarian Coordination and Public Affairs Branch

Mr Dereck Rooker-Smith, Assistant Director General, Initiative Support

Mr Robin Davies, Assistant Director General, Multisectoral Support

Mr Titon Mitra, Assistant Director General, Operations Support Branch

Mr Robert Jackson, Assistant Director General, Corporate Services Branch

Ms Therese Mills, Assistant Director General, Human Resources Branch

Mr Paul Lehmann, Assistant Director General, Corporate Reform and Planning

Mr Peter Versegi, Assistant Director General, Office of Development Effectiveness

Mr Dave Vosen, Director, Budget Unit

Ms Ellen Shipley, Director, Community and Business Partnerships Section

Mr Neil McFarlane, Director, East Timor and Burma Section

Australian Trade Commission

Mr Michael Crawford, General Manager, Marketing and Communications, Austrade

Ms Marcia Kimball, Human Resources Director, Austrade

Outcome 1: Australians succeeding in international business with widespread community support.

1.1: Awareness raising

1.2: Government advice and coordination

1.3: Services and opportunities

1.4: Austrade administered: EMDGs for small to medium sized businesses and ITES loans and advances.

Outcome 2: Australians informed about and provided access to consular, passport and immigration services in specific locations overseas.

2.1: Consular, passport and immigration services.

Mr Peter Yuile, Deputy Chief Executive Officer

Ms Margaret Ward, General Manager, Export Market Development Grants

Mr Tim Harcourt, Chief Economist

Ms Hazel Bennett, Director, Finance, Information and Planning

CHAIR (Senator Payne)—Good morning ladies and gentlemen. We shall continue with our examination of the Department of Foreign Affairs and Trade estimates after concluding with AusAID last night. I welcome back Mr Chester and officers of the Department of

Foreign Affairs and Trade, and the Minister for Communications, Information Technology and the Arts. I understand, Mr Chester, you have one matter you wish to clarify from yesterday's discussion in outcome 1.1.5.

Mr Chester—That is right. I will ask Mr Robilliard if he could clarify that.

Mr Robilliard—Senator Faulkner asked me a series of questions yesterday relating to act of grace payments made by the Department of Defence in Iraq. He asked me whether DFAT officers at our embassy in Baghdad had attended relevant meetings with Iraqis in connection with those payments. I said I could not recollect whether they had. I have checked that and confirm that DFAT staff did attend some of those meetings as part of the process in which the embassy was assisting Defence in the processing of those matters.

CHAIR—Thanks very much, Mr Robilliard. As advised yesterday, I indicated that we would begin this morning with outcome 1.1.6, the Pacific.

[9.04 am]

Senator FAULKNER—What is the guidance in relation to contact with ministers in PNG—in other words, Australian government contact at a ministerial level with PNG? It is not clear to me and I wondered, Mr Ritchie, if you might be able to explain briefly to the committee what the situation is.

Mr Ritchie—I will just give a quick note on the background. Following the flight of Julian Moti—who was wanted in Australia, as you know, to face charges here—from PNG to the Solomon Islands, the government took a number of decisions about contacts. One applied to the visit of the then defence minister, Mr Aini, to Australia. The other one applied to the possibility of a visit by Sir Michael Somare to Australia. The third applied to a ministerial forum that we have periodically with PNG. Apart from that, there were no decisions about suspending relations or contacts with ministers, so ministerial contacts continue. Mr Downer, for example, met the PNG foreign minister, Mr Tiensten, in December and again in March in Australia. Another ministerial visit from PNG has been that of Bire Kimisopa, the minister for justice, who was down in Canberra a couple of weeks ago. So there are ministerial contacts on business as usual. The one proviso to make is that PNG is entering an election period. There will be an election from 30 June to 10 July in PNG. Ministers in PNG are essentially often in their electorates at the moment.

Senator FAULKNER—Thank you for that. That does help. I note that Mr Downer, on the Channel 10 *Meet the Press* program on 15 October 2006, said:

I think until they've sorted these problems out—

I interpolate here that that means those in PNG who are helping Mr Moti to effectively escape from PNG to the Solomon Islands, just so we are clear on the context—

we should suspend our ministerial contacts with them.

Was there a period, then, when ministerial contacts were suspended?

Mr Ritchie—The ones I have mentioned, Minister. I cannot recall the context of that but—

Senator FAULKNER—You just happily promoted me. It is very early in the morning and you have already promoted me to minister. Don't tell Mr Downer, will you. You will be terminated immediately.

Mr Ritchie—I am sorry, Senator. Excuse the slip. It is very early. I cannot recall the context of that interview, Senator, but the suspensions are as I have mentioned. The broader one was really the suspension of the ministerial forum, which gathers together quite a number of ministers on both sides.

Senator FAULKNER—I am not sure but I thought I heard you use the term 'business as usual'. If you did not, you are effectively saying that it is business as usual. Is that right?

Mr Ritchie—We have got standard contacts with ministers in the PNG government at the moment to conduct whatever business we have with them.

Senator FAULKNER—So what does this mean in terms of the Moti issue, if I can describe it as that? Does that mean that that is now closed or concluded?

Mr Ritchie—No. We have said to PNG that we expect a thorough process of investigation to take place with regard to Mr Moti and for due legal process to be followed thereafter. The PNG department of defence has conducted a board of inquiry investigation into the episode. Its report has not been made public. The Prime Minister, Mr Somare, has not made that report public.

Senator FAULKNER—So that issue is still outstanding in that sense.

Mr Ritchie—Yes.

Senator FAULKNER—I see. Just on these contacts with PNG, I note that the DFAT annual report for 2005-06 mentioned that agreement had been reached in June 2006 for 10 senior Australian police advisers to be deployed to PNG. Has that deployment gone ahead?

Mr Ritchie—It has not. We are still awaiting PNG's agreement to that, actually. That will not go ahead until we receive a firm agreement from PNG exactly as to where those police officers are going to be placed within their system. We have not heard from PNG on that issue for some time—for some months. I do not want to anticipate things too much here but, given that PNG is preparing for an election, I think it would be realistic not to expect a response until after the election takes place.

Senator FAULKNER—That delay is not associated with the Moti matter at all?

Mr Ritchie—It is hard to know what it is associated with. I think at the moment it is really a matter of the country entering into an election period and therefore ministers perhaps are looking to their electorates more than to this sort of issue.

Senator FAULKNER—I appreciate that. That might explain the delay of recent times, but this is something that was announced quite a long time ago, well before the election period. I think that is a fair point for me to make, so I would be interested in your response.

Mr Ritchie—As I said, it is very hard for me to speculate about what is causing the delay in the PNG system. We have made a number of representations in that regard. So far we have not received the sort of response which would allow us to deploy.

Senator FAULKNER—There was also the issue raised in that annual report about 40 Australian civilian officials remaining in PNG as advisers under the Enhanced Cooperation Program. Can you briefly say whether we still have a similar number of officials involved in that program at this stage?

Mr Ritchie—Absolutely. The number varies according to who is coming to the end of their posting and renewals and so on. I think the number now is 44. It is between 40 and 44, depending on movements.

Senator FAULKNER—In relation to the Moti matter, as late as 1 May, which is three to four weeks ago, the PNG foreign minister said publicly that Australia was being unfair in demanding that PNG authorities prosecute those responsible for Moti's escape from PNG. This does not sound like there has been much movement there at all on that issue, given those statements were made by Mr Tiensten quite recently.

Mr Ritchie—I mentioned earlier that we have made our position known to PNG about the need for an inquiry and then due legal process to follow that and the board of inquiry report, which has not yet been tabled—parliament has risen for the elections—or published. That is really where matters stand at the moment.

Senator FAULKNER—At about the same time Mr Somare himself accused Canberra of orchestrating 'the Moti affair' to discredit him and remove his National Alliance Party from office. This tends to reinforce the fact that there does not appear to be much movement at that end.

Mr Ritchie—No.

Senator FAULKNER—Would that be right?

Mr Ritchie—That is absolutely right. It is hard to see how we could have orchestrated it. We actually asked for Mr Moti's extradition from PNG and were expecting that to happen. He was put before a court, released on bail, took refuge in the Solomon High Commissioner's residence and was then spirited out of PNG by a PNGDF aircraft. That is hardly orchestration on our part.

Senator FAULKNER—I want to ask about the open letter from Mr Downer to the people of Solomons Islands which was published in Solomon Islands newspapers. Do you recall when that letter was published?

Mr Ritchie—Yes, I do.

Senator FAULKNER—What was the date of that?

Mr Ritchie—It would have been early February 2007.

Senator FAULKNER—Yes. A question was asked in the House of Representatives about the issue of prior consultation on the open letter. In the answer to the question on notice in the House, I note that Mr Downer said:

RAMSI contributing countries were briefed on the letter on the day of publication.

I want to know whether that meant that there was no prior consultation with other RAMSI members about the content of the letter, effectively.

Mr Ritchie—That is correct.

Senator FAULKNER—That is even though the open letter was about, in large part, RAMSI's role and what was occurring to undermine it.

Mr Ritchie—Yes.

Senator FAULKNER—Do you know if there has ever been an instance previously where an Australian foreign minister has gone over the head of a foreign government to publish an open letter to the people of a country that is critical of their government? Was this unprecedented? I am not aware of any precedents. I am not suggesting there are not any, but, given that this particular approach was adopted, I wondered if you would be able to report to the committee on that.

Mr Ritchie—From my own experience, I am not aware of any other instances.

Senator FAULKNER—Are you aware of any instances in relation to the foreign ministers or governments of other countries doing it? You said that you are not aware of any precedent in Australia but are there any other precedents you can point to where it was a device that was used in other countries?

Mr Ritchie—Again, from my own experience, I am not aware of any.

Senator FAULKNER—Are you able to say what the aim of the exercise was?

Mr Ritchie—I think we need to bear in mind that, at the time, our High Commissioner, who was on the ground in Honiara, had not been received by Prime Minister Sogavare, had not had the equivalent of his credentials accepted, and was effectively incommunicado. It was made clear to him that he should not make any public statements or see anybody. So there was no means for us to get a position across to the Solomon Islands government or the people of the Solomon Islands. That is the context in which the letter was sent.

Senator FAULKNER—Did it have the impact of actually exacerbating tensions with the Solomon Islands government?

Mr Ritchie—I am not sure. I could not speak for the Solomon Islands government, but certainly—

Senator FAULKNER—I know you cannot do that, but your desk makes assessments about these sorts of matters, doesn't it?

Mr Ritchie—What I was going to say is that I think it was very shortly after that the *Solomon Star* called on the government of the Solomon Islands and Mr Sogavare to repair relations with Australia. I think there was a broad acceptance of the letter from the Solomon Islands community.

Senator FAULKNER—The *Solomon Star* being the main newspaper there.

Mr Ritchie—Exactly, yes.

Senator FAULKNER—The one where the letter was—

Mr Ritchie—It was published in three newspapers.

Senator FAULKNER—But it received the advertising benefit.

Mr Ritchie—Yes, such as it was.

Senator FAULKNER—Anyway, the High Commissioner was able to present his credentials.

Mr Ritchie—Subsequently, yes.

Senator FAULKNER—Do you know when that occurred?

Mr Ritchie—I will take it on notice and get the exact date for you.

Senator FAULKNER—Are you able say broadly whether there have been any delays in other High Commission staff members taking up appointments at all?

Mr Ritchie—Other High Commission staff? No. There have been concerns about visas for RAMSI deployees. Is that what you have in mind?

Senator FAULKNER—I was going to ask about that.

Mr Ritchie—Yes. But not High Commission staff, no.

Senator FAULKNER—So there are new Solomon Islands immigration requirements for RAMSI personnel. That is true, isn't it?

Mr Ritchie—No. The FIA Act, the Facilitation of International Assistance Act, passed unanimously by the Solomon Islands parliament actually provides for RAMSI deployees to have visa-free entry to the country. The Solomon Islands government, however, instituted a system whereby it required a minister, to wit, their foreign minister, to approve what it called abrogations—though I think the word may not be abrogations—from the Solomon Islands visa requirement on a case-by-case basis, which held up a number of RAMSI deployees. Essentially, we did not want to put any RAMSI deployee in the position of actually being turned back, perhaps with their family, from Honiara Airport, so we did not insist on the exact reading of the FIA Act at the time. That was resolved because a committee called the Enhanced Consultation Committee, which includes a number of members of other forum island countries as well as RAMSI and the Solomon Islands government, dealt with that issue very positively, and after that the approvals began to flow.

Senator FAULKNER—But is there a new requirement for RAMSI personnel to require ministerial approval for visa exemptions? Is that a new requirement?

Mr Ritchie—That was a requirement which was introduced by the Solomon Islands government.

Senator FAULKNER—When?

Mr Ritchie—I cannot recall. It became an issue because the exemption was not given at a particular time.

Senator FAULKNER—So it was not because it was new. I thought it was a more recent requirement.

Mr Ritchie—No. I think it has been a requirement for some time. It was only really when those exemptions were not handed out that it became an issue for RAMSI.

Senator FAULKNER—So it becomes an issue because the relevant minister fails to approve a number of exemptions. Is that true?

Mr Ritchie—Yes.

Senator FAULKNER—Is it true that at least one RAMSI official has been denied entry to date?

Mr Ritchie—To date?

Senator FAULKNER—To date. Are there any RAMSI officials that have been denied entry?

Mr Ritchie—There was a time when these exemptions were being held up. I cannot remember the number, but we held back a number of RAMSI deployees. The issue was resolved through this enhanced consultation mechanism I have mentioned, which was chaired by PNG, and the deployees then proceeded to their posting. There may be a current issue with this. Do you have information on a current issue?

Senator FAULKNER—I wanted to understand what the general pattern was in relation to the exemptions. Are you aware of any exemptions the current status of which the minister has failed to approve?

Mr Ritchie—No, I am not; not currently. But I am not aware of the current situation. If there is anything to add to that I will.

Senator FAULKNER—What about delays in the approval process?

Mr Ritchie—There were a number of delays, as I mentioned. But again, as I mentioned, that was resolved by this enhanced consultative committee whereby the Solomon Islands government, RAMSI and a number of other forum island countries sit down together and look at various issues facing RAMSI.

Senator FAULKNER—Is the delay issue no longer a problem?

Mr Ritchie—That is my understanding. I have been away for the last little while. I understand there may have been a recent episode where there were again some delays, essentially because the minister was out of the country. I understand—and this is where I will need to get back to you if my understanding is incorrect—that Mr Oti, the foreign minister, has actually delegated his powers now and that may no longer be an issue, but let me get back to you if that is incorrect.

Senator FAULKNER—What about the current level of contact between the Solomon Islands government ministers and officials, and High Commission and RAMSI staff? Have there been any changes at the Solomon Islands end in terms of the level of contact?

Mr Ritchie—As I mentioned, there was a period when our High Commissioner, although being on the ground in Honiara, could not see the Prime Minister or other ministers. That is no longer the case. He sees ministers. The head of RAMSI, the special coordinator of RAMSI, sees ministers. In fact, the special coordinator had an excellent trip to the tsunami affected areas after the tsunami, in the company of the Prime Minister. I think that trip was for five days or so, so the contact was very good then. It might interest you to know too that our Prime Minister, Mr Howard, gave Mr Sogavare a phone call after the tsunami to express condolences and Australia's readiness to help. The contacts are good at the moment.

Senator FAULKNER—I read or heard somewhere that Prime Minister Sogavare was planning to rearm the police. What is the status of that?

Mr Ritchie—The decision has been taken to not rearm the police.

Senator FAULKNER—I think there was a decision at the Pacific Islands Forum in relation to reviewing RAMSI's performance and reporting, perhaps, to foreign ministers. Is that right?

Mr Ritchie—Yes, correct.

Senator FAULKNER—It was a decision something like that, wasn't it?

Mr Ritchie—Absolutely. There were two decisions. One was to set up this enhanced consultation process, which I have mentioned, at officials level. That has met once. It could not meet another time but essentially it has done good work on the visa issue. The other one was to set up an inquiry or a review of RAMSI to be conducted by a number of eminent people in the region. Two people have been to the Solomon Islands in a first trip in respect of that review. One was Kaliopate Tavola, who was the former Fiji foreign minister, and the other was Neil Walter, who was the former CEO of New Zealand's MFAT, the Ministry of Foreign Affairs and Trade. So they have begun that process.

Senator FAULKNER—In the view of the Australian government, are those processes working well?

Mr Ritchie—Yes.

Senator FAULKNER—So are both decisions viewed as positive decisions?

Mr Ritchie—Yes, absolutely. Firstly, the enhanced consultative mechanism will be a good way of airing issues that may arise between RAMSI and the Solomon Islands government, and has proven its worth already. We are confident that RAMSI has a very good story to tell and the review is so far working out well.

Senator FAULKNER—I did not want to ask anything else on the Solomons but I have questions in another area.

CHAIR—I will ask Senator Nettle if she has any questions, Senator Faulkner. We will come back to you.

Senator NETTLE—I have a question with regard to the Carteret Islands of Papua New Guinea. I understand the population of the Carteret Islands have been evacuated to Bougainville because of the rising sea level. Were there any requests by the Papua New Guinea government to the Australia government for assistance in that process?

Mr Ritchie—I will make a start and then my colleague will make comments. The Carteret Islands are, as I understand it, in a geologically fairly volatile or changeable area. There has been a degree of land subsidence in the Carteret Islands. I think the people of the Carteret Islands actually moved to Bougainville many years ago. Because of the conflict on Bougainville at the time, some of them moved back to the Carteret Islands. I cannot recall a direct request from the government of Papua New Guinea for us to assist in that regard.

Senator NETTLE—Have we been involved with them in any discussions about that transfer of population from the Carteret Islands to Bougainville?

Mr Ritchie—It pre-dates my time. We may have been involved in discussions—I cannot recall. I can check the situation and get back to you.

Senator NETTLE—I want to ask—and this is something I have asked before—whether Australia has been approached or requested by any Pacific island nation about making arrangements for their populations to come to Australia because of climate change and rising sea level making their islands uninhabitable. We have been down that path before. In particular, I want to ask about an article in the *Sydney Morning Herald* in February this year in which there were comments attributed to a senior Tuvaluan official that the Tuvaluan Prime Minister had requested a meeting with the Prime Minister at the Pacific Islands Forum in Fiji to discuss the climate change crisis facing his country but that such a meeting was denied. Are you able to shed any light on that?

Mr Ritchie—Tuvalu did in fact ask for a meeting with the Prime Minister but at no stage specified a reason; far less did it say that it was to discuss climate change or population movements at all. It was a general request for a meeting with the Prime Minister.

Senator NETTLE—This was at the October Pacific Islands Forum in Fiji.

Mr Ritchie—Correct.

Senator NETTLE—Did that meeting occur?

Mr Ritchie—Not to my knowledge. As I think I mentioned at the last estimates, there is a part of the forum which is the leaders retreat, where leaders, as I understand it, can mix and mingle and meet each other and make points during various breaks and so on. But officials are not privy to that retreat.

Senator NETTLE—Have there subsequently been any requests for meetings or have meetings occurred between the Australia government and Tuvaluan government officials where the issue of climate change has been discussed?

Mr Ritchie—Can I check that. We do have a number of discussions of course with officials of Tuvalu. Whether climate change has been a subject of any of those discussions since the forum, I can check.

Senator NETTLE—Do you know whether the Department of Foreign Affairs and Trade is producing any documents around the impact of the movement of people in our region, in particular of people from the Pacific whose islands may be being submerged, due to rising sea level as a consequence of climate change? Is there any planning going on in the Department of Foreign Affairs and Trade about that issue?

Mr Ritchie—There is no planning. As you know, we have accepted the view of the forum that, where there is genuine need, Australia would assist, but there is no particular planning at the moment.

Senator NETTLE—If there was such planning going on, I presume it would be within your section. Am I right? Am I talking to the right section of the Department of Foreign Affairs and Trade?

Mr Ritchie—If it relates to Australia accepting people from another country, there would also be an angle for the Department of Immigration and Citizenship.

Senator NETTLE—I have asked the department of immigration if they are doing any planning for the movement of people from the Pacific to Australia as a result of climate

change, and they said no. So I thought I would ask you whether the department of foreign affairs was doing any planning.

Mr Ritchie—We are not doing any specific planning but, as I have said, we have committed to what is in the Pacific Plan, of which we are a signatory and which involves all the Pacific island countries. The phraseology there is that should a genuine need arise, we would consider measures to address population dislocation.

Senator NETTLE—How is that genuine need to be assessed? At what point do you say that there is a genuine need? There are instances already in some islands—the Carteret Islands or others—where the rising sea level is having a significant impact on the population. At what point does it become genuine enough that you engage in a process of discussion about what may happen?

Mr Ritchie—I am not an expert in geology but, as I understand it, there was a degree of land subsidence in the Carteret Islands. We have diplomatic representatives throughout the Pacific, and we have constant contact with the countries of the South Pacific in various regional forums. I am sure that, should the need become evident, we would notice it. I could not give you speculation in terms of years or time lines.

Senator NETTLE—I talked about the article where the Tuvaluan government indicated that this is the second time they have sought to have a meeting with the Australian government about this issue. I accept your answer in relation to the view that the Australian government did not know that it was climate change that they wanted to talk about. I am trying to work out whether there are any forums with ongoing discussions around climate change where this could be raised. You have said there is no planning and there are no meetings happening. I understand the previous answers that you have given around the Pacific Island Forum discussion. Is that the only forum you can point to where you think these discussions may arise?

Mr Ritchie—I mentioned a number of regional organisations. One is the South Pacific Regional Environment Program, SPREP, which is based in Western Samoa. Australia is a member of SPREP and a substantial contributor to it. I would imagine that these environmental issues would be considered by SPREP and its ministerial council.

Senator NETTLE—Have there been any approaches to Australian government officials from the government of Kiribati to discuss these issues?

Mr Ritchie—I think I would have to say ‘not to my recollection’. Again, that is something that I will check and get back to you. So when you say ‘to discuss these issues’, you are talking about the movement of people because of climate change?

Senator NETTLE—That is right, yes.

Mr Ritchie—Specifically to discuss that?

Senator NETTLE—Yes. In the article that I was referring to from the *Sydney Morning Herald*, a Kiribati official said that in the Pacific Island forums that you mentioned:

Australia either effectively blocks discussion on the issue those times where it can and plays a deaf partner in the circumstances that it can't,

The article goes on to talk about approaches to Australia to discuss population relocation. That is why I thought I would follow it up.

Mr Ritchie—Unless my memory fails me absolutely, I have to say that not in my time in this job has Kiribati or Tuvalu asked for a direct bilateral meeting—Kiribati and Australia, and Tuvalu and Australia—to discuss these issues. I cannot recall that but I will check and get back to you.

Senator NETTLE—Does your section within the department do any monitoring of reports that are put out by aid organisations and others about the impact of climate refugees or people who have to move as a result of climate change in the region? For example, the Stern report talks about the millions of people who will be displaced, and there are more specific reports to the region. Christian Aid produced one just the other week. Do you monitor those kinds of reports?

Mr Ritchie—When they come to our attention. As I say, there is a huge number of interactions with Pacific Island officials at meetings and so on, and clearly a number of documents and studies will be mentioned. When they are mentioned, I would think that we, AusAID—if there is an aid angle—or our colleagues in the environmental area of the department or the department of the environment would look at those. But I cannot say that I have read those particular reports that you are referring to.

Senator NETTLE—It would be if a Pacific Island country raised the issue with you, rather than a proactive part of the—

Mr Ritchie—That is as far as I am concerned. I cannot speak for the department of the environment or my colleagues from the environment part of the department.

Senator NETTLE—I want to ask you some questions about our relationship with Nauru. Could you outline to me the relationship we have with Nauru in terms of programs and financial interaction?

CHAIR—I am not sure if you mean in relation to our aid relationship specifically, in which case it may have been better to pursue that matter with AusAID last night. But I am sure Mr Ritchie will do his best to assist.

Senator NETTLE—I understand that some of the relationship we have with Nauru is aid related, but it is my understanding that that did not encompass the entire financial relationship that we have with Nauru.

CHAIR—We will seek some advice from Mr Ritchie.

Mr Ritchie—Some aspects, presumably, will be handled by Immigration with regard to the facilities there. I am sorry; was there a question?

Senator NETTLE—I wanted you to outline our relationship with Nauru and, in particular, the current status of our financial relationship with Nauru at the moment.

Mr Ritchie—I think we have got an excellent relationship with Nauru. We cooperate very closely on regional matters. I think Nauru would say that Australia is a very generous partner for Nauru in its own development path. The specifics of the aid relationship probably are best addressed to AusAID. We do have a memorandum of understanding arrangement with Nauru,

and we will be talking to them about negotiating the fifth MOU, which encapsulates undertakings on both sides to, on the one hand, the aid relationship, the deployment of individuals in Nauru and government departments and so on and, on the other hand, a number of engagements by Nauru. It is a matter of negotiation with Nauru at the moment, so I am constrained in the extent that I can go down that path.

Senator NETTLE—There is currently an MOU with Nauru. When does that end?

Mr Ritchie—That ends at the end of this year.

Senator NETTLE—So when was the existing MOU that we are on signed?

Mr Ritchie—Two years ago.

Senator NETTLE—In September 2005?

Mr Ritchie—I do not know the exact date.

Senator NETTLE—The article in today's *Sydney Morning Herald* talks about a memorandum of understanding signed in September 2005. So presumably that is the current—

Mr Ritchie—Indeed. I remember that it was signed in September.

Senator NETTLE—I will run you through some of the comments that appear in that *Sydney Morning Herald* article today and see if you are able to shed any light on them. Firstly, is that \$17.1 million—no, that is for this year. Can you give us a figure for the MOU?

Mr Ritchie—I cannot. I think that is an issue that our AusAID colleagues would be able to impart. I would be very hesitant to give a figure for the MOU negotiations coming up.

Senator NETTLE—I am not asking you about the current negotiations specifically; I am asking you about existing agreements. Maybe you could outline this for us. The article in the *Sydney Morning Herald* today say that the MOU contains the statement that 'it will reasonably compensate Nauru for its assistance and for any losses incurred in this endeavour including accidents or unforeseen incidents resulting directly from' activities there. That looks like a compensation clause. Is that standard practice in this type of MOU? Firstly, is it correct and, then, is it a standard clause?

Mr Ritchie—I do not know. I do not have the MOU with me. Could you just read that again?

Senator NETTLE—Yes. It says:

It will reasonably compensate Nauru for its assistance and for any losses incurred in this endeavour including accidents or unforeseen incidents resulting directly from the establishment of facilities and/or the residence of asylum seekers on Nauru.

Mr Ritchie—Could I check on that and get back to you on whether that is an inaccurate statement from the MOU?

Senator NETTLE—Thank you.

Mr Ritchie—I should say that normally MOUs are confidential between the governments that negotiate them, so I am not quite sure of the status of that particular one.

Senator NETTLE—You said we are negotiating the fifth MOU.

Mr Ritchie—Yes.

Senator NETTLE—So this one we are talking about here is presumably the fourth MOU.

Mr Ritchie—Yes.

Senator NETTLE—Are you aware whether it is possible for you to provide the committee with a copy of previous MOUs? It would not include the one we are negotiating right now, obviously, but are you able to provide the committee with previous MOUs?

Mr Ritchie—As I said, they are normally confidential. Again, I will need to check this, but I think one has been released to the parliament in the past. I do not know which number it is. On the others, if we are to release them—and we are looking at one with regard to a freedom of information request—it is not only an Australian government decision; it is also a decision of the government of Nauru as to whether we would be able to release the document. We would have to look at whether we could, from our point of view, but also ask the government of Nauru whether they would agree to it.

Senator NETTLE—I understand that. I appreciate that you are taking on notice whether or not that is an accurate quote relating to compensation from the MOU. Are you able to tell me whether we have had similar compensation-style clauses in the MOUs that we have done with Nauru over the years?

Mr Ritchie—No, I am not able to say, Senator.

Senator NETTLE—Is that because you do not know or because—

Mr Ritchie—It is because I do not know.

Senator NETTLE—Okay. In the *Sydney Morning Herald* article there are suggestions that the MOU involves a refurbishment of one of the detention centres for the expansion of the number of asylum seekers that can be housed in Nauru. Are you able to indicate whether or not that is correct?

Mr Ritchie—Are we still talking about MOU 4?

Senator NETTLE—Yes. That is my reading of it.

Mr Ritchie—Again, as with all the other aspects of MOU 4, if I could check whether that is an accurate depiction and get back to you.

Senator NETTLE—I would have thought that that would have been something that would be reasonably central to any MOU if it were a planned extension of a proposal.

CHAIR—He said he will check for you, Senator, so he will do that.

Mr Ritchie—I will check that.

Senator NETTLE—The article is more specific in that it then goes on to suggest that the company that is involved in the expansion of the MOU is called Aus Health International, that it has received at least \$200,000, that it is a New South Wales government company that lists the state Labor Treasurer and health minister as its major shareholders and that it is being paid for its services to help the federal government hold asylum seekers on the island of Nauru. Are you able to indicate whether that is correct?

Mr Ritchie—To my knowledge, expending money under the MOU would fall, I think, to AusAID if it was for developmental purposes or to Immigration but not to DFAT. I have not dealt with that company, and I do not think my division has. So I am not in a position to say that.

Senator NETTLE—But the MOU is signed by Minister Downer, not Minister Andrews, is it not?

Mr Ritchie—Yes, that is right.

Senator NETTLE—But you are saying that, even though the MOU is signed by Minister Downer, the expenditure that results as part of the MOU would be managed by the department of immigration rather than the department of foreign affairs.

Mr Ritchie—I am saying that it may be managed by AusAID. I am not sure what arrangements Immigration has for the money that it spends. I am saying that Immigration probably spends some money on Nauru and that may be connected with that.

Senator NETTLE—Beyond the detention centre facilities, which I have discussed on a number of occasions with the department of immigration, what other services—for example, housing, accommodation, health et cetera—are included as a result of these arrangements?

Mr Ritchie—As a result of?

Senator NETTLE—The MOU.

Mr Ritchie—Again, I think that is a developmental issue, Senator. We have deployed a finance team to Nauru, comprising an in-line secretary of finance and two advisers, an in-line commissioner of police and up to three police advisers. We have contracted an in-line director of education, a secretary of health, a utilities manager and a director of nursing for Nauru. I am sure there are many other aspects with regard to aid spending, but they are some that I have briefing on.

Senator NETTLE—I am having difficulty writing all those down. So, in the finance team, there is one in-line manager and two advisers?

Mr Ritchie—Yes.

Senator NETTLE—And with the police, there is one in-line and three advisers?

Mr Ritchie—No, there is an in-line commissioner and up to three police advisers. That may, I guess, change with time.

Senator NETTLE—What was the education one?

Mr Ritchie—A director of education.

Senator NETTLE—Is that the only staff relating to education?

Mr Ritchie—The briefing I have here lists a secretary of health, a utilities manager and a director of nursing for the Nauru hospital.

Senator NETTLE—Is the utilities manager connected to the hospital as well?

Mr Ritchie—The way it is phrased, it could be: ‘a utilities manager and a director of nursing for Nauru hospital’.

Senator NETTLE—Would that be the total of Australian staff involved beyond the detention centre?

Mr Ritchie—And beyond the consulate-general—that is, beyond our own post.

Senator NETTLE—So what is the total?

Mr Ritchie—I make it 11.

Senator NETTLE—So 11 staff and—

Mr Ritchie—Up to 11, because we have up to three police advisers.

Senator NETTLE—Has the department ever been involved in discussions with Nauru about visitors by senators to Nauru?

Mr Ritchie—As we do for parliamentary visits, we let them know that a visitor was coming and we would, I would imagine, liaise with them in the normal way.

Senator NETTLE—I am aware that there are senators who have visited Nauru. I think Senator Crossin and Senator Bartlett visited. I have had several applications to Nauru refused, and I am wondering whether the department has ever been involved in discussions with Nauru about the refusal of visas to Australian citizens.

Mr Ritchie—Not to my knowledge.

Senator NETTLE—Would you be able to check on that for me, please?

Mr Ritchie—Yes.

Senator NETTLE—Thank you. Could you provide the committee with information about what Australia is doing about water shortages and power shortages in Nauru? Is that a component of the work we are doing?

Mr Ritchie—We certainly provide, under the MOUs, oil for the power generator and we repair the power generators whenever they are needed. I cannot say for water. Again, it is more an AusAID question. They may know the details of exactly how we help with water.

CHAIR—Perhaps you might put the questions that go more appropriately to AusAID on notice.

Senator NETTLE—I am happy to do that. I am just trying to work out which ones are where. You think water is to AusAID. And power?

Mr Ritchie—Power, too, because it does come under aid expenditure. I happen to know, from monitoring the cable traffic, that we do provide shipments of oil for Nauru and in the past we have been involved in rehabilitating the generators, but I am just not aware of the situation with regard to water.

Senator NETTLE—Do you know the current status of the generators? I understand there were some difficulties in terms of the types of generators that were being used there. They did not work in that environment where there was such a high salt content. Do you know whether that issue has been resolved?

Mr Ritchie—I would have to check and find out. I do not know. From memory I think it has, but let me be absolutely certain.

Senator NETTLE—Have you been to Nauru, Mr Ritchie?

Mr Ritchie—No, I have not.

Senator NETTLE—Like me. Perhaps you have not requested a visa to go there.

Mr Ritchie—Several of my staff have.

CHAIR—I have not been able to go to Burma either, Senator, but I do not take it personally.

Senator NETTLE—Are the 11 Australian personnel that you were talking about who are in Nauru part of your staff?

Mr Ritchie—They would be under the aid arrangement. I think that would be the best way to put it.

Senator NETTLE—Perhaps you can assist me, Mr Ritchie. I have been trying to work out if there is any other component of our relationship with Nauru that falls under your purview rather than AusAID's. Is there anything I have missed?

Mr Ritchie—I do not think so. It really is just to repeat what I said at the start, which is that it is a very positive relationship. Ministers get on very well. We do a lot of multilateral work in the region with Nauru and find them a very easy and good interlocutor.

Senator NETTLE—Are we involved in discussions about the continued viability of the Nauruan economy with the Nauruan government?

Mr Ritchie—I think that is what the MOUs and the aid program are really designed to deal with. I think the Nauruan government and people are very keen to find a sustainable path for Nauru, and we are keen to help them in that regard.

Senator NETTLE—Are we pursuing finding that path via any direction other than the offshore processing centre and the asylum seekers that are there?

Mr Ritchie—The MOU on our aid arrangements and all those inline deployments that I have mentioned to you that you have taken note of are really an attempt to build Nauru's capability and capacity for managing its own affairs. There is a question about the extent to which that can be fully done but we are very keen to maximise Nauru's chances, and its government and people are too. We are helping them very much beyond that detention and processing facilities in that regard through the aid program, through the inline placements, through help with education and so on.

Senator NETTLE—What other industries are we associated with the development of or the operation of in Nauru, apart from the detention facility?

Mr Ritchie—Nauru is taking up the mining of phosphate again. This was a very large industry in Nauru. There is still some phosphate to be mined. That is proceeding.

Senator NETTLE—Is that with Australian companies?

Mr Ritchie—I think it is a Nauruan company but, again, I will check it and get back to you. But the mining of phosphate is a distinct possibility for Nauru's future.

Senator NETTLE—It looks like mining phosphate and holding asylum seekers are on the cards. Are there any other industries beyond that that you are able to point to?

Mr Ritchie—There could be fishing. I am not an expert on Nauru's economy but certainly fishing is a possibility, I would have thought. The country has 10,000 people, so it is not as if you are talking about an economy which is needed to sustain an extremely large country or even a medium-size country. It is a very small country, so small industries can make a difference. Phosphate has in the past, for example.

Senator NETTLE—Have there been any discussions with the Nauruan government about the possible need in the future to migrate some of the population from Nauru to Australia, given increasing unsustainability of the environment in Nauru due to a lack of fresh water, for example?

Mr Ritchie—Not to my knowledge.

Senator NETTLE—I asked questions before in relation to the granting of visas to parliamentarians to enter Nauru. Are you able to advise whether or not the memorandum of understanding with Nauru goes to such issues?

Mr Ritchie—I am not able to advise that, no, because I do not know. Again, we can check.

Senator NETTLE—Yes, could you check that for us. I asked you before about compensation clauses in relation to the MOU. I do not know how these work and whether there are penalties or clauses in such an agreement should Australia withdraw before the agreement expires. Is that something that is incorporated in such agreements?

Mr Ritchie—I just do not have that detail on the agreement with me, I am afraid, but maybe we can take on notice anything related to the agreement.

Senator NETTLE—Thank you.

Senator FAULKNER—I want to ask about the situation in Fiji. There was a report that Fiji's land force commander had said that he wanted to see the Australian and New Zealand high commissions closed down. You might recall that report; I think it was back in mid-April. It seems to me that that threat has largely disappeared, but I wondered if you could confirm whether that was the case.

Mr Ritchie—It is my memory that such a threat was issued and has disappeared.

Senator FAULKNER—Good. So what is the current situation regarding the status of the High Commission in Suva?

Mr Ritchie—Fully operational, with the High Commissioner and all staff in place.

Senator FAULKNER—Is it true that Australia has called on the UN to stop using Fijian troops in peacekeeping missions?

Mr Ritchie—We did have discussions with the UN on what might be possible in that regard. We made our position known.

Senator FAULKNER—At what level have those discussions been carried out?

Mr Ritchie—The office of peacekeeping, I think it is called, with the UN.

Senator FAULKNER—Office of peacekeeping.

Mr Ritchie—The Department of Peacekeeping Operations, DPKO.

Senator FAULKNER—What has been the response to that?

Mr Ritchie—The UN has said that they recognised our concerns about Fiji and would consider the issue, but I have had no further information since then.

Senator FAULKNER—Fiji is still contributing to peacekeeping missions, is it?

Mr Ritchie—It remains contributing to the ones that it was contributing to before. I do not think any new ones have been set up since the coup.

Senator FAULKNER—Do we know what the status is of this call to stop using Fijian troops?

Mr Ritchie—It will be a national position that I am sure the UN will take into account if there is a further call for peacekeepers.

Senator FAULKNER—Following the coup last December, Mr Downer announced a range of measures. I think there are travel restrictions and some aid programs have been suspended and there has been some impact on defence cooperation. I would like to check with you whether that is still the case. That was my understanding at the time. Can you confirm that?

Mr Ritchie—A couple of things. Firstly, suspension of the defence cooperation program. Secondly, maintenance of those aid programs which we can maintain, but withdrawal of those aid programs which would be compromised by having to deal with the military—there do not actually happen to be a great many. There was a program we were thinking of setting up in the Public Service, for example, which we would find very difficult to take forward in a compromised public service. So: maintenance of the majority of aid programs. And there is the implementation of a number of travel sanctions.

Senator FAULKNER—Is there any change to those measures as time moves on, as this situation evolves, or has it been pretty much constant since the announcements were made?

Mr Ritchie—They have been constant. The thing to bear in mind is that the Pacific Islands Forum met on the Fiji issue in March and adopted a report of an eminent persons group on Fiji—four eminent regional people—and has set out a Pacific Islands Forum consensus position on Fiji which Australia very strongly supports. So there is a way ahead on Fiji which has been regionally adopted.

Senator FAULKNER—But you mentioned there were some specific issues to deal with in relation to the aid programs.

Mr Ritchie—Yes.

Senator FAULKNER—There are continuing aid programs?

Mr Ritchie—Yes.

Senator FAULKNER—And in areas like health, education and community development are you satisfied that the aid programs have not been in any way disrupted or compromised because of the military takeover?

Mr Ritchie—Yes, we are. Clearly it is something that we will keep a very close eye on. But we are satisfied so far and no issues have come to my attention in that regard. I am

confident that we would be keeping a very close eye on those things and that if there were compromise because of military interference, for example, we would know about it.

CHAIR—Mr Ritchie, when is the Pacific Islands Forum Fiji Joint Working Group on the Situation in Fiji—which I believe is the lengthy formal title—due to meet?

Mr Ritchie—I could not say but it meets fairly frequently, so it may very well be soon.

CHAIR—Who is Australia's representative?

Mr Ritchie—James Batley, the High Commissioner.

Senator FAULKNER—I am more worried about how Australia has managed to beat a Welsh Third XV after the siren.

CHAIR—I am with Senator Faulkner on that point, and I think that is probably on the record now.

Senator FAULKNER—Sorry?

CHAIR—I think your observations of the Welsh Third XV may possibly be on the record.

Senator FAULKNER—I do not know whether or not they were, but Senator Evans was asking me about the Fiji rugby team and I made a comment, whether it is on the record or not! I suppose if the truth hurts, then there it is!

CHAIR—It is 'after the siren' that I think is the issue here, Senator Faulkner, but there we are.

Senator CHRIS EVANS—The Welshman in me says we were robbed.

CHAIR—I watched the game; you certainly were! We ran a Fifteenth XV. Mr Ritchie, have we any idea of in what time frame we should expect to see the results of the work that is being done on the election timetable and then, subsequently, in what time frame we might be looking at having an election? I think when the forum met in February—I think that is what you said—

Mr Ritchie—March.

CHAIR—In March, I am sorry—they were hoping for 18 months, and two years at the outside—

Mr Ritchie—Yes, that is correct.

CHAIR—notwithstanding the fact that the interim holders had then suggested 36 months.

Mr Ritchie—Yes, that is absolutely right. We are looking for that group of experts to give their report to the joint working group sometime in June, so it is soon.

CHAIR—What is the procedure from there?

Mr Ritchie—And then I think it would be a matter of the joint working group actually looking very carefully at it and attempting to get Fiji's agreement to that time line.

CHAIR—Is it likely that it would come back to the forum of foreign ministers or whatever group convenes on that before it then goes to Fiji?

Mr Ritchie—It will be looked at by the joint working group first, I think. Then it will possibly go back to the forum. That is still yet to be worked out exactly.

CHAIR—How does the working group go about addressing the standing issues that are the matters for discussion of the working group, which include pursuing the cessation of human rights abuses, in addressing allegations of abuse?

Mr Ritchie—The Fiji government is also represented on that working group. So it is a matter of raising reports of human rights allegations with the representatives of the Fiji government, pressing them to stop human rights abuses and hearing their explanations or hearing their commitments. It is a matter of us pressing for a cessation of human rights abuses whenever we hear about them or whenever there are reports.

CHAIR—Do you know whether the Fiji Human Rights Commission is still functional?

Mr Ritchie—I think it is in name, but there have been various accreditation issues, as you may know, with that human rights commission.

CHAIR—Yes.

Mr Ritchie—As you probably know, Senator, I do not think people can have any confidence that they can take human rights abuse reports to this institution and have them investigated impartially.

CHAIR—What degree of attention would you describe the joint working group as placing on those particular issues which, from any casual observation, seem to be of very significant concern in the community?

Mr Ritchie—There are a number of really important issues, but clearly human rights abuses are right at the top because it gives us an opportunity. We have made a number of bilateral human rights representations to Fiji; it is one of the derogations of our approach of being very cautious about—

CHAIR—Contact.

Mr Ritchie—links with the regime. But this gives us a forum where we can press on the human rights issues that we know about. The head of the Prime Minister's office, I think it is Mr Chand, sits on this joint working group, and one of the senior military representatives sits on it, so we can press at the senior levels of the military to stop human rights abuses. The other issue, as we have talked about, is the election time line. We will be trying to get a commitment to a reasonable election time line in the terms that the forum of foreign ministers laid down, of 18 to 24 months, if not earlier. The state of emergency is another issue that can be raised, as is the demilitarisation, if you like, of the government—the military commander leaving the position of Prime Minister. There are a number of issues that can be raised but the issue of human rights really is up there at the top, and I would say that the time line for early parliamentary elections is another high priority.

CHAIR—You said that the high commissioner was our representative on the working group. The other countries who are members of the working group are Nauru, New Zealand, PNG and Kiribati. Are the Marshalls?

Mr Ritchie—Whichever forum countries have a representation in Suva.

CHAIR—Are they represented at the same level?

Mr Ritchie—I think so, yes.

Senator FAULKNER—Can you briefly indicate to the committee what the department's assessment is of the situation in Tonga? I noted that a Tongan MP was reported in mid-April as saying that violence could erupt again in Tonga because people were frustrated over continuing curbs on their freedom with the state of emergency having been extended. I am not even sure, first of all, whether the state of emergency is in place. Would you indicate to the committee what the situation is now and give us a brief assessment of the situation there?

Mr Ritchie—The state of emergency powers were extended on 16 May for a month, but they have been changed so that they no longer afford powers to members of the Tongan Police Force and Tongan Defence Services to prohibit meetings, use force to disperse gatherings and search without warrant. So there has been a change to the emergency powers situation there.

More generally, we are very keen for the continuation of the reform process that was underway through the national reform committee. That was partly funded by Australia. It was a process of very substantial dialogue within Tonga and the Tongan community in various other countries to look at how the reform process in Tonga could be taken forward. We are very keen that that continue. I think the assessment has to be that the process will continue in an evolutionary and incremental way. The Prime Minister has said that when parliament reconvenes in Tonga—and I understand that that is later this week—the reform process will be on the agenda. When the last parliamentary sitting last ceased, the king also gave a commitment to the process of reform.

