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SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION
COMMITTEE

ESTIMATES

(Budget Estimates)

WEDNESDAY, 1 JUNE 2005

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SENATE**FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE****Wednesday, 1 June 2005**

Members: Senator Sandy Macdonald (*Chair*), Senator Hutchins (*Deputy Chair*), Senators Ferguson, Mackay, Payne and Ridgeway

Senators in attendance: Senators Allison, Chris Evans, Faulkner, Ferguson, Hogg, Lightfoot, Ludwig, Sandy Macdonald, Payne, Robert Ray, Stott Despoja and Tchen

Committee met at 9.18 am

FOREIGN AFFAIRS AND TRADE PORTFOLIO**In Attendance**

Senator Hill, Minister for Defence

Department of Foreign Affairs and Trade**Portfolio overview**

Dr Geoff Raby, Deputy Secretary

Ms Penny Williams, First Assistant Secretary, Corporate Management Division

Ms Ann Thorpe, Chief Finance Officer

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**

Ms Lydia Morton, First Assistant Secretary, North Asia Division

1.1.2: South and South-East Asia

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

Mr Scott Dawson, Head, Australia-Indonesia Partnership for Reconstruction and Development Secretariat

1.1.3: Americas and Europe

Mr Jeremy Newman, First Assistant Secretary, Americas and Europe Division

1.1.4: South Pacific, Middle East and Africa

Mr David Ritchie, First Assistant Secretary, South Pacific, Africa and Middle East Division

Mr Bassim Blazey, Head, Iraq Task Force

1.1.5: Bilateral, regional and multi-lateral trade negotiations

Mr Bruce Gosper, First Assistant Secretary, Office of Trade Negotiations

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

Mr Ric Wells, First Assistant Secretary, China Free Trade Agreement Task Force

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

Mr Michael Mugliston, Head, Asia Trade Task Force

Mr Jeremy Newman, First Assistant Secretary, Americas and Europe Division

Ms Lydia Morton, First Assistant Secretary, North Asia Division

Mr David Ritchie, First Assistant Secretary, South Pacific, Africa and Middle East Division

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

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

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

Mr Michael Mugliston, Head, Asia Trade Task Force

1.1.7: International organisations, legal and environment

Ms Caroline Millar, First Assistant Secretary, International Organisations and Legal Division and Ambassador for People Smuggling Issues

Mr Chris Moraitis, Senior Legal Adviser

Ms Jan Adams, Ambassador for the Environment

1.1.8: Security, nuclear disarmament and non-proliferation

Mr David Stuart, First Assistant Secretary, International Security Division

Mr Les Luck, Ambassador for Counter Terrorism

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

Output 1.2: Secure government communications and security of overseas missions

Mr Allan McKinnon, 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, Public Diplomacy, Consular and Passports Division

Ms Bronte Moules, Assistant Secretary, Executive, Planning and Evaluation Branch

1.3.2: Services to attached agencies

Ms Penny Williams, First Assistant Secretary, Corporate Management Division

1.3.3: Services to business

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

1.3.4: Services to state governments and other agencies overseas and in Australia

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

Output 1.4: Services to diplomatic and consular representatives in Australia**1.4.1: Services to diplomatic and consular corps**

Ms Louise Hand, Assistant Secretary, Protocol Branch

1.4.2: Provision of protection advice through liaison with the Protective Security Coordination Centre

Ms Louise Hand, Assistant Secretary, Protocol Branch

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

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

2.1.2: Passport services

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

Mr Robert Nash, Assistant Secretary, Passports Branch

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, Public Diplomacy, Consular and Passports Division

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

Mr Nicholas Coppel, Executive Director, Economic Analytical Unit

3.1.2: Projecting a positive image of Australia internationally

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

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

3.1.3: Freedom of information and archival research and clearance

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

Output 4.1: Property management

Mr Peter Davin, Executive Director, Overseas Property Office

Output 4.2: Contract management

Mr Peter Davin, Executive Director, Overseas Property Office

Enabling services

Ms Penny Williams, First Assistant Secretary, Corporate Management Division

Ms Ann Thorpe, Chief Finance Officer

Ms Bronte Moules, Assistant Secretary, Executive, Planning and Evaluation Branch

Australian Agency for International Development (AusAID)**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**

Mr Bruce Davis, Director General

Mr Charles Tapp, Senior Associate

Mr Murray Proctor, Acting Deputy Director General, Asia and Corporate Resources

Mr Alan March, Assistant Director, General East Timor, Humanitarian and Regional Programs Branch