It has to be said that there is an outstanding legal process with regard to the riots in November of last year, and a number of the parliamentarians in the Tonga parliament are facing charges with regard to those riots. There was quite a lot of damage and a number of deaths—I think eight. So these were substantial and serious riots, and the process of law will take its course, no doubt. So there is a number of elements to bear in mind regarding the situation in Tonga, but the need to continue the reform process—incremental and evolutionary as it should be—is foremost, certainly in our minds, and it is that a point we make to Tonga.

Senator FAULKNER—There was a wire story report quite recently indicating that the damage bill for the riots was estimated at \$88.5 million. You mentioned that it was substantial. Is the department able to confirm that that is an accurate figure?

Mr Ritchie—It sounds to me to be in the order of magnitude. I cannot confirm exactly—I do not think I have the figure with me—but, from my memory, that sounds about right. Through the aid program, we have provided finance for the recovery process, but clearly not at the level that would meet those sorts of figures.

Senator FAULKNER—What sort of level has that assistance been?

Mr Ritchie—I think it has been a matter of a few million dollars: \$1 million for a particular purpose and \$1.5 million for another. The other thing to bear in mind is that the Tongan government has been talking to the government of China about the possibility of concessional loans to help with the rebuilding of Tonga. But, clearly, there is a very large task ahead for Tonga in that rebuilding process.

Senator FAULKNER—There was a \$1.5 million grant to assist businesses to recover from damage caused in the riots. I think that is correct, isn't it?

Mr Ritchie—Yes, that is right.

Senator FAULKNER—Do we know what that has been used for?

Mr Ritchie—I do not. Again, since it goes through AusAID, it is probably an issue that AusAID is best placed to look at. But we can take it on notice and get back to you after the estimates on what that has been used for.

Senator FAULKNER—I would appreciate that. Could you take that on notice and let the committee know if it has been spent and, if so, what it has been spent on?

Mr Ritchie—Yes.

CHAIR—Is there anything further on 1.1.6?

Mr Ritchie—Senator Faulkner asked earlier about the publication date of Mr Downer's letter. That was 9 February. With regard to the turning back of RAMSI officers, one officer was turned back at Honiara airport on 12 March. He was allowed in the following week.

Senator FAULKNER—I think I had seen the report of the turning back of the officer but not the fact that he was allowed in.

[10.21 am]

CHAIR—Thank you, Mr Ritchie. If there are no further questions, that concludes output 1.1.6. As I indicated yesterday, outputs 1.1.7 and 1.1.8 will be considered in the Trade discussion this evening. That takes us to output 1.1.9, International organisations, legal and environment. Amongst the other issues already recorded for consideration in that group, we indicated yesterday that we would pursue any issues relating to Mr Hicks, the Cole inquiry, matters broadly concerning people smuggling and the case concerning Mr Trent Smith.

Senator FAULKNER—I will start by going to the Trent Smith issue. Mr Chester, could I take you back to evidence provided to this committee on 2 November last year, when some figures were given in relation to costs pertaining to the Smith matter. At that time the total legal cost, exclusive of GST, was \$641,634. Are you able to indicate to the committee if any further costs have had to be met by the department since that time?

Mr Chester—Are you talking about legal costs?

Senator FAULKNER—Legal costs, yes.

Mr Chester—No. There has been no change to that figure since 2 November.

Senator FAULKNER—Have there been any other costs in relation to this matter that the department has had to bear?

Mr Chester—No. There have been no significant additional costs.

Senator FAULKNER—What about the salary costs? Mr Smith was suspended with pay. Is that still his status?

Mr Chester—No. He was dismissed from the department.

Senator FAULKNER—Was that in mid-2006?

Mr Chester—That is right.

Senator FAULKNER—Obviously that cost is constant. Was that \$229,875?

Mr Chester—That is right.

Senator FAULKNER—So, in relation to the Smith matter, no further costs have been borne by the department?

Mr Chester—No significant additional costs. Obviously there have been some staff in the department following this issue as it goes through the Industrial Relations Commission.

Senator FAULKNER—I asked you in the November estimates round if you were able to provide the imputed costs for staff time. No doubt in the six months since then you have been able to prepare that figure for us; so we are now awaiting that in gleeful anticipation.

Mr Chester—I think we may well have taken that question on notice and provided an answer at some stage since November. Essentially, we do not seek to attribute staff costs to any of the activities that we undertake.

Senator FAULKNER—Can you point out to me that answer to the question on notice?

Mr Chester—I am told we did answer it, but I do not have a copy.

Senator FAULKNER—What was the figure?

Mr Chester—No figure was given. As I said, it is not normal practice for the department to seek to attribute staff costs to any individual activity.

Senator FAULKNER—Here we have a definitional issue, Mr Chester. You described that as an answer to a question on notice, whereas I describe that as a non-answer to a question on notice. Can you indicate to the committee what the costs have been for staff time in relation to the Smith case? I think you have said before that they have been quite substantial resources.

Mr Chester—I do not think I have said that.

Senator FAULKNER—Perhaps I said it.

Mr Chester—I think that may be the case.

Senator FAULKNER—I will say it again: they are substantial staff resources. How would you describe the staff resources? It has been pretty intensive, hasn't it?

Mr Chester—No. As I have said in this committee a number of times over the years, in the process of the Kennedy and Boucher elements of this case, the resources of the department that were applied to that were not large. Those processes, as I have said, were carried out quite independently from the department by Mr Boucher and Mr Kennedy with the assistance of AGS and others, and so the departmental resources were quite minor. In relation to the current proceedings before the commission, there probably are additional departmental resources involved in that, but that has been since November of last year through to now.

Senator FAULKNER—Let us turn to that then. For that particular case, has the department engaged any legal practitioners? Is the department represented?

Mr Chester—The department is represented, yes. So, yes, we have. As we said last time, our costs in relation to the Industrial Relations Commission proceedings are being covered by Comcover, not by the department.

Senator FAULKNER—Your legal representatives are engaged by DFAT, aren't they, and the costs paid for by Comcover?

Mr Chester—They are engaged by DFAT, and yes, the costs are covered by Comcover. We do not see the accounts from the legal representatives; they go straight to Comcover.

Senator FAULKNER—You do not see them at all?

Mr Chester—No. That is what we said last time.

Senator FAULKNER—How many legal representatives have you engaged?

Ms Cooper—There are two instructors in this case: essentially, Comcover and the department. So Comcover also has to instruct the lawyers and agree to any way forward. We have a solicitor leading on it. She has some assistance from time to time, and we have a counsel engaged as well.

CHAIR—Thank you, Ms Cooper.

Proceedings suspended from 10.30 am to 10.46 am

CHAIR—The committee will resume. We were in 1.1.9, and Senator Faulkner was seeking some information.

Senator FAULKNER—Yes, we had just heard of the costs borne by DFAT in relation to the Trent Smith matter, of \$641,634 in legal costs and \$229,875 in salary while suspended, and we are now dealing with the costs in relation to more current legal proceedings. It has been indicated to me, as I understood what you were saying to us, Ms Cooper, that both Comcover and DFAT are instructing counsel, a solicitor and an assistant to the solicitor, but these costs are being borne by Comcover. Have I got that right?

Ms Cooper—That is correct.

Senator FAULKNER—Counsel is clear, although are you able to say if that person is a silk?

Ms Cooper—He has just recently been given silk, yes. It is Tom Howe QC.

Senator FAULKNER—Who is the solicitor?

Ms Cooper—Virginia Masters is the instructing solicitor.

Senator FAULKNER—And you said an assistant to the solicitor. What do we mean by that?

Ms Cooper—There is a more junior solicitor that helps out.

Senator FAULKNER—So two solicitors and then counsel—a senior counsel.

Ms Cooper—That is right.

Senator FAULKNER—No other legal representation?

Ms Cooper—Not that I am aware of. I do not know exactly how they distribute the work within the office of AGS, but they are the only people that I have had contact with.

Senator FAULKNER—Can you explain to me please how this situation works with both you and Comcover instructing these legal representatives?

Ms Cooper—As Comcover is the organisation covering the costs of the bills, they need to agree with—for example, in the bigger picture—whether to continue to defend the matter or not; all those sorts of decisions they are involved in.

Senator FAULKNER—Are these decisions taken by Comcover or are they taken by Comcover and the department of foreign affairs? I am just trying to understand how this works.

Ms Cooper—In a practical sense, our solicitors send us, both the department and Comcover, a recommendation and then we both respond. To date we have both responded in the same way.

Senator FAULKNER—When you say ‘our solicitors’ you mean yours and Comcover’s solicitors.

Ms Cooper—Correct.

Senator FAULKNER—Have we had a situation, for example, where there are meetings of officials from DFAT with people from Comcover about prospective legal action and the like?

Ms Cooper—Yes.

Senator FAULKNER—How many of these briefing or pre-briefing or instructing sessions have taken place?

Ms Cooper—I do not have a record of that, but I recall two.

Senator FAULKNER—How many DFAT officers are involved in those sessions?

Ms Cooper—That would vary. I am usually involved and I will sometimes have somebody from my branch with me.

Senator FAULKNER—Have you taken Mr Moriarty’s responsibilities? No, that’s not his name, is it.

CHAIR—It is Mr Moraitis, actually, Senator.

Senator FAULKNER—He’ll never forgive me for that!

Ms Cooper—I am James Larson’s successor. Chris Moraitis was the senior legal adviser.

Senator FAULKNER—Who has taken Mr Moraitis’ responsibilities?

Ms Cooper—Ms Richards.

Senator FAULKNER—That was actually a Freudian slip. So you and at least one other official from DFAT have been present.

Ms Cooper—Correct.

Senator FAULKNER—Have only two of these meetings taken place?

Ms Cooper—Yes. I also recall that a representative of Comcover attended perhaps one of the directions hearings. But it is a decision for Comcover to what extent they attend or not attend.

Senator FAULKNER—You used the term ‘directions hearings’. Why are you calling them directions hearings?

Ms Cooper—Directions hearings are a standard part of any legal process. When either of the parties wants guidance from, in this case, the commissioner on how to proceed, there will be directions hearings. Often it is on fairly non-substantial type issues. Often it involves timetables for when documents need to be produced; when one party needs to advise the other party which witnesses will need to appear; whether they should be cross-examined et cetera.

Senator FAULKNER—I understand what a directions hearing is. What I was talking about was more to do with planning meetings or coordination meetings prior to actual directions hearings. Have you been engaged with Comcover officials in relation to that?

Ms Cooper—Yes, I recall one meeting of that sort.

Senator FAULKNER—With the solicitor?

Ms Cooper—Yes.

Senator FAULKNER—So there has only been one of those sorts of meetings?

Ms Cooper—Yes, that I can recall.

Senator FAULKNER—Separate to that, there has been at least one directions hearing.

Ms Cooper—Yes, there have been several directions hearings. I recall the representative from Comcover being present at one of those directions hearings.

Senator FAULKNER—In the absence of a representative from Comcover, is guidance to legal representatives given by DFAT officials alone? It must be, I suppose.

Ms Cooper—It depends what you mean by guidance. There are often very minor—

Senator FAULKNER—Client’s instructions.

Ms Cooper—The broader overall strategy is settled. Once the hearing starts there is very little instruction required. When there are instructions required, it depends on the nature of the instructions. If they are significant matters then both Comcover and DFAT are consulted.

Senator FAULKNER—Is the client of the solicitor here Comcover, DFAT or both?

Ms Cooper—My understanding is that it is both.

Senator FAULKNER—And you do not have any knowledge of costs that Comcover has borne?

Ms Cooper—No.

Senator FAULKNER—So even though Comcover is not present at some of these meetings or hearings and, therefore, do not seem to be in a position to be able to make a direct assessment—I do not know how they could make an assessment of whether the costs being charged to the Commonwealth are accurate—it is Comcover who pays the bill. None of this is run past DFAT?

Ms Cooper—I am not necessarily privy to all the conversations between AGS and Comcover, so I can only speak to you about the meetings or the communications that I have been involved with in relation to all three organisations.

Senator FAULKNER—Is the solicitor that you have mentioned an AGS solicitor?

Ms Cooper—Yes.

Senator FAULKNER—And the assistant solicitor is an AGS solicitor?

Ms Cooper—Yes.

Senator FAULKNER—I still do not understand, if no-one from Comcover is present at a meeting, how assessments are made about the costs that Comcover will bear.

Mr Chester—Maybe I can help. My understanding is that Comcover will be present at any meeting that could impact significantly on the costs. If, in relation to a case, there are meetings that discuss the general way forward, that could have an impact on overall costs, Comcover will be there for that meeting, but for other meetings and other directions hearings before the commission, where the potential costs of the case are not a key issue, Comcover may not be present. I would understand why they would make the decision to be there for those discussions that could impact on their financial exposure.

Senator FAULKNER—I believe I know the answer to this question. I may well have asked it in a previous round, but for the purpose of the record it is useful to ask it. Can you give a brief explanation of why Comcover, not DFAT, is covering the costs in this case?

Ms Cooper—As you are aware, Comcover is our insurer. When these litigation matters come up we refer them to Comcover, and if they agree to cover them under our policy, they do so, but we are not privy to that decision.

Senator FAULKNER—There is a capacity for Comcover to say, in some instances, it will not cover costs. I think that is right, isn't it? Can you confirm that for the record?

Ms Cooper—That is my understanding, yes.

Senator FAULKNER—But they are decisions that are made by Comcover after discussions with the department. Is that right?

Ms Cooper—They are decisions made by Comcover depending on whether it fits within the Comcover insurance policy that the department has.

Senator FAULKNER—Yes. But the department obviously puts a view to Comcover on a range of these issues, doesn't it?

Ms Cooper—Yes. The department requests Comcover to cover a certain matter and Comcover makes a decision.

Mr Chester—I think it is an independent decision they make. I would not want people to think there is lobbying on behalf of the department. We have an insurance policy; there are certain things covered under that insurance policy; and Comcover makes a decision whether this is covered and whether they want to proceed with covering the costs.

Senator FAULKNER—Yes. But the department makes a request of Comcover, doesn't it?

Mr Chester—Under our insurance policy, yes.

Senator FAULKNER—How often, if ever, has a request from the Department of Foreign Affairs and Trade been rejected by Comcover?

Ms Cooper—I do not have any figures on that. I recall in my time there was one, and I think that was because the case predated the Comcover policy, so it was not technically, I suppose, within our insurance period.

Senator FAULKNER—So have there been any cases?

Ms Cooper—Other than that, I am not aware of any.

Senator FERGUSON—There are a couple of things that I want to clarify, because it is now for close to four years that we have been having questions about Mr Smith.

Mr Chester—I think it is exactly four years.

Senator FERGUSON—Exactly four years! I knew it was a fair while.

Senator FAULKNER—But they have been good years, haven't they?

Senator FERGUSON—I have been trying to fathom my way through it, Senator Faulkner. Is it true that the costs that Senator Faulkner talks about, and all of the legal costs that are still accruing, are now all a result of Mr Smith's challenge to the decision to terminate his employment?

Mr Chester—These are costs that are not being borne by the department, but yes, the costs now all relate to the action that is currently before the Industrial Relations Commission.

Senator FERGUSON—Which was to challenge the decision to terminate his employment.

Mr Chester—The case is about unfair dismissal, yes. In a sense it is a two-part case: firstly, dealing with the finding by Mr Kennedy of a number of breaches of the code of conduct and, secondly, challenging the determination or the sanction that was decided by Mr Boucher that his employment should be terminated as a result of those breaches. So it is a challenge on both those grounds: the finding of breach and the sanction as a result of that finding.

Senator FERGUSON—After the alleged breaches were first brought to the attention of the department, Mr Kennedy was the first person who was the determining officer. Is that right? He was the first person who looked into the case?

Mr Chester—That is right. As the committee is aware, in 2003 material and allegations came to the notice of the department. That material and those allegations indicated a possible breach of the code of conduct. The department looked at that material and those allegations. It then referred some of that material and some of those allegations to Peter Kennedy as an independent determining officer.

Senator FERGUSON—From outside the department.

Mr Chester—That is right. As we have said in this committee, Peter Kennedy was a former Deputy Public Service Commissioner, so he was not a departmental officer. He was, in a sense, an independent umpire who acted as the delegate of the secretary. He spent 23 months investigating the material and the allegations to determine whether there had been a

breach of the code of conduct. He made his determination that there had been. As I said earlier, that is being challenged in the Industrial Relations Commission now. As I have said before, it is Mr Smith's right to challenge that in the commission.

The determination of Mr Kennedy was then referred to an independent sanctioning officer—so not a departmental employee. It was again an independent umpire. It was Mr Boucher, who was the CEO of the Australian Government Solicitor. He had no affiliation with the department. He was an independent person. After a fairly lengthy period, he made a decision—a determination—that the appropriate sanction that should be applied was termination of employment in relation to some of the findings of Mr Kennedy. Mr Boucher, as the delegate of the secretary, implemented that determination and Mr Boucher terminated Mr Smith's employment.

As I said earlier, as is Mr Smith's right, he is challenging that outcome in the Industrial Relations Commission. I think it is quite appropriate that we allow that to happen. The only other point I would make is that, from the department's point of view, we had allegations and we had some evidence and we chose to have those allegations and that evidence tested. It was tested by an independent umpire and he came to a conclusion. The department, again I think quite appropriately, chose not to ignore those conclusions of Mr Kennedy and referred them to Mr Boucher, and Mr Boucher made his decision.

I know there has been a lot of criticism of the way the department has handled this but, on the face of it, it involved: employing two independent people to look at it—that is, not departmental officers; no political interference in the process from the minister; and Mr Smith, as the applicant, exercising his rights to challenge the findings of the two independent umpires. I am not really sure how the department should have handled this differently, given the facts of how it has been handled.

Senator FERGUSON—I recollect Senator Ray's questioning very early in the piece. I think he described Mr Kennedy by saying: 'I don't think you could get a fairer person to do this sort of evaluation'—that was outside. I guess that, at the end of the determinations by Mr Kennedy and by Mr Boucher, it would have virtually been impossible for the department to ignore those determinations, wouldn't it?

Mr Chester—I think the department would have been in a very difficult position if an independent person had found that there had been a breach of the code of conduct and it had ignored that.

Senator FERGUSON—You would be in a bit of strife.

Mr Chester—We would be in a bit of strife—in a different sense. Similarly, when we get allegations of wrongdoing and evidence of wrongdoing, the department always takes those things seriously and has a look at them and determines whether action should proceed. We do not sweep things under the carpet or ignore them.

Senator FERGUSON—Is there any end in sight? We are accruing legal costs. You are saying that the department has gone through all those processes as independently as possible, getting independent advice. Do you see that in the future there will be an end to this?

Mr Chester—As everyone knows, this issue is now before the Industrial Relations Commission. The hearing is part heard—there have been some witnesses. We have read a lot about that in the newspapers. There is still at least one witness to give evidence in the case. My understanding is that the proceedings before the commission will continue for another week or so. Then, I guess, there will be some period for a finding to be handed down.

Senator FERGUSON—You would be hopeful it would be within months.

Mr Chester—I am not sure how long the commission would normally take. It could be a period of weeks or months beyond now, is my understanding.

Senator FAULKNER—What was the situation in relation to notice with Smith—the two weeks notice issue when you cease employment? What was the situation in his particular case?

Mr Chester—I will need to check. Sorry, what is the question you are asking?

Senator FAULKNER—What was the situation? Was there any termination payment? Was any notice required to be given? I am not sure of the situation.

Mr Chester—My understanding is that the requirements were fully complied with.

Senator FAULKNER—What were the requirements?

Mr Chester—I think he was advised on 12 July of the outcome, his employment was terminated on 27 July last year, and then there was the normal payout of entitlements that Mr Smith was entitled to.

Senator FAULKNER—Was he paid for that period between 12 and 27 July?

Mr Chester—My understanding is that once Mr Boucher had made his determination or reached his conclusion, a review was then undertaken of whether Mr Smith should be suspended with or without pay. I believe on 13 July the decision was taken that his suspension should be without pay, and that was transmitted to him at that stage.

Senator FAULKNER—So the final two weeks of his employment were without pay. Is that right? Who made that decision?

Mr Chester—That is correct, and that was made by a delegate within the department. I think you would recall that the terms of Mr Smith's suspension had been reviewed a few times over the course of the years and that the department on each occasion, given where the case sat, had decided to have Mr Smith suspended with pay. But once the department was faced with a situation of (a) having a finding of breach of the code of conduct and (b) having a finding that the appropriate sanction was dismissal, then it was necessary to look at the terms of the current suspension. In those circumstances, the delegate decided that for the last two weeks the suspension should be without pay.

Senator FAULKNER—When was that decision taken?

Mr Chester—I believe it was 13 July.

Senator FAULKNER—And when was the department informed of the findings?

Mr Chester—On 13 July.

Senator FAULKNER—It did not take the delegate very long—just a matter of hours—to decide that the last two weeks of his employment would be without pay. So the same day?

Mr Chester—Yes, 13 July.

Senator FAULKNER—Moved pretty quickly then. It sounds a touch vindictive.

Mr Chester—That is your assessment.

CHAIR—Senator Faulkner, you are making comments and not asking questions of Mr Chester.

Senator FAULKNER—You can assure me that it was not vindictive, can you? The report came in on the 13th and on the 13th a delegate determines that he would not pay out his two weeks notice.

Senator Coonan—Senator Faulkner, that is not really a question that this witness should be asked.

Senator FAULKNER—Why not?

Senator Coonan—Because you are asking for an opinion, that is why.

Senator FAULKNER—No,. I am asking for—

CHAIR—Mr Chester's opinion.

Senator FAULKNER—I am actually asking for some factual information.

Senator Coonan—That is perfectly permissible, but you cannot ask him for his opinion.

Senator FAULKNER—So when on 13 July was the department informed about the outcome of the Smith matter?

Mr Chester—I do not know that. I will have to see if I can find the answer to that. We may have it; I do not know.

Senator FAULKNER—When did the delegate, on the same day, make the decision? How long did the delegate put into examining this case? As I say, it sounds very vindictive to me. I want to now know the facts so that I can come to as objective a conclusion about this as I can. It is the same day, so it is a matter of hours. How many hours?

Mr Chester—I do not know.

Senator FAULKNER—Who was the delegate?

Mr Chester—A departmental officer.

Senator FAULKNER—What level?

Mr Chester—Division head.

Senator FAULKNER—They had not had any involvement in this case before?

Ms Cooper—No.

Senator FAULKNER—I can be assured of that?

Ms Cooper—Yes.

Senator FAULKNER—How long did the division head have to examine all the documentation? They had had no involvement at all in this case before, but we all know how much material there is in relation to this case. Every member of this estimates committee knows it. I know it. I know how agonising it has been extracting information about this out of the department over, literally, years. But this division head was able to make this decision within hours. And you are telling me it is not vindictive. I find that very difficult to believe.

CHAIR—That is a matter for you, Senator Faulkner. Mr Chester can supply you with the facts if you ask questions in relation to that.

Senator FAULKNER—How long would it take a division head, who has had no association with the case—I have been assured that by Ms Cooper—to be able to familiarise himself with all the circumstances so that the division head, acting as delegate, the same day could make a decision to ensure that the final two weeks notice of Smith could not be paid out?

Mr Chester—I think you may misunderstand the process that that decision-maker—

Senator FAULKNER—I do not misunderstand it.

CHAIR—Senator Faulkner, could you please let Mr Chester finish his response.

Senator FAULKNER—I am just assuring him I do not misunderstand.

CHAIR—You can do that at the end of his response.

Senator FAULKNER—I absolutely understand what is going on here, and I have for four years.

Mr Chester—Maybe you are confused, Senator.

Senator FAULKNER—For four years I have understood it, Mr Chester.

Mr Chester—In that instance, to determine whether suspension should be with pay or without pay, the delegate really only had one very simple issue to deal with, and that was the fact that Mr Smith had been found to have breached the code of conduct, and an independent umpire had determined that the appropriate sanction was dismissal. He did not have to examine the metres of material that Kennedy and Boucher had. He had the outcome and it was that outcome that would shape his decision-making processes. I cannot see why that kind of decision would take a significant amount of time.

Senator FAULKNER—I can. Is the delegate required to provide reasons for their decision?

Ms Cooper—Yes.

Senator FAULKNER—Right. What were the reasons?

Ms Cooper—I would have to take that on notice.

Senator FAULKNER—Can't we do a bit better than that?

Ms Cooper—I do not have a copy of the decision letter here but, as Mr Chester said, the decision was based on the outcome of both the Kennedy and Boucher reports.

Senator FAULKNER—I want to know what the reasons were that this delegate, who had no knowledge of the case, was able to come to this conclusion within a matter of either minutes or, at best, hours. I would like to know that, and I would like to know it now.

CHAIR—Ms Cooper has indicated she does not have the material.

Mr Chester—I do not have the—

Senator FAULKNER—Let us try to get it then, Mr Chester.

Mr Chester—I do not have the bit of paper before me.

Senator FAULKNER—Can you assure me, when I hear it, that it has not been vindictive?

Mr Chester—You keep saying that.

Senator FAULKNER—Yes, I do.

Mr Chester—Firstly, it is very unfair but, secondly, if you have some evidence that it was vindictive I would like to hear it. You keep saying it is vindictive. It is just your opinion.

Senator FAULKNER—I will tell you why: I am basing this on the time frames involved.

Senator Coonan—Senator Faulkner, that cannot possibly be conclusive. You can say whatever you wish, of course, but in all fairness you cannot pull yourself up by your bootstraps and say that a mere time frame is sufficient to indicate something like vindictiveness. It just does not follow.

Senator FAULKNER—If you want to assure me of that—

CHAIR—The minister has.

Senator Coonan—I am saying that, of itself, it does not necessarily mean it.

Senator FAULKNER—I am very interested to understand—

Senator Coonan—I am sure you are.

Senator FAULKNER—I am very interested to understand that when a decision came down about this character's employment, the end of his employment in the department, on the same day—so it was within a matter of minutes or hours—a decision was made to clip him for the two weeks notice. That was the decision that was made. We know the time frame it was made within. I am asking these questions because I am concerned about vindictiveness, which has, in my view, characterised this case for four years. I now want to know what reasons the delegate gave for this decision, which was made within minutes or hours on 13 July 2007.

CHAIR—The officers have indicated they do not have the documentation relating to that matter with them, that they will take the question on notice, and that they will provide you with an answer.

Senator FAULKNER—I would appreciate the information being provided as soon as possible.

CHAIR—I am sure the department will assist as far as it can.

Senator FAULKNER—Was any recommendation made to the delegate at all?

Ms Cooper—No.

Senator FAULKNER—What material was provided to the delegate?

Ms Cooper—I cannot recall.

Senator FAULKNER—Was a definite outcome put before the delegate?

Ms Cooper—No.

Senator FAULKNER—What material did he or she have to base this decision on?

Ms Cooper—He had the outcome of the Kennedy and Boucher reports.

Senator FAULKNER—So an outcome was placed before the delegate. You just told me it was not.

Ms Cooper—No. I thought your question went to an outcome on the suspension decision. Of course, that was not placed before the delegate.

Senator FAULKNER—No. I am asking: what was placed before the delegate? What information?

Ms Cooper—I cannot recall. I do not have that. Whenever a decision-maker is appointed they are provided with certain information to enable them to make that decision. I cannot recall, in this particular instance, exactly what was before the decision-maker, and I would have to get back to you on that.

Senator FAULKNER—Who appoints the decision-maker? Who appointed this delegate who was able to make this decision within minutes or hours?

Ms Cooper—I may have that.

CHAIR—Ms Cooper is checking her documents, Senator Faulkner.

Senator FAULKNER—Thank you.

Ms Cooper—I do not have that before me but I can assure you that he was properly appointed. I can check that for you, also.

CHAIR—Thank you Ms Cooper.

Senator FAULKNER—How can you assure me he was properly appointed?

Ms Cooper—Because I recall that the appointment was made properly.

Senator FAULKNER—If you recall it was made properly, surely you recall who made it.

Ms Cooper—No, I cannot.

Senator FAULKNER—How do you recall it was made properly if you do not even know who made it?

Ms Cooper—Because my area was involved in preparing the appointment, but I cannot recall who made the appointment.

Senator FAULKNER—All I know is that now we know there is an outcome of the Kennedy hearing placed before a delegate of the department—

Mr Chester—And the Boucher hearing.

Senator FAULKNER—Sorry, both. It is both, is it?

Mr Chester—Yes.

Senator FAULKNER—You were not able to provide that. I was only told it was the Kennedy.

CHAIR—No; Ms Cooper had said both.

Ms Cooper—I really have to go back. I do not want to mislead the committee, so I would need to go back, check exactly what documentation was put before the decision-maker before I would be able to answer that question.

Senator FAULKNER—I would appreciate that. Can that be done over the luncheon break, please?

Ms Cooper—We will see what we can do, Senator.

CHAIR—Thank you, Ms Cooper.

Senator FAULKNER—It ought not be difficult to find out the timing involved in this, the information that is before the decision-maker and the range of other issues that I have canvassed. I will flag that I intend to canvass more, but those factual issues will help inform the questioning I wish to undertake in relation to this matter. So we will come back to that, Mr Chester, after the lunch break.

Mr Chester—We will see what we can do, Senator.

CHAIR—Thank you, Mr Chester.

Senator FAULKNER—I appreciate that very much. I will now come back to the question of the involvement of Comcover in this. I am now talking about the involvement of the Department of Foreign Affairs and Trade in the Trent Smith case since he was sacked in July 2006. So to be clear for the record, that is what I am now turning to. You may not be the best person to direct this to, Ms Cooper. Perhaps Mr Moraitis's successor is the best person but I will take your guidance on that. I want to know now how many officers in DFAT's legal branch have been involved in this matter since Smith was sacked in 2006.

Ms Cooper—We do not have anybody working on this matter exclusively. There are a whole range of issues that the branch covers, and any one officer deals with a number of issues. The involvement of the branch, particularly in recent months, has been responding to requirements for the commission hearing and so the workload has fluctuated. At times there are no ongoing matters relating to this matter before the branch, but when the commission's deadlines are coming to produce documents or respond to requests from Mr Smith's legal team and so on then there are some work requirements.

Senator FAULKNER—Do you have the primary responsibility?

Ms Cooper—My branch does, yes.

Senator FAULKNER—So there is you. There have been directions hearings?

Ms Cooper—Yes.

Senator FAULKNER—What else has there been? I want to get the correct terminology of what has taken place in terms of formal or informal consultations and hearings and the like. It

is best if you explain it to the committee so we get the right terminology here. We have heard about directions hearings, but what other sorts of involvements have there been?

Ms Cooper—As I said, producing documents for the commission.

Senator FAULKNER—Yes, but have there been other meetings apart from directions hearings—other meeting and consultations?

Ms Cooper—With whom?

Senator FAULKNER—With anyone.

Ms Cooper—There is regular contact of course between the branch and AGS when there are matters coming up before the commission.

Senator FAULKNER—Right. The branch and AGS—there is that level of consultation. There are directions hearings. What else have we got?

Ms Cooper—There is some email traffic to-ing and fro-ing between AGS and us, again on the same sorts of matters. There are not a lot of meetings in relation to a litigation matter generally.

Senator FAULKNER—Have there been any conciliation processes at all?

Ms Cooper—There is a compulsory conciliation process within the commission—and there was, yes.

Senator FAULKNER—Is that different to a directions hearing?

Ms Cooper—Yes, it is.

Senator FAULKNER—That is why I am asking. What are they called—conciliation hearings or processes or what?

Ms Cooper—Conciliation.

Senator FAULKNER—Just conciliation.

Ms Cooper—Yes.

Senator FAULKNER—What else have we got?

Ms Cooper—That is it.

Senator FAULKNER—Any others.

Ms Cooper—No, not that I can think of.

Senator FAULKNER—Any meetings between DFAT and Comcover.

Ms Cooper—As I said, there were one or two meetings with AGS and Comcover.

Senator FAULKNER—You mentioned AGS and your branch, but did they sometimes or always involve Comcover as well?

Ms Cooper—We do not have that many meetings with AGS. We have had a few and I recall Comcover being at two of those.

Senator FAULKNER—Any other broad categories.

Ms Cooper—No, I think that is it.

Senator FAULKNER—All right. In relation to the meetings between your branch in DFAT—DFAT, if you like—and AGS and sometimes Comcover, how many of those meetings have taken place?

Ms Cooper—Between AGS and DFAT?

Senator FAULKNER—Yes.

Ms Cooper—Actual meetings—we do not keep a list of this sort of thing. But, off the top of my head, maybe four or five since the commission process started at the end of last year.

Senator FAULKNER—Does that include ones that involve Comcover?

Ms Cooper—Yes, I recall Comcover being at one or two of those—the more significant ones.

Senator FAULKNER—In relation to those meetings, have any senior departmental officers been involved in that apart from you?

Ms Cooper—Mr Chester has been involved in one or two meetings with AGS.

Senator FAULKNER—Anyone else?

Ms Cooper—Yes. One of my directors is often involved. I think I answered a question before and said that, yes, one of the officers from my branch attends from time to time. That is Suzanne McCourt, who is the Director of the Administrative and Domestic Law Section.

Senator FAULKNER—Fair enough. They are the senior officers. Are junior officers also involved? I do not want their names.

Ms Cooper—We have a graduate trainee who has been assisting in the last few months.

Senator FAULKNER—So, there were four officials effectively, but they were not always present at the meetings.

Ms Cooper—That is right.

Senator FAULKNER—Can you confirm how many of those meetings you have attended, Mr Chester?

Mr Chester—It may be only one. Maybe one or two.

Senator FAULKNER—I will write that down.

Mr Chester—I would need to check that.

Senator FAULKNER—How many directions hearings have there been?

Ms Cooper—Ms Richards has just reminded me that she was in fact present and has been involved in about three meetings with AGS. I will just need to go through my time line to see how many directions hearings there have been. There have been quite a few.

Senator FAULKNER—Is Ms Richards an FAS or Dep Sec?

Ms Cooper—She is an FAS.

Mr Chester—She is a senior legal adviser.

CHAIR—You will recall she is Mr Moraitis's successor, Senator.

Senator FAULKNER—I miss him.

Mr Chester—I will pass that on.

CHAIR—I am not sure he will feel the same way.

Senator FAULKNER—I am absolutely certain he will not. How far did he go to get away from me, out of interest? Where is he?

Mr Chester—He went to Port Moresby. That may say something.

CHAIR—That is far preferable to Senate estimates with you, Senator Faulkner!

Senator FAULKNER—It says a lot. That is a blow.

CHAIR—It is a good thing you are not sensitive.

Senator FAULKNER—No. No-one has ever accused me of being sensitive. Now I will move on to the directions hearings.

CHAIR—Ms Cooper is checking her records.

Ms Cooper—I cannot say this absolutely definitively because I have just had a quick look through. As you would understand, there are very minor parts of the litigation but I have about four directions hearings—that is since November, all in relation to the commission—and a directions conference.

Senator FAULKNER—So four directions hearings and one directions conference.

Ms Cooper—No, I am sorry; that is four in total—four directions hearings.

Senator FAULKNER—Who, if anyone, represents the department at directions hearings?

Ms Cooper—It is usually the AGS solicitor.

Senator FAULKNER—Do any departmental officials go?

Ms Cooper—Sometimes. They do not all go in person. Direction hearings can be by telephone. If I am available I will be hooked in, or I will attend if I am not available then.

Senator FAULKNER—So how many directions hearings have you gone to yourself?

Ms Cooper—I think, two or three of the four.

Senator FAULKNER—Do you know if the department was represented at the other one?

Ms Cooper—I can recall there was one we were not represented in. It was at very short notice. There may have been another we were not represented in.

Senator FAULKNER—Who has represented the department at the conciliation? First of all, what is the role of the conciliation?

Ms Cooper—The role of the conciliation is to see if the matter can be reconciled before it proceeds to the commission hearing.

Senator FAULKNER—Has there been one conciliation or more?

Ms Cooper—There have been two conciliation hearings.

Senator FAULKNER—Who has represented the department at the conciliation?

Ms Cooper—The AGS solicitor.

Senator FAULKNER—Has any departmental official been present?

Ms Cooper—Yes. I attended the first conciliation and Ms Richards attended the second conciliation.

Senator FAULKNER—What was your or Ms Richards' role at those meetings?

Ms Cooper—We do not play an active role in the conciliation.

Senator FAULKNER—You are just present?

Ms Cooper—Yes.

Senator FAULKNER—This activity, I assume, ceased when the AIRC hearings began?

Ms Cooper—What activity is that?

Senator FAULKNER—These preparatory meetings.

Ms Cooper—The conciliations, yes. These are compulsory conciliation cases.

Senator FAULKNER—Not the conciliation. I am wondering if any of the meetings between DFAT, the AGS and Comcover have occurred after the commencement of the AIRC hearings.

Ms Cooper—No meetings as such, no.

Senator FAULKNER—So just tick-tacking on the issues involved.

Ms Cooper—Yes, that is right.

Senator FAULKNER—I would expect that to take place. And that is mainly done by telephone and email, is it?

Ms Cooper—It can be done by telephone or email.

Senator FAULKNER—Would there have been any face-to-face meetings?

Ms Cooper—I have attended the hearings, and so I have been with the AGS team during those hearings.

Senator FAULKNER—So you have attended every day of that hearing?

Ms Cooper—Yes.

Senator FAULKNER—Has anyone else from DFAT?

Ms Cooper—A graduate trainee has attended.

Senator FAULKNER—That is two. Anyone else?

Ms Cooper—There was another officer who attended for a few days in the first week.

Senator FAULKNER—Who was that, or what position did they hold?

Ms Cooper—That was the director of the administrative and domestic law section.

Senator FAULKNER—When did the conciliation cease?

Ms Cooper—There was a conciliation on 21 August and one on 21 September.

Senator FAULKNER—Are you saying there was no active involvement by the department in that conciliation? That was the impression that I was left with. I just want to be clear on that.

Ms Cooper—That is right.

Senator FAULKNER—How can it be defined as a conciliation if there is no active involvement by one of the parties?

Ms Cooper—Their instructions are provided to the solicitor before the conciliation process.

Senator FAULKNER—At what level of the department were those instructions developed? You are saying that instructions are provided before the conciliation.

Ms Cooper—Yes. In any part of a legal process, instructions are provided beforehand, whether it is a directions hearing, conciliation or the hearing proper. That is the normal way that a legal case proceeds.

Senator FAULKNER—Yes, but as the conciliation progresses you have the authority to speak on behalf of the department, or instruct AGS solicitors on behalf of the department, don't you?

Ms Cooper—If that were necessary, yes.

Senator FAULKNER—It has not been necessary?

Ms Cooper—No, not in the first conciliation. I do not believe it was in the second; no.

Senator FAULKNER—It sounds like a one-way conciliation. So you and one other departmental official, and for some time of the hearings another departmental official, attended the AIRC. I think we heard from Mr Chester that that case is still ongoing. Is that right?

Ms Cooper—That is right.

Mr Chester—Yes.

Senator FAULKNER—How many days have you attended? How long has that hearing taken to date?

Ms Cooper—There have been eight days of hearings so far.

Senator FAULKNER—How many days of conciliation? Two, is it?

Ms Cooper—Yes. They are very short. They are half an hour or an hour.

Senator FAULKNER—What about the directions hearings? There are four of those.

Ms Cooper—Yes. As I said, I have four from my quick read through the chronology. I cannot say that that is the exact number but that sounds about right. That accords with my recollection.

Senator FAULKNER—I think you or Mr Chester said that there was still a scheduled few days to go.

Mr Chester—My understanding is that there is one further witness next week and then I guess there will be the normal closing submissions. Then we will await an outcome.

Senator FAULKNER—In relation to this matter with Trent Smith, how often has the Minister for Foreign Affairs, if at all, sought an update on the case?

Mr Chester—I can only recall one instance where a staff member from Mr Downer's office asked for an update of the case, and that was two weeks ago as the media was starting to report the Industrial Relations Commission proceedings. I may be wrong but I cannot recall any other occasion where either the minister or his staff had asked for an update of the case.

Senator FAULKNER—Was that update provided?

Mr Chester—Two weeks ago?

Senator FAULKNER—Yes.

Mr Chester—Yes, it was.

Senator FAULKNER—Was that a written brief?

Mr Chester—No. I believe it was a discussion between a staffer and Ms Cooper, who had been monitoring the court.

Senator FAULKNER—Can you confirm that, Ms Cooper?

Ms Cooper—That is correct.

Senator FAULKNER—Can you confirm when the update was provided to the minister's office?

Ms Cooper—It was during the hearing, as Mr Chester said. I think it was in the second week of the hearing when there was quite a lot of press reporting.

Senator FAULKNER—Thanks for that.

Mr Chester—I do not want to leave a wrong impression in people's minds in answering that question about whether Mr Downer had asked for updates. The department, of course, had given, on its own volition, updates to the minister. In particular, when we had a discussion with him prior to each Senate estimates, we always indicated that this no doubt would be an issue that would be raised. We gave him a brief update at that stage of where things were and how things were progressing. On occasions, as the case developed, he would get an information submission—for example, alerting him to the fact that the case was going to the Industrial Relations Commission, and those kinds of things. So there would be those factual updates, but we would instigate those, not the minister or his office.

Senator FAULKNER—I appreciate you saying that. You, not unreasonably, defined the word 'case', which I used as the IRC matter, which is fair enough. I was going to now ask you to speak more broadly, if you can, on the matter which you have been able to inform us today has been ongoing now for some four years. Are you able to confirm it was only on the one occasion that Minister Downer or his office have sought an update on the Smith matter over that four-year period, which I think is what you were suggesting to the committee?

Mr Chester—That is precisely what I was suggesting. Apart from that one instance in the last four years, I cannot recall one occasion where the minister or his staff asked for an update on this case. The minister's view on this has always been that this is an internal departmental matter to deal with, and that is how it has been treated. As I have said, over the four years we

have spoken to him prior to Senate estimates to say that this issue would no doubt be raised. We have sent him the occasional information submission to let him know where the case was up to. But I cannot recall any instance where there has been a request from him or his officers other than this event two weeks ago.

Senator FAULKNER—You have also indicated, however, that you have provided regular updates to the minister, including in Senate estimates briefing. Can you confirm that?

Mr Chester—Yes. By that I mean that we obviously have a discussion prior to Senate estimates to run through the issues we think will be raised. As I said, every time we have indicated that this issue will be raised we have not necessarily gone into the detail of this issue, just the fact that it will be raised and perhaps a rough indication of where the case sits—that it is still before the commission, or Mr Kennedy is about to report, or Mr Boucher is still considering it. That has been the extent of those discussions.

Senator FAULKNER—Did the department bear any costs in relation to bringing Mr Hyndes back from Sri Lanka to appear before the IRC?

Ms Cooper—All of those costs, all of the witness costs, are also being covered by Comcover.

Senator FAULKNER—So the department bore no costs, Comcover did.

Ms Cooper—That is right.

Senator FAULKNER—In relation to Mr Hyndes coming back from Sri Lanka, was that done at the request of the department?

Ms Cooper—That was done at the request of the commission.

Senator FAULKNER—What is Mr Hyndes's current status? Is he now back in Sri Lanka?

Mr Chester—Yes.

Senator FAULKNER—He is the Deputy High Commissioner in Sri Lanka—is that right?

Mr Chester—That is correct.

Senator FAULKNER—How long has he held that position for?

Mr Chester—Since late 2004—I think it was October 2004. As I recall, it was just before the Indian Ocean tsunami that he started at the post.

Senator FAULKNER—What is the salary of the Deputy High Commissioner in Sri Lanka?

Mr Chester—Mr Hyndes is an EL1 officer in the department. The salary is the same as that of any EL1 in the department. There are obviously the normal cost of living adjustments and things like that that go with anyone doing overseas service.

Senator FAULKNER—Are you able to put a dollar figure on that EL1 salary? There is a band, isn't there?

Mr Chester—Yes, there is. I do not have the salary bands with me. We will get that for you. I will not hazard a guess.

Senator FAULKNER—The other costs that apply are effectively dependent on the post itself, aren't they?

Mr Chester—That is right: to do with the difficulty of the post, the actual cost of living, of goods and services, the exchange rate variations—those kinds of issues. They are there as an element of compensation for all staff that serve overseas.

Senator FAULKNER—When does Mr Hyndes's posting in Sri Lanka end?

Mr Chester—It is a three-year posting. The term comes up in October of this year. He, like anyone else, is entitled to seek an extension to that posting. As with all requests for extensions, it would be considered by the postings committee in the department.

Senator FAULKNER—He is entitled to do that. Has he actually done that?

Mr Chester—I think we are getting into personal issues relating to him and his life and so on. I do not think I should stray down that path.

Senator FAULKNER—I will not press that particular issue about Mr Hyndes. But it is true, is it not, that at some stage Mr Hyndes took leave without pay from the department when he was in Thailand. You might indicate to the committee that obviously before his Sri Lankan appointment he had some position in the post in Thailand. That is correct, isn't it?

Mr Chester—That is right. He was posted to our embassy in Thailand as a third secretary. He arrived in Thailand in, I think, January 1994. He did language training until May 1994 and then, I think, started in the post straight after that. At the end of his posting he took leave without pay, in mid-1996, and he returned to duty in the department in Canberra in April 1997. He took private sector employment in Thailand for a period of around six months, I understand, up until 22 November 1996.

Senator CHRIS EVANS—Is that allowed under your guidelines, to take leave without pay for private employment?

Mr Chester—Yes, it is.

Senator CHRIS EVANS—I thought most arrangements were that you could take it for study or personal reasons, but actually taking private employment is permitted?

Mr Chester—Yes, it is. It is not uncommon for that to happen. Occasionally there will be staff who take leave without pay for a different reason—for example, to accompany a partner on a posting overseas—and then they will come to the department and seek permission to work in the private sector while they are on that leave without pay. That is probably the more common instance. But we would have a number of staff at present who are on leave without pay for work in the private sector. It is not something that we, these days, would normally encourage unless it was clearly in the interests of the department for the person to do it.

Senator CHRIS EVANS—So has there been a change in policy?

Mr Chester—Over the years there has probably been a tightening up of policy. There is greater emphasis on the test of being in the department's interests.

Senator CHRIS EVANS—Are these arrangements subject to some formal departmental policy?

Mr Chester—Yes. Our human resource manual admin circulars set out the general policy, and staff are regularly made aware of where the balance sits in relation to the policy.

Senator CHRIS EVANS—In making the application, you approve it or not. So you are saying you are less likely to approve applications for leave without pay that involve people moving into a private sector employment arrangement these days than you were in the mid-1990s?

Mr Chester—I think you could probably say that because of the greater emphasis on the work needing to be clearly in the interests of the department. I am not sure we reject more applications than we did in the past. I suspect staff understand the balance and they do not apply for leave in those circumstances where it is not clearly in the interests of the department or there are no benefits to the department.

Senator CHRIS EVANS—How do you manage the potential conflict of interest issues?

Mr Chester—The code of conduct still applies to staff on leave without pay and they are very clearly reminded of that. But I imagine, in some circumstances, staff could be in difficult positions, depending on where they are working.

Senator CHRIS EVANS—For example, if they took a position providing advice on how to deal with the Australian government and the department of foreign affairs in private employment: there must be occasions where a clear conflict of interest would arise or would potentially arise.

Mr Chester—I think not just in this area but in many areas. We have staff who go off to work on MOPS. They are probably in a more difficult position in terms of the potential of conflict of interest. Our staff are reminded of the code of conduct and the various rules, and they can manage that.

Senator CHRIS EVANS—Are they required to tell you what employment they are going to when they apply for leave without pay?

Mr Chester—If the purpose of the leave without pay is to go into private sector employment, then yes. As I said, there will be some people who go on leave without pay and then decide they want private sector employment. They have a requirement to come and talk to the department for the department to approve or not approve.

Senator CHRIS EVANS—What was the situation with Mr Hyndes? Did he take leave without pay and then later seek approval to take a private enterprise position, or did he do that in the first instance?

Mr Chester—My understanding is that it was in the first instance that he sought leave without pay to work with a particular company in the private sector.

Senator CHRIS EVANS—What form of work was he seeking leave without pay to undertake?

Mr Chester—I think it was to work in Thailand in a management position in an organisation called ARM.

Senator CHRIS EVANS—The Australian Republican Movement?

Mr Chester—No. I should remind you this was well over 10 years ago, so I am having to rely on some very sketchy notes that I have in relation to this period of Mr Hyndes's career.

Senator CHRIS EVANS—Do your sketchy notes tell you what ARM stood for?

Ms Cooper—Asset Risk Management.

Senator FAULKNER—What did that company do?

Mr Chester—My understanding is that it was involved in the financial sector.

Senator FAULKNER—Tim Gatland was the principal in that company, was he?

Mr Chester—I understand so, yes.

Senator FAULKNER—Is it true that that company regularly gave loans to Thai politicians?

Mr Chester—I do not know whether that is true or not. I would want to be careful how far we go in relation to this, given that a lot of this material on what Mr Hyndes did or did not do while he was on leave without pay are quite important issues before the Industrial Relations Commission at the moment. As you know—I think you know—one of the key issues that the commission has to determine is the issue of relative credibility of Mr Smith and Mr Hyndes. A lot of the issues that are being ventilated in the commission do relate to actions or alleged actions that Mr Hyndes was involved in both in Thailand and subsequently when he was back in the department in Canberra. I think it is dangerous to go down that path too far.

Senator FAULKNER—On this side of the table we are well aware of those issues, to the extent that they are relevant. I think our questioning is very careful in that regard, though whether it needs to be is another matter. But you can be assured that Senator Evans and I will not be trampling into areas where we should not go. Given that Mr Hyndes is a currently serving diplomat in Sri Lanka, is his status at the moment—I assume the department knows this—still that of a person of interest to the Thai police?

Mr Chester—I am not going to go down that path. Again, that issue is before the commission. There is a credibility issue that is critical to this case. I think it would be very dangerous—and very unfair on Mr Smith as well—if we were to discuss the relative merits of various claims that have been made.

CHAIR—This committee is not in the business of traversing material before a commission or a court, as you know, Senator Faulkner.

Senator FAULKNER—Of course. But I would have thought something like this would be of critical importance in terms of the department.

CHAIR—Mr Chester has answered where he can and indicated where he cannot pursue it any further.

Mr Chester—The danger is on all these issues that if we seek to answer them—and I know privilege protects these proceedings—we are either going to have an impact on Mr Smith's credibility because assertions are going to be shown to be wrong or we are going to have an impact on Mr Hyndes's credibility because assertions are going to be shown to be wrong. We are in a no-win situation as soon as we get into any of those issues. It is detrimental to both—to Mr Smith, because the hearing in the commission is of critical

importance to him—if we go down the path that some of the questions you have asked and will ask will seek to go down.

CHAIR—These are properly matters before the commission for their determination not for determination or adjudication by this committee either, Senator Faulkner.

Senator CHRIS EVANS—I do not think Senator Faulkner has asked a question that goes to what is before the Industrial Relations Commission.

CHAIR—Mr Chester has indicated he has.

Senator CHRIS EVANS—That may be Mr Chester's view. It is not one that I share.

CHAIR—But the committee does need to be careful, Senator Evans.

Senator CHRIS EVANS—Senator Faulkner is nothing if not careful, Madam Chair, as you would be aware. I think his questions go to the question of the employment and activities of a foreign affairs department official. Those were the issues he was pursuing with Mr Chester.

CHAIR—But they may coincidentally relate to matters before the commission, and that is where my concern becomes active.

Senator CHRIS EVANS—It is a reasonable concern, but matters that might be coincidental to a matter before the Industrial Relations Commission is a fairly long way from interpretations we have generally given. But I think Senator Faulkner has indicated—

CHAIR—Not if they impact on the proceedings before the commission.

Senator CHRIS EVANS—I think Senator Faulkner has indicated that that is not his intention. In any event, when asking questions about a serving officer of the Department of Foreign Affairs and Trade, it seems to me that that is a reasonable line of inquiry.

Senator FAULKNER—I will be very careful with my questioning, Chair. I would be very happy, for the benefit of the chair and the committee, to table some advice that I sought and received from the Clerk of the Senate in relation to these sorts of matters, anticipating that the issue might be raised. If you would like to read that, feel free. In fact, I am happy to make the advice public.

CHAIR—In view of the matters we are discussing, I would rather have a look at the advice before it becomes a tabled document, if that is possible.

Senator FAULKNER—For sure.

CHAIR—Thank you. I was not aware of the advice from the Clerk previously.

Senator FAULKNER—Given that it is a letter to me, I can just make it public—

CHAIR—You can.

Senator FAULKNER—but I appreciate your point in relation to tabling it before the committee.

CHAIR—Thank you.

Senator FAULKNER—I do not think my questioning is going to offend any of the principles. I do not think my questioning is going to impact on those issues. I want to go to

departmental process in relation to this, Mr Chester. That is the point that I am interested in. Can you confirm that there have been no concerns expressed to the Australian government in relation to Mr Hyndes's current posting in Sri Lanka? You can confirm that, can't you?

Mr Chester—Views expressed by whom?

Senator FAULKNER—Sri Lanka.

Mr Chester—No, none at all. Mr Hyndes has played an important role in our High Commission in Sri Lanka. He was the senior officer when the tsunami hit that part of the world. He was Acting High Commissioner. I think all reports, including the public reports, were extremely positive in the way he responded to that. That was within the first couple of months of his posting. In the period since then we have had no cause for concern. No concerns have been raised with us. He has done a very good job in Sri Lanka.

Senator FAULKNER—Mr Hyndes does not have a case before the Industrial Relations Commission about his Sri Lankan or Thai service, does he?

Mr Chester—I am sorry?

Senator FAULKNER—Mr Hyndes does not have a case before the IRC about his Sri Lankan service, does he?

Mr Chester—A case against him?

Senator FAULKNER—He does not himself have a case before the IRC?

Mr Chester—No. But certain activities of his, as we have seen from the reports of the case, during his time in Thailand and his time subsequent to that in the department are key issues before the commission.

Senator FAULKNER—Yes, but what I want to go to is departmental process. That is what I am interested in. I will be limiting myself to that because this is the DFAT estimates. I think you can be assured of that.

Mr Chester—I will try to help as much as I can.

Senator FAULKNER—That is good. Is it true that at some point in this service that you have helpfully outlined to the committee Mr Hyndes had his security clearance downgraded?

Mr Chester—Yes.

Senator FAULKNER—Can you say when that occurred?

Mr Chester—I believe it was in April 1998.

Senator FAULKNER—Where does that fit into that period—

Mr Chester—Excuse me, Senator. It was 1998, I believe. If I am wrong I will come back and correct that.

Senator FAULKNER—That evidence stands?

Mr Chester—Unless somebody can convince me I am wrong, it does.

Senator FAULKNER—I have found that very hard to do over the years, Mr Chester. Where was Mr Hyndes serving at that time?

Mr Chester—In 1998 he was back in the department in Canberra.

Senator FAULKNER—Are you able to say to the committee why that downgrading of his security clearance occurred?

Mr Chester—In general terms it was to do with issues relating to his employment in Thailand while he was on leave without pay.

Senator FAULKNER—Let us try to get this into perspective. How often do we have a situation each year where a DFAT official's security clearance is downgraded?

Mr Chester—Certainly in the last five or six years it has not been all that common. There have been occasions, and I think we have discussed some of those occasions in this committee over the last five or six years, but they have only been the odd occasions. Prior to the last five or six years, I believe the department had a slightly different way of approaching the security clearance issue. It may have been more prevalent to have clearances downgraded but with people still allowed to, in a sense, work within the organisation. I believe we have now moved to a situation where a particular level of clearance is essentially paramount to coming in the front door of the building. So there is a slightly different test, I believe.

Senator FAULKNER—Thanks for that. Perhaps if we could get some statistics on it, because this is something I am sure you do have. Perhaps Mr Gerovich will be able to assist us. Could you give us the pattern of downgrading of security clearances, perhaps over the past few years, so we get a picture of how many there have been?

Mr Gerovich—We do not have statistics on changes in the status of security clearances. We treat each case on an individual basis. Without going through the entire database of all officers in the department over the last few years, I would not be able to clarify that. I can say that all ongoing Australia based staff, in Canberra, overseas have to have a top secret clearance. A secret clearance allows access to national security systems, as in the computer system, and some employees in the department who are non-ongoing but who need a national security clearance would have a clearance at confidential level, but that would limit their access to information.

Senator FAULKNER—I know that, or I think I understand that pretty thoroughly. I was asking about the downgrading. You are talking more about the hierarchy of security clearances and classifications. That is fine and understood and it is helpful, but I was asking about how many are downgraded. This year, how many, if any, DFAT officials have had their security clearance downgraded? How many last year? This is the issue I am trying to get to.

Mr Gerovich—I am not aware of any instances in the time that I have been first assistant secretary, which is since March last year, where a clearance has been downgraded.

Senator FAULKNER—So none in the last year or so.

Mr Gerovich—Year and a bit.

Senator FAULKNER—And you do not know how many beforehand.

Mr Gerovich—No.

Mr Chester—I think we should take that on notice.

Senator FAULKNER—I was going to ask you to take that on notice but it does sound, Mr Chester, as if it is not very common if none have happened in the last year.

Mr Chester—As I said, and Mr Gerovich has now confirmed this, our procedures have changed over the years. A downgrading of a security clearance these days is a more serious issue than it was in the past. Before we comment on how often clearances were downgraded back in the mid to late 1990s, I think we should have a look at those statistics. I think they will paint quite a different picture from what we have at the moment.

CHAIR—Thank you, Mr Chester.

Senator FAULKNER—It may or may not.

Mr Chester—We will see.

Senator FAULKNER—All we know, so far, is that in the last 14 months there has been no downgrading of a security clearance. We do know that.

Senator CHRIS EVANS—Putting to one side the non-ongoing staff, who only require a confidential classification, what did you say about the top secret classification—that all persons who were permanently employed in Australia or overseas require that classification?

Mr Gerovich—That is correct.

Senator CHRIS EVANS—For whom do you use the secret classification?

Mr Gerovich—It would be a small number of staff. Again, I do not have the information before me, but there may be office managers in the passports office in the states who might require security clearances, and that would be at secret level.

Senator CHRIS EVANS—But, basically, if you are a permanent DFAT officer these days you require top secret classification.

Mr Gerovich—That is correct—ongoing.

Senator FAULKNER—In relation to Mr Hyndes, do we know who made that decision back in April 1998, Mr Chester?

Mr Chester—It was the head of our Diplomatic Security Branch at that time.

Senator FAULKNER—And do we know why?

Mr Chester—I think, as I said earlier, it was to do with issues surrounding his taking leave without pay to work in Thailand. The downgrade was done, in a sense, pending the outcome of internal departmental inquiries into that period.

Senator FAULKNER—Is it also true, at the same time, that Mr Hyndes was demoted?

Mr Chester—No.

Senator FAULKNER—That is not true?

Mr Chester—No.

Senator FAULKNER—So the only action taken was the downgrading of the security clearance?

Mr Chester—At that time, yes.

Senator CHRIS EVANS—Was he later demoted?

Mr Chester—Yes, he was later demoted. They are quite separate actions.

Senator CHRIS EVANS—I just wondered. I think Senator Faulkner asked a quite specific question which you answered, obviously, appropriately. I am not sure whether Senator Faulkner realised he had narrowed his question as such.

Senator FAULKNER—He did. I can assure you he did.

Senator CHRIS EVANS—Far be it from me that I should underestimate you, Senator Faulkner.

CHAIR—You were just being helpful, Senator Evans.

Senator FAULKNER—Tell us when Mr Hyndes was demoted, if you can. It was a different time, you said.

Mr Chester—Yes, it was.

Senator FAULKNER—When was that?

Mr Chester—It was mid-1999. I do not have a precise date, but it was sometime after early July 1999.

Senator FAULKNER—Can you explain, again in general terms, to the committee why that occurred?

Mr Chester—Mr Hyndes was subject to a code of conduct investigation of matters surrounding his employment in Bangkok during the period he took leave without pay and, as a result of that investigation, he was found to have breached the code of conduct. One of those sanctions was a demotion by a number of pay points within the broadband he was in.

Senator FAULKNER—Fair enough. Were there other sanctions?

Mr Chester—Yes there were. I believe there were two monetary fines and counselling.

Senator FAULKNER—Are you able to say what the quantum of the monetary fines was? I may have asked it in estimates at the time.

Mr Chester—I do not believe you did. I am just wary of going into personal information because I am not sure this is on the public record.

CHAIR—Perhaps, Mr Chester, you might take it on notice.

Senator FAULKNER—I am, perhaps, going to help. You have said that there are two monetary fines and counselling as well as the code of conduct—

Mr Chester—They were three-figure monetary fines. Does that help?

Senator FAULKNER—Three-figure.

Mr Chester—Yes.

CHAIR—Thank you, Mr Chester.

Senator FAULKNER—You can take that on notice.

Senator CHRIS EVANS—How is it that you get fined twice? Is that because there are two offences?

Mr Chester—That is right.

Senator CHRIS EVANS—I see.

Senator FAULKNER—They were all outcomes from the same code of conduct breach, were they?

Mr Chester—It was the same investigation.

Senator FAULKNER—The same matter, if you like?

Mr Chester—Yes. There were a number of elements to that investigation.

Senator FAULKNER—To use your terminology, there were the three ‘sanctions’.

Mr Chester—Plus counselling. That would make it four, but three or four, yes.

Senator FAULKNER—Do I count four because you are adding two monetary fines, a code of conduct—

Mr Chester—There were three matters.

Senator FAULKNER—Three matters?

Mr Chester—Three matters.

Senator FAULKNER—Right. Thank you. There were matters at the time. Who investigated that code of conduct issue at the time?

Mr Chester—There was a ‘determining officer’ and an ‘inquiry officer’. I think that was the terminology we used in those days. They were two different people. They were branch heads within the departments.

Senator FAULKNER—Was that particular matter referred to outside evaluation, such as we had with the Trent Smith case?

Mr Chester—No. They were internal departmental officers.

Senator FAULKNER—Can you explain to the committee why there was a difference?

Mr Chester—The normal practice is to do these things internally, so in relation to the Trent Smith case, why did we choose to—

Senator FAULKNER—You have just reinterpreted my question very cleverly, Mr Chester.

Mr Chester—That is the only way to answer it. The normal practice is to do these things internally. So why the difference? Why did we have the Trent Smith case done by outside people? It was for this very reason that we are here today. Even though it was not a political issue, it was clear that the issues surrounding Mr Smith were going to be politicised, and the best way for the department to protect itself from charges of politicisation of this was to have independent umpires look at it. That was the reason.

Senator FAULKNER—Now can you explain to the committee why Mr Hyndes’s matter was not referred to so-called objective outside evaluation.

Mr Chester—I thought I just explained it.

Senator FAULKNER—No, you talked about Smith. You talked about why Smith was given—

Mr Chester—The normal practice for the department is to look at these issues internally. The same conditions did not apply to the Hyndes case as applied to the Smith case; they have not applied to many other cases that we may have had. There is no element of politicisation, I guess, to have somebody outside look at it.

Senator FAULKNER—Really?

Mr Chester—The allegations are totally different. The allegations in relation to Hyndes were things like misleading the department as to when he was going to take leave without pay; the allegations with Smith were ones of providing assistance to the opposition in preparation of Senate estimates questions. The nature of the issues is quite different. That is why there was a different approach.

Senator FAULKNER—It is true, isn't it, that Mr Hyndes's security clearance was restored? I assume that it was at the same level, but can you confirm that for us.

Mr Chester—Yes, it was restored.

Senator FAULKNER—Was it restored at the same clearance level or classification level?

Mr Chester—Yes, back to top secret.

Senator FAULKNER—That is what it was when it was downgraded—it was top secret.

Mr Chester—That is right.

Senator FAULKNER—What classification did it go to?

Mr Chester—To secret.

Senator FAULKNER—Then it was restored to top secret.

Mr Chester—Yes.

Senator FAULKNER—Can you tell the committee when the reclassification occurred—in other words, when it was restored.

Mr Chester—I believe it was restored on 21 August 2002.

Senator FAULKNER—Can you explain to the committee why it was restored.

Mr Chester—When it was downgraded it was subject to—I think Mr Hyndes was advised—annual review. Therefore, it always remained subject to review—and it was reviewed. That review was undertaken over a period of time.

Senator FAULKNER—You said it was subject to annual—

Mr Chester—I think he was advised back when it was downgraded that it was subject to annual review.

Senator FAULKNER—The downgrading occurred when?

Mr Chester—April 1998.

Senator FAULKNER—So it would have been reviewed in mid-1999. Is that right?

Mr Chester—It is not clear that the review was undertaken—

Senator FAULKNER—I thought you said it was subject to annual review.

Mr Chester—That is what Mr Hyndes was told in 1998—that his security clearance would be subject to a review in 1999. In the material I have it is not clear that that happened at that time.

Senator FAULKNER—Was it reviewed in mid-2000?

Mr Chester—Again, it is not clear that that happened. The point I was trying to make was that it was downgraded and subject to a review. I am starting to get nervous about this questioning and my answering given that this issue is something that is before the commission. Ask and I will see how I can answer.

CHAIR—Thank you, Mr Chester.

Senator FAULKNER—I was only going to ask again whether it was reviewed in 2001. I am only basing these questions on the information that you gave, that it was subject to an annual review.

Mr Chester—That is what My Hyndes was advised. In the material I have, it is not clear that annual reviews were undertaken.

Proceedings suspended from 12.29 pm to 1.32 pm

CHAIR—We will resume, ladies and gentlemen. We are in output 1.1.9, with questions from Senator Faulkner.

Senator FAULKNER—Thank you very much, Chair. Prior to the lunch break, I was asking Mr Chester about the issue of these reviews in relation to the upgrading of Mr Hyndes's clearance. What I was trying to establish, effectively, Mr Chester, was whether or not this review actually was conducted annually. I think the records that you had did not fully enable you to provide certainty on that issue. I do not want to put words into your mouth; that was my understanding of where we had got to.

Mr Chester—That is right, Senator. That was where we got to. I have no information with me that indicates any change to that, but it is not clear that the annual review was undertaken.

Senator FAULKNER—But what we do know, I suppose, what we can say, is that we know when the security clearance was downgraded. We have that time, which was April 1998.

Mr Chester—Just on that, I have been able to find out that it was actually downgraded on 26 September 1997. I apologise for that.

Senator FAULKNER—That is okay. Thank you for correcting that.

Mr Chester—The material I had was obviously in error. But that has been checked.

Senator FAULKNER—No, that is fine. Thank you for correcting it; I appreciate that. It was downgraded, then, on 26 September 1997, and we know it was upgraded on 21 August 2002. That later figure is accurate?

Mr Chester—That is right, yes. That is correct.

Senator FAULKNER—Okay.

Senator CHRIS EVANS—So it was downgraded for a total period of five years?

Mr Chester—That would appear correct—almost five years.

Senator FAULKNER—And you are not able to say whether, in that five-year period, there were in fact annual reviews?

Mr Chester—No, Senator. I suspect there were not, but we need to carefully check that.

Senator FAULKNER—But didn't you indicate to us that the department had indicated to Mr Hyndes that the security clearance issue would be re-evaluated annually?

Mr Chester—My understanding is that Mr Hyndes was told that it may be reviewed in 12 months. They are the words I have. I believe that is what he was told at that time.

Senator FAULKNER—One thing I assume you can confirm to the committee is that, prior to the security clearance being restored to the top secret level on 21 August 2002, Mr Hyndes wrote a letter to an official in the department—I think an assistant secretary in the department. Can you confirm that?

Mr Chester—That is right. He sent an email.

Senator FAULKNER—Are we able to name that assistant secretary?

Mr Chester—I prefer not to but it was the head of the security branch.

Senator FAULKNER—At least we can identify the position they held, which is head of the security branch. Is that the diplomatic—

Mr Chester—Yes, DSB; the Diplomatic Security Branch.

Senator FAULKNER—I was not sure whether that was the same branch. Does the head of the Diplomatic Security Branch have primary responsibility in the department for the security clearance issue? Are those sorts of matters primarily the responsibility of that person?

Mr Chester—Yes, I think you could say that—primarily.

Senator FAULKNER—That position still exists in the department?

Mr Chester—It does still exist. The head of that branch has certain delegations, which include delegations in relation to security clearances.

Senator FAULKNER—So certain delegations would mean that the issuing of a top secret security clearance would be one of the delegated authorities that that particular branch head has.

Mr Chester—That is right but others may also have that delegation. I think Mr Gerovich may be able to help me.

Mr Gerovich—Other members of that branch do have the delegations to grant clearances. The way that the process is normally conducted is a vetter who does not have the authority to grant the clearance vets the papers and conducts the interview. His evaluation is passed to a delegate, who could be a director within that branch. There are several directors in that branch.

Senator FAULKNER—Thank you for that. That is helpful. Mr Chester, you have confirmed that an email was sent just prior to Mr Hyndes's security clearance being restored

to the top secret level. That restoration occurred on 21 August 2002. I think that is correct, isn't it?

Mr Chester—That is right. Mr Hyndes was advised of it the next day, on 22 August.

Senator FAULKNER—What was the date of the email that Mr Hyndes sent to the head of the Diplomatic Security Branch?

Mr Chester—It was 16 August 2002.

Senator FAULKNER—Can you confirm for the committee that that email included a statement to the effect that Mr Hyndes would go to the media with allegations about the department unless his security clearance was restored, effectively immediately?

Mr Chester—That is correct. The email did canvass issues such as that.

Senator FAULKNER—They are my words.

Mr Chester—I do not have a copy of it in front of me, but it was essentially along those lines.

Senator FAULKNER—I think that is certainly the sense of it; you would accept that?

Mr Chester—Yes. That is right.

Senator FAULKNER—If you wanted to put it in slightly different words, feel free. But you accept that what I have just said is the sense of it?

Mr Chester—Exactly, yes.

Senator FAULKNER—That was sent on 16 August and the security clearance was upgraded on 21 August. Didn't that email contain just a blatant threat?

Mr Chester—I think we are again straying into areas that are before the commission. I think issues relating to how the department reacted to that email and what action the department may have taken in relation to that email are issues that are before the commission, and I would prefer not to go down that path.

Senator FAULKNER—I am interested in you saying that. Just explain that to me. How is that before the commission? And if it is before the commission, I would say 'so what?' anyway. I do not quite understand how it is germane to the matter that is before the commission.

Mr Chester—Because one of the key issues before the commission on one of the particular instances of alleged wrongdoing by Mr Smith, as the department's counsel said in his opening statement, is the relative credibility of Mr Smith and Mr Hyndes. And one of the particular instances before the commission is the issue of that email, what was in that email and what impact that had on Mr Hyndes. I think the issue of how the department reacted to getting that, how we responded to it and what impact it had are issues that go to the heart of Hyndes's credibility. I think for fairness, and particularly for fairness to Mr Smith, we should let this particular element be adjudicated by the commissioner.

Senator FAULKNER—While I do not accept at all the proposition that you have put, I will nevertheless at this stage limit my questioning to departmental process. But, in doing so, I

do not want you to think that I accept what I consider a very courageous interpretation of how Senate committees ought to deal with matters before the IRC.

Mr Chester—I understand that, Senator.

Senator FAULKNER—When I use the terminology ‘courageous’ I do not think what you are saying is right. I think it is outlandish. Nevertheless, for the purposes of what I want to talk about—I want to talk about departmental process—at this stage I will not press that question.

Mr Chester—I am happy to talk about departmental process.

Senator FAULKNER—I will not press the question.

CHAIR—Thank you, Senator Faulkner. Do you have another question for Mr Chester?

Senator FAULKNER—Yes. I would like to understand what happened at the departmental level, process wise, when the email of 16 August from Mr Hyndes to the head of the Diplomatic Security Branch is received. Let me ask you, so you can explain to the committee, what departmental processes flow as a result of that?

Mr Chester—Again, the answer I give, I believe, may well be part of evidence that is going to be given in the commission, so if I were to give an answer I would rather not give an answer here. I think this issue is still to be fully explored in the commission.

Senator FAULKNER—I appreciate you assisting us by saying that an email was received on 16 August. In broad terms, you have been able to say to us that that email included a statement that Mr Hyndes would go to the media with allegations about the department unless the security clearance was restored immediately. You have been able to say to us that the department took a decision on 21 August to restore the security clearance. You have been able to say to us that Mr Hyndes was informed that the security clearance had been restored to the top secret level on 22 August. You have been able to say those things to us—

Mr Chester—But those facts are not in dispute before the commission. What is in dispute—and this comes back to the issue of credibility—is how the department reacted to that and what the department may or may not have done about that email. They are issues that go to the credibility of the witnesses before the commission.

Senator FAULKNER—I do not understand how the issue of departmental process is a matter of credibility in relation to any particular person. Surely the departmental process is just a matter of fact. What the department did is what the department did.

Mr Chester—I think I could probably go as far as saying that the department received the email and considered the email, but I do not think I can go beyond that. The department did not throw the email in the bin. It was there. It is still there. I cannot say—

Senator FAULKNER—I suspect you are trying to be helpful in that, Mr Chester. I did not think the department would—I did not even know you could throw emails in the bin! Maybe you can; I do not know.

CHAIR—Let’s not explore that!

Senator FAULKNER—You did not delete the email. You are saying it was actioned, or consequential departmental action occurred after receiving the email. Is that code for—

Mr Chester—The email was considered, is as far as I will go. What that consideration entailed are matters that are clearly before the commission and they go to the issue of credibility.

Senator FAULKNER—Can you explain that to me? Why aren't the department's actions just a matter of fact, what the department does?

Mr Chester—They are contested in the commission. They are a point of contention. That is a fact. That is the situation. They are a point of contention.

Senator FAULKNER—You are saying the actions of the department in this instance are contested?

Mr Chester—They are a point of contention in the commission, yes.

Senator FAULKNER—Are they not a matter of fact? What the department does is what the department does, surely.

Mr Chester—That is dead right. But there are competing views of what the department did. It is a critical issue as to credibility—and that, as I said, is one of the key issues before the commission.

CHAIR—Senator Faulkner, I think Mr Chester has indicated that he has given you the information he can on that question. If you want to press the question, I can ask Mr Chester if he will take it on notice and consider what further information he can provide to you. But he indicated several times in that discussion that that is the extent of the information he feels able to provide you on that matter.

Senator FAULKNER—I heard what he said. I am trying to explore why these process issues—which I have limited my questioning to, as you would be aware—and this process issue in particular could not be dealt with. However, is some of the content of that email which was sent on 16 August—by the way, do we know when it was received? Can you help us with that? You have been able to assist us with who it was sent to.

Mr Chester—I believe it was received on the 16th. It was an email, so I assume it was an instantaneous communication. It may not have been dated the 16th; it may have been dated the 15th.

Senator FAULKNER—But not every email is opened the moment it is sent.

Mr Chester—No. I believe that in talking about 16 August we are talking about when it was received.

Senator FAULKNER—Is it not a matter of fact that some of the contents of that email are not matters in contention? Is that true? First of all, let me ask you: would you table a copy of the email?

Mr Chester—I will need to check on that. It is a document that is before the commission.

Senator FAULKNER—But so what? I am asking whether you will table it before this committee.

Mr Chester—I will need to get advice on that. I do not know.

Senator FAULKNER—Is it true that a proportion—I do not know but perhaps quite a significant proportion—of the contents of that email are not matters in contention, to use your terminology? You have been concerned about matters that are in contention. You have explained certain things to us and you said you were happy to confirm them on the basis that they are not matters in contention or they are strictly process issues not in contention. Much of the content of that email, as I understand it—but you correct me if this is not right—is not in contention either, is it?

Mr Chester—It depends what you mean by the content of the email. The email itself is not in contention, therefore the words that are written on the page are not in contention. The words are there.

Senator FAULKNER—That is why I asked whether it can be tabled.

Mr Chester—As I said, I need to seek advice. I need to work out where that sits in relation to the commission's proceedings. As I said, it is a document that is before the commission, so I would like to take advice on that.

Senator FAULKNER—I am now going to use my words and not pretend to you it is a direct quote, though I could possibly use a direct quote if you would prefer. Could you confirm to me that that email contains a statement that Mr Hyndes would brief Sandra Jenkins's lawyer on what he—Mr Hyndes—knew about Mr Sharp's standard mode of behaviour prior to the death of Merv Jenkins? Can you confirm that words to that effect are in the email?

Mr Chester—I believe words to that effect are in the email, yes.

Senator FAULKNER—Thank you. Can you confirm that Mr Hyndes said in the email he would or could highlight Mr Sharp's improper actions and subsequent inaction by the Diplomatic Security Branch?

Mr Chester—I believe words to that effect are in the email.

Senator FAULKNER—I have said that I am using slightly imprecise language, but I am using careful language. If you would prefer to use the precise language, feel free.

Mr Chester—I do not have the email with me, so I can only go on advice or memory.

Senator FAULKNER—Thank you for that. Can you confirm that this email also said, effectively, that Mr Hyndes could or would reveal to the Australian and Thai press that the Australian government placed credence on claims that the Thai deputy finance minister was bribed in 1996?

Mr Chester—Words to that effect are in the email. That is correct.

Senator FAULKNER—Can you confirm that the Mr Sharp referred to in the email is the interrogator—I do not know whether that is the correct terminology; the investigator perhaps—from the Diplomatic Security Branch who was responsible for interviewing or interrogating Merv Jenkins?

Mr Chester—I understand that Mr Sharp was one of the officers who undertook that investigation of Mr Jenkins.

Senator FAULKNER—Was it Mr Sharp who indicated to Mr Jenkins that he may have breached the Crimes Act and faced the possibility of a jail term?

Mr Chester—I do not know, Senator.

CHAIR—I am mindful of the possibility of adverse comment here as well and would encourage you to be equally mindful.

Senator FAULKNER—Again, for the life of me, I do not understand what you mean by ‘adverse comment’. I do not believe it is necessary for me to have taken the approach in the questioning that I have taken here. So I am limiting myself in my questions, which I would hope you acknowledge and respect, to questions that are, to use the terminology of witnesses, basically uncontested matters.

CHAIR—I understand that.

Senator FAULKNER—When an issue has so far been raised by a witness that a matter is a matter of contention I have not progressed it. Although I have said quite clearly that I do not accept that I cannot progress those matters—I do not accept that at all—I have not at this stage chosen to do so in order to move this particular hearing along. I am not entirely sure what your comment means. In fact, I do not understand it at all. But my questioning, I would say with respect to you, is very careful indeed.

CHAIR—Thank you, Senator Faulkner.

Mr Chester—If I could just confirm something I said earlier: the fact that the email existed and the fact it had certain words in the email is not contested. That is not in dispute. But there are elements in relation to the import of the words within the email that are in dispute within the commission—if I could just make that distinction.

Senator FAULKNER—I understand what you say is in dispute and matters that are not in dispute. I have tried with my questioning to take account of that, which I am sure you have seen.

Can I ask in relation to another DFAT process and I will come back to the email at a later stage: did DFAT have any involvement in any investigation into the fate of Mr Hyndes’s former business partner Tim Gatland in Thailand who, as you said, headed the business ARM, Asset Risk Management; was DFAT involved in any way in any investigation or had knowledge of any investigation into the possible fate of Mr Gatland?

Mr Chester—I am not sure. I would need to take that on notice.

Senator FAULKNER—Would any of your other officials be aware of that? I appreciate that you do not know.

Mr Chester—It may well have been a consular case at the time. I would doubt there is anyone here with me today who could answer that in relation to was he treated as a consular client and what steps the embassy may have taken.

Senator FAULKNER—I thought it was quite likely it would have been a consular case.

Mr Chester—I cannot comment. I would assume so but I just do not know.

Senator FAULKNER—So no-one from the consular branch can even say to us whether it was a consular case?

Mr Chester—Perhaps not going back to that period. We are talking about in excess of 10 years ago, and I would doubt whether the head of our consular branch, who is here today—

CHAIR—While he has a prodigious memory, Mr Chester, you do not think it goes back that far.

Mr Chester—It does not go back that far, I can assure you.

CHAIR—Senator Faulkner, in view of that time frame, I do not think that is an unreasonable position for the officers to take to come back to you on that.

Senator FAULKNER—What I was asking was if anyone could assist. If someone cannot assist, then it can be taken on notice.

CHAIR—Usually the individuals concerned will come to the table with alacrity. Mr Smith is in the room. He might join us and give us some advice.

Mr Chester—Senator, all I can confirm is that it was a consular case that was looked after by the embassy.

Senator FAULKNER—It was a consular case. We do not know any more details than that at this stage?

Mr Chester—I will ask Mr Wise, who was the deputy in our embassy in Thailand at that stage.

Mr Wise—It was definitely a consular case but the course it took after it became a consular case, I do not recall.

Senator FAULKNER—Would this have meant that the department would have received any findings or outcomes of investigations by Thai authorities into the disappearance of Mr Gatland?

Mr Wise—My recollection was that the family or somebody would have brought the issue of an Australian missing to the attention of the embassy, and the embassy took it up with the Thai authorities. My understanding is that Mr Gatland's body has never been accounted for, whether there is a body or not. And the extent to which that has involved information from the Thai government authorities, I am not able to comment on.

Senator FAULKNER—Let me ask a general question about this first, Mr Chester: what are DFAT's requirements in relation to the destruction of documents?

Mr Chester—This is a general question you are asking?

Senator FAULKNER—It is a general question which will move to a more specific one. First of all, you have an obligation to conform with the provisions of the Archives Act, haven't you?

Mr Chester—Yes, exactly, and that is the answer I would have given. That is the overarching requirement.

Senator FAULKNER—There is overarching guidance or legislative requirements there. Are there additional document handling procedures that you have in DFAT that you might be able to draw to the attention of the committee?

Mr Chester—There are certain requirements in relation to the filing and the archiving of documents. Beyond that, no, I do not believe there are—sorry, there are rules on what kinds of documents to use, whether you use cables or emails and those kinds of things.

Senator FAULKNER—Is it true that Mr Hyndes told internal investigators in the department of an agreement to destroy documents sensitive to the department in return for having the department review its handling of inquiries into his own affairs?

Mr Chester—Sorry, which departmental investigators?

Senator FAULKNER—Well, I am not sure. I cannot identify them. I was going to ask you.

Mr Chester—I am not sure whether that is the case or not, Senator.

Senator FAULKNER—You are not sure?

Mr Chester—I do not know.

Senator FAULKNER—Have you personally at any stage, Mr Chester—this is directed to you personally as opposed to the department—had cause to speak to Mr Hyndes about the handling of documents?

Senator Coonan—Senator Faulkner, that troubles me a little bit. Are you suggesting that Mr Chester is acting in some capacity other than as an officer of the department? I just want to clarify that.

Senator FAULKNER—I do not mean in his personal life; I mean him as an official. I think Mr Chester would be aware of some public coverage of this issue. I am aware of it, and that is why I am asking the question.

Senator Coonan—Yes, I just wanted to clarify.

Senator FAULKNER—I did not mean Mr Chester in any sense other than as a DFAT official. I am sure that is how Mr Chester would have interpreted it.

Mr Chester—I think you have managed to place me in an awkward position because as much as I would like—

Senator FAULKNER—I did not mean to, Mr Chester.

Mr Chester—And I have read what is in the media on this issue. As much as I would like to refute it, clarify it or whatever, again it is a central issue before the commission. It is an issue of credibility of both Mr Hyndes and Mr Smith. I think the commissioner will need to make a ruling on this issue.

Senator FAULKNER—I do not know the answer to this, but have you given evidence yourself?

Mr Chester—No, I have not.

Senator FAULKNER—Perhaps you can explain to the committee why you feel that you are unable to answer the question I asked a moment ago.

Mr Chester—You mean the question in relation to me?

Senator FAULKNER—I am not clear on why you believe I have placed you in a difficult position. If you can explain that to me I may not progress my questioning, but I do not understand.

Mr Chester—There are issues in contention in the commission concerning whether documents existed or not; what were the nature of those documents if they did exist, were they private notes or were they official documents. There are issues in contention of what may or may not have been said to officers of the department, including me. There are issues in contention about if certain things were said, what they were and what impact they may or may not have had on various actions that the department took. These issues are all central to the matter of credibility. As well as being facts in dispute, the issue of credibility is also in dispute and, as I said earlier, it is a central element of this case.

I should also point out that these issues that we are canvassing were also fully canvassed before Kennedy when he did his determination. So they are not new issues; they are issues that have been tested before. Now obviously they are being tested a second time by the Industrial Relations Commission and, as I said earlier, the commission should be able to make its adjudication on these matters with as little hindrance as possible. I certainly do not and the department does not want to be in a situation where it puts an element of hindrance in the commission's proceedings.

Senator FAULKNER—You would appreciate that as a member of this committee I would not be aware of what was or was not dealt with by Mr Kennedy in his inquiry. I think you would understand that that is the case—

Mr Chester—I will take your word for it.

Senator FAULKNER—Please do; I do not say it lightly—apart from evidence adduced here: I am aware of that in relation to Kennedy. I am not in the habit of misleading Senate committees or the Senate, I can assure you. I have not been on the phone to Mr Kennedy to find out what he was up to. It would probably cost me too much if I did.

CHAIR—Question, Senator Faulkner.

Senator FAULKNER—Are you able to say, because this goes to departmental process now, whether any documents in the possession of Mr Hyndes were destroyed? Were any departmental documents in the possession of Mr Hyndes destroyed?

Mr Chester—Again, we come back to this issue of credibility and facts in dispute: did documents exist? What was the nature of those documents?

Senator FAULKNER—All right. Well, has the department undertaken the exhaustive document check that you yourself, Mr Chester, assured me was undertaken at the time of the Cole commission, in relation to these documents—

Mr Chester—Alleged documents, purported documents.

Senator FAULKNER—I was going to say in contention—these documents in contention or alleged documents in contention. But, yes, alleged documents—I do not want to be too tautological.

Mr Chester—I do not believe there is any evidence that there were documents other than private notes.

Senator FAULKNER—We have had a lot of evidence at this committee, in relation to the matters pertaining to the Cole inquiry, about what were said to be pretty exhaustive checks of department records—you would appreciate this, Mr Chester—in relation to those matters that were germane to the Cole commission. You recall that evidence?

Mr Chester—I do recall that.

Senator FAULKNER—What I am asking here in relation to departmental records is whether any similar sorts of checks have been undertaken in relation to these documents or alleged documents.

Mr Chester—As I said, the evidence is they are private notes. I am not sure what you would expect the department to do in relation to private notes. They are not official departmental documents, necessarily.

Senator FAULKNER—So the answer, then, is no?

Ms Cooper—I could perhaps clarify in terms of providing documents to the Cole commission and indeed to the commission. With the Cole commission, we responded to the notices to produce certain types of documents that the commissioner asked for. We have done the same in relation to this commission, as we do with any legal matter. There have been requests for certain documents to be produced and the department has produced documents. There has never been any request for any of the sorts of documents that you are referring to—whether, indeed, they exist.

Senator FAULKNER—Can I ask you then, Mr Chester, whether you ever expressed a view—I think in August 2002, but in 2002—to Mr Hyndes about official documents relating to departmental security matters or the Merv Jenkins case?

Mr Chester—Is this in relation to the matters in the email that was sent; is that what you are referring to?

Senator FAULKNER—Possibly.

Mr Chester—Not that that is really relevant, I guess. As much as I would like to answer what I may or may not have engaged in discussion with Mr Hyndes about, this is a contested matter before the commission. There have been suggestions put in the commission; there has been evidence given on this particular matter; and I would expect it will be raised further in the commission. So, again, as much as I would like to answer it, I do not think it is appropriate to do so in this forum.

Senator FAULKNER—Are you aware of the suggestion—I am sure you are—that you reportedly told Hyndes that he could ‘do what he likes with the documents’? Are you able to say to the committee whether you used those words or words like it?

Mr Chester—No, as much as I would like to, I think I will leave that for the commission to weigh up—not that they will weigh up, I do not believe, the implications of what may or may not have been said—but this is an element that goes to the heart of the issue of credibility.

Senator FAULKNER—But again I come back to this: has there been an attempt by the department to try to establish the whereabouts of documents, whatever their nature and they may be in contention or not. Has there been a serious attempt by the department to try to establish the whereabouts of possibly contested documents in relation to this matter? It sounds as if there has not been any effort.

Mr Chester—No, that is a conclusion you are drawing.

Senator FAULKNER—It sounds like that from what I have heard.

Mr Chester—As I said earlier, how the department responded and what reaction the department took to purported discussions on documents are matters before the commission. They are matters that go to the credibility of the witnesses.

Senator FAULKNER—I am only a member of the National Archives Advisory Council so I do not consider myself particularly expert in this, I would have to say, but can't handwritten records constitute official documents?

Mr Chester—Absolutely. But you are just suggesting, if the documents existed, that is what they are.

Senator FAULKNER—You have described them as 'personal notes'.

Mr Chester—That is quite different to handwritten documents. Lots of official documents are handwritten documents.

Senator FAULKNER—We are now talking about definitional issues—personal notes, handwritten documents. Personal notes do not even have to be handwritten, do they?

Mr Chester—No.

Senator FAULKNER—But they certainly can constitute the official definition of a 'record' under the Archives Act, can't they?

Mr Chester—Handwritten notes can but, again, it depends what they are and what they purport to be.

Senator FAULKNER—Of course it does.

Mr Chester—The issue in contention is whether documents existed or not and, if they did exist, what was their nature. As I said, those issues have to be addressed within the commission.

Senator FAULKNER—Can you explain to the committee what role, if any, Mr Hyndes had in relation to the Merv Jenkins case or Mr Jenkins's responsibilities?

Mr Chester—I am not aware he had any role within the department in relation to that matter.

Senator FAULKNER—Can you explain to the committee what role Mr Hyndes had in relation to Mr Sharp's responsibilities with the Diplomatic Security Branch?

Mr Chester—Mr Hyndes had no official function within the Diplomatic Security Branch.

Senator FAULKNER—What involvement did Mr Hyndes have with Mr Sharp, if any, at the departmental level?

Mr Chester—I understand that Mr Sharp assisted in the code of conduct investigation of Mr Hyndes in the late 1990s.

Senator FAULKNER—I see. At that time were code of conduct investigations carried out by more than one person? Would it only have been Mr Sharp who was responsible for that code of conduct inquiry?

Mr Chester—No, as I said earlier, there were two other senior people. There were two branch heads, one was the investigating officer and the second one was a determining officer or something like that—sorry, the second one was the inquiry officer. There was a determining officer and he was assisted by investigators, I think you would call them, within the department. Mr Sharp was one of those investigators.

Senator FAULKNER—Was he ‘the investigating officer’? That is a title, I suppose, in its own right.

Mr Chester—He may have had assistance. Mr Sharp was in our conduct and ethics unit in the department.

Senator FAULKNER—But he was not officially ‘the investigating officer’?

Mr Chester—I am not sure what his title was, but he undertook investigative work in relation to the code of conduct issue which was provided to, used by, the assistant secretary who was, I guess, the determining officer.

Senator FAULKNER—Did the Department of Foreign Affairs and Trade undertake any negotiations or come to any agreements with Mr Hyndes’s father at any stage?

Mr Chester—Could you ask that again?

Senator FAULKNER—I asked whether the department at any stage had any discussions or negotiations or came to any agreement with Mr Hyndes’s father.

Mr Chester—We certainly had discussions with Mr Hyndes’s father.

Senator FAULKNER—Did it come—

Mr Chester—No, it did not come to any agreement with Mr Hyndes’s father that I am aware of.

Senator FAULKNER—When did those discussions take place?

Mr Chester—I think there may have been a number of discussions with Mr Hyndes’s father. There were some that I was involved with in 2001, I believe, or maybe 2002.

Senator FAULKNER—In what capacity was Mr Hyndes’s father involved? Was he effectively representing Mr Hyndes?

Mr Chester—I saw his role as a dual role, as his solicitor and as his parent.

Senator FAULKNER—So he is a solicitor, is he?

Mr Chester—That is right.

Senator FAULKNER—Mr Hyndes has said, in relation to his intention to destroy certain documents, that you had said to him words to the effect of ‘you do what you want with those documents’. Can you confirm that?

Mr Chester—Again, I would like to answer that but it goes to the issue of credibility of witnesses before the commission.

Senator FAULKNER—When did the department become aware that Mr Hyndes appeared on a *Four Corners* program disguised and with his voice distorted?

Mr Chester—I do not have the precise date but I think it was very soon after the airing of that show—within a day or two, I believe.

Senator FAULKNER—Did he seek permission of the department to go on the *Four Corners* program?

Mr Chester—No, Senator, he did not.

Senator FAULKNER—How was it established that it was Mr Hyndes who was on the program disguised and with voice distorted?

Mr Chester—Sorry, Senator, what was that?

Senator FAULKNER—I wonder if you could explain to us how the department established that it was Mr Hyndes who appeared on the *Four Corners* program disguised and with voice distorted.

Mr Chester—I do not know the answer to that.

Senator FAULKNER—Well, it came to the attention of the department within a couple of days.

Mr Chester—That is correct, but I do not have with me how we—

Senator FAULKNER—Was it Mr Hyndes who coughed up?

Mr Chester—I believe not.

Senator FAULKNER—He was discovered.

Mr Chester—I understand that soon after it appeared an officer of the department put it to him whether it was he who was on the show or not.

Senator FAULKNER—And he said yes, did he?

Mr Chester—That is correct.

Senator FAULKNER—Okay. With the exception of former Senator Vanstone, it is not very common for departmental officials to do radio and television interviews without approval, is it? Sorry, ambassador designate Vanstone.

Mr Chester—No. Media in relation to work matters: it is very unusual for somebody to do that without permission.

Senator FAULKNER—It is not acceptable, is it?

Mr Chester—Media that is not related to work matters: that does happen on occasion, but obviously officers have to be very careful of where the line is between work and non-work issues.

Senator FAULKNER—I appreciate that. There is obviously guidance given, as is appropriate, when an incident occurs overseas or for travel advice to people and the like. It is totally acceptable. It is a little different of course when your person and your voice are disguised and the like, isn't it? That is not on, is it? That is not acceptable?

Mr Chester—It depends in what context it is being done. If we are talking specifically about the Hyndes case, I think the question is: what was the nature of what was being said in the interview? Were they private matters or were they departmental matters?

Senator FAULKNER—Was any action taken by the department about his appearance on the *Four Corners* program?

Mr Chester—Senator, I am just trying to check what is before the commission and what is not. I do not think it is in dispute before the commission that the department did take into account that appearance on the *Four Corners* program. The appearance itself is not in dispute. The fact that the department took action is not in dispute. The action the department took, I understand, was that matters surrounding that appearance were taken into account in examining his security clearance.

Senator FAULKNER—It was not subject to any code of conduct issue?

Mr Chester—Not a separate code of conduct investigation.

Senator FAULKNER—It was just taken into account in the security clearance issue?

Mr Chester—I believe so. I think that is the evidence that is before the commission.

Senator CHRIS EVANS—Can you remind me what the date of the *Four Corners* appearance was.

Mr Chester—It was 15 September 1997, so nearly 10 years ago.

Senator FAULKNER—So it was a pretty 'softly softly' response to that, when you compare it to the way Trent Smith was dealt with.

Mr Chester—The issues are totally different, Senator, as you—

Senator FAULKNER—All the issues; there is such a series of issues. Let us be clear about the situation here. We have got Mr Hyndes taking leave without pay to work with a business partner, Tim Gatland, in Thailand. The suggestion is that the company they ran regularly gave loans to Thai politicians, who used them as bribes. In fact Mr Hyndes said under cross-examination that he witnessed his business partner Tim Gatland pay a politician a bribe of over a million dollars. The business collapsed. Mr Gatland disappeared—believed murdered. What Mr Hyndes's status is in relation to the Royal Thai Police is in question. I want you to take on notice whether he is still a person of interest for the police. He went on this *Four Corners* program disguised and with his voice distorted. There are all these allegations that Mr Hyndes bribed the Thai deputy finance minister. There is certainly \$46 million laundered through his personal bank account. He is demoted and his security

clearance is reduced for unethical behaviour in Thailand. Is that a fair picture of what we have got? And then he got promoted to become the assistant high commissioner in Sri Lanka.

Mr Chester—I would like to correct the last point. He has not been promoted. I will make two points in relation to what you have said. As I said earlier, all of these matters were fully ventilated before Mr Kennedy when he made his determination. Mr Smith, as is his right, is challenging that determination in the Industrial Relations Commission. These issues are not new issues. Most of these issues occurred 10 years ago. I do not think there is any doubt that Mr Hyndes will forever be dogged by those six months leave he took from the department when he worked in Thailand. I think it is quite clear that it has had a significant impact on him, his family, his health and on his career in the department. He has been subject to a code of conduct investigation. He has been demoted. He has been subject to a number of security clearance reviews. As I said, these matters did take place over 10 years ago. Mr Hyndes has made a decision that what he did was wrong 10 years ago. He has made a decision that he wants to get on with his career in the department. At least for the last three or four years or so, his work in the department has been very good. It is on that basis that he was posted to Sri Lanka. As I said earlier, he is doing a very good job in Sri Lanka.

Senator FAULKNER—I hear what you say there. And I compare this to the witch-hunt that has been faced by Trent Smith. I compare that record with the witch-hunt that has been conducted into Smith, and that is why these questions are being asked. But there is now a critical issue, in my view—and I would like to hear your comment on this, Mr Chester—in relation to another matter which is an extremely serious one—I am sure all senators on this committee, you and officials from the department would accept that it is serious—in relation to the suicide of Merv Jenkins. Is there any intention, given recent information that has come to light, to refer those matters elsewhere? I am now confining my question to what has been said about Merv Jenkins. Is there an intention on the part of the department to ensure that those matters are further examined by the appropriate authority?

Mr Chester—All these issues around the documents that may or may not exist are matters before the commission. The very nature of the email that raises these issues to do with Jenkins is in contention—what is in contention is whether that email was a threat or a bluff. I think it would be best for us to allow the commission to reach a conclusion on that without offering any comments about what we may or may not do, or what we may or may not have done at the time that email was sent—or received—a number of years ago.

Senator FAULKNER—It may have been sent a number of years ago but it has come to light—at least to public attention and so far as I know to the attention of senators on this side of the table—very recently, which I am sure you appreciate. While I hear what you say in relation to what is happening before the IRC, I think there is a separate issue here in relation to the matters concerning Merv Jenkins which I do treat seriously as well and I treat separately. I want to be clear on this, Mr Chester: are you indicating to the committee that, at the conclusion of the IRC processes, consideration will be given at the departmental level as to whether any further action is required in relation to the matters concerning Merv Jenkins? Is that the thrust of what you are saying to this committee?

Mr Chester—I am not sure how to answer that.

Senator FAULKNER—Just honestly is fine, Mr Chester, just frankly.

Mr Chester—I was not thinking about not answering it honestly—

Senator FAULKNER—No, just be as frank as you are.

Mr Chester—I will not answer it directly; I will say let us wait and see what the conclusion of the Industrial Relations Commission proceedings are—I would leave it at that.

Senator FAULKNER—Are you willing today to give a commitment to this estimates committee that the department will examine the issue of whether further action is required in relation to the revelations surrounding Merv Jenkins? Are you at least willing to give that commitment today that the department will give consideration to those matters at the conclusion of the IRC processes?

Mr Chester—I think the answer is yes but I would like to say it in a different way: I can assure you that if at the conclusion of these proceedings there is any information that is relevant to that case, then the department obviously will be forthcoming with it.

Senator FAULKNER—I would hope so. But I do not think here that the actual outcome of the case is relevant to the question that I have asked.

Mr Chester—You may be right on that.

Senator CHRIS EVANS—I want to be clear on this matter because I might have missed the time frame: I think you gave evidence earlier that Mr Hyndes's security classification was downgraded from 26 September, 1997?

Mr Chester—That is what I have been told, yes.

Senator CHRIS EVANS—Until 21 August 2002.

Mr Chester—Yes, that is right.

Senator CHRIS EVANS—And then you gave another date in April 1997 relating to Mr Hyndes; is that right?

Mr Chester—Yes, when I was asked the question earlier today about when his security clearance was downgraded, I had thought it had been downgraded on 28 April 1998. I was since advised that it was 26 September 1997.

Senator CHRIS EVANS—And what was the date of the *Four Corners* program?

Mr Chester—15 September 1997.

Senator CHRIS EVANS—Just so I have the sequence right, the downgrading of his security classification was in relation to three matters that were investigated concerning his time in Thailand; is that right?

Mr Chester—It was in relation to matters surrounding his time in Thailand. The code of conduct investigation had not been substantially undertaken or concluded by that time, but on the basis of prima facie information that the security area of the department had, plus issues surrounding his appearance on that *Four Corners* program were taken into account when the clearance was downgraded some two weeks after his appearance on the *Four Corners* show.

Senator CHRIS EVANS—That is what I am trying to understand. So you had the issues regarding the investigation into the breach of the code of conduct relating to Thailand—

Mr Chester—At that stage they may not have been directly those issues that were involved in the code of conduct but they were issues surrounding his time on leave without pay in Thailand that were taken into account in looking at his security clearance.

Senator CHRIS EVANS—I thought you told me that the code of conduct inquiry found him as having failed on three counts, as it were, which then led to two fines, counselling and the demotion.

Mr Chester—That is right. But that investigation concluded in 1999.

Senator CHRIS EVANS—So it took until 1999 until all that came to a head—he was demoted and the fines were imposed?

Mr Chester—Some time in the second half of 1999, that is right.

Senator CHRIS EVANS—On what basis then was the security classification downgraded—on the question of his appearance on the *Four Corners* show anonymously without permission; or on the basis of concerns about what had occurred in Thailand; or both?

Mr Chester—I will need to take that on notice. I will correct it if I am wrong, but I understand that it was on the basis of issues surrounding that *Four Corners* program, plus the fact that he had done it without advising the department. The *Four Corners* program ventilated issues that he was involved with while he was on leave without pay in Thailand. Now those issues are not the same issues that were the subject of the code of conduct investigation. Security and code of conduct are often quite different considerations.

Senator CHRIS EVANS—Yes, but do I take it then that the issues that were investigated under the code of conduct were only initiated following you becoming aware of the *Four Corners* program?

Mr Chester—No, Senator, I do not think you could say that.

Senator CHRIS EVANS—That was the implication I picked from your previous answers.

Mr Chester—I do not think you could say that. They are different.

Senator CHRIS EVANS—I am struggling to understand the sequence here then.

Mr Chester—There were issues surrounding Mr Hyndes's day-to-day work or operations at the company that he was working for in Thailand, and subsequently a lot of those were ventilated on the *Four Corners* program. Those issues raised a number of points in relation to his security clearance and at what level his security clearance should be. Subsequent to that a code of conduct investigation was undertaken. They did not relate to the actions of Hyndes or of the company whilst he was working for the company in Thailand; they related to issues surrounding his interaction with the department prior to and during his period of employment in Thailand. There were issues surrounding the granting of his leave without pay, for example; there were issues surrounding the use of material whilst he was on leave without pay that he may have become aware of whilst he was working in the embassy in Thailand; and there were issues surrounding whether he had the appropriate work permit to work in Thailand—they were the nature of the issues, not the issues of the company.

Senator CHRIS EVANS—So the *Four Corners* thing only led to the question of the security classification?

Mr Chester—That is my understanding.

Senator CHRIS EVANS—When did the investigation into the code of conduct breach commence? I am trying to get the sequence right in my mind.

Mr Chester—There were investigations that were going on for a period of time after he returned to the department.

Senator CHRIS EVANS—What triggered those?

Mr Chester—It is possible that Hyndes himself triggered those by coming to the conduct and ethics unit and talking to them about his time working for the private company in Thailand.

Senator CHRIS EVANS—By him coming forward and saying there may be concerns?

Mr Chester—That is what my notes indicate, yes.

Senator CHRIS EVANS—So he came forward to the department and raised concerns—

Mr Chester—He raised some issues—

Senator CHRIS EVANS—About his behaviour and conduct—

Mr Chester—About his time working for ARM in Thailand.

Senator CHRIS EVANS—And as a result of his notifying you about those matters, you then initiated the inquiry into his possible breach of the code of conduct?

Mr Chester—I think the investigators were joint investigators—so this is prior to inquiries taking place. That is, the security area and the conduct and ethics area of the department investigated together. Then there were some issues that needed to be dealt with quickly by the security area of the department. That led to the downgrading of his clearance. Then there were other issues which were more code of conduct issues, which were dealt with under that particular process.

Senator CHRIS EVANS—I am trying to get a sense about when he came to you and when the code of conduct inquiry commenced.

Mr Chester—He came to us in January 1997, so whilst he was still on leave without pay but he had finished his employment with ARM in Thailand. As I said earlier, he worked with ARM for a short period, a matter of around six months from the middle of 1996 to 22 November 1996—so roughly six months, I think. So within a month of finishing work with ARM he made contact with the conduct and ethics unit.

Senator CHRIS EVANS—When did he formally return to duties with the department?

Mr Chester—On 5 April 1997, so he was still on leave without pay.

Senator CHRIS EVANS—So he raised issues with you in January 1997, but did not actually return to work until April 1997.

Mr Chester—Until 5 April 1997. That is right.

CHAIR—There are no further questions on this matter. We are still on 1.1.9, International organisations, legal and environment.

Senator FAULKNER—I want to ask some questions about representations on the Hicks case.

Mr Chester—This is precisely the right output for it.

Senator FAULKNER—Could one of the officials outline since the last estimates round in February what has been the nature of DFAT's involvement on the Hicks issues—diplomatic representations to the US authorities, consular visits to Hicks and any other activity that might have taken place. Could you report to us on that, please.

Mr Smith—Since the last estimates hearing in February, the embassy in Washington has visited Mr Hicks on two occasions. The first of those was on 26 March, when Mr Hicks's arraignment hearing took place. The second was over the period 16, 17 and 18 May, at the time that his transfer to Australia under the international transfer of prisoners arrangement was taking place.

Senator FAULKNER—What was the role in relation to the arraignment hearing?

Mr Smith—The consul general was there to act as a witness to the legal formalities involved in Mr Hicks's transfer to Australian custody. When he was there he, as is the case with every consular visit, checked on Mr Hicks's welfare.

Senator FAULKNER—In relation to the transfer itself, what was the role there for DFAT officials?

Mr Smith—As I said, it was to act as a witness to the legal formalities involved in the transfer.

Senator FAULKNER—What about prior to this process or perhaps during it—were there any representations to US authorities and, if there were, was DFAT involved in those processes?

Ms Richards—At the arraignment on 26 March we had another embassy officer who was sent to Guantanamo Bay to send back reports on the progress of the arraignment.

Senator FAULKNER—Yes, but what about representations or negotiations with US authorities. There was an additional officer involved, but were there any others at any other level? Wasn't there some activity prior to the arraignment hearing?

Ms Richards—As you know, the government had repeatedly urged the Americans to make sure the process was as expeditious as possible. I do have a note, although this is not in relation to the embassy, that in the course of February the Prime Minister, in discussions with US Vice-President Cheney, expressed the government's dissatisfaction with the time taken to bring Mr Hicks to trial. I am sorry, I do not know what day in February that was.

Senator FAULKNER—Was there any other involvement that you are aware of from February onwards apart from what you have informed the committee of?

Mr Smith—I can make the point that there was a lot of detailed discussion with US authorities on the arrangements for Mr Hicks's transfer to Australia. The Attorney-General's

Department had lead responsibility for those discussions, but officers in the embassy in Washington were involved.

Senator FAULKNER—Did DFAT have any involvement at all in the plea bargain itself and processes around that?

Ms Richards—The plea bargain was a matter for Mr Hicks, his defence counsel, the prosecutors and the convening authority. DFAT was not a party to those negotiations.

Senator FAULKNER—Was the department kept informed of the progress of those negotiations at all?

Ms Richards—The department were not aware that negotiations were going on, although of course we had seen media speculation to that effect.

Senator FAULKNER—So you were not kept informed of them?

Ms Richards—The department became aware that a pre-trial agreement had been reached on 30 March.

Senator FAULKNER—How did you become aware of that on 30 March?

Ms Richards—That was announced by Judge Coleman in the course of the military commission proceedings on that day.

Senator FAULKNER—So you did not become aware of this until the judge announced it?

Ms Richards—That is correct.

Senator FAULKNER—Did the department have any engagement or discussions at all with the actual military commission officials or officers? Was there any contact at that level?

Ms Richards—In the course of various representations that were made about speeding up the process, some of those representations would have been made to officers in the military commission.

Senator FAULKNER—And who would have made them to officers in the military commission?

Ms Richards—Members of the Australian embassy.

Senator FAULKNER—Did the level of those presentations or the number of those representations start to increase over recent months?

Ms Richards—There were a large number of representations over a long time. I do not know that you could say that they increased over recent months.

Senator FAULKNER—Are you able to share with the committee what the pattern of those representations was?

Ms Richards—We did provide to the committee on the last occasion an indicative list of representations and we have since answered a question from Mr McClelland about that, which I am happy to table again.

Senator FAULKNER—I must admit that I have not seen the answer to Mr McClelland's question so I would be happy to look at it. Does that answer to Mr McClelland's question on notice provide a complete record now?

Ms Richards—I could not rule out that there were additional occasions on which officials would have expressed the government's concern about the expedition and speed of the process.

Senator FAULKNER—Up to what time period is the answer relevant?

Ms Richards—The answer goes up until February 2007.

Senator FAULKNER—When you say that you could not rule out other activity do you mean beyond that particular date or do you mean that the answer is wrong?

Ms Richards—No, I do not mean that the answer is wrong.

Senator FAULKNER—Right, so you mean beyond that date?

Ms Richards—For example, there was a question when we were organising for the consul general and the embassy officer to attend the arraignment about what the transport arrangements would be and there were discussions with various parts of the US administration about whether we would be able to take a military plane if there were no commercial planes available. It is quite possible that, in the course of those logistical discussions, officers might have repeated the government's well-known concern that the process proceed properly and expeditiously.

Senator FAULKNER—But, if so, they would be interventions postdating February 2007—is that right?

Ms Richards—I also could not rule out that in the course of Mr Hicks's being detained in Guantanamo there were not other representations along the same lines. The list that we have provided in the answer to this question on notice is some of the main ones and most important ones at senior levels.

Senator FAULKNER—Perhaps it is best just to take on notice any other occasions, apart from those already reported to this committee and those that we find in the answer to Mr McClelland's question on notice.

Ms Richards—Yes, we can check that.

Senator FAULKNER—That would be helpful, thank you. Any involvement at all with Mr Hicks's defence lawyers, from a departmental perspective?

Mr Smith—The consul general when he was in Guantanamo Bay did speak with Mr Hicks's defence lawyers. In fact, when he made the visit during the course of May, Mr McLeod was present for each of the discussions that the consul general had with Mr Hicks. I do not have any other details of discussions that the embassy had with Mr Hicks's defence lawyers, but there was generally a fairly regular dialogue with them.

Ms Richards—I can add, Senator, that I believe the embassy would have been involved in making some transport arrangements for Mr McLeod to go to Guantanamo Bay upon the occasion of Mr Hicks's transfer.

Senator FAULKNER—The department makes transport arrangements, but which department—or does any department—foot the bill for that or is that met by Mr McLeod himself? He made the arrangements but does that mean you paid for it as well?

Ms Richards—I believe some expenses may have been paid by the Attorney-General's Department in relation to Mr McLeod's travel.

Senator FAULKNER—Which department was responsible for meeting the costs of the transfer of Hicks from Guantanamo Bay to Australia?

Ms Richards—That was an international transfer of a prisoner matter and therefore it was the Attorney-General's Department that was responsible.

Senator FAULKNER—Apart from perhaps some costs in relation to Mr McLeod which you have mentioned, has DFAT borne any costs in relation to the transfer of Hicks from Guantanamo Bay to Australia? If so, in what areas?

Mr Smith—I think the only costs would have been those related to the costs of the consul general's travel to Guantanamo Bay and back to Washington when he was present for the transfer.

Senator FAULKNER—What is the final figure in relation to the consul general's travel to Guantanamo Bay? It has been inching up over the years.

Ms Richards—While my colleague is checking that, Senator, I have just found in the transcript of evidence which the Attorney-General's Department officers gave the other night to a Senate estimates committee that there were costs incurred by Attorney-General's in transporting accompanying parties to the United States and Guantanamo Bay. These amounted to just over \$23,000. That figure included costs for AFP officers, corrections officers, a medical practitioner and the lawyer, Mr McLeod.

Senator FAULKNER—Thanks for that.

Mr Smith—The cost of the visits by the consul general to Mr Hicks in Guantanamo Bay we estimate to have been around \$34,500. That is for the last 14 visits.

Senator FAULKNER—Is 14 the final number? Does that include the most recent ones on the arraignment and transfer?

Mr Smith—The calculation that we have done is the cost of the most recent 14 visits and I assume they include the two most recent ones.

Senator FAULKNER—If Mr Chester had used the words 'I assume' I would have pulled him up and said, 'You should not assume.' So I will say the same to you, Mr Smith. You should not assume either. It is best not to assume.

Mr Smith—As Ms Richards said, there were other officers present at the time of the arraignment hearing. I have not included those costs.

Senator FAULKNER—So the figure you gave us is the total of costs for 14 consul general visits but not for other staff for the time that Hicks was in Guantanamo Bay. Is that right?

Mr Smith—The costs that I gave you—\$34,500—are for the 14 visits that took place that were conducted by the DFAT consul general from Washington up to but not including the visit that took place at the time of the transfer. There have been 15 visits conducted to Guantanamo Bay by the DFAT consul general in Washington.

Senator FAULKNER—That figure includes the arraignment visit but not the transfer visit.

Mr Smith—That is correct.

Senator FAULKNER—There were other costs because you said that at the time of the transfer and/or arraignment there were other officials present. Is that the picture?

Mr Smith—At the arraignment but not at the transfer.

Senator FAULKNER—Will you take on notice for us the other costs that were involved. It is only the one visit where other officials were involved, I assume, which was the arraignment visit. Is that right?

Mr Smith—The costs that we have given to you relate to the cost of providing consular services. They cover the visits made by the consul general to Guantanamo Bay, excluding the last visit. They do not include, I believe, the costs of other officers who were present at the time of the arraignment. My recollection is that there were also some other embassy officers present at the time that the first military commission hearings took place. I do not have any details of those with me. If that is of interest to the committee, we can take that on notice.

Senator FAULKNER—I think that might be the best thing to do so that we get an accurate figure. That would be helpful. But they are the only costs effectively borne by the department?

Mr Smith—The other cost that we have borne was for providing some assistance to Mr Hicks's father, to two family members, to travel to Guantanamo Bay for the arraignment hearing. Those costs were about \$8,500.

Senator FAULKNER—Thank you.

Senator CHRIS EVANS—I suspect this is a matter for A-G's, but I was not at the A-G's hearings when this was discussed so I wondered if Foreign Affairs had any engagement in it. This question of Hicks's capacity to talk about matters for which he was tried or to talk about his father being 'gagged', as it were—has Foreign Affairs been involved in that at all? I assume all the transfer arrangements and the conditions of the transfer were under Attorney-General's, and there is the proceeds of crime legislation covering writing a book or what have you; but what about the issue of being gagged and not being able to discuss aspects of the trial? Are you aware whether any advice has been provided about that?

Ms Richards—Senator, you are correct in thinking that questions relating to the enforceability and enforcement of the judgement in Australia are a matter for Attorney-General's. I can say that the condition that Mr Hicks would not communicate with the media for a 12-month period was included both in the pre-trial agreement and in the conditions of his final sentence. But I would refer further questions on that to the Attorney-General's Department.

CHAIR—Thank you, Ms Richards.

Senator CHRIS EVANS—Do you have any advice about whether that is binding in Australia?

Ms Richards—Once again, that is a question for law enforcement and Australian domestic law, and it would be better for Attorney-General's to take that question.

Senator CHRIS EVANS—All right. Do you have any ongoing engagement with the Hicks issue, given he has been returned to Australia?

Ms Richards—No, Senator.

Senator CHRIS EVANS—The department is basically out of the picture now?

Ms Richards—Yes.

Senator CHRIS EVANS—Okay.

CHAIR—Any further questions? Senator Faulkner.

Senator FAULKNER—I have a policy question so I think it is probably best directed to Senator Coonan, if I can. It goes to what the current attitude of the Australian government is to the Guantanamo Bay facility itself. A lot of sovereign governments—take, for example, the UK government—have been very critical of the facility and how it is operated. Could you perhaps briefly, Senator, outline to the committee what the Australian government's current view is in relation to the Guantanamo Bay facility.

Senator Coonan—Yes, I will do that, subject to correcting the record, because I would like to just check whether or not there have been any further policy announcements in relation to it. My understanding is that our focus has been very much on Mr Hicks, ensuring that he be brought to trial and dealt with in an appropriate way by the convening authority. We have said that basically what happens now to Guantanamo Bay is a matter for the US authorities. We have not said anything further publicly about the institution of Guantanamo Bay.

Senator FAULKNER—So the Australian government policy is that it is a matter for the American government?

Senator Coonan—Yes. That is the current policy position.

Senator FAULKNER—How long has that been the position—that we don't have an opinion?

Senator Coonan—That is not quite right. We have an opinion, but our policy position is that the closure—

Senator FAULKNER—Well, our opinion is that it is somebody else's opinion.

Senator Coonan—of Guantanamo Bay is an administrative matter for the United States authorities. We have focused our efforts, as you know, on securing the proper outcomes in relation to Mr Hicks.

Senator FAULKNER—Well, I don't know that; I know that once it became a major political issue the government decided to put it up the priority order. But what is the—

Senator Coonan—I will take issue with that. Firstly, Senator Faulkner, the government have always been concerned with the welfare of Mr Hicks. The litany of processions and visits over the time that Mr Hicks was in Guantanamo Bay I think underscores the point that the government have been consistently concerned. Admittedly, the process took a while to

work itself out. That was not in the hands of the Australian government, and we continued to press the United States authorities to get on with dealing with Mr Hicks.

Senator FAULKNER—How long was Mr Hicks in Guantanamo Bay before charges were laid?

Senator Coonan—This is recollection, and I am sure Ms Richards would have the precise figures, but obviously it was longer than anyone would have wanted. I can say that without fear of contradiction.

Senator FAULKNER—Yes, that is true.

Senator Coonan—I am sure Ms Richards has the exact date.

Ms Richards—Mr Hicks was transferred to Guantanamo Bay on 11 January 2002. What I need to check is the date on which he was first charged.

Senator FAULKNER—That is considerably more than four years; it is nearly five years.

Ms Richards—He was charged twice.

Senator FAULKNER—Let us not worry about the time he was charged on the first occasion. I think, as they say in the classics, we have been there and done that at the last estimates round.

CHAIR—Indeed.

Senator FAULKNER—Minister, has the view of the Australian government changed in relation to Guantanamo Bay since Mr Hicks left that facility?

Senator Coonan—No, our position remains the same. We support the United States administration that have expressed the view very publicly that they do not want to continue to be the world's jailers either. It is very important that steps be taken and the international community be engaged in finding places to put people currently in Guantanamo Bay. I think you and I had an exchange about this last estimates. Nobody thinks it is an ideal situation, including, as I understand it, the United States administration. In fact the President has said so—I think Secretary Rice had said so.

Senator FAULKNER—Does the Australian government, if it had a view in relation to the incarceration of an Australian citizen in David Hicks in Guantanamo Bay, have a view about the appropriateness of the citizens of other countries being incarcerated in Guantanamo Bay?

Senator Coonan—You asked me this at the last estimates and my answer has not changed.

Senator FAULKNER—Well, what is the answer?

Senator Coonan—The answer was that we have responsibility for Australian citizens and that is where our focus has been. I can remember you asking this at the last estimates. I am sure you have either got my answer or can easily get it, to the effect that none of us think that Guantanamo Bay is an ideal institution. I think the international community does need to be engaged more broadly now. We are responsible for our citizens. The United States administration is responsible for Guantanamo Bay and how systematically they deal with it.

CHAIR—Let me take this moment, Senator Faulkner, to acknowledge the presence in the Main Committee Room of a parliamentary delegation from New Zealand—in fact the Select

Committee on Foreign Affairs, Defence and Trade. The delegation is led by Ms Dianne Yates MP from New Zealand Labour. The deputy delegation leader is my friend Wayne Mapp, from the New Zealand National Party. We want to welcome you to this interesting Senate estimates committee hearing and hope you enjoy your visit to Australia.

Senator FAULKNER—So what you are expressing, Senator Coonan, it seems to me, is that you have some concerns about the nature of the facility. That was in your most recent answer to the committee. I think that is fair.

Senator Coonan—No, I am not saying that.

Senator FAULKNER—Well, you were saying that the international community should do something about it.

Senator Coonan—Let me finish my answer, please, Senator Faulkner.

Senator FAULKNER—Certainly.

Senator Coonan—I am trying to deal with your question. The situation is that the closure of Guantanamo Bay is an administrative matter for the United States authorities. That is the Australian government's position. The US administration has repeatedly said that it did not want to continue to look after people who are in Guantanamo Bay and be the world's jailer for some people who admittedly may be very dangerous and that it was working with the international community trying to find ways to return people who were detained in Guantanamo Bay to appropriate countries. No doubt in due course it will try to deal with this facility in that way.

Senator FAULKNER—You do not see that as being inconsistent?

Senator Coonan—No, I do not. I think it is perfectly consistent.

Senator FAULKNER—Really? You are entitled to your view.

Senator CHRIS EVANS—Is there any suggestion then, Senator Coonan, that Australia might consider taking some of the prisoners from Guantanamo Bay, given that some of them will be stateless or not able to be returned to their state of origin, as it were?

Senator Coonan—I am not going to speculate at a Department of Foreign Affairs and Trade Senate committee on any further development in relation to Guantanamo Bay. I have stated what the policy is, that is what I am obliged to do, and I am not going to engage in speculation.

Senator FAULKNER—It is quite clear the policy is somebody else's policy.

Senator Coonan—The policy is the Australian government's policy, Senator.

Senator FAULKNER—The policy is that the Australian government's policy is the US administration's policy.

Senator Coonan—That is right.

Senator FAULKNER—Well, that's somebody else's. I give up!

Senator Coonan—I was answering Senator Evans's question, by the way.

Senator CHRIS EVANS—I was not meaning to ask a policy question because I was quite clear the government's policy was President Bush's policy. Minister, I probably did not phrase it correctly but I was asking whether the department had been involved in providing advice or in any meetings regarding the possible transfer of prisoners from Guantanamo Bay to Australian custody. If we are going to have an international effort to relieve America of being the world's jailer, and as a member of the coalition of the willing and a good friend of America, are we considering policy or initiatives that might see us contribute to taking the burden off America in that regard?

Ms Richards—I am not aware of any such discussions.

Senator CHRIS EVANS—If there were to be, would they be handled by DFAT?

Ms Richards—They may be. There may be other departments with an interest, such as the Department of Defence, such as law enforcement agencies. It could be that, if such discussions were to take place, there might be a number of interested departments and agencies.

Senator CHRIS EVANS—But if there are to be government-to-government discussions about what occurs in terms of relieving America of the pressure of hosting prisoners at Guantanamo Bay they would be handled by DFAT, and you are not aware that we have participated in any way in that process?

Senator Coonan—That is entirely speculative.

CHAIR—It is a difficult question for Ms Richards to answer, but I think the latter half of Senator Evans's question—

Senator CHRIS EVANS—It is a process question. Are we engaged or not?

CHAIR—Senator Evans, the latter half of your question, as I heard it, went to whether there had been discussions. Ms Richards is perfectly able to respond to that if she has any information.

Ms Richards—I am not aware of any such discussions.

Mr Smith—Chair, can I come back to Senator Faulkner on the issue of costs. I have just been passed a note with the information that the costs of other DFAT staff who visited Guantanamo Bay, including for the two military commission hearings, we estimate to be in the order of \$8,200.

Senator FAULKNER—There is nothing outstanding in relation to those figures?

Mr Smith—That is my understanding.

Senator FAULKNER—Thanks very much.

CHAIR—We are still in 1.1.9. There will be some further questions after the break to conclude on the Hicks matter and some further questions on other areas of 1.1.9.

Proceedings suspended from 3.29 pm to 3.45 pm

CHAIR—Mr Chester, I understand Mr Ritchie has some information to provide to the committee from this morning's discussion on matters Pacific.

Mr Chester—That is correct.

Mr Ritchie—There are a number of issues taken on notice this morning and I have got some answers to some of them. The date of presentation of the head of mission's credentials in Honiara was 19 March 2007. I mentioned the delegation of powers from Foreign Minister Oti in regard to visas. We were advised that that was the case. We have subsequently been advised that those powers have not been delegated and that the foreign minister still holds the powers. There were a number of questions on Nauru. Senator Nettle asked if MOU4 dealt with visits to Nauru by parliamentarians. There is no such provision in the MOU and Australian officials have not influenced, nor would we seek to influence, the Nauruan government's decisions on visits by parliamentarians. So we have not had discussions with them on the subject that you mentioned.

You asked whether paragraph 4 of the MOU was a compensation clause. Paragraph 4 is an undertaking by Australia to take full financial responsibility for the operation of the offshore processing centre, including any costs incurred by the Nauru government arising from accidents and unforeseen events associated with the centre. You asked for the level of funding under MOU4. It was \$12.6 million in 2005-06 and \$18.95 million in 2006-07. The MOU was in fact extended by six months to the end of this financial year from its two-year period and an additional \$7.5 million will be provided during that period of time.

We talked about Nauru's long-term viability. The best hope for Nauru, we believe, is the phosphate industry. The current Nauru government has restored mining and processing infrastructure with the help of a \$5 million investment from an Australian phosphate company called Incitec Pivot. Nauruan company Ronphos recommenced the export of phosphate in September 2006. Primary phosphate reserves can be mined at the current rate for two to three years. Secondary or residual reserves could be mined for up to 30 years. Nauru also earns income from fishing licences and is seeking to establish a trust fund with donor funds to provide income for its recurrent or for its budget expenses.

On water and power, an AusAID contracted utilities manager was appointed in December 2006 to supervise the repair of power and water infrastructure on Nauru. AusAID funds temporary power generators and reverse osmosis units to provide power and water for Nauru while the desalination plant and existing generators are being repaired.

On Fiji, Senator Payne, the Pacific Islands Forum Joint Working Group is scheduled to meet on 31 May. With regard to Tonga and the damage bill from the riots, Prime Minister Sevele has estimated that the damage caused by the riots was in Tongan currency one hundred million—about \$A60 million. I think the rest of the questions would best be taken on notice.

CHAIR—Thank you very much for providing that information. We will return to where we were in 1.1.9. Senator, I think it was over to you with questions in relation to Mr Hicks.

Senator NETTLE—I did not hear absolutely all Senator Faulkner's questions, so let me know if I am asking the same thing.

CHAIR—We will.

Senator NETTLE—I want to ask about the status of the arrangement with America in relation to David Hicks's return and ongoing conditions and whether it is considered to be a treaty. Is that the kind of status of the level of the arrangement?

Ms Richards—That arrangement is a memorandum of understanding which is a document of less than treaty status.

Senator NETTLE—Under the International Transfer of Prisoners Act, the regulations—this is just my understanding—tend to relate to a treaty, say with Cambodia or others. So are you saying that a memorandum of understanding is the actual arrangement or the regulations under the International Transfer of Prisoners Act?

Ms Richards—I hesitate to answer these questions because they are actually the responsibility of the Attorney-General's Department which manages the international transfer of prisoner schemes. But my understanding is that the regulations are made under the act and they are linked to the MOU.

Senator NETTLE—I accept what you say that it is a memorandum of understanding, and that is a lesser status than a treaty, I am just trying to work out why that was the case. Was there a consideration to making it a treaty and an understanding that it did not conform with the convention on treaties so therefore it had to be a memorandum of understanding? Can you shed any light on that?

Ms Richards—Generally speaking, the distinction between the two sets of documents is that treaties are binding at international law whereas memorandums of understanding are politically and morally binding. Again, speaking in general terms, MOUs, or documents of less than treaty status, are frequently done where flexibility and speed is required or where there is a minor issue that does not relate to an ongoing broader ranging issue.

Senator NETTLE—Given that it is an MOU rather than a treaty, does that present any difficulties in terms of compliance with international law?

Ms Richards—No, MOUs are widely used documents in international practice.

Senator NETTLE—Did the US government need to pass any laws or make executive orders to allow for the return of David Hicks to Australia?

Ms Richards—That was governed by the MOU.

Senator NETTLE—But I am just trying to understand the process that happened here and the process that happened there. Did they pass legislation with the MOU as a component of it or did that happen some other way?

Ms Richards—I cannot say for certain, but I am not aware that the US had to do any other procedures.

CHAIR—I have some concern that your questions are largely more appropriately directed to the Department of the Attorney-General. In fact, some were of course directed to that department and officers last week. These officers are not really in a position to provide you with the comprehensive responses that would otherwise be the case.

Senator NETTLE—Yes, I am well aware and I am—

CHAIR—Asking questions of this department when they are more appropriately directed to the Attorney-General's Department is therefore not terribly helpful.

Senator NETTLE—This department has some role in the negotiation of agreements with another country, in this case the United States, and I am asking questions in relation to that.

CHAIR—Well, where the officers are in a position where matters are not within their purview I am going to ask them to indicate that quite clearly and we will keep moving.

Senator NETTLE—Yes, I am very happy for that to be the case as I indicated previously. I think I have gone through most of the questions that I wanted to ask in this area so I might leave my questions on Mr Hicks there.

CHAIR—Are there any other matters in 1.1.9?

Senator NETTLE—Yes, I have got some more. There are a number of issues I raised elsewhere which I was directed to 1.1.9 and one of those was about the Bali Nine and I was asking for an update on—

CHAIR—No, in fact I think that was 2.1.1 when we discussed consular matters for the Bali Nine. That is certainly the note I made yesterday.

Mr Chester—That is correct, that is what I said.

CHAIR—In relation to 1.1.9, it was matters concerning the movement of people and I believe you were interested in Sri Lanka and Cuba.

Senator NETTLE—What was the number you were saying for the Bali Nine?

CHAIR—2.1.1, under matters consular.

Senator NETTLE—So my questions that I started there are in relation to Australian government representations on the matter rather than consular assistance. Would they still be done in 2.1.1?

CHAIR—Mr Chester, I believe that is correct.

Mr Chester—That's right.

Senator NETTLE—I will go to the refugee swap with the United States in regard to the Cubans and these were the questions I was directed to come here with from the department of immigration. When did discussions first begin on this?

Mr Potts—The mutual assistance arrangement with the United States is primarily a matter for the Department of Immigration and Citizenship, DIAC. The discussions with the United States on this matter were initiated by Department of Immigration and Citizenship and they were led by DIAC. DFAT did accompany some of the DIAC officials in discussions and we understand that DIAC is providing further details in response to a question on notice. But essentially the MAA negotiations were handled by and led by DIAC.

Senator NETTLE—I asked a number of questions about this to the Department of Immigration and Citizenship and they indicated that I should ask questions here in relation to the interaction with the United States. I am not asking you to answer any of the immigration questions—we have dealt with those. But can you let the committee know the first occasion on which the Department of Foreign Affairs and Trade officials were involved in negotiations with the American government about this arrangement.

Mr Potts—I think it is fair to say that there were no independent discussions between DFAT officials and American officials on this. They were led always by DIAC, although DFAT was with DIAC officials on, I think, two occasions.

Senator NETTLE—Would you be able to give me the dates of those two occasions please?

Mr Potts—I would have to take that on notice, but the discussions were over a period of a little over a year.

Senator NETTLE—In my conversations with the department of immigration on this matter, I was trying to ascertain whether or not this arrangement came out of approaches that the Australian government had been making to a range of different countries from 2001 when there were asylum seekers on Nauru and they were seeking to find resettlement options for those asylum seekers. It was my understanding, and I am just recalling here what the department of immigration said, that they were part of ongoing rather than a specific arrangement with the US. But your answer to me to say that the discussions have only been occurring in a little over a year would appear not to fit in with my understanding of the time frame about those longer discussions. Are you able to shed any light on whether these were particular discussions with the United States around reaching this particular arrangement, or were they part of an ongoing series of discussions that the department of immigration had been having, maybe with your department or maybe not, about resettlement options for people on Nauru.

Mr Potts—Yes, I think it is fair to say that government in general has been looking at a range of options for sending a visible deterrent to people smugglers. The American option has been one that has been looked at for some time, certainly longer than the year and a bit that I indicated in terms of a general approach, but in terms of a draft text and specific negotiations we are looking at that limited time frame.

Senator NETTLE—Was the approach by Australia or by the United States?

Mr Potts—It was by Australia, I believe.

Senator NETTLE—To start the negotiations. And at what level of officials did the discussions occur?

Mr Potts—In general they were done through the embassy in Washington at SES level.

Senator NETTLE—Can you be any more specific than that? I do not understand all the levels all that well.

Mr Potts—The discussions were generally led by the senior DIAC officer in the embassy in Washington.

Senator NETTLE—How did you describe the agreement? What was the terminology that you used?

Mr Potts—It is called a mutual assistance arrangement.

Senator NETTLE—What is the date of signing for that?

Mr Potts—3 April 2007.

Senator NETTLE—So it is in effect now?

Mr Potts—Yes, it is an MOU and it went into immediate effect.

Senator NETTLE—It is an MOU. I am just trying to get the terminology right.

Mr Potts—It is an arrangement, but it is again of less than treaty status.

Senator NETTLE—But you called it a mutual assistance arrangement and then that mutual assistance arrangement is in an MOU. Is that right?

Mr Potts—It is an MOU in effect.

Senator NETTLE—I am just recalling here what I have asked in relation to immigration. I will ask you, but if it is a matter for immigration then it is a matter for them. The question was whether it includes just Haitian and Cuban refugees or whether it is broader than that. In the media commentary it was about Haitians and Cubans but I am trying to understand whether it is broader than that.

Mr Potts—My understanding is that it applies essentially to arrivals in Guantanamo, and to date I think they have all been Haitians and Cubans. But I would want to check that with the Department of Immigration and Citizenship as it is really their core responsibility.

Senator NETTLE—I will move on now to the Sri Lankan asylum seekers. This is again a matter that I talked about with the department of immigration. I want to ask if somebody could outline the communications that the department of foreign affairs had with the Indonesian and Sri Lankan governments. When was the occasion of the first communication with the Indonesian government following the arrival of the Sri Lankan asylum seekers?

Mr Potts—I think it is fair to say that there was a series of conversations, mainly in Jakarta, over a three-week period from maybe the last week of February this year going into mid-March.

Senator NETTLE—The department of immigration was saying that the first communication in their time line that they were able to give me was 22 February. Does that align with you or was that a department of immigration communication rather than the department of foreign affairs?

Mr Potts—First of all, the date is the same, yes. Secondly, they were whole of government communications in the sense that they were directed by the People Smuggling Task Force, which is the whole of government body in Canberra.

Senator NETTLE—Was the communication done by the department of foreign affairs?

Mr Potts—It was done through the embassy in Jakarta.

Senator NETTLE—Who was the communication with and what was the request?

Mr Potts—I do not have specifics of each discussion but I think in general it is fair to say that they were done at senior level, head of mission level in some cases and deputy or next level down in others.

Senator NETTLE—By the Australian embassy in Jakarta?

Mr Potts—That is correct.

Senator NETTLE—The communication at that point was just with the Indonesian government or was it with the Sri Lankan government as well?

Mr Potts—It was with the government of Indonesia and also the government of Nauru, given that Nauru was a possible destination as well.

Senator NETTLE—Did the Australian government request that Indonesia accept the return of the Sri Lankan asylum seekers?

Mr Potts—We explored possibilities for an arrangement which would have them returned to Indonesia but with a guarantee from the Indonesian government that they would have access to refugee status determination processes, and that those who were found to be in need of protection would not be returned to Sri Lanka against their will.

Senator NETTLE—But there were discussions by Australian officials with the Indonesian government about the return of the Sri Lankan asylum seekers to Sri Lanka?

Mr Potts—No. It was more focused on the notion that they might be processed in Indonesia and from there, depending on their status, they might go in various directions. So I do not think it is fair to say that it was just talking to the Indonesians and saying that we wanted to return these to Sri Lanka via Indonesia. That was not the proposition.

Senator NETTLE—The reason I asked that question was that I accept what you are saying, that the Australian government's comments about not wanting people returned to Sri Lanka where they might face persecution subsequently became obvious. But the way that you phrased your answer to that question indicated to me—and perhaps I took that wrongly—that there was some discussion with Indonesia about the return of people to Sri Lanka so long as they were not persecuted. Is that a correct reading of what you are saying?

Mr Potts—No. The discussions did not go down to that level of detail. They were more about the notion of Indonesia allowing the processing in Indonesia of the 83 arrivals.

Senator NETTLE—Did the Australian government have any contact at that point with the Sri Lankan government?

Mr Potts—The Sri Lankan High Commission here approached our department on several occasions.

Senator NETTLE—What about with the Sri Lankan ambassador in Indonesia?

Mr Potts—From recollection, and I am straining my memory here, there was an approach from the Sri Lankan ambassador in Jakarta to our ambassador in Jakarta essentially asking what we were proposing to do with these 83 Sri Lankans.

Senator NETTLE—I do not have the article in front of me right now, but the reason I asked is that there was media comment at the time by the Sri Lankan ambassador to Indonesia to indicate that it was his understanding that the asylum seekers would be returned to Indonesia and then to Sri Lanka. I was trying to determine where he got that impression from.

Mr Potts—My answer is I do not know.

Senator NETTLE—But there were conversations between him and the Australian embassy in Jakarta?

Mr Potts—I think there were, although it may be, as you mentioned, simply the fact that he went public in the press that led to that perception.

Senator NETTLE—You said that there were approaches by the Sri Lankan High Commissioner in Canberra to the Australian government. Is that right?

Mr Potts—That is correct—I think both to our department and to DIAC, and I think at ministerial level as well.

Senator NETTLE—Was there a request by the Sri Lankan government that the asylum seekers be returned to Sri Lanka?

Mr Potts—I do not have that level of detail with me. Certainly there were inquiries from the consular perspective—83 Sri Lankan citizens—but my notes here do not indicate whether there was a request for the return of such. I will have to take that on notice.

Senator NETTLE—If you could take that on notice, that would be great.

CHAIR—We will now move to 1.1.10, Security, nuclear disarmament and non-proliferation.

Senator CHRIS EVANS—I want to ask a couple of questions about the uranium suppliers group and Australia's role in that. I believe DFAT is the lead agency; is that correct?

Mr Chester—That is correct.

Ms Rawson—May I just clarify something, Senator. You said the uranium suppliers group but did you mean the Nuclear Suppliers Group—just to make sure we are talking about the same group?

Senator CHRIS EVANS—Are there two or one? I have been referring—

Ms Rawson—I am not familiar with an organisation called the uranium suppliers group.

Senator CHRIS EVANS—Then it must be the nuclear—

Ms Rawson—There may be, but my knowledge is of the Nuclear Suppliers Group.

Senator CHRIS EVANS—I think it is because I ended up discussing uranium last night. It is the Nuclear Suppliers Group. I understand we are represented on that group and that DFAT provide the representation. Is that right?

Ms Rawson—We are a member of that group, yes.

Senator CHRIS EVANS—How is membership of that group determined?

Ms Rawson—Essentially it is those countries, many of whom are involved in one way or another in the nuclear fuel cycle, who have an interest in the question of transfers of nuclear material and nuclear-related dual-use equipment material software and related technology.

Senator CHRIS EVANS—Do members have to be signatories to the Nuclear Non-Proliferation Treaty?

Ms Rawson—All members are party to the NPT, yes.

Senator CHRIS EVANS—I gather there has been a debate within the group recently about the question of whether or not they should authorise the provision of uranium to India?

Ms Rawson—In the margins of the Nuclear Suppliers Group there has been some discussion of the issue, but the NSG has not yet been asked to take a decision on that.

Senator CHRIS EVANS—Do you know when it is expected that they might be asked to take a decision?

Ms Rawson—The last meeting of the group was 16 April to 20 April. I think the next plenary meeting is due in May 2008 in Berlin. There has been some discussion of the possibility of an extraordinary meeting of the group to look at the issue, if events had moved to the point where it would be possible for members to consider and take a decision on that issue, but it is dependent, at least to some extent, on developments in regard to the United States-India agreement. I think in previous estimates hearings there has been reference to negotiations between the United States and India of a bilateral safeguards agreement. There is the issue of the negotiation between the International Atomic Energy Agency and India of a safeguards agreement. Those negotiations are still ongoing.

Senator CHRIS EVANS—So you are telling me that, while the normal plenary meeting is not till May 2008 in Berlin, it is possible that an earlier meeting might be convened to consider the issue of supply of uranium to India.

Ms Rawson—That has been raised as a possibility but there has been no certainty on that question.

Senator CHRIS EVANS—Who is leading the push to include India in the list of countries to which supplies can be delivered?

Ms Rawson—Certainly the United States has an interest in that. I think it would be fair to say there is a range of views within the Nuclear Suppliers Group on the issue of whether or not it might be possible to make an exception for India. I think many members are looking to see how the negotiations proceed between the United States and India and between the IAEA and India.

Senator CHRIS EVANS—Would you explain to me why those negotiations are considered to be so central to the decision that the suppliers group might take.

Ms Rawson—I think they are considered to be central because they were important elements of the agreement that was reached between the United States and India on nuclear cooperation.

Senator CHRIS EVANS—I understand that that is the United States's position. You are saying that the suppliers group is really waiting to see where the bilateral agreement and the IAEA negotiations with India go to before determining its position. Is that right?

Ms Rawson—Yes. It would be an important issue for the suppliers group, if it were going to make an exception for India, to have, for example, assurances about the level of IAEA safeguards that would apply to those facilities and the material that might be supplied to India. That is why for example it is important to have that agreement finalised.

Senator CHRIS EVANS—What is the current Australian government policy in relation to sale of uranium to India or a change in policy by the Nuclear Suppliers Group?

Ms Rawson—In regard to current policy on the supply of uranium, the current policy is that Australia supplies uranium only to countries that are party to the nuclear non-proliferation treaty. In addition, we require a bilateral safeguards agreement with the country concerned. In the case of supply to a non-nuclear-weapons state, there is an additional protocol on strengthened safeguards. I think the government has indicated that it would not rule out a

change of policy at some point in the future if appropriate, enforceable and effective safeguards were in place. But there has not been a government decision to change the policy.

Senator CHRIS EVANS—Thank you for mentioning those government suggestions that they will not rule out a change. But that is not on any expectation that India would be joined to the nuclear non-proliferation treaty; that is on the basis that the US-India bilateral agreement and the IAEA safeguards are in place. It is not on any expectation that India would suddenly sign up to the nuclear non-proliferation treaty.

Ms Rawson—India has not given any indication that it would join the NPT.

Senator CHRIS EVANS—Does it follow, therefore, that the Australian consideration of a change of policy is not dependent on that happening then?

Ms Rawson—If there were to be a change of policy, it would indicate that the current policy, as I have set out, is in regard to supplying uranium only to countries that are party to the NPT. If there were to be a change in policy, it would relate to that aspect. Did you also ask about the position in regard to the NSG?

Senator CHRIS EVANS—No.

Ms Rawson—Sorry, I thought you had asked a two-part question: one in relation to the policy in regard to supply of uranium and one in regard to our position on the NSG issue.

Senator CHRIS EVANS—I did, perhaps, which is the question of what attitude we were adopting inside the NSG to the proposal.

Ms Rawson—As I said before, it has not yet reached a point where a decision has to be taken on this issue but the government has indicated it is likely that Australia would support that proposal when it comes to a decision in the NSG.

Senator CHRIS EVANS—So they would be likely to support a decision to export uranium to India, despite the fact that they are not signatories to the nuclear non-proliferation treaty.

Ms Rawson—No, that is not the position. In regard to the NSG, that would be a decision to change the NSG guidelines to enable international civil nuclear supply to India. That would not require Australia or any other country to make a decision to adjust their own national supply policies.

Senator CHRIS EVANS—I see. That is cute. So the guidelines would allow others to supply India with uranium but we could do that without necessarily changing our requirement that they be signatories.

Ms Rawson—If the NSG guidelines were changed, that would allow Australia or any other member of the NSG to consider, in its own national position, whether it would then wish to supply uranium to India.

Senator CHRIS EVANS—So basically it removes the barrier to independent national decisions. Such a change would remove any barrier then to independent national decisions by members. Is that a fair summary?

Ms Rawson—If I understand you correctly, yes.

Senator CHRIS EVANS—So we are not sure when that will come forward, but it is Australia's intention to support such a change to the guidelines.

Ms Rawson—It has been expressed as likely that Australia would support it. That is likely; not a certainty. For us, as well as other members of the Nuclear Suppliers Group, the issues in regard to the negotiation of the bilateral agreement between the United States and India, and in particular the issue of the negotiation of an agreement between the International Atomic Energy Agency and India in regard to safeguards, would obviously be considerations in the decision-making process.

Senator CHRIS EVANS—Do you have any sense of a time frame for those two negotiations concluding?

Ms Rawson—No, I do not. They are ongoing.

Senator CHRIS EVANS—Are you aware of media reports in India that Australia has been indicating through its officials there that we are supportive of supplying Australian uranium to India?

Ms Rawson—No, I am not aware of such reports.

Senator CHRIS EVANS—So the policy is as you have outlined. On a related matter, does DFAT or industry lead on Australia's decision to join the Generation IV International Forum, the development of the new breed of nuclear power plants?

Ms Rawson—We have a role in that, as does ASNO, and I think the Australian Nuclear Science and Technology Organisation, ANSTO, will also have a role, but I am not sure who the main carriage will be with. I would have to take that on notice.

Mr Leask—The Generation IV technology is not a case of joining, per se. What I would note is that there have been discussions between the Australian Nuclear Science and Technology Organisation and my own agency, ASNO, in Washington, simply to explore what areas of research Australia might be interested in contributing to with regard to the possible development of Generation IV nuclear technology for future power reactors. In the case of ANSTO, it relates more to materials technology, and obviously in the case of ASNO it relates to the development of nuclear safeguards.

Senator CHRIS EVANS—But the department of industry told me that we were going to pay a \$125,000 joining fee and the Americans are going to sponsor our application and they are coming out to interview or assess us in the coming months. Is that not right?

Mr Leask—I think that may be correct. Certainly I am aware of the United States following up later this year on the discussions that we have already had in the US.

Senator CHRIS EVANS—The Prime Minister made it clear in his 28 April statement that we were going to join.

Ms Rawson—The Prime Minister said in his 28 April statement that the government was making a firm commitment to Australia's participation in the Generation IV advanced nuclear research reactor program.

Senator CHRIS EVANS—That means joining, doesn't it? That is what industry interpreted it to mean.

Ms Rawson—Certainly active participation.

Senator CHRIS EVANS—Finally I will ask about the USA Global Nuclear Energy Partnership. Are we joining that as well? What is it? Are you the lead agency in our participation?

Ms Rawson—There has not been a decision in terms of joining. In fact, the Global Nuclear Energy Partnership has no formal structure or membership, so it is not really an issue of whether or not Australia would join it. However, I can say that the government supports the non-proliferation objectives behind GNEP and other efforts to develop more effective controls on the spread of sensitive uranium enrichment and reprocessing technologies.

Senator CHRIS EVANS—But that is not its only objective, is it?

Ms Rawson—The main thrust of the GNEP proposal, as I understand it, is that nations which already have advanced nuclear capabilities would provide fuel services to other nations for civil nuclear energy, thereby abrogating the need for the latter to pursue some of those sensitive nuclear technologies.

Senator CHRIS EVANS—But it is also about expanding the use of nuclear power globally, isn't it?

Ms Rawson—Certainly that is one element of it.

Senator CHRIS EVANS—So we have not joined yet. What is our role? Are we supporting it?

Ms Rawson—As I said, the government supports the non-proliferation objectives—

Senator CHRIS EVANS—I am sorry to interrupt but you seem to be making a qualification there. Are you saying you support only some of those objectives or you support the Global Nuclear Energy Partnership in toto?

Ms Rawson—The government has indicated support for the objectives and we are consulting with the United States as it develops. I might ask my colleague to comment on some discussions that ASNO and ANSTO had on the technical and safeguard aspects of that earlier this year.

Mr Leask—GNEP in many ways is a concept. It is not a particular and specific solution and it does have a number of objectives, some of which we have mentioned and some of which you have mentioned. There are many ideas on the table. There are some that we do not support. For example, one of them has been that Australia, in selling uranium, should take back spent fuel from the international nuclear fuel cycle. We do not, for example, support that particular idea that has been put on the table with respect to GNEP.

In a similar vein to our possible involvement in Generation IV, the two main areas that we would be looking at for Australia's possible involvement and development—where we can bring our own skills and expertise to bear on the broad thrust of the GNEP concept—relate, in the case of ANSTO, to material science, particularly using the new OPAL reactor, and, once again in the case of ASNO, to the development of strengthened safeguards for new types of technology and developments in the fuel cycle.

Senator CHRIS EVANS—Do we have a sense of where this concept is going, what our support for the concept means and what is going to happen now?

Mr Leask—Not at this particular stage. There will be further discussions. What we need to understand in relation to GNEP is that it is a long-term concept for the future of nuclear energy world wide. We are looking at perhaps 20 to 25 years. Some of the ideas that have been brought forward, such as the specific technologies for implementing some of the ideas for the recycling of materials through future types of power reactor, do not exist at the moment. It is quite a long-term concept that will require a major investment to get it up and running as a complete system.

Senator CHRIS EVANS—How would we describe our engagement with it? Also, how do I know which of the ideas that have been put on the table we are supporting?

Mr Leask—We certainly support the idea of a global nuclear energy partnership where, first of all, it limits the spread of sensitive nuclear technology by technology holders providing fuel and reactors to those countries that wish to take advantage of nuclear energy without having to invest in the whole of the nuclear fuel cycle. We certainly support the principles involved there whether or not Australia has any direct involvement in any of the particular technologies. As far as I understand it, there is no commitment by the government to any specific type of reactor, or element or part of the possible nuclear fuel cycle in the future. Those are things that are being considered by government and have been brought forward to government through the UMPNER and Prosser reports. The government is considering the various recommendations arising from those at the present time. Australia is not committed in any way to buying into the technology but, obviously, as a holder of a considerable amount of uranium, we have a strong interest in being involved in future developments of the international fuel cycle, particularly to ensure the integrity of the non-proliferation regime.

Senator CHRIS EVANS—It is a moot point whether we are supporting the integrity of it. In relation to the nuclear suppliers group, I want to know whether industry was consulted prior to us determining our position in relation to sales of uranium to India.

Ms Rawson—I am not aware whether there have been discussions with industry on the particular issues that are relevant to the nuclear suppliers group. I think there have been discussions on the general issue of what is happening under the US-India agreement, on the discussions between India and the IAEA and what stage that is at and, what decisions would be required in the nuclear suppliers group in terms of supply of uranium—I do not mean by Australia, but more generally. I think there have been general discussions around those issues. I cannot be more specific than that. I have not personally been involved in those discussions, but I know there have been briefings and discussions with industry representatives on those issues.

Senator NETTLE—I wanted to ask about the Australian government's position on international agreements around cluster bombs. This is in response to an article in the *Age* which puts forward the position that the Australian government:

... wants to narrow the terms of the proposed international treaty banning cluster bombs, to exclude new weapons being sought by the Australian Defence Force.

Is there someone who can talk about that?

Ms Rawson—The government certainly shares concerns about the humanitarian hazards posed by unreliable and inaccurate cluster munitions. However, like most countries, Australia does not support a blanket ban on cluster munitions. Self-destruct capabilities, self-neutralisation and position targeting capabilities will all be important factors to be considered in arriving at an acceptable definition of cluster munitions that could cause unacceptable harm to civilians. The short answer is that Australia is engaged in the international discussions in various forums on these issues, but Australia's position is that it does not support a blanket ban. As I said, a number of other countries share that position.

Senator NETTLE—Is it Australia's position that it wants to exclude from the treaty cluster munitions with a self-destruct mechanism?

Ms Rawson—You will appreciate that this becomes pretty technical with regard to different types of munitions. The best I can do is to refer to the submission that was provided by the Department of Defence to the Senate Standing Committee on Foreign Affairs, Defence and Trade which was inquiring into the Cluster Munitions (Prohibition) Bill 2006. The Department of Defence, on behalf of the government, put in a submission on that. The submission refers to the issue of advanced submunition capability. I think in general terms that is the area where we would look to having discussions about submunitions that would not raise the same sorts of humanitarian issues that some other types of cluster munitions do.

Senator NETTLE—My understanding is that a large number of the cluster munitions that were fired by Israeli forces into Lebanon during the war failed to explode even though they had a self-destruct mechanism on them. Is that your understanding as well?

Ms Rawson—I can confirm that we are aware of reports that cluster munitions were used and that some of those did not explode. I do not have the information as to exactly what types of munitions were in question then. I do not whether they had a self-destruct capability.

Senator NETTLE—You indicated that there were a number of other countries that supported the Australian position of having exemptions to cluster bomb bans. Would Israel be one of those countries?

Ms Rawson—I do not know whether Israel has been involved in the negotiations in any of the forums, so I do not know what the Israeli government's position is.

Senator NETTLE—When you made that comment about the number of other governments who, like Australia, do not support a blanket ban on the use of cluster bombs, what were the other countries that you were thinking of?

Ms Rawson—I would have to take that on notice and provide that to you.

Senator NETTLE—I thought, when you were saying it, that you were saying that was a common position and lots of countries have that view, so I was thinking you may be able to mention at least one country that also had the view of Australia, that we should not have a blanket ban on cluster bombs.

Ms Rawson—I understand, for example, the United Kingdom would be one of those countries. I understand Poland would be one of those countries. But I do not have a comprehensive list with me.

Senator NETTLE—With respect to the types of cluster bombs that you were describing, and also that you indicated were in this defence department submission, are they currently used by the ADF?

Ms Rawson—The Australian Defence Force does not presently use or produce cluster munitions. However, it is in the process of acquiring an advanced submunition capability for use against mobile armoured vehicles.

Senator NETTLE—My next question was about whether such weapons are manufactured in Australia.

Ms Rawson—I am not aware that such weapons are produced in Australia. I would have to ask you to ask the Department of Defence.

Senator NETTLE—I can follow that up tomorrow. I thought that might have been implied in the answer that you just gave. My next question was about whether Australia allows the export of such weapons. Are you able to answer that for me?

Ms Rawson—As I said, as far as I know, we do not produce such weapons, so exports would not be a question, but I do not know; I cannot answer that with certainty.

Senator NETTLE—Do we have anything that would stop the import of such cluster bomb weapons? Are there any agreements or legislation we have signed up to that would stop us importing cluster bombs such as those you are describing?

Ms Rawson—I do not know the answer to that question. I would have to take it on notice.

Senator NETTLE—If you could take that on notice.

Ms Rawson—It may be more appropriate for another department. That question would also be best directed to the Department of Defence.

Senator NETTLE—Yes. I can ask them as well, but I thought perhaps you may know about any legal framework that prevented us importing those. That is why I proceeded with that question with you. You were talking before—I am not sure what terminology you were using, whether it was accurate or precision cluster bombs, which strikes me as a little of an oxymoron. I would have thought by definition they were inaccurate. Are you able to provide me with any information on how precise or accurate the cluster bombs that you are talking about are?

CHAIR—Senator, it seems to me that those questions are perhaps more appropriately directed to Defence tomorrow, potentially, or Thursday for that matter.

Senator NETTLE—Yes. I intend to proceed with them. I was just asking the official about her definition of accurate and precise cluster bombs and whether she was able to provide—

CHAIR—I heard your question, but thank you for repeating it.

Ms Rawson—I do not recall that I used that. I said we shared the concern posed by unreliable and inaccurate cluster munitions.

CHAIR—Thank you for clarifying that, Ms Rawson.

Senator NETTLE—Can I take from your comment that you share concerns about inaccurate cluster munitions that the position of the Australian government is that they do not have concerns about accurate cluster munitions?

CHAIR—I do not think you can imply that that is the reflection the officer made, Senator Nettle, but you can ask her questions.

Senator NETTLE—Does the Australian government support the use of accurate cluster munitions?

Ms Rawson—As I said, the government shares the concerns posed by unreliable and inaccurate cluster munitions. How to define what are unacceptable, unreliable and inaccurate cluster munitions involves, as I understand it, very complex and technical issues. Those are the subject of further negotiations.

Senator NETTLE—I accept what you are saying about it being a complex area and I am quite happy to put questions to the Department of Defence about that—I accept that they would be people who would have the expertise—but my questions relate to what the Australian government's position is on cluster munitions, which is why I am asking you. I am very happy to ask Defence what is accurate about an accurate cluster bomb but, in order for me to understand the Australian government's position, are you saying that I should ask the Department of Defence?

Ms Rawson—I have given you, to the best of my ability, the Australian government's position with regard to cluster munitions in terms of the concerns about the hazards posed by unreliable and inaccurate cluster munitions. Australia continues to work with others to develop a proposal within the Convention on Certain Conventional Weapons framework which would address the humanitarian, legal and technical aspects of cluster munitions. Australia also attended a meeting under the Oslo process that was held in Lima last week to consider these issues.

Senator NETTLE—You indicated that you had provided all the information you could about the Australian government position on this. I asked you because I am aware of the negotiations and the position Australia took in the meeting in Lima in Peru last week. I want to know whether you are the right person for me to ask about an understanding of the Australian government's position or whether I should ask the Department of Defence tomorrow.

Ms Rawson—As I have said, I have provided information on the Australian government position. When it goes to technical issues with regard to various types of cluster munitions, I do not have the technical knowledge to be able to answer your question in the kind of detail that I think you are seeking. So I would have to defer to colleagues in the Department of Defence who may have that technical information.

Senator TROOD—I just wanted to pick up on something that was in the estimates from last year relating to something called Man Portable Air Defence Systems, which I think, Ms Rawson, is in your arena.

Ms Rawson—Yes, it is.

Senator TROOD—The estimates from last year indicated that the department was to engage in some wider acceptance and implementation of control standards in relation to these items. What progress has been made on that matter?

Ms Rawson—As you would have been advised in estimates last year, in November 2005 the government agreed to a new policy proposal under which DFAT received funding to conduct an international initiative to address the threat posed by MANPADS. That has been underway since the launch of that initiative in December 2005. I will just mention some of the major elements of that initiative that have been undertaken.

Senator TROOD—That would be helpful.

Ms Rawson—There was an Australian sponsored international seminar on MANPADS held at the United Nations in New York in January this year, which was promoting the need for practical action to counter the threat. Mr Downer gave the keynote address at that luncheon. There was an Australian sponsored international seminar on MANPADS held at the UN in Geneva in June 2006. There has been the publication of something we call the MANPADS information kit, which includes the range of declarations, resolutions and guidelines on MANPADS. Australia has also presented at a range of seminars on this issue over the last year and we have also conducted export control dialogues with Vietnam and Singapore. Coming up in June this year we will co-host with Singapore and the United States a MANPADS exports control seminar, which will involve a number of countries from around the region. We will also continue to provide technical assistance to other countries through looking at the provision of MANPADS vulnerability assessment information. There are more things.

Senator TROOD—That is very helpful. Are you hoping this activity, which I am delighted to hear about, will lead to a new international convention on the subject, or is that premature at this stage?

Ms Rawson—There has not been, as far as I am aware, any discussion of a new convention. I think a number of the existing arrangements and resolutions et cetera are relevant to it. It is a matter of promoting the kinds of export controls and other arrangements that are relevant to MANPADS and building the capacity of countries to be able to implement those controls and arrangements to enhance security.

Senator TROOD—Does the initiative have widespread support throughout the international community?

Ms Rawson—Yes.

Senator TROOD—You mentioned the United States, but the two countries that you mentioned otherwise are in the Asia-Pacific region. Is that an area where there is a lot of interest?

Ms Rawson—Many countries in the Asia-Pacific region have been involved in a range of the activities, so it has certainly got broad-ranging support.

CHAIR—Senator Faulkner?

Senator FAULKNER—In the time that is available, I do not think I can complete the particular matter that I wanted to ask about. I will place the questions on notice.

Senator TROOD—I am interested in the work that the department has been doing into a possible avian influenza outbreak or pandemic. Have you made any considerable progress in developing national plans and international linkages in relation to that matter?

Mr Potts—It is primarily a matter for the Department of Health and Ageing and also for the Department of the Prime Minister and Cabinet, who coordinate a whole-of-government perspective. Nonetheless, we have participated in a couple of whole-of-government task forces. We have also been able to supply briefings to our delegations to the World Health Assembly. As to the specifics, that is a question for the Department of Health and Ageing.

Senator TROOD—Can you enlighten me on the rather delicate related matter of the possibility of Taiwan participating in any kind of international arrangements, in particular through the World Health Organisation. Can you sketch out for me where the Australian government stands on that particular issue.

Mr Potts—It comes up every year at the World Health Assembly. Our position, as I understand it, has not changed. Essentially, this is handled by another division—the North Asia division. While we support an appropriate participation in World Health Organisation activities by Taiwan, we would not want it at the expense of proper participation in the WHO by the People's Republic of China, given our strong commitment to a one China policy. That has been the position we have sustained over a number of WHAs and certainly at the last one that has just been held.

Senator TROOD—Have we had any discussions with the Taiwanese about managing or dealing with the possible outbreak of an avian flu pandemic? I acknowledge that you have said that you are not the lead department in this matter but since I have you here, I thought I would ask you.

Mr Potts—My understanding is that we engage with a whole range of countries. Within the ambit of the World Health Assembly, we would be discussing avian flu defences with those countries and they would include Taiwan obviously. It would be short-sighted to exclude Taiwan simply on a straight political basis, given that it is a potential source of avian flu infection.

Senator TROOD—Thank you, Mr Potts.

CHAIR—I would like to thank the department and the officers for their assistance yesterday and today and we will see officers of the department again later this evening.

[5.04 pm]

Australian Trade Commission

CHAIR—I welcome to the table Mr Peter Yuile, Deputy Chief Executive Officer, officers from Austrade and the minister. The committee will now examine the proposed expenditure for Austrade. When written questions on notice are received the chair will state for the record the name of the senator who submitted the questions. The questions will be forwarded to the department for a response. I would remind senators to provide their written questions on notice to the secretariat as promptly as possible. The committee has resolved that Thursday, 26 July 2007 is the return date of answers to questions which are taken on notice at these hearings.

Under standing order 26 the committee must take all evidence in public session in estimates and this includes answers to questions on notice. Witnesses are reminded that the giving of evidence to the committee is protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. The giving of false or misleading evidence to the committee may also constitute a contempt of the Senate.

The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings. Any questions going to the operations or financial positions of the departments or agencies which are seeking funds in the estimates are relevant questions for the purposes of an estimates hearing. The Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees, unless the parliament has expressly provided otherwise. An officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy. He or she shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies, or factual questions about when and how policies were adopted.

If a witness objects to answering a question, the witness should state the grounds upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. Any claim that it will be contrary to public interest to answer a question must be made by the minister and should be accompanied by a statement setting out the basis for the claim. We will now go to questions.

Senator TROOD—The 2006-07 estimates I think had a program in relation to India—the enhancing Australia’s commercial engagement program—under that budget. I am not exactly sure of the figure that was provided for it, but I do not think the funding has been continued for this year. Could you tell us how that program has unfolded and how it has progressed over the 12 months?

Mr Yuile—The India program I know has been a particular focus for the organisation, particularly obviously in the light of the growth in that market. The minister was there earlier this year with a business delegation. In terms of the unfolding, I know there has been additional effort put into the establishment of new or extended presence in India and a range of program activities in terms of missions there and back here. We had the senior trade commissioner back in Australia and doing some consultations. In terms of the substance of the last little while, my colleague has been in the organisation longer and perhaps can give you a bit more detail in terms of how that is unfolding. My impression, following discussions with the senior trade commissioner and then with the joint committee just a week or so ago, is that it is obviously going very well, and the new advertising and marketing effort is capturing good attention. Ms Bennett can fill that in for you.

Ms Bennett—The program in India had a funding commitment of \$2.6 million in the May 2006 budget. We have primarily used it for a number of things. We have put six additional business development managers into India in a variety of locations, including Mumbai, New Delhi and Chennai. We have also used it to further develop specific programs. That means

that we have been working with Australian clients onshore to attract them and help them move into India, and we have done work in India essentially to promote the opportunities and the benefits of Australian companies.

Areas of focus include resources and minerals, infrastructure, services, defence, agribusiness, consumer, lifestyle and retail. Some examples would include particular initiatives and a mining exhibition in Kolkata. A delegation of prospective students met government officials during a visit in Chennai, Bangalore, Delhi and Goa. The Business Club Australia was a program that was run in conjunction with the Victorian state government around the Melbourne 2006 Commonwealth Games. Austrade India recruited more than a 1,000 business contacts from India, representing the largest business delegation from any Commonwealth country. So in essence we have used it for activity and also for staff to give us greater presence in the market.

Senator TROOD—I assume this has yet to build into any significant results—that we are looking at a long-term plan. Is that right?

Ms Bennett—It certainly is a long-term plan. We are continuing with the same level of presence in India and with the same level of commitment. The number of clients into India is about the same as it was in the first year of the program. We would anticipate that it generally takes a new exporter 12 months to 18 months from start to finish. So, you are right; it will be an ongoing program for Austrade.

Mr Harcourt—When you look at the statistical numbers around India, growth has been stronger in India in terms of export value this decade than China. When you look at the number of companies going to India, it is about 1,800. It has still a fair way to go to catch north-east Asia, China, Japan and so on. It is growing quite rapidly but, as you said, it takes some time.

Senator TROOD—What are the trade statistics of the two countries at the moment?

Mr Harcourt—I can help you with that. The growth figure I mentioned was average annual growth for this decade—so 2000-2005. Growth at an average annual rate was 28.8 per cent. That compares favourably with China, which was 22.5 per cent. The overall data in terms of direction of trade shows India is the seventh largest export market, so it is moving up the ranks very rapidly. Total goods and services for 2006 rose by 26 per cent—about \$10.3 billion. A lot of it has been coal, gold and resources but in addition there has been growth in services. Ms Bennett mentioned education and tourism and some joint ventures in information technology. I was in Chennai two weeks ago. In south India a number of South Australian tool makers are involved in the manufacturing hub of Chennai—the ‘Detroit of Asia’, as it is known—and also telecoms.

Senator TROOD—So it is rather narrowly based at the moment. Is that right? The program seems to be directed towards a widening of the base as well as a deepening of the amount of—

Mr Harcourt—You are right. In many ways, the resource base has a few larger companies getting a presence there so the strategy is to broaden it so you have more small- and medium-sized enterprises in the services sector, as Ms Bennett mentioned, as well as franchises with the growing middle class in India.

Senator TROOD—Are all those funds—the \$2.6 million that you mentioned, Ms Bennett—expended now as part of that program?

Ms Bennett—Yes.

Senator TROOD—So the activity that continues in relation to India has been sustained from other funds within Austrade. Is that right?

Ms Bennett—That is correct. As part of our annual planning process, Austrade looks essentially to put its funding where we believe the greatest opportunity is for the Australian exporter. Indeed, Austrade remains committed at the same level to India.

Senator TROOD—So there is for this year about another \$2.6 million. Is that right?

Ms Bennett—That is right. We are continuing with the same program and the same staffing levels.

Senator CARR—I draw your attention to page 89 of the DFAT PBS, which shows that the average staffing level for outcome 1 for 2006-07 is estimated to be 996. According to the document, staffing levels for the following year are 986. Have I read that document correctly? Is there a reduction in staff?

Ms Bennett—Essentially you have read it correctly. The point I would make is that the 2006-07 figure is the estimate of the actual for 2006-07 and then there is a budget estimate for 2007-08 which at the moment, as you say, is 10 people lower.

Senator CARR—I am sorry, can you repeat the last part?

Ms Bennett—The budget estimate for 2007-08 is coming in at 986, which is 10 lower than our estimated actual for 2006-07.

Senator CARR—Why are you budgeting for less staff?

Ms Bennett—Mostly it is in response to the reality of what has happened in 2006-07, which is that at any one time Austrade has approximately one in 20 staff vacant as part of just natural recruitment, running off a normal business, and therefore as we have done our planning into 2007-08 we believe that there is a very small headcount reduction. But it is not linked to any particular cut in program; it is just a general tightening and improvement in efficiency across the eight divisions we run.

Senator CARR—So you have 120 vacancies?

Ms Bennett—It can vary, but at any one time the vacancy level can be around one in 20.

Senator CARR—When I go back to the 2005-06 figure, I see that the staffing level then was 1,053. So there appears to be a pattern of declining staff numbers. Would you agree?

Ms Bennett—Yes. There has also been a change in methodology. In 2005-06 we would have been working on a planned position rather than an average actual. Again, planning is always somewhat difficult. As with every entity, we make our best efforts, but it is the difference also between a planned and an actual position.

Senator CARR—My reading across the Public Service is that there has been a growth in staff. Why has there been a reduction in this agency?

Ms Bennett—We would always be looking, as part of our normal planning process, to ensure we are working as optimally and efficiently as possible in order that we can put the best money, the best programs, towards the Australian exporters.

Senator CARR—Presumably everybody else is doing the same, yet they are increasing staff numbers across the Public Service but not in this agency.

Ms Bennett—In our agency one of the things we also have to look at is ensuing that we are delivering the programs to the Australian exporter. One of the ways that we can improve the efficiency of doing that—that is, that we ensure the money goes to the direct benefit of the Australian business community and not just into staffing—is that we make great use of technology. For instance, we make significant use of videoconferencing, and that means our staff can reach a larger number of Australian businesses. So we try and work from our outcomes, and will staff accordingly to get the best.

Senator CARR—So they are working harder and more productively.

Ms Bennett—Certainly, Senator.

Senator CARR—Would you be able to say what the staffing number was in the 2004-05 period?

Ms Bennett—I do not have that to hand. I will just see if we have that information with us. No, we will have to take that particular question on notice.

Senator CARR—But it is a steady decline from that period as well, is it not?

Ms Bennett—I could not comment. Unfortunately, we do not have the 2004-05 figures with us.

Senator CARR—Obviously the staff are working harder and more efficiently, as you say. Can you tell me where they are based? There are nearly 1,000 people. How many of them are based in Australia?

Ms Bennett—If you, for instance, took the column in the PBS statement which is the estimated actual for 2006-07, we can run off that one, which is the 996. We would have 186 staff of that complement in North-East Asia, 161 in South-East Asia and the Pacific region, 110 in the Americas—that is Canada, US and Latin America—and 130 over Europe, the Middle East and Africa. There would then be 401 staff in Australia.

Senator CARR—I take it those figures include the locally engaged staff?

Ms Bennett—Yes.

Mr Yuile—Yes.

Senator CARR—That is the total complement?

Ms Bennett—That is the total complement of staff.

Mr Yuile—Is that FTE or head count?

Ms Bennett—That is estimated actual, which is average staffing level.

Mr Yuile—It is a full-time equivalent level.

Ms Bennett—It is an average staffing level.

Senator CARR—Of the 401, whereabouts are they located? In which cities?

Ms Bennett—We have them across 18 cities. Maybe I can just read the predominant ones.

Senator CARR—Yes, please.

Ms Bennett—For instance, in Brisbane we have 23 staff; in Adelaide, 17; in Melbourne, 58; in Perth, 18; in Sydney, 159; and in Canberra, 149; and then we would be in other locations such as Darwin, Dandenong and Hobart. There is a range of smaller locations with fewer than 10 staff.

Senator CARR—But the bulk of people are in the capitals. I take it the 159 in Sydney is because it is the head office?

Ms Bennett—Yes, but that would have a large number of client-facing staff because we have a significant presence for our EMDG organisation and our Australian based operations.

Senator CARR—Why do you need so many in Canberra?

Ms Bennett—Canberra is where, as an organisation, we run our main finance, IT and obviously our government services, as well as a small presence that is essentially a client-facing office.

Senator CARR—Has there been a change in the staff profile since the signing of the Australia-US Free Trade Agreement?

Ms Bennett—To support the Australia-US Free Trade Agreement there were 30 staff additionally focused on the US market—23 went into the US and seven were to support the work we did with Australian companies onshore in moving them through to the US.

Mr Yuile—That is numbers rather than profile, Senator. I am not sure what you mean by profile in that sense. Did you mean changes in levels?

Senator CARR—I am interested to know whether there has been an increase in the number of staff. Was that 30 extra people?

Ms Bennett—That was additional staff into the US, yes.

Senator CARR—But was there an overall increase in the numbers for Austrade?

Mr Yuile—It is back to 2005, I think.

Ms Bennett—Yes, 2005-06. I do not have the 2004-05 figures to know if there was a change, so I would have to take that on notice. I do not have the 2004-05 figures to compare against 2005-06 when the additional staff were there.

Senator CARR—I am interested to know whether or not those persons were moved from other priorities or recruited.

Ms Bennett—They were certainly recruited. My comment previously was about the total number of Austrade staff in that year. Predominantly those people were recruited. To the best of my memory approximately six had previously worked with Austrade but did take up one of those 30 new positions.

Senator CARR—So there was an additional 25 perhaps?

Ms Bennett—To my memory, about that number were recruited.

Mr Yuile—I think there was also an additional footprint. The footprint in the US was increased in terms of our representation there as well, which I think from reading the *Hansard* you covered last time.

Senator CARR—Of the five that were within Austrade, are you able to recall what areas they came from?

Ms Bennett—No. As I say, that is to the best of my recall. I recall this being a subject of discussion at Senate estimates previously. I would have to take that on notice to be accurate.

Senator CARR—I am trying to establish whether or not there has been a shift in priorities. Can you comment on that?

Ms Bennett—There has been a shift in priorities in the last few years as Austrade has moved to support the government's free trade agreements, so we have very specifically received additional money, put in additional staffing and opened new locations in the US. We have moved to change our programs in Thailand and Singapore to also reflect the priorities that were needed and the opportunities that became available through those free trade agreements. We are now increasing offices in China, partly in anticipation of the free trade agreement there. Also India continues to be a market of focus for the government. We would constantly be looking to ensure that our priorities are in alignment with the government policy.

Senator CARR—Can you tell me what has been the increase in the numbers in China.

Ms Bennett—We have put 14 new staff in from 2004-05 to 2005-06—14 additional staff—and we have three new specific points of presence.

Senator CARR—Whereabouts?

Mr Yuile—We have opened up in Xi'an in the last nine months. I am not sure of the other places.

Ms Bennett—I cannot comment specifically; I just have the number, which is three new points of presence.

Senator CARR—The 14 in China—whereabouts have they gone?

Ms Bennett—We are in Beijing, Chengdu, Dalian, Guangzhou, Hangzhou, Hong Kong, Kunming, Macau, Nanjing, Ningbo, Qingdao, Shanghai, Shenzhen, Wuhan and Xi'an.

Senator CARR—They are located in consular offices, are they?

Mr Yuile—They are a mixture mainly of locally engaged staff with local expertise employed by us to pursue trade opportunities in that region and, of course, to match back with Australian companies.

Ms Bennett—In our own locations; in our own offices.

Mr Yuile—They report back to our senior trade commissioners and we have senior people in Beijing, Shanghai and Guangzhou.

Senator CARR—At what levels are these 14 people? You say they are locally engaged.

Ms Bennett—Yes, 11 of the 14 were locally engaged and three were A-based.

Senator CARR—In terms of the aggregates, are you able to tell me how much additional money is being spent in these locations? Are those figures readily available?

Ms Bennett—No.

Mr Yuile—I suspect we have not got that detail here, but we can get it for you.

Senator CARR—Are you able to get it later on?

Mr Yuile—I would prefer not to take it on notice if we can get it—

Senator CARR—I agree entirely.

Ms Bennett—We will try to get it.

Senator CARR—Thank you. I am interested to know what additional resourcing has been provided. As you have said, there is an increased emphasis on the areas in which there are free trade agreements.

Ms Bennett—Yes.

Senator CARR—What has been the additional resourcing in the United States, Thailand and Singapore? You are saying that you are providing additional resourcing in the People's Republic in anticipation of a free trade agreement.

Ms Bennett—And an acknowledgement that more Australian businesses now want to go to China as well. So it covers the both.

Mr Harcourt—The proportion of small and medium-sized enterprises going to China has doubled in two years. So it is quite strong.

Senator CARR—Are you able to tell me where those additional resources have gone and where they have come from, given that your overall numbers have declined? Has there been a withdrawal of resources from anywhere?

Ms Bennett—There has not been a withdrawal in the sense of a particular post closure, for instance, or a particular location that we have moved Austrade's presence from. In the annual planning process that we go through, we do quite carefully try to match the numbers of staff and the mix of staff—A-based and locally engaged—to, as Mr Harcourt said, the numbers of Australian exporters that we know are interested in that country, so that we can make the best use of our resources vis-a-vis the opportunities the Australian exporters want. In some instances that does mean that there is an overall decrease in staff. We may lose one out of an office of nine at any particular point in time. We may then move the resource from one location to another in a monetary sense. That is all part of the annual planning that we carry out every year.

Senator CARR—It stands to reason that priorities will change over time.

Ms Bennett—That is right.

Senator CARR—Is it possible to provide me with a table that tells me what that change has been in the last three years? What would be a relevant point to measure the change in priorities—three years?

Mr Yuile—You are talking about regional disposition?

Ms Bennett—Are you talking about this at a regional level?

Senator CARR—Yes, country market based. Obviously, if you are mentioning these, since the signing of the free trade agreements might be a relevant point.

Ms Bennett—And those were the 2005-06 years?

Senator CARR—Yes.

Ms Bennett—Fine.

Senator CARR—Could you indicate the number of locally engaged and centrally employed staff in each of those locations and how that shifted.

Ms Bennett—Yes.

Senator CARR—I want to try to get a feel for how the department is responding to these changing priorities by the placement of its resources. Will that table give me an indication of which countries or markets predominantly rely on locally engaged staff as opposed to centrally employed staff?

Ms Bennett—Yes, although that is a pretty consistent picture. But, yes, what you have requested is, at the regional level, that we give you a table with the number of locally engaged staff, the number of Australian based staff and essentially the financial commitment to the region.

Senator CARR—And how that has changed over the last three years, to give me an indication of the way in which the resources of the department are being deployed.

Ms Bennett—Certainly.

Senator CARR—Could we have a look at that after the break?

Mr Yuile—If we can get that for you, we certainly will try.

Ms Bennett—We will try.

Senator CARR—Thank you very much.

Mr Yuile—Obviously we have the 2005-06 numbers available, but for three years back we will have to get those as quickly as we can.

Senator CARR—Thank you. I understand the ABS has changed the way in which it measures export performance by Australian companies. Do you have a figure of the number of Australian companies that are now exporting?

Mr Harcourt—I can answer that question. In the latest survey that the ABS undertook, they had 42,194 exporters in financial year 2005-06. That is goods exporters and also outbound service exporters, thereby people that are providing services to tourism or education within Australia. They are not counted in that total figure.

Senator CARR—It is actual, that is, outbound?

Mr Harcourt—That is right.

Senator CARR—Of the 42,000, how many are in goods and how many are in services?

Mr Harcourt—There are 40,849 goods exporters and 2,513 service exporters, and then you take away people that do both. There are 1,168 service exporters who also export goods simultaneously.

Senator CARR—What percentage of companies are now exporting?

Mr Harcourt—According to the Austrade/Sensis survey, which is a different survey—it is not ABS—13 per cent of SMEs now export. That was a survey of 1,800 SMEs in Australia.

Senator CARR—Thirteen per cent?

Mr Harcourt—That is right.

Senator CARR—You said SMEs. What is the total number of Australian companies? Do you have a figure for that?

Mr Harcourt—The total number of Australian SMEs—

Senator CARR—No, of all companies.

Mr Harcourt—Total companies?

Senator CARR—Yes. The SMEs are a slightly different categorisation for total companies.

Mr Harcourt—The measures are different now. Let me explain. The count of 42,194 that I gave you is just a count of exporters using Customs. It is not actually a survey of total businesses in Australia. The total survey of businesses in Australia will be done by the Business Longitudinal Database, which is a new survey that is going to be released by the ABS later this year.

Senator CARR—So we should not confuse this with companies. It is not 42,000 companies.

Mr Harcourt—No, it is. It is companies that export. It is a count of exporters. It is not a survey of all the Australian businesses and asking who exports and who does not. That is a different survey. It is actually a count of the number of exporters.

Mr Yuile—Through Customs.

Ms Bennett—Through Customs.

Mr Harcourt—Through Customs; that is right. As it goes through Customs, they get an ABN and they work out whether you are an exporter that way, and they trace it through Tax.

Senator CARR—Can we compare the number of exporters in, say, 2006 and 2001? Do we have a figure that will tell us that?

Mr Harcourt—I can help you there. As you rightly said in your preface, there have been changes to methodology and definition. In 2001 the ABS provided an estimate of 25,000 exporters. That was their best estimate at the time. Since then, with the change in the tax system and the introduction of ABNs as well as improving the count through Customs, the last figure we have is 42,194. They are not directly comparable, as you rightly point out, but, for what it is worth, that figure was the best available in 2001, and 42,194 is the best estimate we have for 2005-06. We will have a number for 2006-07 at the end of this year from the ABS count.

Mr Yuile—We also know that the count at the moment, for example, does not include companies which are earning export income but doing it onshore, so tourist activity, education—

Mr Harcourt—That is right. It is outbound.

Mr Yuile—It is outbound, so that is another dimension.

Senator CARR—And was the figure in 2001 just outbound?

Mr Harcourt—Yes, it was just outbound.

Senator CARR—So that was like for like.

Mr Harcourt—Yes.

Mr Yuile—Except that that has also been a sector that has grown considerably in those five years.

Mr Harcourt—Mr Yuile is right. From memory, the cut was around 22,000 goods and 3,000 services. But you are right: it was both outbound, and Mr Yuile is right on that.

Senator CARR—Accepting that it is not possible to get a comparable figure, based on the different methodology—

Mr Harcourt—It is not possible to get a comparable time series. That is right.

Senator CARR—We can say that on that basis it is about a 40 per cent increase over that time—maybe a little more. Are you able to tell me the number of exporters who have been assisted by Austrade over that time?

Ms Bennett—From Austrade's perspective, we have approximately quadrupled the number of exporters that we have assisted in that same time period. In 2001-02, which was the first financial year following the release of the ABS data, Austrade assisted some 1,500 clients. In 2005-06 we have assisted just over 5,000 clients, so Austrade has gone through a trebling to quadrupling of the number of clients it has assisted.

Senator CARR—But as a percentage it has declined, if the total number is 42,000 and you have assisted 5,000 of those. Would that be a fair characterisation?

Ms Bennett—As opposed to assisting 1,500 of 25,000? I do not believe that is a decline in percentage.

Mr Harcourt—Are you talking ratios, Senator?

Ms Bennett—The 5,000 to the 42,000 is approximately one in eight. The 1,500 to the 25,000 would be approximately one in 12.

Senator CARR—There was a government target of doubling the number of exporters by 2006.

Ms Bennett—Yes.

Mr Harcourt—2006-07, I think.

Senator CARR—2006-07 was it?

Ms Bennett—Yes.

Mr Harcourt—Yes. So we have one more year of data to be presented.

Senator CARR—How do we measure in terms of that target? Given that we do not have like-for-like data, it will be an interesting exercise.

Mr Harcourt—I think the best thing you can say is that the best measure that the ABS could do in 2001 was 25,000. Now they have improved their methodology and definitions, and the best figure that they will be able to provide us in 2006-07 is the figure that came out through the count.

Senator CARR—But it is not like for like, is it?

Mr Yuile—It is often difficult comparing like for like from one year to the next, so over a five-year period these things change. But it is an aspiration and, if you were coming from outside in the last few weeks and looking at the data and the effort, you would see that the focus that that has brought and the changed culture has been quite dramatic in terms of the impact in seeking to reach further and to lift the profile of export activity amongst the business community. So it has certainly had that effect.

Senator CARR—How do you measure the doubling figure? What is the target figure for the number of exporters?

Mr Harcourt—The ABS provide their data and we look at the best available data that they can provide to us. In terms of Austrade's own results, as Mr Yuile was pointing out, we look at numbers of new exporters and the proportion of regular exporters we now service. One thing the data shows us is that, before Australia was an open economy, very few people exported on a regular basis. Now a high proportion do so on a more regular core basis. So our natural rate of exporting has improved.

Senator CARR—Do you have a number?

Mr Harcourt—Sixty-eight per cent on the time series we have so far.

Senator CARR—Is that a 68 per cent increase?

Mr Harcourt—Sixty-eight per cent of exporters in the Australian exporter community export on a regular basis.

Senator CARR—The numbers may not be as great, but you are saying they do it more often.

Mr Harcourt—The share of people who export each year on a regular basis, no matter where the exchange rate is or where commodity prices are, is high.

Mr Yuile—It is sustainability, Senator. As you rightly say, it is not only about growing the number of people who are exposed to the traded sector and who can achieve export sales but also about sustaining that over a period of time and seeing that as an opportunity, obviously, to expand your base and your employment accordingly.

Mr Harcourt—In a way, it means bringing in a new generation of SMEs and then making sure that they are sustainable, not just a flash in the pan.

Senator CARR—What is the number to achieve that target to double the number of companies, not just small companies?

Ms Bennett—How many will we have to assist?

Senator CARR—No. The target was that the number of companies exporting for 2006-07 would double from 2001. How do you measure your achievements against that?

Mr Harcourt—If you had a perfect time series, which we do not, you could look at 25,000 and look at 50,000 for the next year. We do not have a perfect time series, so the best thing we can do is look at all the available data, whether it be census data on SMEs and their proportion of exporting or whether it be Austrade's own data on new and irregular exporters and sustainability, as well as looking at the natural rate. We just try and use the best information we have.

The ABS is providing a business longitudinal database which looks at all the businesses in the economy and looks at people moving from non-exporting to exporting and development and so on. When we have that survey we will be able to look at the demographics and characteristics of all businesses in Australia. That will also shed some light on the question of sustainability.

Senator CARR—It was also said in 2001 that the number of companies exporting was four per cent. Do I take it that, to double, you would need to go to eight per cent of companies in Australia? Would that be a fair measure?

Mr Harcourt—No. It is a little bit like when you look at the labour market and people say, 'We want to reduce the unemployment rate,' so we make a target of 50,000 new jobs. You have to take into account that, with labour force participation, as you know, as employment increases in the economy, more people come into the labour market, so it is harder to get the unemployment target down. I think that, in the same way, when you look at the number of exporters, you have to take into account that there has been huge growth in small businesses in Australia from various changes in the economy. I think the focus has been more on numbers of companies, sustainability and regularity.

Senator CARR—I am pretty simple about this. I just read what the government said at the time. I have here the election statement in 2001 where the claim was made. That statement says:

In 2000-01, a record year for Australian exporters, \$153 billion of goods and services was exported by ... 28,000 Australian companies. This ... represents 4% of all Australian companies. ... Our goal is to assist the number of Australian businesses exporting to double from 4% to 8% by 2006.

How far were you away from achieving that stated objective?

Mr Yuile—What Mr Harcourt has already said is a fair representation, as full a representation as we can give you of what has happened and the changes and the nature of the calculations that have been made, and the clearly increased level of activity by both Austrade with our client base and the number of people or companies who are exporting. The aspiration has been quite dramatic in that impact. I do not know whether we can go much further. The story is a very good one. Absolute numbers, as we have already said, can be a bit tricky because of the changes in the methodologies.

Senator CARR—I accept the point you make. That is the ABS. But in terms of the ABS methodology, from 2001 through to 2004, it remained the same. The number of exporters fell from 30,141 to 29,555.

Mr Harcourt—The ABS did say that there was a fair range of statistical significance—room for error—there.

Senator CARR—There certainly is. Then we have got 42,000, which it might be argued actually has inflated the number. In your opinion, what was the percentage of Australian companies—all companies—exporting in 2006?

Mr Harcourt—I rely for the most part on the Austrade-Sensis publication, which put the rate of SMEs exporting at 13 per cent.

Senator CARR—But I want to know about all Australian companies. Do you have a figure for that?

Mr Harcourt—I could calculate one quickly. I can tell you this: the top 100 Australian exporters would contribute about 92 per cent of total export revenue. So most of them would be.

Senator CARR—The big ones do the exporting. I understand how it works.

Mr Harcourt—There are very few that are domestic businesses.

Senator CARR—I want to know what percentage of Australian companies—not just SMEs—are now exporting. I would have thought that Austrade would have that figure.

Mr Harcourt—I can calculate it.

Senator CARR—I do not want you to come back after tea with it. I just want to measure the stated objective versus the reality.

Mr Yuile—Rather than doing it on the run, we ought to make sure we have got the numbers right.

Mr Harcourt—It will be quite simple to calculate.

Senator CARR—I am sure it will. Thank you very much. How do you measure your overall performance? I know there are annual performance targets. Are those the KPIs you operate against?

Ms Bennett—In some sense, yes. We have published in the PBS a set of performance measures that cover our major outcomes and outputs. Within the organisation we also, through our planning process, would have some particular initiatives and objectives across a number of the divisions that are also looked at in terms of the performance of a particular program such as the Business Club Australia or, as you alluded to, how well a China initiative or an India initiative have gone, but the ones in the public record are the ones in the PBS.

Senator CARR—How do you see the performance of Austrade over the last six years in terms of your own key performance indicators?

Ms Bennett—We believe Austrade's performance has been very strong, through, as Mr Yuile said, our refocusing to support the government's policy of doubling. In 2001-02, as I said, we were assisting approximately 1,500 clients to achieve export success and in 2005-06

over 5,000 clients were assisted to achieve export success. That is almost a trebling with approximately the same broad base of resources. So Austrade has developed the programs and services that are clearly of benefit to the Australian business community.

Senator CARR—Are you able to tell me what types of rewards are provided to domestic Austrade officers for meeting performance targets? What incentive arrangements do you have for Austrade officers?

Ms Bennett—Can I just ask my colleague the Director of Human Resources to join us for that question? I believe she is outside.

Senator CARR—Yes.

Mr Yuile—I think it is fair to say as an observation that the level of commitment and passion that you see in the staff is quite exemplary—certainly in my short time here and meeting people in state capitals and in Canberra. There is certainly a high degree of commitment to the work and to assistance. In terms of our employment conditions, we have come under the FMA Act and have a collective agreement. In terms of additional incentive rewards, recognition and that kind of thing, I would certainly wait for Ms Kimball to come back if there is more that you want to know there. I think it is pretty much in line and keeping with the kind of employment arrangements you see in other public sector agencies.

Mr Crawford—Could you clarify whether your question is just about staff based in Australia?

Senator CARR—I am going to ask about overseas staff in a moment, but at this point I am seeking advice on the nature of the performance pay scheme that takes place within Austrade.

Ms Bennett—We have been joined by our colleague Marcia Kimball.

Senator CARR—In terms of domestic Austrade offices, can you tell me if there is a performance based pay scheme for the meeting of performance targets?

Ms Kimball—Yes. Under our collective agreement we have a performance management system. Superior performers in our A-based group of staff—our APLs 1-5—can receive five per cent of their base salary; a profile of up to 10 per cent of those staff can potentially receive five per cent of base salary as a performance bonus

Senator CARR—How is that going within the organisation? What percentage of officers receive that bonus?

Ms Kimball—Up to 10 per cent.

Senator CARR—So 10 per cent?

Ms Kimball—Yes.

Senator CARR—How does that compare with other agencies? Do you have a figure?

Ms Kimball—No, I do not have comparative data on that.

Senator CARR—Has there ever been a period when it has been less than 10 per cent?

Ms Kimball—Not that I can recall.

Senator CARR—That does not surprise me. How does that compare with staff offshore? Is there a performance indicator or performance pay scheme for staff offshore?

Ms Kimball—Yes. Our overseas engaged staff have a performance management system where our exceptional performers can receive up to 12 per cent, our superior performers up to seven per cent, and those who achieve and do their job, plus more, four per cent.

Senator CARR—In each of those categories, is it fully subscribed?

Ms Kimball—I think about 30 per cent of our OEE offshore would receive a performance bonus.

Senator CARR—How does that compare year on year? Is it 30 per cent every year?

Ms Kimball—No, it fluctuates depending on our performance as an agency in terms of meeting our KPIs.

Senator CARR—Do you have any figures with you tonight about how that has fluctuated?

Ms Kimball—No, I do not have them at hand, but I can certainly get them.

Senator CARR—If you would, please. Which officers received the performance bonuses? What were the levels of seniority? Did junior officers receive performance bonuses?

Ms Kimball—Yes, it was within all levels of Austrade.

Senator CARR—So what is the percentage in terms of performance based pay? Does it fluctuate between classifications?

Ms Kimball—Generally, the profile is fairly consistent.

Senator CARR—What is that consistency?

Ms Kimball—Around 30 per cent of staff. My recollection is that around five per cent of staff would receive exceptional bonuses.

Senator CARR—Let us take the five per cent exceptional. What is the breakdown of that five per cent between senior officers and junior officers?

Ms Kimball—I do not have that at my fingertips.

Senator CARR—If you could provide that I would be interested, and each of the other categories would be helpful as well. Does it go just to senior executive officers?

Ms Kimball—No, definitely not. It is across all levels.

Senator CARR—I would like to know about the spread across all levels. Is it a performance based system that allows for junior officers to participate in accordance with their performance?

Ms Kimball—Yes, that is the case.

Senator CARR—If I could have that after tea it would be appreciated. Is the incentive arrangement bonus on pay or is it some other form of incentive?

Ms Kimball—It is based on their base salaries. We also have a recognition system whereby people who are performing in an exceptional way are recognised with either a

certificate or some form of recognition within the organisation—that they are congratulated and acknowledged by their peers and by management.

Senator CARR—How does it vary between officers offshore and those onshore? Is there any variation in the pattern?

Ms Kimball—No, I do not think so. I think all of our managers are cognisant of the fact to give good feedback to our staff.

Senator CARR—How does it vary between staff locally engaged and those staff employed centrally? Are locally engaged staff entitled to get performance bonuses?

Ms Kimball—Yes, they are. Our onshore staff, A-based staff, are under a collective agreement. A number of years back, we had exactly the same performance system but there was a trade-off. In the collective agreement before last some of the performance based pay was put into the base salaries. So the systems have diverged in that way and staff onshore voted for that change in the way their performance system was administered.

Senator CARR—Do locally engaged staff get lesser pay?

Ms Kimball—They are employed under the local labour laws.

Senator CARR—So it is less pay?

Ms Kimball—It varies in markets. They are a different classification system.

Senator CARR—Is there a performance bonus on their base salary? Is it a percentage of base salary or is it a standard bonus?

Ms Kimball—It is a percentage of their base salary.

Senator CARR—I understand that one of the roles of domestic Austrade officers is the identification of existing exporters. Have I understood that correctly? Are you able to comment? I notice that in your statement on the performance you indicate a difference between new and existing exporters.

Ms Bennett—Yes.

Senator CARR—Is it the role of the Austrade officers to identify those existing exporters?

Ms Bennett—It is a role of Austrade officers to identify companies that are already exporting that we can then assist. For instance, their needs are quite different. They might want to go to another market. They are already in one but they want to find a market where they can essentially springboard from one to another. They might want to go deeper in a market and get a particular network of their own customers. A new exporter often just needs to understand how to export in a very basic sense. So our officers would be very attuned to the difference between a company that has the capability but has yet to export and a company that is already exporting but wishes to do more.

Senator CARR—You refer to 5,000 new and established exporters in the corporate plan. How do you define assisting exporters to achieve export success? It says here ‘both new and established to achieve export success’. What does the term ‘export success’ mean?

Ms Bennett—Export success is essentially that they have achieved an export deal, a contract where—

Senator CARR—They have actually sold something?

Ms Bennett—They have actually sold something. That is right. And Austrade has been part of working with them at some point to assist in that contract.

Senator CARR—How do you measure whether or not you have been of assistance in that sale?

Ms Bennett—We ask the clients themselves to go through a very brief verification. They send us back something in writing that, in their words, acknowledges our support and contribution to that. So it is verified by the clients.

Senator CARR—Is there a difference in the criteria for measuring success for existing exporters and new exporters?

Ms Bennett—There is not a difference in the criteria that, essentially, the client responds to. It would be a difference service, however, that we have delivered, according to the needs of the business. But the criteria—that is, it is an Australian business and they have to determine that we have assisted them—are the same.

Senator CARR—How do you measure your contribution to existing contracts?

Ms Bennett—We do not. We ask the clients to determine our contribution to the work we have done, which is around getting new contracts. For an existing client, an existing exporter, our work is really about potentially getting further contracts. We would be working on the increment that they wish to achieve. We would in no way be working on contracts that they are already working on.

Senator CARR—The figure here of the estimated value of \$17.5 billion that you refer to in the corporate plan—is that additional sales of \$17.5 billion?

Ms Bennett—Yes. That in essence means that where we have assisted the companies to achieve an export contract, the value of those contracts is \$17.5 billion. And for established exporters it is incremental; it is a new contract.

Senator CARR—How do you measure the sustainability of an export venture in that context?

Ms Bennett—Some of the things that we look at include whether the exporter is now going to more than one market. We would look internally to say whether the exporter is working with us. As Mr Harcourt has said, we are working with the ABS to see their next longitudinal data, because we obviously only have insight to those exporters who work with us. In another instance—particularly if we have done a very good job and we have linked with a group of customers—they may not need Austrade's assistance for another one or two years, until they have some particular hurdle or want to go to a new country. We can only do, and get visibility with, what the clients wish us to assist with.

Senator CARR—Those figures that Mr Harcourt gave me before were that there were 42,000, of which you say 40,000 were goods exporters, 2,514 were service exporters and 1,168 were both. Why do you think the service sector is so low in terms of its export performance?

Mr Harcourt—I think it is a measurement issue. The fact is, as Mr Yuile and I pointed out, there are a lot of service exporters who do things within Australia who are not measured. Also, as the ABS would tell you, it is a little bit harder to measure service exports relative to goods exports. With the Customs measure, goods go through the ports and it is reasonably easy to clock them up, while services are a little bit different in definition.

Senator CARR—So you are saying that the question is predominantly one of measurement. There is a huge difference: 40,000 to 2,000.

Mr Harcourt—I agree. That is why we are hoping with the ABS, with the Business Longitudinal Database and so on we will be able to get better measures of service exports, because basically that is where a lot of our clients are and that is where a lot of value is being driven for the Australian economy and services.

Senator CARR—How do you think it has changed over time?

Mr Harcourt—In many ways. For instance in education, we would traditionally have an open-cut mining view of education, where we would just bring students here. Now, universities and TAFE colleges run joint ventures in Malaysia or in India.

Senator CARR—I am familiar with that particularly.

Mr Harcourt—You would be.

Senator CARR—Not all of them are terribly successful.

Mr Harcourt—I think also in many instances Australian professional services, whether it be architects or lawyers, are quite successful in Asia.

Senator CARR—I appreciate the point you make, but in terms of the empirical data, if it is 2,000 service exporters—or events; I think that is really what we are talking about here and not necessarily companies—and 40,000 goods exporters now, what would it be over time? Do you have any time series figures on that?

Mr Harcourt—The ABS has done some work on the numbers of tertiary institutions and the numbers of tourism businesses, some of which would sell to foreigners, which is how they measure it. Certainly, if you took the exporter community as a whole of the Australian economy that has some form of global transaction or global commitment, you would have strong growth in education and services, partly because we have seen overall growth in services and export numbers.

Senator CARR—I appreciate that, but I am looking for hard numbers. I know the value of education exports has doubled in recent years. What I would like to know is: in terms of your figures, there are 42,195 exporters in 2005-06. It would appear that it may be 28,000 in 2001, based on what the ABS is saying. We can argue the toss about where that is at.

Mr Harcourt—We do not have to.

Senator CARR—It is somewhere in that range. If you could give me these figures after the break, it would be appreciated. What would the numbers of those be for the service sector, going back to 2001?

Mr Harcourt—With that question, as I understand it, you want a time series of the numbers of service exporters in Australia.

Senator CARR—Yes.

Mr Harcourt—Inbound as well as outbound?

Senator CARR—No. I want it on a like-for-like basis so that I can make sense of it. Are you saying it is offshore providers, because that is what the 42,000 relates to?

Mr Harcourt—That is right.

Senator CARR—And 2,514 of those are service providers.

Mr Harcourt—Yes.

Senator CARR—How many of those, going back in the same time series on that offshore outbound delivery, would be services, back to 2001. Do you have that information?

Mr Harcourt—Yes, I do. In the estimate we got for 2001, we were given 25,000 as a benchmark. I can give you the actual data I have from the ABS for 2001-02, 2002-03, 2003-04 and 2004-05.

Mr Yuile—Do you have 2001?

Mr Harcourt—No. The ABS did not do an official count in 2001; they provided us with a benchmark estimate.

Senator CARR—Sure, but it will tell us roughly. Could you give me what figures you have in table format, if that is possible.

Mr Harcourt—I can give you the figures for 2001-02 now.

Senator CARR—I would rather you write it up so that I have the time series in front of me.

Mr Harcourt—Do you want me to read the numbers out?

Senator CARR—No. I will get them after the break. I like it in the old-fashioned way so that I do not make a mistake. If you can get it written up, that will give me a table of the number of services as a percentage of outbound, so that we know between 2,500 and 42,000 what the equivalent figures are, going back to 2001. Is that all right?

Mr Harcourt—Yes. Let me be very clear on two issues. One is that you asked a question about the number of businesses in Australia exporting. I could give you a back-of-the-envelope rough estimate, but I think it would be better to take it on notice and ask the ABS for an exact number.

Senator CARR—Yes. I want it before the next election; that is all.

Mr Harcourt—That is up to the ABS, isn't it?

Senator CARR—I know, Mr Harcourt, but I would like it really quickly.

CHAIR—Senator Carr, I have been listening carefully to the discussion. There are a number of matters which the officers present have agreed to try and provide information on over the dinner break, which is only an hour after close of business hours. Mr Yuile, I would be interested in your guidance on how much of that you expect to be able to bring back and what we can discuss between 7.30 pm and 8.30 pm in the remaining hour with Austrade—for the committee's guidance and for your assistance, I hope.

Mr Yuile—Some of the information Senator Carr asked about—performance pay data—is quite complicated. I do not think that is possible. We have certainly got numbers in terms of where people are located, but as to whether we can get A-based and locally based staff in the time frame, I will have to take advice from others. As Mr Harcourt has said, there are some figures he has which we can try to write up in a table. We can do those two things. I am just not sure about the resources against funding. Over the break, I do not think that is possible.

Senator CARR—I appreciate that. I was seeking material that is basically in your briefing papers.

Mr Yuile—That is not true or we would have answered the question.

Senator CARR—Mr Yuile, let me finish. I was seeking that additional information as well, but where you have material readily available that is easy to print out, I would seek access to that if it is possible over the break.

Mr Yuile—We are happy to do that. It was the granular nature of some of your questions which we just could not get.

CHAIR—We can't do granular in an hour.

Senator CARR—I accept that—especially three years back. I will accept the good intentions.

CHAIR—Thank you, and I thank the officers. I just wanted some guidance on that.

Mr Harcourt—Can I complete my answer. There were three things I think you were interested in, Senator. One was the number of businesses who export in Australia, because you wanted to see whether it went from four per cent to eight per cent.

Senator CARR—Yes.

Mr Harcourt—The answer I gave was that, according to the census survey, 13 per cent of SMEs export according to Austrade census surveying in 2006. With respect to going from four per cent to 13 per cent, I could have a look at the numbers quickly and do an estimate over dinner, but given that the ABS is the custodian of the data, I would prefer to take it on notice and ask the ABS what their estimate is. They keep the information on the number of businesses in the economy. I will let them know it is a matter of urgency. The ABS is a great institution; it tries hard. I will let them know.

Senator CARR—I would appreciate that.

Mr Harcourt—In addition, you wanted to know the number of outbound service exporters.

Senator CARR—Yes.

Mr Harcourt—One thing I was not clear on was the number of companies providing services to foreign students in Australia or foreign tourists in Australia; that is, people who are exporters within Australia. Did you want an estimate of that?

Senator CARR—No, that is a separate category. I was interested to get a comparison on the equivalent figure of the 42,195.

Mr Harcourt—So you can attempt to do a time series on the census.

Senator CARR—I am trying to, to see what the growth in exports has been.

Mr Harcourt—So it is outbound?

Senator CARR—Outbound, please.

Mr Harcourt—Okay, thank you for that clarification, Senator.

Senator CARR—Recently I saw a report done by CEDA showing that over the financial years from 2000-01 to 2005-06 the increase in the volume of exports averaged 2.1 per cent, less than a third of the average growth of 7.3 per cent between 1982 and 1983. We can compare the performance of recent times with that of the previous period. Has Austrade undertaken any analysis of the CEDA report?

Mr Harcourt—Yes. The report you are referring to was by Dr John Edwards, the Chief Economist of HSBC. With respect to the report from CEDA, a number of other pieces of analysis by various economic commentators around Australia have made the same or very similar points, including the Reserve Bank of Australia. For instance the Reserve Bank of Australia in its *Statement on monetary policy* has repeatedly tracked resource export volumes and total export volumes in this decade relative to the 1990s. Even in the area of resources it found that export volumes were seven per cent all through the nineties and 2.2 per cent this decade.

There are two issues. The first is the extent to which we have been experiencing capacity constraints, or supply side constraints, in labour shortages or in capital restraints on the supply side. Obviously, the demand for exports from Australia is very strong with the growth of China and India.

The second issue is also the lag relationship between investment and export volumes. There has been analysis performed by CEDA, by the Reserve Bank and by an economist at the Commonwealth Treasury, Dr David Gruen, who was also head of research at the Reserve Bank. He has looked at the last resource boom in the 1970s compared to now. He has found a lag in investment. In the 1970s there was a two to three to four-year period before the increase in investment found its way into export volumes. The Reserve Bank, in their last statement on monetary policy, made a similar point about the lag between investment and export volumes. On the rural side there has been the drought, and, in manufacturing and services, we have seen an improvement in export volumes in the past year.

Senator CARR—I am interested in that evaluation. Is that the formal evaluation of Australia or is that your assessment?

Mr Harcourt—Our main focus is on providing services to exporters and helping potential exporters at the margins to get into export markets, but we look carefully at the views of the Reserve Bank and Treasury as well as private sector economists.

Senator CARR—I would have thought it would be entirely appropriate. In fact, I would be very surprised if you were not examining these trends.

Mr Harcourt—Indeed we do. We publish various reports on different aspects of the economy from capacity constraints and the drought to the rise of China and India and the effect of exchange rates.

Senator CARR—Is there any overall study I can go to that will help identify how to address these shortcomings?

Mr Harcourt—Sure.

Senator CARR—What would you direct my attention to.

Mr Harcourt—As well as the CEDA report there is the statement on monetary policy. If you have a look at the last statement, which was May—

Senator CARR—What about Austrade's publications? Do you have anything?

Mr Harcourt—We do have various papers that we have published ourselves that I can provide to you.

Mr Yuile—We do not try to duplicate the work of the Treasury or the Reserve Bank.

Senator CARR—No, I would not think you would.

Mr Yuile—And we could not. So we are very reliant on that sort of analysis, as you would appreciate.

Senator CARR—I just want to know: has there been any published analysis that I could look to in terms of your view as to how to overcome these impediments to our export performance? We now have a situation where there has been a considerable period of trade deficits, despite the resources boom. We are looking at something like 60 months of trade deficits.

Mr Yuile—There are a whole range of issues that Mr Harcourt has alluded to, as you would know well, in terms of infrastructure issues, skills formation issues, industry competitiveness and productivity issues as well as our trade policy. There are various parts of government that address those—

Senator CARR—I accept that, and I am not asking you to—

Mr Yuile—That is the constellation. That is the holistic picture.

Senator CARR—But is there no document that Austrade has produced dealing with our export performance?

Mr Yuile—I think we have done some past work.

Mr Harcourt—I have published some papers on export performance but also, more importantly, on what the exporters themselves have been saying in surveys about the relative effects of the exchange rate, capacity constraints and the labour market. They do not go to policy; they just basically comment on what the data says and what exporters are saying.

Senator CARR—That is what I am saying. It is difficult for me to reconcile the claims that Austrade is making in terms of the success that is argued vis-a-vis our trade performance.

Mr Harcourt—Our task is to help potential exporters get into the export market. Ms Bennett has outlined to you the improvements in new exporters coming in and in sustainability. If you consider that, in terms of export value, the top 10 per cent of Australian companies provide 92 per cent of our export value, I would say that most of our focus is on potential exporters and helping SMEs and basically trying to provide improvements across the board in the economy by having more people exporting.

Ms Bennett—One of the figures that we record every year is the number of new exporters that we assist. In 2002-03 through to 2005-06 that has moved from approximately 400 a year to now nearly 2,000 a year. So on a time series, there are approximately 6,000 exporters that would not have exported without Austrade's assistance. Austrade has a particular role to assist companies. Part of that population that we assist have not exported before and therefore I think that is why you would get the difference between the macro figures at the Australia level versus us saying that we believe we have been very focused. We have developed programs to assist companies that, quite simply, would not have been exporting without the type of assistance that Austrade can give as a trade development authority.

Senator CARR—Let me look at some specifics then, because we are running out of time. Where do the domestic Austrade officers go if they need overseas market intelligence? What do they call upon?

Ms Bennett—To our offshore offices, essentially—we run networks.

Senator CARR—How often are overseas Austrade posts expected to provide market intelligence back to Australia?

Ms Bennett—They would provide it to the clients as the clients need it. For instance, behind the 5½ thousand clients who in any one year have achieved a particular export deal or contract, we would be working with and servicing approximately 14,000 or 15,000 businesses at any one time. They are in their journey to export so they are not necessarily at the point of doing the deal. I do not have the figures to hand to say which of those 14,000 would have received market intelligence from offshore, but broadly you would say that probably one-third are at the start of their journey, a third are nicely on their way, and there is probably a third at the very sharp end, taking a lot of market intelligence and essentially doing a deal with an international buyer.

Senator CARR—Is it on an ad hoc basis?

Ms Bennett—It is on a client needs basis.

Senator CARR—Individual firms?

Ms Bennett—Individual businesses will come to us and want a particular service and, to the extent that that service requires us to be moving particular generic market information or particular business contact information then we will obviously move that through our network to the benefit of the Australian business.

Senator CARR—Do senior officers have access to an intelligence report for each market or is it an individual, company-by-company arrangement?

Ms Bennett—Some information is publicly available on the austrade.gov website. There would be country reports where we try to share the general information. Where it becomes more specific, obviously, is when a client is seeking a particular subsector, a particular group of customers. But, no, there is generic information that we try to share with the Australian business community.

Senator CARR—What mechanism do officers onshore use to identify potential exporters?

Ms Bennett—A number. We will work with, for instance, industry associations. They obviously have membership lists, and activities and events where we can essentially work with their membership. We run particular seminars. They would be advertised in the local press and on our website where we might talk about India, China or exporting opportunities in a particular industry sector. We use our network onshore. Our own and our TradeStart officers within their local networks would be talking about particular market opportunities offshore.

Senator CARR—I am interested that you have not mentioned the department of industry in any of this survey.

Ms Bennett—Eight of our onshore TradeStart officers are jointly badged with the department of industry—their export hubs—so we work very closely.

Senator CARR—Where are they located? Are they in industry associations?

Ms Bennett—No. They are in our TradeStart offices and so they would be located around Australia. So the export hubs, which is where we are co-located with the department of industry, are in Launceston, Darwin, Ballarat, Carnarvon, Bundaberg, Tweed Heads, Bega and Port Augusta.

Senator CARR—I take it that each of those officers have all had performance bonuses?

Ms Bennett—I would not know that.

Ms Kimball—They are TradeStart officers at the hubs.

Ms Bennett—TradeStart officers would not be under our performance bonus scheme.

Ms Kimball—No, they are not—not that I am aware of.

Senator CARR—Any of them?

Ms Bennett—No. They are all TradeStart officers which is essentially an arm's length contract.

Senator CARR—They are external? They are not actually departmental officers?

Ms Bennett—TradeStart is a program that Austrade runs. We work with allies. Essentially the ally is an extension of our reach. They use our collateral, they use our networks, but the actual employees are employees of the contracting entity which might be a business association, a particular industry group, a state government.

Senator CARR—Of the 996 staff, how many of them are TradeStart officers?

Ms Bennett—Those 996 are all Austrade employees.

Senator CARR—So on top of that you have an additional number of contractors?

Ms Bennett—There are additional contractors on top of that.

Senator CARR—These are outsourced persons?

Mr Yuile—No, they are contracts with state government authorities or industry associations.

Senator CARR—Would QMI in Queensland be one? Which state government authorities?

Ms Bennett—For example in New South Wales we would have the Department of State and Regional Development. We would have different departments from—

CHAIR—Is that the office you referred to in Bega, Ms Bennett? Is that State and Regional Development?

Ms Bennett—In Bega the TradeStart partner is Australian Business Ltd—ABL. So where I just referred to the Department of State and Regional Development, it is the service provider for the TradeStart office in Bathurst, for example.

Senator CARR—How many were state government offices?

Ms Bennett—I would have to count my list. There are 54 TradeStart offices from 34 different providers, some of which are state government.

Senator CARR—Could I get a table with a breakdown on where those 54 are located. That is probably easier and quicker. Things like the innovation exchange—would you have people with those?

Ms Bennett—No, Senator.

Senator CARR—So it is recognised trade associations, like AiG.

Mr Yuile—That is correct.

Ms Bennett—And some industry associations such as the Australian Electrical and Electronic Manufacturers Association.

Senator CARR—I would appreciate getting a list of those.

Mr Yuile—Because we are going to try to do what we can over the dinner break I want to be crystal clear about your request. You want a breakdown of regional staff, A-based and locally engaged staff offshore?

Senator CARR—Yes.

Mr Yuile—I do not think we can give you three years, but we will find what we can. Secondly, you want a count of the exporters, both goods as well as services. We will try and prepare that table. As I said, it is not possible over the dinner break to get you the numbers you were after, as I understood it, regarding performance pay arrangements. We will have to check our records and prepare that for you separately. The resource disposition is also one that we will need to work on longer than just over the dinner break.

Senator CARR—I will appreciate whatever you can do.

CHAIR—Thank you for clarifying that, Mr Yuile.

Proceedings suspended from 6.29 pm to 7.30 pm

CHAIR—I call the committee to order. Mr Yuile has some information that Austrade has been able to bring back to us.

Mr Yuile—We have a table showing, for the last three financial years, Austrade operative staff by region, which includes Australian based staff and overseas employed staff. The years are 2003-04, 2004-05 and 2005-06. There is also a list of the TradeStart office locations and

the service provider. Finally, there is the number of Australian outbound service exporters, which is the ABS data from 2001-02. We do not have 2000-01. I will table that.

CHAIR—Thank you.

Mr Yuile—My colleagues can speak to them. We have one clarification for the record.

Ms Bennett—I answered a question regarding funding for India and I indicated that we had received an amount of \$2.6 million. I would like to clarify that, of that amount, \$450,000 was a capital amount. I alluded to the fact that we were maintaining the level of operating funding, which we are, but that is around \$2.1 million.

CHAIR—Thank you.

Mr Harcourt—I would like to clarify for Senator Carr the table that has just been handed up by Mr Yuile. The table provides a summary of published estimates by the ABS on outbound service exporters from 2001-02 through to 2005-06. For 2000-01 the ABS provided an estimate of 25,000 for the number of exporters in November 2001. That was published in the *Knowing and Growing* report by Austrade. It was published in that report but not independently by the ABS.

Senator CARR—Turning to the EMDG scheme, there are a few matters that I would like to clarify about how the scheme works. Is there a cap on the funding that any one business may receive for any year?

Ms Ward—Yes, there is. The maximum grant that is payable in any one year to an applicant is \$150,000.

Senator CARR—Has that cap changed over the last 10 years?

Ms Ward—Yes, it has. As part of the changes made by legislation in 2003 the cap was reduced from \$200,000 to \$150,000.

Senator CARR—That is not indexed in any way? Since 2003 it has been set at that \$150,000?

Ms Ward—Correct.

Senator CARR—What is the number of times a company can receive the EMDG support?

Ms Ward—Up to seven annual grants—not necessarily consecutive years, but up to seven annual grants.

Senator CARR—So it does not matter if there is a break in terms of the time lines that a company can receive support under this program?

Ms Ward—No.

Senator CARR—So it is seven years; it does not matter over how many years those seven are spread over?

Ms Ward—That is correct.

Senator CARR—What is the overall cap on the EMDG scheme? Is there a budget amount?

Ms Ward—Yes, an appropriation is provided by the government each year in the budget process. In the current financial year—2006-07—the appropriation that was provided was \$160.4 million.

Senator CARR—I take it that appropriation has changed in the last few years, has it not?

Ms Ward—That is correct.

Senator CARR—The last three years funding will be published somewhere, won't it?

Ms Ward—Yes, it is in the budget papers.

Senator CARR—I will take it straight out of there. Is there any form of modulation arrangement in terms of the expenditure of that \$160 million?

Mr Yuile—What do you mean by modulation?

Senator CARR—So that not all the money can be spent in the first half of the year. Is there a form of gradation in terms of when grants are issued?

Ms Ward—Yes, it is a legislative provision that is written into the EMDG Act. Before the commencement of a financial year, the minister will determine an initial payment ceiling amount, which is a dollar amount, which is then used by Austrade in paying grants from 1 July—when we first start processing grants—for the grant year, which is the previous financial year. We pay all grants, where we have determined entitlements up to and including that initial payment ceiling, in a first payment. Those whose assessment shows an entitlement which is provisionally higher than the initial ceiling amount are held in our records until the end of the financial year. With the available funding that is left from the appropriation, Austrade determines a payout rate and pays the remaining entitlements according to that payout rate, which is so many cents in the dollar.

Senator CARR—What is the first payment rate at? Is it half the grant? What is the proportion of the grant?

Ms Ward—That is up to the minister to determine each year. There is no specified percentage. The minister may determine that on a year by year basis.

Senator CARR—Would you be able to give me a figure on what the percentage has been in recent years.

Ms Ward—In the year that we are still processing—2006-07—we have initial payments for the grant year 2005-06, which is the majority of the grants we are processing in the current financial year. That amount is \$70,000.

Senator CARR—So there is a maximum of \$70,000 per applicant.

Ms Ward—In a first-round payment.

Mr Yuile—For the 2005-06 grant year.

Senator CARR—Given that the maximum any one firm can receive is \$150,000, presumably the maximum in the second round is the remainder.

Ms Ward—That is correct.

Senator CARR—Are there only two rounds?

Ms Ward—Yes.

Senator CARR—Therefore, is it right to presume that you can fund all applicants in the first round—at least for half their grant? There is no finite number of grants that you can fund in any one year. Has there ever been an occasion when you have not had sufficient moneys to fund all applicants?

Ms Ward—No, there has never been an occasion when that has happened.

Senator CARR—In fact, it tends to be the case that it is underspent, doesn't it?

Ms Ward—No. There have been years where we have determined a payout rate which was not 100c in the dollar. So there have been some years where the mechanism has been used to pay less than the full provisional entitlement for the second round. In other years there has been a 100 per cent payout. So it has varied year by year according to two factors: the demand on the scheme, which has varied from year to year, and the appropriation that is provided.

Senator CARR—In which years were you not able to pay the full amount?

Ms Ward—In the financial year 2001-02, which related to the grant year 2000-01; for the following grant year, which was 2001-02—which we mainly processed in the following financial year; and in the 2002-03 grant year, which was mainly processed in 2003-04.

Senator CARR—What was the reason that you were not able to pay the full amount in those years?

Ms Ward—There are always two factors—the demand on the scheme and the appropriation amount.

Senator CARR—And the quantum.

Ms Ward—But in 2001-02, for example, there was a huge increase in the number of applications on the scheme. I will need to look at another table and then I can tell you the year when there was a huge surge which accounted for a lot of that. In the financial year 2002-03 in relation to the grant year 2001-02, we had an almost 23 per cent increase in applications in that year.

Senator CARR—And that is why there were changes made to the scheme in 2003?

Ms Ward—No. The reasons for the changes to the scheme were to focus the scheme more on small businesses and on less experienced exporters.

Senator CARR—Since the scheme was redesigned in 2003, what has the pattern been? Has the number of applications increased or decreased?

Ms Ward—As a result of the scheme changes, the numbers fell for the next two years, but as I have talked about before, in underlying terms—that is, if you take out of the equation the scheme changes—there has in fact been steady growth. Over the last two years there has been absolute growth. In 2005-06 we had an increase of almost five per cent in applications and in the current year—

Senator CARR—Yes, I recall you gave me a table at the last round, which I am sure we would have somewhere. The payment of the grants in arrears: have there been any complaints to officers concerning whether this has presented companies with financial difficulties?

Ms Ward—Because it is a partial reimbursement scheme—is that the question?

Senator CARR—In terms of the EMDG, have there been any concerns raised with you by companies, successful applicants, that the fact that they are being paid in arrears has presented the company with financial difficulties?

Ms Ward—It is integral to the design of the scheme. It is a partial reimbursement for moneys already expended by businesses. It is well known that a business must spend money to be eligible to apply for a grant in the following financial year. That is just part of the design of the scheme, an accepted part of the scheme.

Senator CARR—Has there been any assessment of the cost in paying the money more quickly? Have you had any study in that regard?

Ms Ward—The answer to that is really that it is an integral part of the design. To pay more quickly would change the whole scheme. It could no longer be a reimbursement scheme if you were to pay the money before the next financial year.

Senator CARR—The review in 2000 noted that for every \$1 of expenditure there was a return of \$12 on export earnings. Have I understood that correctly? Is that the sort of ratio on which you still operate?

Ms Ward—That is now quite an old study. A more recent economic analysis was done as part of the review held in 2006. Rather than necessarily looking at the dollar grant and the export earnings, in the first instance it is necessary to look at the dollar grant and the amount of additional export promotion that the grant paid is an incentive to firms to spend. That is the aim of the scheme: to encourage applicants—because they know they can be eligible for a grant—to spend more on export promotion than they otherwise would have done. The analysis research in the 2006 review showed that that was the case. How much incentive effect there was varied according to the size of the firm and the ease of access to finance. Smaller firms and those for which finance constraints were very tight were the most receptive and responsive to the incentive effect.

Senator CARR—So is the old figure that I referred to—that is, the \$1 expenditure returning \$12 in export earnings—still a credible figure?

Ms Ward—It is not one that we use in our publications any longer. That is simply because it dates back to the year 2000 and—

Senator CARR—What is the current figure that you use?

Ms Ward—As I explained, we do not use that type of figure. We are looking very much at the incentive effect to spend more on export promotion. There are some figures in the research, but we are not using them as publicity figures or as promotion figures because they vary so significantly between size of firm.

Senator CARR—If they vary between size of firm, what is the rate of variation? For instance, what do you think the rate of return would be for small firms?

Ms Ward—I am reading from the review report:

For firms constrained by lack of finance, model results showed that the boost to exports per EMDG scheme grant dollar could be between \$20 and as high as \$220 over the future life of EMDG scheme-

supported businesses, depending on the severity of the finance constraint. Alternatively, if all EMDG scheme recipients enjoyed ease of access to finance, the boost in exports per dollar grant could be between \$7.50 and \$28.

Senator CARR—Thank you. That is very helpful. Which page were you reading from?

Ms Ward—It is page 40 of the review of the Export Market Development Grants Scheme 2005.

Senator CARR—In terms of the financial constraints on exporters, the question I was going to was about the rate of payment of the grant, and you were saying that it is an integral part of the design to pay it a year in arrears. Other industry assistance programs pay on a quarterly basis. Why can this program not be paid on a quarterly basis? As I understand it, the ACIS program pays on a quarterly basis.

Mr Yuile—Do you mean ex post?

Senator CARR—Yes. It is quarterly in arrears, but it pays on a quarterly basis. Have you looked at paying more regularly?

Ms Ward—There are two parts to the response to that. Firstly, under the current design of the scheme, as we have already covered, there is an annual appropriation and a first tranche payment. We then do a balance at the end of the financial year. It would not be possible to be paying grants higher than the initial payment ceiling amount until we did that balance at the end of the year, because we would not know what payout rate to be paying them on.

Senator CARR—But ACIS has a modulated process—

CHAIR—Senator Carr, Ms Ward said she had two matters in response. If you could let her finish then we will go on to your next question.

Ms Ward—The second part is our experience with applicants is that unfortunately they tend to leave applying to the very last minute anyway, which rather mutes the argument. Sometimes one wonders why they do not put them in faster, and we have tried to encourage applicants to do that by promising we will try to turn around their payments more quickly the faster they get them in. We have more resource time to do that. We had more success last year in getting applicants to get them in more quickly.

I understand—and this is going back some years ago to when the design of the scheme was different and before my time in this job—that there was a period in which grants were paid, I think, six-monthly. I believe it was not a well taken up option, because it does mean for an applicant that they have to fill in an application renewal option four times a year instead of just once a year, which is time taken out of their other business activities. So on balance I think the scheme is designed in a way that is appropriate for the current time and the current arrangements.

Senator CARR—In that review in 2006, were these issues canvassed?

Ms Ward—I believe there was a short discussion on that.

Senator CARR—I was making the point before that the ACIS program pays quarterly.

Ms Ward—I do not know the design of the scheme. It must be a different design to the one that I have just—

Senator CARR—But it has a module component as well.

Ms Ward—I cannot comment, because I do not know the design of the scheme. Would you like me to read the bit from the review?

Senator CARR—Just tell me what page it is. I can get someone to provide it for me.

Ms Ward—It is page 77.

Senator CARR—So it was canvassed; is that the point that you are making?

Ms Ward—Yes. There were many issues that were brought up by submissions and by comment to the review. I can see here that it says that around 30 submissions advocated faster claim processing and payment.

Senator CARR—What page is that on?

Ms Ward—Page 77.

Senator CARR—Thank you. I will have a look at that.

Mr Yuile—It is a bit hard to process them faster when they do not submit the applications.

Senator CARR—That is the nature of the culture. I thought that you were in the business of changing the culture with regard to exports. You have 54 offices around the country placed, presumably, in close proximity to the exporters.

Mr Yuile—All I am saying is that they are working on the culture, but in terms of the EMDG scheme the experience has been that exporters, for whatever reason, leave those for later.

Senator CARR—I turn to the portfolio budget statements. Is output 1.4, on page 89 of the current PBS, EMDG funding?

Mr Yuile—Yes. That is the total administered appropriation.

Senator CARR—It is just not clear to me that that is EMDG funding.

Ms Bennett—If you look at page 88, on the bottom of the chart, it says, 'output 1.4, Austrade administered: Export Market Development Grants'.

Senator CARR—Okay, thank you. There is \$159 million for 2007-08.

Ms Bennett—That is correct.

Senator CARR—Is that figure only for EMDG or does it include other expenditure as well?

Ms Ward—No, EMDG is the only administered program that Austrade administers, so it is only EMDG.

Senator CARR—Is the \$151 million for 2006-07 an underspend?

Ms Ward—The appropriation for 2006-07 was \$160.4 million. We advised at additional estimates that we estimated that we would spend \$151.52 million. That is still our current estimate. However, I must stress that we are heavily processing the final returns now and we will do so until mid-June, so the final figure may vary slightly from that.

Senator CARR—And at 30 June you will reconcile the figures. Is that the normal pattern?

Ms Ward—When the next lot of budget documents are available, they will have the final figure in them.

Senator CARR—I understand that. I am just trying to get the process here. I am not making any suggestions. I just want to know if 30 June is the point at which you determine the actual for the end of the financial year.

Ms Ward—In fact, it will be earlier than that. It will be somewhere around mid-June or just a little later, because we determine the amount and we have to go through the audit procedures to ensure that we have correctly accounted for the funding, and then we pay all of the final second-round payments to people. We must do that by 30 June to use that appropriation. So we do not leave it right until 30 June.

Senator CARR—So it is \$151,520 actual—that is in the statement. Do you expect that to be revised up?

Ms Ward—It will be very close to that figure—I do not know what the final figure is. What we do know with confidence is that we will not be spending the full appropriation this year and therefore we are already confidently telling people that there will be a 100 per cent payout this year. Everybody will get their full second-tranche payment.

Senator CARR—Is it fair to say that the underspend is roughly the better part of \$9 million?

Ms Ward—It was \$8.8 million.

Mr Yuile—It was not drawn down.

Senator CARR—Whatever your technical term is—\$8.8 million was not drawn down. What was the equivalent figure in the previous three years?

Ms Ward—I think that was in the figures we gave you in the last Senate estimates.

Senator CARR—Yes, I know. You have to refresh my memory; my brief has not drawn that to my attention.

Ms Ward—In the last financial year the amount we did not draw down from the appropriation, which in that year was \$170.4 million, was \$25.2 million.

Senator CARR—Yes, on \$170.4 million.

Ms Ward—The year before that, which was 2004-05, when the appropriation was \$150.4 million, we did not draw down \$19.3 million.

Senator CARR—I guess that is what I am coming to. Would it be fair to say that there is a pattern? From the last three years you can draw the conclusion that in each of the three years we have not drawn down the full appropriation. Would it be fair to say that now creates a pattern?

Ms Ward—As we touched on earlier, in 2003 there were legislative changes which focused the scheme on small and less experienced exporters. As a result of that, there were some applicants who would previously have been eligible who were no longer eligible. That, as you correctly pointed out earlier, did result in reduced applications to the scheme. Although, as I said, in underlying terms, if you net out for the change in the scheme, each year

there have been increasing application numbers. That, combined with more appropriation in most years, largely accounts for not needing to call it all down, with the very beneficial results for the recipients that they did get 100 per cent payouts. We have had 100 per cent payouts in these last three years.

Senator CARR—Yes. It is fair to say, though, that in the last three years they might not have been able to. Do you recall if it was the same sort of figure in the previous three years?

Ms Ward—We touched on this earlier tonight when I said that in the previous three years before that, which in financial years were the years between 2001-02 and 2003-04, the payout rate was not 100 per cent.

Senator CARR—Yes. Has the number of applicants gone up as well in the last three years? Has there been an increase in grant numbers? I think you told me this before as well—

Ms Ward—Yes. In the years 2005-06 there was an increase in applications of 4.9 per cent and in 2006-07 there was an increase in applications of 1.3 per cent.

Senator CARR—Has the size of the grants increased or decreased?

Ms Ward—I may not have historic figures with me; I certainly would have them for the last two years. The average grant, I would say with confidence, has gone up in each year. I am not sure that I have the average grant figure with me for those three years.

Senator CARR—If you have something I will take it now; otherwise I do not think it is particularly vital. I am just trying to get a sense of what the implications will be on the size of the grant for work that has to be done on redesign. There have been recent changes to eligibility—is that the case? Have there been further changes to eligibility?

Ms Ward—Yes, in 2006 there were further legislative changes. Remembering that we are still processing this current year, in the last financial year—which is the grant year 2004-05 but paid in 2005-06—the average grant was \$38,935. In the previous year it was \$37,145. To date this year, the average based on entitlements—remembering that we have not yet paid all that money out but we know we will be paying 100 per cent—the average has been \$36,458.

Senator CARR—How do you account for the variations in size? Obviously it is around the \$36,000 to \$38,000 mark. Does it mean the size of the export contracts have remained roughly the same?

Ms Ward—It is based on export promotion expenditure, not on export deals, so it would be on the amount of eligible expenditure that applicants have incurred. Clearly that has gone up in terms of their claims on the scheme over that period of time. There could be a range of factors to do with that, including good, strong economic factors over that period of time.

Senator CARR—Are you able to provide the committee with any advice on the real value of the grants in terms of the funding levels in real dollar terms on a historic basis? Do you have any advice on that figure?

Ms Ward—I do not have any statistics, and how you would do such a calculation would depend on what deflator you chose to use.

Senator CARR—So you do not have any figures on the amount of increase in valuation? Does your office carry figures on the real growth in the value of the grant? Looking at it from the other side, do you carry any figures on its relative value over time?

Ms Ward—Relative to what?

Senator CARR—Real terms—CPI or—

Ms Ward—No, that is not something I have any figures on.

Senator CARR—I am not going to ask you to do stuff that is not specially for the occasion. Thank you very much for that. If there is anything else we will have to put it on notice. Would you be able to provide us with advice in terms of the last six years on the value, using the CPI as a deflator? Would that be possible?

Mr Yuile—I think it would be a significant job in the middle of trying to process these claims for the end of the financial year.

Senator CARR—Is it not readily available? I do not want to create any extra work for the purpose of it.

Mr Yuile—No.

Senator CARR—Thank you. We will that then. There is one matter that I wanted to go back to. Is there a list of criteria that I could be referred to for the awarding of performance pay? Do you have that? I am sure that there would be something published somewhere that would tell me what the criteria are.

Ms Kimball—Do you mean in terms of how we define—

Senator CARR—How do you calculate the awarding of performance bonuses? Are there objective criteria that establish that?

Ms Kimball—Yes, we have key performance indicators for our staff.

Senator CARR—Do you have a list of those?

Ms Kimball—Yes, we can provide you with those.

Senator CARR—I do not think it is particularly breathtaking but if a list is available—

Ms Kimball—It varies between, obviously, our frontline staff and enabler groups, but for our client-facing and customer-facing staff we have a range of key performance indicators.

Senator CARR—Does that vary from other agencies or is it Public Service wide?

Ms Kimball—It is based on what we need to deliver.

Senator CARR—It is especially for this agency.

Ms Bennett—It may reflect things like the number of clients that the staff have assisted.

Senator CARR—Is that easily provided?

Ms Bennett—Yes. We can provide you with the corporate KPIs, which cascade down for individual staff.

Senator CARR—That would be very helpful, thank you. I turn to the Trade Commission. Mr Yuile, what officers were handling the *Global integration* statement?

Mr Yuile—The industry statement?

Senator CARR—Yes.

Mr Yuile—I will see if I can help you with your questions.

Senator CARR—I am referring here to the government's industry statement released on 1 May, which, given its title, *Global integration*, I trust is something that the department worked on.

Mr Yuile—Yes. We contributed to the discussion with the Department of Industry, Tourism and Resources in the development of that statement.

Senator CARR—What was the form of the contribution?

Mr Yuile—It ranged over a number of things. There were meetings at officer level fairly regularly providing information, providing suggestions for inclusion in that statement for advising in terms of the types of arrangements we have in place and the network we have in place, and so on. I was not here personally so I cannot tell you exactly but that is the kind of thing, I have been told, took place.

Senator CARR—I appreciate that it was before your time.

Mr Yuile—That is the sort of thing you would expect in that context.

Senator CARR—Was there an interdepartmental committee that you were a party to?

Mr Yuile—I think there were formal consultations by the industry department with our colleague departments and related departments and agencies. There was a cabinet process that I am aware of as well.

Senator CARR—So it was at the cabinet level, was it?

Mr Yuile—What I am saying is that something was discussed at cabinet level as well.

Senator CARR—You would expect that.

Mr Yuile—It is the normal process of government.

Senator CARR—Apart from ad hoc meetings between officers, I am trying to establish how involved Austrade was in the production of the industry statement. I am still at a loss to know.

Mr Yuile—I think we were involved in very regular discussions with the task force as they developed the statement. As I say, there were various meetings, interviews and discussions. I believe there were a couple of formal meetings at more senior levels between the deputy secretary of the department of industry and Austrade. So it was not ad hoc. It was regular interaction.

Senator CARR—The *Global integration* brochure states that Australian exports have increased at a rate of 7.5 per cent over the decade to 2006. Did you provide that figure?

Mr Yuile—I doubt that we would have provided that figure. There were other agencies involved in the discussion. That would be a value figure, presumably.

Senator CARR—I do not know what it is. I want to cover that now.

Mr Harcourt—What were the dates?

Senator CARR—I am just going by what is in the government's published documents. It says:

Over the decade to 2006 ... Australian exports have soared at an average annual rate of 7.5 per cent.

Mr Yuile—I have just been told that we did not supply that information. You would need to ask the department of industry where they got that figure from.

Mr Harcourt—The ABS data for that period is eight per cent.

Senator CARR—Presumably if you had been consulted you would have tried to increase it.

Mr Yuile—Increase what?

Senator CARR—Increase the figure. You do not agree with the figure of 7.5 per cent, do you?

Mr Yuile—But it is on the data, isn't it?

Mr Harcourt—Senator, as I understand it you read the statement that said that the average annual rate of growth of Australian exports from 1996 to 2006 was 7.5 per cent.

Senator CARR—Yes.

Mr Harcourt—I am simply reading over the last decade, 1996 to 2006, where the value of Australia's total goods and services exports has grown by an average annual rate of eight per cent, which is 7.5 per cent rounded up to eight, for no decimal place. That is the data from the ABS.

Senator CARR—Would the ABS normally present it rounded up like that?

Mr Harcourt—Yes, in most of the briefs they provide, or they would take it to one decimal place, depending on how much detail they need.

Senator Carr—What is the increase by volume?

Mr Harcourt—Four per cent.

Senator CARR—Presumably, had you been consulted, you would have pointed out to them that by value you could have increased it to eight per cent but by volume you would have had to indicate that it was only four per cent.

Mr Yuile—I cannot speculate on—

Senator CARR—I just wondered. Given that Austrade is the key agency in this field you would expect—

Mr Harcourt—Value is eight per cent; volume is four per cent.

Senator CARR—To what extent is that eight per cent that you referred to, or the 7.5 per cent that they referred to, a measurement of growth in value associated with the resources pricing?

Mr Yuile—I presume it is a series taken straight from the data.

Senator CARR—Mr Harcourt, do you have a breakdown on that?

Mr Harcourt—I can break that down for you. Again, I am using ABS data, so there is no spin in this; it is just simple straight statistical data. Over that period rural exports grew by an average annual rate of two per cent, minerals by an average annual rate of 11 per cent, fuel by 11 per cent, manufacturing by an average annual rate of 4½ per cent and services by an average annual rate of six per cent.

Senator CARR—What of that value do you think you could attribute to the changes in the exchange rate?

Mr Harcourt—Two things have happened. One has been the appreciation of the exchange rate, and that is being discussed in terms of the impact on export volumes and export values, and also the terms of trade effect. For instance, the Reserve Bank actually discusses the appreciation of the Australian dollar with the real exchange rate above its post-float average of around 21 per cent putting a restraint on growth but at the same time we have also had an increase in terms of trade which has counterbalanced some of the effect of the appreciation in the exchange rate.

Senator CARR—What do you think the counterbalancing effect is?

Mr Harcourt—Partially because with a terms of trade increase you get an increase in the price of what we export around the world, particularly commodities, for instance, and a decrease in the price of what we import. For the same amount of what we export we can obviously buy more imports. You mentioned the trade deficit before. One point to make is the fact that you import a lot of capital goods when you have a commodities boom because you have to import tractors from the states, capital and so on—

Senator CARR—Yes, and you do not make the stuff here.

Mr Harcourt—In some cases you make some of the stuff, but in terms of scale Australia traditionally has been, as a small country, a capital importer. You use that in turn to fund production and output growth in your commodity sector, where you are getting good prices.

Senator CARR—So you have no sense of what the discount would be on that 21 per cent for the terms of trade?

Mr Harcourt—I do not understand the question.

Senator CARR—I thought you were saying before that the 21 per cent increase in terms of exchange rate should be discounted against the terms of trade effect.

Mr Harcourt—I understand your question. The Reserve Bank have estimated that the real exchange rate has been 21 per cent above its post-float average. They have also said to counterbalance the effects of the high exchange rate has been the boost to national income from the high terms of trade, which at the end of 2006 were 42 per cent above the post-float average.

Senator CARR—You mentioned a figure of a real exchange rate.

Mr Harcourt—That is right.

Senator CARR—What effect would that be? Obviously less than 21 per cent.

Mr Harcourt—We are not talking nominal, so we are not talking US\$2c. We are actually talking about the real exchange rate as an index. Basically what they are saying is that on the

exchange rate side that has been something that manufacturing export had to come up against, but at the same time there has been a boost to national income through the terms of trade.

Senator CARR—So you cannot give me an aggregate number on that?

Mr Yuile—I do not think so. I think that is the answer.

Mr Harcourt—You wanted to know the counterbalancing effect, and that is what the answer is.

Senator CARR—As I read it, the industry department's statement reflects an allocation of \$254 million over 10 years for the Global Opportunities program. Is that correct?

Mr Yuile—I believe so.

Senator CARR—When did you find out it was going to be a 10-year program?

Mr Yuile—When the government announced its policy decision.

Senator CARR—Yes, that is what I figured. You have seen the estimates here of the outlays calculated for the \$254 million, and there is a flat line outlay of \$26.4 million in the out years beyond the forward estimates. Were you consulted about that figure?

Mr Yuile—Again, that is a policy decision of the government as to how it establishes—

Senator CARR—I just wondered whether the department was consulted, that is all. There are figures here of \$17.7 million, \$26.9 million, \$25.5 million and \$25.9 million in the estimates period, but then we have a flat line \$26.4 million for the next six years. I am always fascinated to see how these costings are done on a 10-year cycle, particularly when they are on a flat line basis like that.

Mr Yuile—We are not privy to the decisions of the department.

Senator CARR—I take it that Austrade will be a major player in this Global Opportunities program, won't it?

Mr Yuile—Yes. We are in active consultation with the department of industry about the composition and structure and how that program will be delivered, and, as you say, there are a range of areas in that program. There is the whole gamut of things, as you know, in the statement covering R&D expenditure and productivity centres and the like, but in terms of the Global Opportunities program, yes, that is one that is very much where we are involved in consultation with the department as we move to put that program into place.

Senator CARR—Can you outline to the committee precisely what role you will play in the delivery of that program?

Mr Yuile—They are the things we are discussing at the moment in terms of the design and implementation, because there is clearly a range of potential roles around, both in terms of identifying clusters of firms in Australia and identifying the opportunities offshore. Our network offshore will be involved in that, scoping how you go about the sort of strategy that you might employ to best access those opportunities. They will be the kinds of things which we will be involved in with the department of industry and, indeed, with other agencies. It is a whole-of-government statement about effort in that area.

Senator CARR—Yes. So it is yet to be worked out.

Mr Yuile—It has just been announced in terms of the final policy parameters of the government. As you say, the Global Opportunities program will commence in earnest on 1 July. We are involved with the department of industry at this moment in discussing the detail of how that will be structured—engagement with our export panels, panels of industries that potentially will be participating in this, together with scoping work from our posts. But, yes, it is being worked through at the moment.

Senator CARR—Given that you say it is about to start and you say that you have been closely involved in the development of the program, I would have thought there would be more detail on how it was going to work.

Mr Yuile—As I think I said, we were closely involved in contributing in terms of ideas, suggestions and so on in the preparation of the statement.

Senator CARR—I take it you will be using the existing channels you have—the networks that are there within the organisation. Is that right?

Mr Yuile—We will be doing that and we will be talking with the department and industry about, obviously, how these resources will be disposed to get the maximum impact.

Senator CARR—What precise resources will Austrade be putting into the program?

Mr Yuile—It will depend on that discussion and the shaping of that program for the future. Clearly it will involve our export services areas and our overseas posts. It depends on where the major opportunities or global supply chain possibilities are identified. This is the kind of thing which certainly in the past this organisation and other departments have been involved in—major World Bank projects and things of that kind, where we have brought together the various resources of government to work with industry to seek to maximise our participation in those projects.

Senator CARR—I take it that there is considerable potential here for overlap with existing programs.

Mr Yuile—I think there is considerable potential for complementarity between the programs we have and the work that the government wants us and the department of industry—and indeed other agencies, depending on the projects—to pursue under the Global Opportunities Program. I have not been involved, but I believe the industry department has been heavily involved with the Defence department in pursuing defence projects.

Senator CARR—Yes, that is true. There are some procurement issues. I just would have thought, though, that, given that the fact sheets associated with the government's announcement stated the program would identify and assess the feasibility of Australian firms bidding for work on major projects and provide market intelligence on emerging opportunities, these are things you already do. That is your standard business.

Mr Yuile—Some of the things we do, yes. But it depends on whether there is an expansion of that activity and a particular emphasis, perhaps, in particular areas. As I think other colleagues mentioned earlier, we clearly do work in market. Some of that is of a more general kind. Some of it is much more granular and focused in particular segments, depending on the nature of the businesses involved and the sorts of interests that they have. It will be utilising those sorts of resources in the context of a new program.

Senator CARR—But it is bread and butter for you, surely?

Mr Yuile—It is certainly work that our posts do. There will be an expansion of that activity.

Senator CARR—How much of the \$254 million will be coming across to Austrade?

Mr Yuile—That is obviously subject to discussions and decisions which will be made in the future.

Senator CARR—How much work has been done with the industry department to develop these highly honed program designs? Did you say it started in a month's time?

Mr Yuile—I think I said to you earlier that there have been contributions from the organisation over the time that the statement has been developed.

Senator CARR—The department of industry has the Supplier Access to Major Projects Global Program, which targets overseas projects, like, as you said, the Joint Strike Fighter project and the Commonwealth Games. Do you have a role in that program?

Mr Yuile—I am not sure, to tell you the truth.

Mr Crawford—I am not sure that the question is absolutely clear. Could you clarify?

Senator CARR—I am trying to explore the level of cooperation between the department of trade and the department of industry.

Mr Crawford—As a resolution to this question, I think you are asking us to provide you with information that we are currently providing ministers, and ministers need to take our advice on—

Senator CARR—Oh, of course, it is advice to ministers.

CHAIR—Can you let Mr Crawford finish, please, Senator Carr?

Mr Crawford—The agency is in the process of working with other agencies to implement the government's policy outlines—

Senator CARR—I see; that is the problem.

Mr Crawford—and that will be revealed in due course.

Senator CARR—This was an announcement on 1 May about a program that was to commence on 1 July.

Mr Crawford—That is correct.

Senator CARR—That was about the design of the Global Opportunities program. I asked you about an existing program which has been around for quite a while—the Supplier Access to Major Projects global program.

Mr Yuile—I believe there is involvement between this agency and the department of industry.

Senator CARR—What is the nature of that involvement?

Mr Yuile—I do not have that information with me. I am happy to come back to you with an answer on that.

Senator CARR—In terms of the advice the department has already tendered, can you tell me how Austrade factored in the existence of the Global Opportunities program to existing programs? You have these programs. There are bread-and-butter issues you are currently undertaking and have been undertaking for some years. The government has come along and announced a new program of \$254 million which seems to overlap what you do. You have already told me that there has been extensive consultation. I would now like to know what consultations you have had within the department about how you are going to fit into these things.

Ms Bennett—As my colleagues have said, we are still working through with the department of industry how we work together in delivering this program. In that discussion we are obviously fully aware of what we currently do; therefore any changes will be made in due course, as my colleagues have said, when it becomes clear who needs to take responsibility for what.

Senator CARR—I am surprised that it is not clearer now. That is what troubles me about this discussion. For instance, the statements that have been made about the Global Opportunities program say that it is to target small and medium sized enterprises to be exporters. We have had a discussion here tonight for over an hour about the EMDG program. I am wondering how it relates to your existing operations.

Ms Bennett—It goes beyond export. The piece I am reading about the program says it is for businesses to become globally orientated and to provide opportunities to bid for work on projects and access international supply chains. They are emerging areas. They are areas that we cover already and they are areas that we will continue to develop, not only ourselves but also, as the statement has said, clearly involving Invest Australia industry associations. There are a number of other entities that all need to come together to give the best outcome, and this is happening.

Senator CARR—So you will now be changing the way in which you collect market intelligence, given what we have discussed tonight?

Ms Bennett—It is all to be determined, but I would suggest that the way in which we collect and develop market intelligence will probably remain the same. What I can see, as Mr Yuile has said, given the complementary nature of some of these programs, is that potentially that information might be used differently by our clients or it might be shared amongst different partners. But information gathering will probably by nature remain somewhat the same.

Senator CARR—I have got the picture. I have a simple question: what is the cost of the Business Club program?

Mr Crawford—Could you clarify which one you are referring to in particular?

Senator CARR—How many are there?

Mr Crawford—The first Business Club was run in association with the Sydney 2000 Olympics, the second was in association with the 2003 Rugby World Cup held in Australia and the third was in association with the 2006 Commonwealth Games. We are currently in the process of transforming the Business Club into an ongoing promotional program. Obviously

there are no events on that scale to be held in Australia in the foreseeable future so we are focusing on opportunities in association with the Beijing Olympic Games and the 2012 Olympic Games.

Senator CARR—You are going international.

Mr Harcourt—We are exporting it.

Senator CARR—Yes, exporting the program—that is a very good idea. Is there a performance bonus on this one as well?

Mr Crawford—A performance bonus for whom?

Senator CARR—Participation in the Business Club.

Mr Crawford—The Business Club is a core part of the business.

Senator CARR—So tell me this: how many Austrade staff are engaged in the Business Club?

Mr Crawford—Currently the core staff that could be attributed to the Business Club as it stands would be five directly, with two senior managers having some oversight.

Senator CARR—The two senior managers supervise the five, do they?

Mr Crawford—One of the senior managers is me. I have oversight of the entire program. I have an SES officer who is responsible for a team called Major Program Promotion, which runs the Business Club and the Australian Export Awards.

Senator CARR—Why do you need two senior officers to supervise five in this particular project?

Mr Crawford—I think my remit is slightly broader than just supervising that one senior officer.

Senator CARR—You supervise the one?

Mr Crawford—I have a number of officers that I supervise.

Senator CARR—Is this a hardship post as well?

CHAIR—I am not sure that that is a question that Mr Crawford can answer, Senator Carr, and you know that.

Senator CARR—I think it is a reasonable question.

Mr Crawford—Let me say to you that implementing, designing and successfully carrying out the business clubs has been a very significant and rewarding challenge and has delivered great results for the Australian business community.

CHAIR—Thank you, Mr Crawford.

Senator CARR—Yes. So did anyone participate in the Cricket World Cup? Was that an opportunity that was—

Mr Crawford—Did anyone from Australia go across to the World Cup?

Senator CARR—Yes.

Mr Crawford—No.

Senator CARR—And the soccer?

CHAIR—Which soccer, Senator?

Senator CARR—World Cup soccer last year.

Mr Crawford—Did anyone from Austrade in Australia go to that?

Senator CARR—No, I presume that was for local—

Mr Yuile—Do you mean: did we have a Business Club event associated with that?

Senator CARR—Yes.

Mr Crawford—No, we did not—not in association with the soccer or the cricket.

Senator CARR—And the Rugby World Cup? Is there anyone participating in that?

Mr Crawford—We are running a very small business club in association with the Rugby World Cup in France later this year. That will involve three to four networking events in regions such as Montpellier and Bordeaux and also in Wales. They are being held in association with local chambers of commerce or business development organisations.

Senator CARR—And that is a small event. How many officers will be involved with that?

Mr Crawford—The main carriage of that is being done out of the Paris post, with support from the Business Club Australia team here. We have currently seconded a junior officer to Paris for six months to work on the program. That is an APL3 officer, so relatively junior, to support the post in regard to that.

Senator CARR—I see. And you say there was no-one at the West Indies and the Cricket World Cup?

Mr Crawford—I will say no-one, with the caveat that it is possibly the case that one of the staff in the region may have been there. But I am not aware of anyone being there. But there was a business club which the Jamaicans ran, based on our own model, run by what is called JAMPRO, which is the Jamaican trade promotion organisation.

CHAIR—Imitation as a form of flattery, Mr Crawford.

Mr Crawford—Indeed.

Senator CARR—In regard to the Beijing Olympics, how many people do you think will be engaged in the Business Club program for Beijing?

Mr Crawford—How many Austrade people?

Senator CARR—Yes.

Mr Crawford—I would expect that, at the actual time of the Olympic Games, you would have most of the staff at the Beijing post involved in some way or another.

CHAIR—Most of the Austrade staff, Mr Crawford?

Mr Crawford—Yes, most of the Austrade staff. Whether we send any staff from Australia up to support the program we are yet to determine, but I would expect that there may be a couple of relatively junior staff sent up as well.

Senator CARR—I see.

Mr Crawford—As for more senior representation, that is yet to be determined.

Senator CARR—How do they support the program?

Mr Crawford—How does who support the program?

Senator CARR—When they go and participate, what sorts of things do they do to support the program?

Mr Crawford—Historically, the hub of the Business Club concept is business matching and business networking. We are quite forensic in getting Australian companies together with the relevant international business representatives. Generally, we will use an Austrade officer and an officer from another department, or in some cases we have used ministers, to facilitate the business networking and matching at various events, including sporting events.

Senator CARR—What is the cost of the program?

Mr Crawford—The program cost is varied. From memory—and I was not involved—the Sydney 2000 Olympics program was in the order of \$6.5 million. The program in association with the Rugby World Cup was in the order of \$2.4 million. The Commonwealth Games last year, once again, was in the order of \$2.4 million. However, close to 50 per cent of that funding was—it was a shared funding program with the Victorian government. They contributed \$1 million plus.

Senator CARR—Do you have a budget for Beijing yet?

Mr Crawford—We are currently working on that, but we expect it to be approximately \$2.4 million as well. But that is subject to a number of factors and budget items which we are yet to resolve.

Senator CARR—And the Rugby World Cup?

Mr Crawford—The budget for that?

Senator CARR—Yes.

Mr Crawford—I think it is in total about \$65,000.

Senator CARR—Thank you very much. I just have one final question on the free trade negotiations. Are officers here able to handle that?

Ms Bennett—Negotiations—

Mr Yuile—Negotiations are the responsibility of the department of foreign affairs itself.

Senator CARR—Yes, I will do it somewhere else. No worries. Thank you.

CHAIR—Does that conclude questions for Austrade, Senator Carr?

Senator CARR—Just one final thing. You mentioned that ministers are helping you out with the Business Club program. How often has that occurred?

Mr Crawford—We have had very good support from ministers, particularly during their international travel, in promoting the program in the international market, and domestically we have had ministers who have provided very strong support for the various business networking events—for example, the senator may correct me, but I believe Senator Coonan supported us in Melbourne last year at an ICT business networking function which was held.

Senator SANDY MACDONALD—You got very good support from your parliamentary secretaries too, Mr Crawford.

Mr Crawford—Indeed, Senator Macdonald: very good support from the parliamentary secretaries.

Senator CARR—I see; it is a very popular program!

Mr Crawford—It is a very successful program too.

CHAIR—It is very good business, Senator Carr.

Senator CARR—Were any other members of parliament invited to facilitate this important international engagement?

Senator Coonan—Yes, Marsha Thomson was one—

Mr Crawford—Yes, Ms Thomson was there.

Senator CARR—I was thinking more of the Commonwealth parliament.

Mr Crawford—I could not tell you off the top of my head, but I am fairly certain that other members of parliament have been involved.

Senator CARR—Was it just government members?

Mr Crawford—In which particular aspect?

Senator CARR—Just go through them. Let us—

Mr Crawford—Sorry, in terms of—

Senator CARR—You can tell me the answer pretty clear—I don't have to go through each of these blow by blow, but I think the answer is pretty straightforward, isn't it?

Mr Crawford—But not necessarily as straightforward as you may think.

Senator CARR—It is not straightforward?

Mr Crawford—I think you need to accept (a) that this is a government program and hence is supported by the ministers of the government of the day.

Senator CARR—Right.

Mr Crawford—However, it is my recollection that there have been other members of parliament involved, certainly in the Olympic Games club and the Rugby World Cup business club. And, as Senator Coonan has pointed out, there was substantial involvement of the Victorian state government, up to Premier level, with the Commonwealth Games.

Senator CARR—Of course. And this would be a bipartisan thing, wouldn't it, so you would invite the shadow minister?

Mr Crawford—To what?

Senator CARR—To the World Cup, the Sydney Olympics, the Commonwealth Games—they are part of the program. Were they invited?

Mr Crawford—If we are running a targeted networking function which has limited numbers, obviously the government of the day has priority.

Senator CARR—So it is a space problem; is that the reason?

Mr Yuile—It is a government decision.

Mr Crawford—It is a government program.

Senator CARR—Thank you very much.

CHAIR—Senator Carr, does that bring us to the end of the consideration of budget estimates for Austrade?

Senator CARR—Thank you very much.

CHAIR—Thank you. I thank you, Mr Yuile, and your colleagues for attending, particularly for providing that information to the committee over the dinner break.

Senator CARR—It is much appreciated. Thank you very much.

CHAIR—We are grateful for that additional work. Thank you very much. I think there are a number of matters that you have taken on notice as well. The return date for those is 26 July. Now we will return to the department's outputs.

[8.47 pm]

CHAIR—We are dealing with trade issues 1.1.7, Bilateral, regional and multilateral trade negotiations and 1.1.8, Trade development/policy coordination and Asia-Pacific Economic Cooperation.

Senator CARR—In Budget Paper No. 2, on pages 209 and 210, additional funding has been allocated to support the Australia-China FTA and the Australia-Japan FTA negotiations. Also listed there are the names of the following organisations: Attorney-General's, Treasury, DFAT, Customs and IP Australia. How much of that allocation will your department receive?

Mr Chester—In relation to the Australia-China FTA and the \$17 million that has been allocated over the next two years—2007-08 and 2008-09—the Department of Foreign Affairs and Trade will receive \$8.212 million. The other funding goes to another nine government agencies. In relation to the Australia-Japan FTA, again, \$17 million is committed over the two financial years. The department asks for no funding in relation to that FTA negotiation. The funding will go to other government agencies.

Senator CARR—Where do we stand in relation to the negotiations with China?

Mr Chester—I will ask Mr Wells to answer that.

Mr Wells—We have another negotiating round with the Chinese beginning in a few weeks time. To tell the truth, I cannot report much change since you asked this question at the last estimates session.

Senator CARR—We talked about the glacial progress. Do you think it is still appropriate to use that word?

Mr Wells—I would say that progress is still very slow indeed and that, in some areas—particularly tariffs—the negotiations are on hold until the Chinese come forward with a better offer.

Senator CARR—Do you anticipate much movement this year?

Mr Wells—I cannot say. That really does depend on the Chinese. However, the Chinese have indicated that they would like to use possible high-level visits this year to achieve breakthroughs in some areas. We are discussing with the Chinese how we can achieve such breakthroughs. But, from our point of view, it is very much incumbent on the Chinese to move on some important areas.

Senator CARR—Australia's position has not changed in terms of its negotiations, has it? It is still taking an across-the-board approach?

Mr Wells—We are still looking for comprehensive, high-quality, liberalising outcomes in a range of areas.

Senator CARR—Issues that have been regarded as sensitive in the past have not changed?

Mr Wells—No. Certainly our sensitivities have not changed.

Senator CARR—When are these high-level visits expected?

Mr Wells—There is no confirmation of high-level visits, but it is possible that there will be high-level visits later in the year. The Chinese have said to us that they would like to ensure that there are some breakthroughs at that time.

Senator CARR—Are you able to indicate who it is that is anticipated to be coming later this year?

CHAIR—In terms of visits?

Senator CARR—Visits by the Chinese. You talk about high-level visits. What do you mean?

Mr Wells—I am not sure that anything public has been said, but perhaps my colleague can help.

Mr Baxter—As you are aware, Australia will be hosting the APEC leaders meeting later this year. We expect the Chinese President to be in Australia for the APEC leaders meeting, and there will be ministerial meetings leading into the APEC leaders meeting, which we expect the senior Chinese ministers to attend as well.

Senator CARR—That is in September.

Mr Baxter—Yes.

Senator CARR—I understand that the Japanese Prime Minister is coming to Canberra on the 11th.

Mr Baxter—That is right. It was announced by the Prime Minister yesterday.

Senator CARR—And the American President will be here as well on the 10th.

Mr Baxter—As you know, 21 heads of government or heads of states will be coming here and some of those will be doing bilateral programs.

Senator CARR—I am just wondering what scope there is for breakthroughs in such a crowded calendar.

Mr Wells—In the China FTA, as I said, that will depend on the Chinese. The Chinese have made the proposal that we announce breakthroughs, and we will work with them

conscientiously to ensure that we can announce breakthroughs. But, from Australia's point of view, they will have to be substantive and there will have to be something in it for us as well as for the Chinese. Whether we can achieve that remains to be seen.

Senator CARR—Perhaps I will come back to that. With regard to the multilateral negotiations, can I get some advice on the agricultural negotiations? Minister Truss recently chaired a meeting of trade ministers in Paris on 16 May.

Mr Chester—I will ask Mr Yeend and Mr Langman to answer those questions.

Mr Langman—You mentioned the meeting of trade ministers that Mr Truss chaired in Paris on 16 May, which 18 ministers and the Director-General of the WTO, Pascal Lamy, attended to discuss where we were in the Doha negotiations. You would be aware that it is a difficult negotiation, a very large-scale negotiation, covering not just agriculture but also industrial products, services and rules issues.

Negotiations have been continuing over a number of years. There was a period in which things were moving very slowly, in the latter half of last year, after a group of six countries, including Australia, failed to reach a breakthrough on some key agricultural issues and industrial products issues in July last year. Since then we have managed to get the negotiations going again, particularly after the Davos ministerial meeting which Mr Truss attended agreed that the negotiations should start up again at full pace in late January this year.

Since then there have been a number of meetings, including in Geneva, where the negotiating groups are meeting again. There have also been a series of bilateral meetings, a series of meetings of small groups of key countries, to try to find a way forward. These include the informal ministerial meeting in Paris that you referred to. They include two meetings of the Group of Six countries that Australia participates in; one in New Delhi in April and then another one in Paris on the same day as the meeting that you mentioned.

Key ministers have agreed that we should try and complete this negotiation by the end of this year. Clearly, we have a long way to go. In many ways the issues are very familiar now. We are still stuck on key issues to do with agriculture and key issues to do with industrial products. There is a hope, though, that a very intense period of effort ahead of the summer break in the Northern Hemisphere will allow us to make progress on those key threshold issues. If that can be done—and that is still very much a question—then I think it is certainly possible that we can complete the greater part of the Doha Round negotiation by the end of this year. But, as I say, there are still some very significant hurdles.

Senator CARR—So you expect to be able to complete it by the end of this year?

Mr Langman—If we can make a breakthrough in the next few months, it is possible that we will be able to do that. It is not clear to me that we will be able to reach agreement, though, on these threshold issues that have indeed been at the core of the current stalemate now for some considerable period. Essentially they are on agriculture. It is clear that to get a deal here we need all the key players—the US, the EC, Japan and the key developing countries—to contribute on agriculture, industrial products and also services beyond the contributions that they have been willing to make at this point.

Senator CARR—If we can be a little bit more specific, in terms of agriculture are we likely to see any movement on the question of market access, the level of tariff reduction, sensitive products, export subsidies, those sorts of things?

Mr Yeend—As Mr Langman has pointed out, all of these issues are under discussion. It is hard to make an assessment of whether or not we will get the kinds of breakthroughs we need to be able to conclude the negotiations this year. The discussions that are taking place in Geneva and in small groups bilaterally are focused on these key issues, including the ones that you have mentioned. There is a sense that in some of these issues, starting with domestic support or farm subsidies, there is some progress being made.

The main issue there revolves around the extent to which the US will be able to agree to further cuts. At this point in time, while there has been some discussion of the kinds of disciplines that will apply overall, what we do not have from the US is an indication of the specific extent to which they will be able to cut from their current proposal, which is a proposal of an overall trade-distorting support limit of \$22 billion. Most people would see that they need to move down to a figure of somewhere between \$15 billion and \$17 billion to be in the ballpark of what other WTO members will agree to.

On market access, the question of tariff cuts and sensitive products, which particularly relates to developed countries and, in particular, places like Europe and Japan, is an issue again where there is ongoing discussion. The Europeans at the moment have an offer on the table that would amount to around a 50 per cent average cut. They have indicated informally that they could go higher than that, but we need a lot more specificity on that, particularly in terms of the kinds of tariff cuts we would be getting for products that have high tariffs. At the moment, what the Europeans are offering there is no more than a 60 per cent cut. That is certainly not anywhere near the kind of cut that we have been arguing for. Australia, the Cairns Group, the G20 group of countries and the US are all looking for a higher figure than that. So there is still work to be done there.

Another key issue for Australia and many exporting countries is this issue of sensitive products, which relates primarily to the expansion of quotas. It is particularly important to us in markets like Europe. What the Europeans have proposed would not give us the kinds of improvements in market access that we would like to see. Their proposals would offer something around two to three per cent expansion of those existing quotas, whereas we and most other WTO members, certainly the rest of the Cairns Group, the G20 countries and the US, are looking for something much more in the order of, say, six to eight per cent. So again there is work to be done. There has been some narrowing of positions and better understanding of where the respective sides lie, but there is still a lot of work to be done—as you can see from the differences in the numbers I have given you—in terms of getting a breakthrough in the next couple of months.

Senator CARR—I really appreciate that answer. Given the US electoral cycle, is it realistic to expect a narrowing of these issues? Going from \$22 billion to \$15 billion to \$17 billion in terms of programs strikes me as unlikely in an election period.

Mr Yeend—It is a question to which we do not really know the answer at the moment. I can certainly say that the US administration—USTR Schwab and Agriculture Secretary

Johanns—are very committed to getting some progress and they have been putting a lot of time into the negotiations. They have been giving indications that they are able to potentially move in the direction that everyone would like, but what the US needs to be able to do that—and it is something that Australia also needs—is a very good market access outcome. That is how these issues are all linked. If the Europeans, the Japanese et cetera—the other protectionist countries—were able to improve their market access offer, then it would certainly be something that would help the US to get the cuts to the subsidies that they need, to get congress to approve the overall deal.

Senator CARR—My reading of it, though, is that the protectionist tendencies of the United States are actually growing. Reports from the United States congress suggest that. The recent disputes with the Chinese on currency and the quite aggressive signals that have been sent from the United States administration in response to the changes in the United States congress suggest to me that the problems are becoming more entrenched, not less so. I am just wondering, given what is on the public record, why you have any sense of confidence that there can be any movement this year.

Mr Langman—I might try to respond to that point. I think we are all aware that there are a range of views in the US Congress on trade issues, and have been as long as I can remember—and, I am sure, further than that. There were concerns raised at the time of the recent congressional elections. It is also true to say that in the negotiations WTO members are very aware of the fact that the United States goes into a presidential election next year and, given that, there is a question mark about whether it will be possible to continue work on the round if we need to into next year. I think it is worth noting recent public comments by Susan Schwab, US trade representative, following the agreement reached between the leaders of the Democratic Party in the House and the administration in relation to a number of free trade agreements that are before the Congress and for which the administration would like to bring forward implementing legislation.

Schwab has said that this agreement is a very positive sign that key Democrats are willing to work in a positive way on trade issues. There are many countervailing pressures and great complexity in relation to the politics in the United States on trade issues. As you mentioned, there is no doubt that concerns have been expressed about the high levels of trade with China and the great competitiveness of China as a manufacturing exporter. Those are some of the complexities that feed into this picture. As Mr Yeend said, we cannot be certain how this will play out, but we can say that senior US administration officials, ministers, have indicated that they believe they can work with the Congress on these trade issues.

An issue we have not referred to but which is very relevant to the point you have raised is the question of the Trade Promotion Authority, which the United States will need to complete the Doha Round. The Trade Promotion Authority expires as legislation at the end of June. In practice, it has already expired in the sense that the administration cannot bring forward new legislation in relation to trade under the existing authority, so it will need to be renewed. To do that, the administration has indicated that it needs progress in the negotiations. So there are many interlocking issues here.

If I might I will just go back to the negotiations for one moment. As Mr Yeend indicated, not only are the issues that relate to agriculture interconnected; the other issues that I

mentioned are connected to each other as well. The United States and the European Union, in broad terms, have made it clear that they are willing to do some reform of agriculture. But to do that they need to see progress on industrial products, removing tariffs, which are very high and mostly in the developing world, and they also need to see quite considerably more movement on services issues. With that, they will be able to do more on agriculture. So the challenge we face in the negotiations is creating enough confidence amongst all the players that the issues they are more interested in—whether it be agriculture, industrials or services—will deliver something meaningful, something commercially worthwhile from their perspectives.

Senator CARR—I noticed the press reports covering the paper presented by the chair of the agriculture negotiations, Crawford Falconer—the so-called ‘Challenge paper’. As I understand it, he has presented that in two instalments, the first of which is publicly available. I am told it got a mixed reaction from WTO members. There was some media coverage that said that Falconer’s paper claimed that Australia and other countries like Australia—so-called free-trading countries—would have to settle for far less in these negotiations. What is your response to those claims? Have you seen them? Are you familiar with what I am speaking of?

Mr Yeend—Yes. You are quite correct that the chair of the agriculture negotiations has recently issued two papers. The second one came out on Friday and is publicly available as well. The purpose of these papers, following the resumption of the negotiations earlier this year, is that the chair wanted to try and set out clearly for WTO members where the discussions are up to on the various issues under negotiation. In doing that he has attempted to suggest what he calls a centre of gravity on most of the issues. As you could imagine, with a centre of gravity you have views on either side of that centre of gravity. We think that it is very useful to the negotiating process to have the issues set out in this way, which will facilitate discussion over the next month or two. The plan of the chair is to move from these papers into more of a legal text. On some of those issues it is quite right that Australia, given that we seek a certain level of ambition across the board—as do most if not all Cairns Group members; indeed, most WTO members when it comes to agriculture—would like to see a higher level of ambition than has been set out by the chair. In the last couple of weeks there have been a series of meetings in Geneva setting out where we would like to see a higher level of ambition. That relates to the issues I was speaking about earlier, amongst many others, where we would like to see more substantial cuts to domestic support and farm subsidies from the US and the EU. On market access we would like greater certainty in terms of what kinds of additional market access we will get from the negotiations. This is part of an ongoing process. Certainly Australia is continuing to push very hard, particularly with our Cairns Group colleagues, to make sure that we can do everything possible to get the best possible outcome, if there is to be a breakthrough in the next couple of months.

Senator CARR—It just strikes me that this concept of lowering ambitions does raise some concerns about the positions that have been taken to date. Are you detecting much support amongst the Cairns Group for Australia’s position or has that deteriorated?

Mr Yeend—No, I think there is very strong support for Australia’s position, not only within the Cairns group but from a number of other WTO members, including the G20 countries in particular. On the issue of market access we have very strong support from the

United States as well. On the issue of cuts to farm subsidies even the Europeans are saying that they are able to put a reasonable offer on the table, and it is actually the US that needs to do more. There certainly has been no diminution of support for the kinds of positions that Australia has. Indeed, in the Cairns Group this year we have put forward a number of proposals across various issues in the negotiations, including on sensitive products. Just last week there were two proposals put forward on the issue of food aid and export credits. In each of these proposals they have reflected a high degree of ambition on those issues. So there is certainly still strong support for that kind of approach in the Cairns Group.

Senator CARR—Mr Vaile, the former trade minister, used to speak of achieving meaningful new access. It has been put to me that Mr Truss does not use this description anymore. Does that reflect a lowering of the sights?

Mr Yeend—No, I wouldn't agree that Mr Truss does not use that kind of language. I think that the kind of language we are always using is that we need meaningful new commercial opportunities. I have not detected any difference between Mr Vaile and Mr Truss on that issue.

Senator CARR—Crawford Falconer's paper spoke of the need for countries to abolish export monopolies such as the AWB's single desk. It is reported that Mr Truss claims that this is now off the negotiating table. There seems to be quite a sharp contrast in the positions that have been taken. Can you advise this committee how Australia is dealing with the question of the single desk?

Mr Yeend—Yes, certainly. Mr Falconer, in his paper, did not say that there would be a need to; it was his assessment that, as an outcome of the negotiations, this would be required. We have disagreed with his assessment. We do not accept that export monopoly powers have ever been part of the negotiations. If you look at the history of the negotiations on this issue the Doha declaration—followed by a number of other clarifying statements, including the Hong Kong ministerial meeting—has reaffirmed, in our view, that monopoly powers, per se, and the elimination of those monopoly powers is not part of the negotiations. The negotiations are about the export subsidy component of how state trading enterprises operate. There we have already agreed that in areas like underwriting of losses, government guarantees and other forms of export subsidies, we are prepared to discipline those.

It is worth mentioning that STEs is one of a number of issues in this 'export competition pillar', as it is called. There are also issues like food aid and export credits, and the more direct export subsidies of the kind the Europeans have delivered for many years. It has been agreed to eliminate the trade distorting aspects of all of those mechanisms. So STEs are one of a number. But we have never accepted that monopoly powers per se are part of the negotiation. What Mr Truss has said recently is simply a reflection of a position that we have held since day one of these negotiations.

Senator CARR—Does the United States share that view?

Mr Yeend—No, the United States and some other members have a different view, and continue to suggest that the elimination of monopoly powers is something that would be required from these negotiations. That is a view that we strongly disagree with.

Senator CARR—Putting aside the rights or wrongs of the domestic argument on the single desk, are you able to give the committee an assessment of the sustainability of Australia's formal position if the United States maintains its opposition?

Mr Yeend—I think that our position is entirely sustainable through this negotiation. Since we launched the negotiations, as I have said, we have agreed to take on some disciplines related to how state trading enterprises operate. Just as there will be progress in some of these other areas of the export competition pillar that I have mentioned, on food aid and credits, there is already enough on the table, on all of these issues, to reach a comprehensive agreement across this pillar of the negotiations. That would fit with the kind of outcomes we are looking at for the market access and the domestic support areas of the negotiations.

Senator CARR—We have canvassed a number of political developments with regard to the effects they are likely to have on this current round. Are you able to advise the committee on what impact the recent French elections will have on the round?

Mr Langman—We do not have a lot of information on that question. Many of us saw in the press some comments by the newly elected French president when he visited Brussels. The tone of those comments was certainly not to suggest that France would be changing its general position in the negotiations, which I am sure you are aware has been very conservative in relation to the reform of agriculture.

Senator CARR—So you think it is status quo?

Mr Langman—I do not expect that France will, in the near term, change its position significantly.

Senator CARR—Is there a point at which you will be able to assess that the current momentum is not sufficient to sustain serious progress in this current round?

Mr Langman—It is a difficult question in the sense that I think these sorts of very large negotiations in which many issues are brought together in a single undertaking—that is, at the end of the day everything is added together—are very hard to assess. We, as I said at the beginning, reached a point in the middle of last year where it was judged it was useful to take a break, and we did that. In the same way, the Uruguay Round, which went for around about two years more than we had been negotiating the Doha Round—a bit more than two years more—had reached a point at which there was an impasse. Eventually it was brought back together. Observers have different views, I think, about this. Certainly our hope is that we can drive these negotiations to some form of resolution in the next two or three months—even one to two months—and that that breakthrough would allow us to then build the rest of the details around that core, essentially by the end of this year, with perhaps some technical issues spilling into next year. That is an optimistic sort of scenario, of course, and there are lots of uncertainties here. But I think that there is a chance that could happen.

If we do not manage to do that, then there is a great deal of uncertainty and, again, some speculation about how it might play out. Would it be possible to continue work next year during a US presidential election? It is a question mark, I think. Would it be better to wait until after the most intense period of the presidential election was over and come back or would WTO members decide the time was not right and it was better to leave it for a longer period? I think these are great uncertainties. The best thing for us to do is to do absolutely

everything we can now to try to deliver a good outcome—an outcome, as we said, that delivers useful, meaningful, commercially valuable outcomes for Australian exporters—and that is what we intend to do.

Senator CARR—It strikes me that it is likely there will be an election called in this country in about 16 weeks time. What are the consequences of an election—

CHAIR—Your prescience is impressive.

Senator CARR—It is within that range. In mid-September, after APEC, it is likely there will be an election called here. What impact does that have on the progress of your work?

Mr Langman—If there is an election called then there are certain protocols that we follow that are well known. We will need to do what we can to manage our negotiating efforts in that period, but I think that our positions are very well known on a wide range of issues in this negotiation. I think, in principle, people know where we are coming from. They understand our positions. Where there are questions that might be of a political nature then we would need to look at those in light of the appropriate ways of proceeding during the period around an election.

Senator CARR—Does it mean your work stops or not?

Mr Langman—My memory of the last election—

Mr Chester—No, it does not. There were a number of times when elections in Australia coincided with important periods in the Uruguay Round and there was a standard convention that was followed during that period, depending on the particular events within the negotiation. Similarly, during the Doha Round, and related elements of the Doha Round, we have gone through election processes. So there are established conventions. This is not something that just Australia faces given the period that these rounds go on for; many countries deal with these issues in a similar way.

Senator CARR—How many staff have you dedicated to this round?

Mr Chester—I am not sure that it is easy to give an answer to that. There are staff in the Office of Trade Negotiations dedicated to it. The primary work of that division of the department is the Doha Round. There are a number of other staff within the central office in Canberra who provide direct or indirect support to those doing the Doha Round work. There are staff in all of our embassies around the world who have responsibilities for reporting on it and doing advocacy work in relation to the round. There are also staff, particularly in Geneva, who prosecute it. I am not sure it is possible to add all that up and come up with a number.

Senator CARR—How does it compare with the number of staff you have devoted to the FTA work?

Mr Chester—In general, it is probably much of a muchness across the whole organisation.

Senator CARR—You think it is about equal?

Mr Chester—Yes. It is impossible to add up the numbers, but it is probably about the same. When you look at resources and—

Senator CARR—You think it has equivalent status?

Mr Chester—I do not know if it is equivalent. It may be equivalent status as far as the number of staff who are involved in it, but in some posts there are more staff prosecuting Doha Round issues than there are prosecuting bilateral issues and in other posts there will be the reverse.

Senator CARR—I have some questions about Australia's credibility with the WTO relating to quarantine. It was reported on the ABC *Rural* program on 24 May this year that WTO senior counsel, Ms Stanton, said at the Quarantine and Market Access Conference in Canberra that Australia is facing the risk of potential WTO disputes. Are there any current disputes with the WTO involving Australia relating to quarantine?

Mr Langman—Two processes have been started by the Philippines. One relates to pineapples. That is still formally on the books, but since the Philippines raised the issue Australia has completed work on quarantine measures and trade is now taking place. So I think that is a matter of formality rather than something else. There is another case that the Philippines has raised in relation to bananas which has been in the system for some years. The Philippines has not taken the next step required in the WTO dispute settlement process, which is to ask for members of a panel to be appointed to consider the merits or otherwise of the case. You may be aware that a draft import risk assessment has been prepared and is currently under consideration. That is the answer to the question in relation to quarantine.

Senator CARR—I am told there is something on prawns. Is there an issue outstanding on prawns?

Mr Langman—There is no WTO action in relation to prawns. Consideration is currently being given to an import risk assessment, which is a domestic process.

Senator CARR—It is domestic; I see. Apart from Biosecurity Australia's import risk assessment, have any representations been made to Australia in relation to bananas and pineapples by foreign governments or foreign stakeholders?

Mr Langman—Quarantine issues are regularly subject to requests for clarification and requests for consideration of a proposal to export product to Australia. Concerns are sometimes raised bilaterally and sometimes in other contexts by our trading partners in the same way that Australia asks questions, makes requests and, on occasions, expresses concern about the import policies of some of our trading partners.

Senator CARR—Are you able to be more specific? What representations have we had on pineapples and bananas?

Mr Langman—The ones made on those two were requests of a formal nature in the context of a WTO dispute settlement process. Other requests are more general and can be bilateral, and there are many of them over a long period of time, both from our trading partners to us and from us to our trading partners. There are many such requests. That is part of routine business.

Senator CARR—That is a standard negotiating tactic, is it?

Mr Langman—I am not sure that I understand—

Senator CARR—You said there are many requests. Is it a commonly used device to raise concerns about Australian products?

Mr Langman—It happens on occasion. Sometimes it is an expression of concern, but many times it is simply a request for some action to be taken in order to facilitate trade in a particular product.

Senator CARR—How long does it take Biosecurity Australia to complete an import market access request?

Mr Langman—I cannot answer that directly. I can say that the government has announced some reforms to our IRA process in recent times. One of the objectives of those reforms was to regulate the time frames within which IRAs would be completed. With respect, Senator, I am not the right person and perhaps this department is not the place to give you expert advice on that.

Senator CARR—I understand that the Australian government, in the recent WTO trade policy review, made the point that they would have new quarantine import risk assessment processes in place by early 2007. Are you familiar with those?

Mr Langman—As I mentioned, the government recently made some reforms to the IRA process. I presume that is the reference that was made during the trade policy review.

Senator CARR—Is there a change to regulations required?

Mr Langman—Again, Senator, that is an issue for the agriculture portfolio.

Senator CARR—On 15 May there was an article on the FarmOnline website about the Australian Beef Association's concerns regarding BSE and imports of United States beef to Australia. Have you had representations on this matter? Is the department aware of these concerns?

Mr Langman—I saw press articles by the Australian Beef Association.

Senator CARR—Is there a current prohibition on United States beef in Australia?

Mr Langman—I do not believe there is a prohibition on the importation of United States beef, but there is a policy in relation to BSE.

Senator CARR—Can you help me with the policy? What is the impact in terms of the import of United States beef as a result of this policy? I think that is the nub of the question.

Mr Langman—The policy is that, in relation to imports of beef and beef products from countries where there has been a case of BSE reported, we do not import product.

Senator CARR—We do not import it? So it is true that we have a prohibition on the import of US beef?

Mr Langman—I put it differently, Senator.

Senator CARR—I know. I am just relying on these reports. I want to know whether Australia is importing US beef? Can you tell me that?

Mr Langman—Could you repeat the question?

Senator CARR—Could you tell me how much beef Australia is importing from the United States at the moment?

Mr Langman—I am sorry but I do not have that information.

Senator CARR—Do I have the right department?

Mr Chester—I think we will need to take that on notice to give you an answer.

Senator CARR—If you cannot tell me how much, can you tell me that we are importing some US beef?

Mr Chester—Again, we will have to take that on notice.

Senator CARR—How long would it take to find that out?

Mr Chester—At 9.40 at night, probably a while—tomorrow morning, I would say.

CHAIR—Thanks, Mr Chester.

Senator CARR—Perhaps you can tell me this. In terms of the US free trade agreement, is there any obligation on Australia to ensure that Australia follows international standards with regard to BSE?

Mr Chester—Could you repeat that question?

Senator CARR—In regard to what might be World Trade Organisation criteria or what might be free trade terms and conditions with the United States, is there any requirement or any special standards set for Australia with regard to the question of BSE when it comes to the import of United States beef?

Mr Langman—No. Australia is able to determine its own import policies, so long as these are consistent with our international trade obligations.

Senator CARR—So what is the requirement under those trade obligations with regard to BSE?

Mr Langman—We are able to set our own import policy, so long as it is consistent with our obligations.

Senator CARR—I am obviously a bit slow here. You are going to have to explain to me what that means. Since we cannot actually work out whether or not we are stopping US beef coming in here at the moment, what are our obligations under those treaties with regard to imports of beef from countries affected by BSE?

Mr Langman—The WTO allows countries to set their own import policies so long as they are in line with the broad disciplines in the SPS agreement, the sanitary and phytosanitary agreement. These include that countries have the right to set their own level of risk, that measures should be taken in a way that does not unnecessarily restrict trade and that does not discriminate between other WTO members, and that it is based on a risk assessment and science.

Senator CARR—Has there been any discussion with United States officials about banning Australian exports of beef in the context of this dispute?

Mr Langman—You asked about a dispute. I am not aware of a dispute.

Senator CARR—That is what I am surprised by because there are press reports in Australia from the Australian Beef Association expressing concerns regarding mad cow disease and imports of US beef to Australia. Has this matter not been brought to your attention through any other source other than what you have read in the paper?

Mr Langman—I am aware of those reports. I was puzzled by the suggestions made by the Australian Beef Association. As I recall, they related to the free trade agreement with the United States. As I recall, they did not appear to reflect an accurate understanding of the relevant side letter to the free trade agreement.

Senator CARR—These are reports from 15 May this year. You have had a fair time to work out what the impact of these side letters are.

Mr Luck—In the press reports you are referring to—I do not have the exact date but it was only a couple of weeks ago—a number of claims were made by the Australian Beef Association about the effect of the BSE side letter to the Australia-US free trade agreement to the effect that those understandings resulted in a lowering of BSE standards in the international market and that that precipitated a free fall in Australian beef exports to Korea and Japan. Does that accord with the reports that you are referring to?

Senator CARR—Yes, it does. I am also referring to the report I have here from 15 May from Brad Bellinger, the chairman of the Australian Beef Association.

Mr Luck—If I could go on, Senator, there are a couple of things to say. One is that the government does not share those views. Any suggestion that the BSE side letter to the free trade agreement has undermined Australian beef exports to key North Asian markets is completely false. The side letter simply commits Australia and the United States to cooperating in international forums such as the Codex Alimentarius, which is a joint body of the WHO and FAO, and the World Organisation for Animal Health. It also commits the two sides to securing science based standards for food safety and animal health related BSE risks, as my colleague Mr Langman has already said.

Australia and the United States already cooperate on these forums in BSE matters and have done for some years prior to AUSFTA. Australia promotes the use of science based standards because around two-thirds of Australian agricultural products are exported. We believe that science based and rules based standards assist this trade.

The second thing to say is that the Cattle Council of Australia responded quite soon after that press report and it strongly backed the government's position.

Proceedings suspended from 9.48 pm to 9.59 pm

Senator CARR—I would like to return to the free trade agreements.

Mr Chester—Which ones, Senator?

Senator CARR—I am going to go through all of them.

Mr Chester—There are different people for each one.

Senator CARR—I thank the officers for their answers. They were very helpful. I do not suppose I am supposed to do that.

Mr Chester—It is always appreciated.

Senator CARR—There is an old Sir Humphrey Appleby expression: 'I'm glad you thought so.' That is the normal refrain from a public servant here. Mr Chester, how are you structuring your negotiating teams? Are there any general comments you can give me?

Mr Chester—On the FTA negotiating teams?

Senator CARR—Yes.

Mr Chester—I will get Mr Wells to deal with that.

Mr Wells—There is no general rule for the structure of the negotiating teams but, if you want, I can take you through each of them.

Senator CARR—We will come to that. So each of them vary in nature?

Mr Wells—Some of them are done largely by dedicated task forces, particularly the China, Japan and ASEAN FTAs. Others are done by using people in the department who also work on other issues—so, if you like, a virtual task force.

Senator CARR—So are experts brought together for chapters for each of these agreements?

Mr Wells—Not necessarily. Some of the people in the negotiating teams will work on a range of chapters.

Senator CARR—When negotiations are held overseas, do you have other departments travel with the DFAT team?

Mr Wells—It varies according to the FTA. Certainly there would always be representatives from some other agencies. In the case of major rounds of negotiations, there would probably be as many representatives from other agencies as there are DFAT officers.

Senator CARR—Are the DFAT officers encouraged to develop an expertise in one particular area or do they have expertise across a range of agreements being negotiated at any one time?

Mr Wells—It is not possible to have one or even two officers who are responsible for the same chapter in all of our FTAs. That would be an inhuman task. They would just have to travel too much. We do try to ensure that an officer is responsible for the same area in, say, two or three FTAs. It depends on how much work is involved in the particular issue.

Senator CARR—Are you able to give me an indication of the number of staff or the teams working on each of the FTAs?

Mr Wells—Yes, I can do that. It is approximate. In the case of the China FTA, we would have I think about a dozen DFAT officers. In the case of the Japan FTA, we are looking for about the same number of officers. You will appreciate that that negotiation has only just begun, so we are still building up the Japan team. I should also say that a lot of the officers who work on China also work on Japan and vice versa. So you are really talking about one negotiating team that is responsible for China and Japan. In the case of ASEAN, I think we would have about 10 officers—some from the dedicated task force but some from other areas of the department. Some of those officers would also work on the Malaysia FTA. In the case of the Gulf Co-operation Council FTA, we do not have any officers who are dedicated in the sense of working full time on that negotiation. We draw on the expertise of several of the department's divisions. When the negotiations get seriously under way we expect to have about 10 or 12 officers working on that FTA. Depending on whether we go ahead and begin negotiations on an FTA with Chile, there would be roughly the same number officers.

Senator CARR—With respect to the Gulf, when do you expect negotiations to commence?

Mr Wells—With the GCC, we have already had one meeting, which could be described as introductory. We have had a preliminary negotiating session and we have in-principle agreement that the first formal negotiating round will begin in July, but that date might slip.

Senator CARR—How long do you think the Gulf talks will take? What is your expectation?

Mr Wells—It is always impossible to estimate how long a negotiation will take, but certainly the government is keen to wrap up the GCC FTA as quickly as possible—partly because of significant commercial threats to some of our exports. I should add, just as a caution, that the European Union has been negotiating with the GCC for, I think, 12 or 13 years. I do not think that our FTA will fall into that category. We are hoping to negotiate this agreement quickly. ‘Quickly’ is, of course, a relative term when you are talking about FTAs.

Senator CARR—Yes. The automotive industry in Australia is particularly concerned about the progress with regard to the GCC. What is the level of consultation with the automotive industry?

Mr Wells—I would need to go back to the records and check, but I think we have had about three or four meetings with the automotive industry so far this year. The message from the industry is, as you have indicated, a fairly straightforward one. They want us to get on with this and negotiate a removal of the five per cent tariff as soon as possible. We certainly share the concern of the auto industry about the possibility that other countries negotiating with the GCC might obtain that tariff preference earlier. It is a very serious issue and it is certainly one of the main reasons for the decision to commence negotiations.

Senator CARR—Is it possible to move on that issue outside of a general FTA?

Mr Wells—It is possible but highly unlikely. The GCC will want to obtain something in return for that, and the only way it can really do that is through an FTA. The GCC could choose, unilaterally, to abolish its five per cent tariff on car imports, but again I think that is very unlikely. Realistically, I think the FTA is probably the only way to ensure that we do not suffer disadvantage in terms of our auto exports to the Gulf.

Senator CARR—Given the importance of those exports, I can appreciate the anxiety about getting this—

Mr Wells—They are extremely important. In fact, earlier in the evening I was trying to do some sums in my mind, and I think 40 per cent of Australia’s auto production is exported, and three-quarters of those exports go to the Gulf.

Senator CARR—Particularly for Toyota.

Mr Wells—Toyota but also Holden, which is a substantial exporter to the Gulf—not in the same league as Toyota, but nevertheless it is a substantial exporter.

Senator CARR—Would an agreement such as this open up opportunities in other parts of the region?

Mr Wells—Pretty well all of our auto exports would be covered by the countries that are members of the GCC. There is a very small number to Middle Eastern markets outside of the GCC. So the GCC should cover pretty well all of our exports.

Senator CARR—Which countries are covered by the GCC?

Mr Wells—Saudi Arabia, Kuwait, the United Arab Emirates, Oman, Bahrain and Qatar.

Senator CARR—Are there any discussions with other countries outside of the GCC?

Mr Wells—In the Middle East on an FTA?

Senator CARR—No, in terms of other bilateral discussions, particularly in regard to automotive.

Mr Wells—Not to my recollection, but I would need to check. As I said, I do not have the figures in my head, but the GCC would account for practically all of our auto exports to the Middle East.

Senator CARR—There were significant markets in Iraq once, were there not?

Mr Wells—For autos? I would be surprised, Senator.

Senator CARR—There is an interest in Iran.

Mr Wells—I am not aware that we export significant numbers of autos to Iran, nor are we likely to.

Senator CARR—I think some companies here would like to.

Mr Wells—Because the companies manufacturing cars in Australia are all multinationals, the decisions are all taken in corporate headquarters. That is often for reasons beyond any control of ours. Headquarters can also switch production very quickly, which again is one of the reasons why we are very keen to wrap up the GCC negotiation as soon as possible, so that there is less incentive for headquarters to take decisions like those.

Senator CARR—How many other officers from other departments would be working on China, do you think?

Mr Wells—I could not put a number on it, it depends partly on the issues that are being discussed at any negotiating round. You do not find the same representatives from other departments attending, but in general at least as many officers from other departments attend the negotiating rounds as do officers from DFAT, sometimes more.

Senator CARR—Are the major costs of the negotiations salaries and travel?

Mr Wells—Certainly salaries and travel.

Senator CARR—I notice in the budget papers you are providing an additional \$12 million for two years for China and only \$4.3 for Japan. Why is there such a large discrepancy in the amounts allocated?

Mr Wells—The funding for China was a reflection of the fact that this was a whole new large FTA on top of an already existing substantial trade negotiating agenda. Neither DFAT nor other agencies felt that they could provide the resources necessary for that negotiation without extra funding. In the case of DFAT, as I have said, the China team is also able to do

much of the Japan FTA negotiations. Largely for that reason, DFAT did not feel that it was necessary to seek additional funding for the Japan FTA negotiations. Other agencies, as you would appreciate, have a smaller pool of trade negotiating resources to draw on, so they felt that they did need supplementation for the Japan FTA negotiations.

Senator CARR—I am told that Japan wants an inclusion of energy clause within any agreement.

Mr Wells—Japan has proposed the inclusion of chapters on energy and food security.

Senator CARR—What is the Australian reaction to that?

Mr Wells—Japan is free to make any proposal it chooses in the negotiations. We have not agreed that there will be chapters on energy and food security, but we are ready to listen to whatever proposals the Japanese make and arguments they have for that.

Senator CARR—Has Japan sought any exclusions for rice and dairy, for instance?

Mr Wells—We have not got to the stage of the negotiations where the Japanese have been able to, but I am sure that they will, and that would not come as any surprise to you or anybody else.

Senator CARR—Are you expecting any other issues which might be regarded as sensitive in any other sectors?

Mr Wells—In terms of Japan or Australia?

Senator CARR—Japan.

Mr Wells—Pretty much the whole of agriculture is going to be sensitive for Japan—beef, dairy, rice and even wheat, of which the Japanese do not produce a very large amount. That is going to be one very large area of sensitivity. Apart from that, on the services side there could be some areas of sensitivity depending on exactly what our industries want us to take up. We are still in the process of consulting extensively with the various services industries.

Senator CARR—What are the sensitive industries from Australia's point of view?

Mr Wells—From Australia's point of view, not many. The auto sector has indicated some concern about the FTA and said that it would not want to see existing tariff protection lowered for Japan.

Senator CARR—Is that the only one you are aware of?

Mr Wells—That is the only one I am aware of. Even the textiles, clothing and footwear industry has said that it is not particularly concerned about competition from Japan given the very high cost structure of that industry in Japan. So as far as I know it is only autos.

Senator CARR—Turning to China, what is the \$4 million allocated to 2007-08 and the \$4 million allocated to 2008-09 to be used for?

Mr Wells—That is to be used for salaries and for the officers working on the China FTA. It will also be used for travel costs to the negotiating rounds in Beijing. At the moment we tend to have about two out of every three negotiating rounds in Beijing, so that is quite a large cost. It will also be used for the extensive program of advocacy that we run on the China FTA,

which takes the form of visits to Australia by journalists who can, hopefully, on their return to China, write that the FTA is not a threat to China. We have had some reasonable results.

Senator CARR—Are we paying journalists to do this?

Mr Wells—We are paying Chinese journalists to come to Australia. We are arranging programs for them in various areas of interest to us—whether that is agriculture or services—and we are expecting them, on their return, to write articles in favour of the FTA, which they have done. We are also looking at programs of visits to Australia by influential Chinese in government and academia whom we can influence so that they can build a more receptive mood in China for the FTA.

Senator CARR—How much money is being spent on this?

Mr Wells—I would need to check on the exact figures that we have devoted to advocacy. It is probably a few hundred thousand for the last two years but I would need to get back to you with the precise figures.

Senator CARR—Does the Chinese government pay our journalists to travel there and write good stories about them?

Mr Wells—The Chinese government does not want the FTA; they have no interest in doing that. We do want the FTA so we do have an interest in doing it.

CHAIR—Are the invitations to those journalists and other influential people to whom you refer part of the normal media visits program or special visitors program, or are they over and above those?

Mr Wells—They are over and above those but they are closely related to the media visits and the special visits programs. They are very similar to what we did in our negotiations with the United States for the US FTA where we ran a very extensive program of visits to Australia to try to influence opinion in favour of the outcomes.

Senator CARR—Is this accepted practice?

Mr Wells—It is what we do when we want to secure an atmosphere that will help the negotiations.

Mr Chester—It is a long-standing normal practice of the department to have an international media visits program and to invite journalists from all parts of the world to Australia so they become more acquainted with Australia and portray a positive view of Australia when they go back home. Similarly, with the so-called special visitors program, which is for key policy makers and decision makers in various countries—to visit Australia and meet with our decision makers and others in Australia.

Senator CARR—It is basically hosted visits, is it?

Mr Chester—Yes, it is. This one is particularly focused on the FTA, but there is a general program that has been running for many years.

CHAIR—There is a gentleman called Dr Strahan in the department, Senator, who could burden you with a great deal more information about these programs at some length.

Mr Chester—Exactly. There will be a parliamentary report on this shortly.

CHAIR—We are hoping, Mr Chester.

Mr Chester—I would recommend it to all of you.

Senator CARR—Is the extra money that is being provided essentially to take into account that this negotiation process is taking longer than anticipated?

Mr Wells—Yes. The original funding was for two years. The extra money takes into account the fact that the negotiations are taking longer than was expected.

Senator CARR—I understood you to say, ‘We want this agreement.’ I am surprised that you put it in those terms. I thought we had a slightly different negotiating position from that.

Mr Wells—The Australian government wants a high-quality, liberalising outcome from the China FTA negotiations. Australia was very much the proponent of the FTA with China. The government remain committed to pursuing the negotiations actively on the basis that we obtain commercially meaningful results in all sectors. On that basis we are exerting ourselves to obtain that outcome.

Senator CARR—So that is what you mean by: ‘We want this agreement.’ I would be surprised if Australian manufacturers would see it in quite the same terms as you have expressed it.

Mr Wells—It is true to say that many elements in the Australian manufacturing sector are not in favour of the FTA, but I would argue that, even among the manufacturers, many of them would recognise that the FTA itself is going to make very little difference to the competitive pressures they face from China. The automotive and the textile, clothing and footwear sectors are in a slightly different position because they enjoy tariff protection of more than five per cent. But they are the only elements of the Australian manufacturing sector that do enjoy that protection.

Senator CARR—They employ 120,000 Australians?

Mr Wells—They employ a substantial number of Australians. The Australian government has no intention of changing the current industry plans either for PMV or TCF in the context of the China FTA negotiations.

Senator CARR—Which parts of Australian manufacturing would benefit from such an agreement?

Mr Wells—Probably the parts of the manufacturing sector that make more use of high technology and that produce niche products that are not being produced significantly in Australia. I would need to check the particular sectors.

Senator CARR—Yes, particularly in terms of the current export performance of those sectors. It would be interesting to compare that as well.

Mr Wells—We export a significant amount of what we call elaborately transformed manufactures to China.

Senator CARR—Our automotive sector is still our largest component of that sector, isn't it?

Mr Wells—Of our exports to China?

Senator CARR—It requires a domestic base to do that.

Mr Wells—I did not quite understand. Are you saying that the automotive sector is the largest component of our elaborately transformed manufactures?

Senator CARR—Yes.

Mr Wells—Of our production in Australia or our exports to China?

Senator CARR—No, our exports of elaborately transformed manufactures. The largest component of that comes from the automotive industry.

Mr Wells—Yes. By a long way that is true, although I would point out that other products such as medicines, medicaments and scientific and controlling instruments are growing very rapidly.

Senator CARR—They would have to grow awfully fast.

Mr Wells—I would need to look at that.

Senator CARR—Or the other sectors would have to contract awfully quickly.

Mr Wells—Our auto exports have been largely static, I think, over the last few years for a variety of reasons, but other ETM sectors have been growing reasonably fast.

Senator CARR—I understand the Chinese are having reservations about the need for separate chapters on education, telecommunications and financial services. Is that the case?

Mr Wells—Yes, and on a whole lot of other chapters as well, but certainly on those.

Senator CARR—What others? Can we have a list of those? Do we have enough time tonight?

Mr Wells—The Chinese also have reservations on including a chapter on competition policy. They have reservations on including the sort of chapter that we want on investment. They have reservations on including a chapter on electronic commerce. They have reservations on including a chapter on government procurement. It is quite a long list, although I think those and the ones you mentioned probably cover the areas that the Chinese continue to say that they do not want included in the agreement.

Senator CARR—With regard to quarantine issues and the SPS measures, they also appear to be quite significant in the reports that I noticed.

Mr Wells—The Chinese have agreed that there will be a chapter on SPS, but both we and the Chinese have agreed that it would be inappropriate for that chapter to address specific quarantine standards, which we both agree should be based on science.

Senator CARR—Does China have any intention to export any products that Australia had expressed concerns about?

Mr Wells—China has a range of requests that are with Biosecurity Australia, and some of those are the subject of work at the moment—just as we have a long list of products that are being examined by the counterpart Chinese agency.

Senator CARR—Is it possible to get a list of those?

Mr Wells—It is possible, but it really would be within the competence of DAFF and Biosecurity Australia. They are the agencies who have prime carriage of this.

Senator CARR—Have China requested any reprioritisation of their requests during these negotiations?

Mr Wells—Of quarantine?

Senator CARR—Yes.

Mr Wells—No, not in the context of the negotiations, because, as I said, both countries have agreed that it would not be appropriate to deal with specific quarantine standards as part of a trade negotiation. Whether the Chinese have requested a reprioritisation of their existing requests with BA I do not know. I think that question would be best addressed to them. I should just say in general that it is not unusual for countries to do this, because the requests were what we describe as technical market access—that is to say, quarantine—are to a large extent driven by commercial interests. It might well be that a request that you put in several years ago is no longer as important as it was once.

Senator CARR—At our previous discussions there was mention made of labour market questions. What is the situation?

Mr Wells—It is unchanged since your last question.

Senator CARR—So it remains the case that the Chinese are seeking to have temporary entry issues as part of this negotiation?

Mr Wells—So is Australia, but in different areas. The Chinese are in general interested in better access to the Australian labour market. We are exploring with them in exactly which areas they are seeking that better access, particularly whether the Chinese are talking about skilled professions or unskilled.

Senator CARR—It is not just a question of a free trade in goods then; it is a free trade in labour as well.

Mr Wells—No. It is highly unlikely to be a free trade in labour as well. No FTA, no trade agreement, has resulted in free trade in labour. Countries retain their right to set their own migration policies. That is recognised in all trade agreements, including in the WTO. That is a fundamental aspect of sovereignty.

Senator CARR—So, in these discussions, what has been the Chinese position with regard to the type of access they are seeking to the Australian labour market?

Mr Wells—With respect, I would rather not go into the detail of that because that would be to divulge the detail of China's negotiating requests to Australia, and these are government-to-government in-confidence negotiations. We have asked the Chinese not to divulge the detail of our requests, so we are obliged to do the same for China.

Senator CARR—What progress has been made with the ASEAN discussions?

Mr Wells—On the ASEAN FTA, which we are conducting with New Zealand, we are making, we think, reasonable progress. The negotiating team is at the moment in Palembang in Indonesia, negotiating with the ASEANs. The ASEANs continue to push very strongly for the agreement to be concluded by the end of the year, which we think is ambitious, but we are

working conscientiously with them to see if we can achieve that goal. At the moment, we are focusing very much on agreeing on what we call the modalities that will enable good outcomes on tariffs, but we will have to wait and see what the negotiators bring back from Indonesia.

Senator CARR—Has the question of the SPS been raised in the context of the ASEAN FTA?

Mr Wells—Yes, it has. Again, as I discussed in the case of China, there will be an SPS chapter. It will probably focus largely on cooperation and it will not address specific quarantine standards.

Senator CARR—Are you able to indicate when you will start to negotiate the actual text of an agreement with ASEAN?

Mr Wells—Much of the text has already been negotiated. At the moment, the focus is very much on the market access negotiations. I have mentioned goods, but we are also spending a lot of time talking to the ASEANs about how we can obtain good outcomes on services, which is a sensitive area for the ASEANs. There are some areas of the ASEAN FTA negotiations where we still have not obtained the ASEANs' agreement to include them. Obviously those parts of the agreement have not been drafted yet.

Senator CARR—With regard to Chile, you have not actually started that process—is that right?

Mr Wells—No. The government has not agreed that the FTA negotiations with Chile will begin, but we have had several discussions with the Chileans about how we might conduct an FTA if the government did agree that the negotiations were to begin, looking in particular at any similarities between our respective free trade agreements with the United States and discussing whether those similarities could perhaps form the basis of an FTA negotiation. But there has not been an agreement by the government to commence negotiations.

Senator CARR—And Malaysia?

Mr Wells—The Malaysian negotiations have moved fairly slowly over probably the last six months or so, for several reasons—the Malaysians have a very active FTA negotiating agenda and not all that many resources to service it with, and they also are very much focusing on their negotiations with the United States.

Senator CARR—So they are not ready?

Mr Wells—We think they are not ready to resume intensive negotiations with us, and in fact it could work to our interest if they do focus on their negotiations with the United States.

Senator CARR—So they can realise what a great deal they will get?

Mr Wells—No. The United States, not unsurprisingly, is probably going to be able to achieve more with the Malaysians than we will be able to do, so it could make sense for us to use what the United States manages to achieve with the Malaysians and try and build on that.

Senator CARR—In regard to the United States, is there a review process, and when is it set for?

Mr Wells—Do you mean a review of our FTA with the United States?

Senator CARR—Yes.

Mr Luck—There is a joint committee established under the FTA which meets regularly to review implementation of the FTA. It had its first meeting last year in March, and we are expecting its second meeting, held at ministerial level, to be held in the middle of this year—probably in July.

Senator CARR—Are you able to tell me what issues are under discussion?

Mr Luck—It will be a review of implementation. A lot has been achieved since the FTA was concluded in what I think is fairly technical follow-up. That has involved a lot of work, but it has proceeded fairly smoothly. We are expecting this joint committee meeting to have a fairly forward-looking agenda to consolidate the progress that has already been made and pursue some of the remaining market access issues. Generally it will be fairly positive, there having been, as I said, a number of issues settled since the FTA was completed.

Senator CARR—Let us have a look at the market access issues. What sectors are we talking about?

Mr Luck—We still have more to do for some agricultural products. We are interested in making further progress on market access for a range of horticultural products, for example.

Senator CARR—Can you name those?

Mr Luck—Cherries, mangoes, lychees and citrus.

Senator CARR—No sugar?

Mr Luck—Sugar is not included in the FTA. It remains our wish to have it dealt with at some stage, but that is not a near-term prospect. In addition, we continue to work hard to pursue what we would call a built-in agenda—for example, by extending the coverage of professional and financial services and government procurement. We have already made a lot of progress on those things but there is further ground to be made with financial services and so on.

Senator CARR—What about pharmaceuticals, from the Americans' point of view? I take it Australians are not the only side that raises issues.

Mr Luck—Those issues have been settled in the FTA. The American side retains a strong interest, given the importance of the pharmaceutical industry in the US, in the effective implementation of the understandings reached in the FTA, but they are effectively settled.

Senator CARR—When you say 'settled', do you mean the Americans have given up on their request regarding evergreening?

Mr Langman—You will be aware that the Americans have raised concerns about the evergreening amendments—the ALP amendments, as they were referred to—and they continue to do that occasionally and we continue to respond in the same way.

Senator CARR—So there has been no change in the position?

Mr Langman—No.

Senator CARR—Are the Americans seeking any reviews other than on pharmaceuticals?

Mr Luck—I think it is fair to say that the answer to that is no. At least, they have not advised us of their intention to do so. The joint committee in July that I referred to will be an opportunity for them to pursue any issues, but so far they have not drawn our attention to particular points.

Senator CARR—In terms of the Australian electoral cycle, what impact will that have on the development of any or all of these negotiations, Mr Chester?

Mr Langman—The FTA negotiations that are ongoing?

Senator CARR—Yes.

Mr Langman—I am not sure. I will probably need to take that on notice. The situation is probably somewhat different to the impact that an election would have on a multilateral negotiation. I am not aware of precedents.

Mr Wells—It would be fair to say that, to some extent, what we do as a department will depend on what the parties say about the FTAs. Clearly the convention is that officials will not engage in negotiations that are a political issue between the two parties. In the case of some of the FTAs—I am speculating because the elections are not upon us yet—it might well be that some of those are not an issue of contention. It might be that others are. In that case officials would need to consult at the time and work out what would be a prudent thing to do.

Senator CARR—Consult with whom?

Mr Wells—The decision will be taken to some extent by officials, given that the government will be in caretaker mode. What usually happens is that officials are very careful not to engage in negotiations unless it is absolutely necessary where those negotiations are on issues of policy difference between the two parties.

Senator CARR—But that is only during the caretaker period.

Mr Wells—After a new government is in place officials will be—

Senator CARR—I would expect that that would be the case. I do not presume that you would continue the policies of the old minister, whoever that was. I would hope not. However, I am interested to know: does that attitude in terms of consulting go to a period outside of the caretaker period?

Mr Wells—I do not quite understand the question. When a new government is in place, it will have instructions—

Senator CARR—No, I know. That is clear. Once the government is in place, it is clear.

Mr Wells—Pre-election?

Senator CARR—Yes.

Mr Wells—I think officials will follow the instructions of the government about how to conduct the negotiations.

Senator CARR—And during the caretaker period?

Mr Wells—Yes.

Senator CARR—Thank you. In regard to the APEC meeting, is there any advice that can be tendered to the committee as to the likely outcomes of that meeting?

Mr Wells—We cannot comment in any detail on what the outcome of the leaders' meeting will be, but certainly there is a range of significant areas where we are looking for outcomes. The Prime Minister has identified already, as you know, key priorities for the leaders' meeting. Those include clean development and climate change, as well as achieving an ambitious outcome from the WTO negotiations. APEC leaders traditionally do give support for outcomes from multilateral rounds. There is also the question of how to promote regional economic integration, including the proposal that has been raised by some of a free trade area of the Asia-Pacific.

Australia will also be hoping that leaders agree on a structural reform agenda within APEC which will focus on what we call 'behind the border' barriers to economic growth and trade. APEC also has a human security agenda, which will presumably be discussed by leaders. Australia is also pursuing steps to reform and strengthen the institutions of APEC. We are hopeful that there will be solid outcomes in all of those areas.

Senator CARR—I do not expect you to go much beyond that because of the nature of these discussions. In regard to the APEC secretariat, I have a question which goes to an administrative matter rather than a policy question. Are there proposals there to strengthen the secretariat, to appoint a permanent CEO of the APEC secretariat?

Mr Wells—Australia has made a proposal that what we call the executive director of the APEC secretariat be appointed for a fixed term. The current practice is that the executive director comes from the country that is hosting APEC that year, so there is a fairly rapid turnover. We think that the secretariat would be considerably strengthened with some continuity at the top. We are also proposing a modest increase in the resourcing of the secretariat and some additional staff, particularly economic analysts.

Senator CARR—To provide some research capacity?

Mr Wells—Yes.

Senator CARR—Would that make it more of an OECD type model?

Mr Wells—I think it would be a long way from being an OECD. The OECD is a very large organisation indeed—in fact, much larger than the WTO secretariat. The APEC secretariat will, for the foreseeable future, be a much more modest operation, in line with what APEC members want.

Senator CARR—The *Australian Financial Review* has made a number of comments on the agenda for APEC. There was an editorial last Friday which put the view 'APEC leaders must chart how to deal with the noodle bowl of overlapping trade agreements spreading across the region', which has been taken to be a comment with regard to the growth of these bilateral agreements, which as you know—a point we made just a moment ago—are quite controversial. There is not general agreement in Australian policy circles about these bilaterals, as distinct from the multilateral approach. Is there a proposal that the government is taking in seeking to deal with the issue of the spread of these trade agreements?

Mr Wells—First of all, I make the point that this famous ‘noodle bowl’ effect that people talk about is in fact very much exaggerated. It is much more of a technical discussion than people think. It usually refers to overlapping rules of origin that result from various FTAs. Those rules of origin can create uncertainty for traders. Beyond that, I do not know that what you describe as ‘overlapping’ FTAs are a negative feature. However, APEC does have under way some work which aims to set high and clear standards on a voluntary basis that APEC members can follow when they negotiate FTAs.

Essentially, you are talking about model FTAs. A lot of work has been done by a range of APEC members, trying to come up with what you could call state-of-the-art FTA chapters covering the full range of issues that you find in many FTAs. Those tests would be a resource, and we would certainly hope that APEC members would make use of that resource as they negotiate FTAs. But it would be voluntary.

Senator CARR—Do you believe that there will be a discussion on the future of APEC within the region in terms of ensuring that APEC remains the pre-eminent forum within the region?

Mr Wells—There will be a discussion of regional economic integration and how APEC can contribute to that. That was agreed by APEC leaders at their last meeting in Hanoi. So we assume that APEC leaders will be discussing how APEC can remain at the forefront of the regional economic integration agenda.

Senator CARR—But you have the ASEAN Plus Three and the East Asian summit. It has been suggested that there is a range of competing organisations now being established. To what extent is that development likely to undermine the concept of the pre-eminence of APEC?

Mr Wells—APEC leaders will, as I said, be discussing what practical steps they can take to advance regional economic integration, which is ultimately what all of these proposals are designed to achieve—or should be designed to achieved. It is our hope that they will be making a practical contribution to ensuring APEC’s relevance in the region.

Senator CARR—Is the United States expressing a desire to remain engaged with APEC?

Mr Wells—Yes. The United States remains fully engaged in APEC. President Bush will be attending this APEC meeting.

Senator CARR—Is the government pursuing a position on a moratorium on membership?

Mr Wells—There is, as you know, a moratorium on an increase of APEC’s membership. A substantial number of countries have been proposed for APEC membership. So a decision will have to be taken by APEC leaders on whether or not to maintain the moratorium and, if not, which countries will become members of APEC.

Senator CARR—Is that likely to be resolved at this meeting?

Mr Wells—It will have to be resolved one way or the other, because the moratorium will be maintained or it will not be maintained. The only way it will not be maintained is if leaders agree on who the new members will be.

Senator CARR—It will not be resolved by default—by simply adjourning it?

Mr Wells—If it is by default then the moratorium will be maintained.

Senator CARR—India is seeking membership. Is that correct?

Mr Wells—India is certainly seeking membership.

Senator CARR—Is Australia supporting India's entry?

Mr Wells—That is the Prime Minister's decision. I cannot speculate on that.

CHAIR—Mr Chester, I thank you and your officers very much for your assistance over the last two days. You have taken a number of matters on notice. We would appreciate return of those as soon as possible. I will encourage senators to get any further questions on notice to you expeditiously.

Committee adjourned at 10.53 pm