Ms Judith Robinson, Assistant Director, General Pacific Branch

Ms Jacqui De Lacy, Assistant Director, General Papua New Guinea Branch

Mr Peter Versegi, Assistant Director, General White Paper

Mr Peter Callan, Acting Assistant Director, General East Asia Branch

Mr Peter Smith, Acting Assistant Director, General Australian Partners Branch

Mr Robin Davies, Assistant Director, General Indonesia Branch

Mr Mark Fleeton, Assistant Director, General Office of Review and Evaluation

Mr Jeremy Guthrie, Director, Budget Unit

Mr Neil McFarlane, Director, International Policy and Organisations

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 Murray Proctor, Acting Deputy Director General, Asia and Corporate Resources

Mr Peter Smith, Acting Assistant Director General, Australian Partners Branch

Mr Jeremy Guthrie, Director, Budget Unit

Ms Allison Sudradjat, Senior Representative, AIPRD Jakarta

Australian Trade Commission (Austrade)**Portfolio overview****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 Leith Doody, Acting Corporate Services Director

Mr Greg Field, Chief Finance and Information Officer

Ms Margaret Ward, General Manager, Export Finance Assistance Programs

Mr Michael Vickers, Manager, Exporter Initiatives Mr Tim Harcourt, Senior Economist

Mr Peter Gunning, Group Manager Business Support, Corporate Finance

Ms Hazel Bennett, Project Manager, Analysis and Planning

CHAIR—I declare open this meeting of the Senate Foreign Affairs, Defence and Trade Legislation Committee. I welcome Dr Raby, Deputy Secretary, and officers of the Department of Foreign Affairs. The committee has before it the particulars for proposed budget expenditure for the year ending 30 June 2006 and the portfolio budget statements for the Foreign Affairs and Trade portfolio. Today the committee will examine the Department of Foreign Affairs and Trade, beginning with the portfolio overview, followed by the outputs and enabling services. Please note that Foreign Affairs and Trade outputs 1.1.5, bilateral, regional and multilateral trade negotiations, and 1.1.6, trade development/policy coordination, will be examined tomorrow evening from approximately 7.30 pm onwards.

When officers are first called upon to answer questions they should state clearly their names and positions. When written questions on notice are received, the chair will state for the record the name of the senator who submitted the questions and the questions will be forwarded to the department for an answer. The committee has resolved that Thursday, 21 July is the return date of answers to questions taken on notice at these hearings. Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. I also remind witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. Minister, do you or Dr Raby wish to make an opening statement?

Senator Hill—No.

CHAIR—Are there questions on the portfolio overview?

Senator FAULKNER—I wanted to ask some staffing questions. I have had an informal discussion with the committee secretariat about the best place to source some of this information, so the committee secretariat are at the moment accessing the portfolio additional estimates statement. A copy of that is being brought to the committee, which will save some time for us.

Ms Williams—Senator, I also do not have a copy of that with me—

Senator FAULKNER—Our extremely efficient secretariat might be able to help you. What I was keen to have a picture of was the overall staffing position in the department, broken down on a casual, part-time, non-ongoing and full-time basis.

Ms Williams—The Australia based headcount snapshot figure for the last fortnight was 1,959. I will have to check through my figures to get the non-ongoing figure, but the majority of those are ongoing. Obviously, that is a snapshot headcount figure, not an FTE figure.

Senator FAULKNER—As of last week, was it?

Ms Williams—Yes. That includes 137 non-ongoing staff.

Senator ROBERT RAY—What is the definition of ‘non-ongoing’?

Ms Williams—Temporary.

Senator FAULKNER—Would you be able to provide some historical material—going back perhaps about 10 years—on the number of departmental employees in those categories? I am looking for a headcount. It might be easier to take a question like that on notice. I do not expect you necessarily to have that at your fingertips, but I would imagine it would be pretty simple to access that from the information that you have available.

Ms Williams—Just to confirm: you are after a headcount figure broken down into non-ongoing, ongoing—

Senator FAULKNER—The categories I mentioned before, perhaps from 1996 to 2005. That would be helpful. Have you got a current figure for locally engaged staff?

Ms Williams—Yes, I do. The headcount figure for DFAT locally engaged staff was 1,401—also during May.

Senator FAULKNER—Without going into great detail, are you able to provide a broad picture to the committee of the pattern of locally engaged staff? Has the figure moved up or down or remained relatively stable in recent years?

Ms Williams—I think at previous committees we have been through this in relation to the devolution of some of the staff back to Defence. So the number has reduced slightly and is mainly attributable to that, but there have also been some increases with the opening of posts. I think it would be fair to say that there is a slight trend down and it is stabilising.

Senator FAULKNER—Right. Perhaps, as I say, if you could also take on notice some figures about locally engaged staff, we can have a look at what the words ‘slight trend down’ actually mean. If you could provide that information to the committee, I would appreciate it.

Senator ROBERT RAY—Both figures you gave us show that, in the last nine years, DFAT has by your definition 562 fewer staff than it did in 1996.

Ms Williams—Senator, are you using an annual report figure from—

Senator ROBERT RAY—What I am using are the figures that were produced in the annual report in 1996 and then the figure you gave us a few minutes ago, for a week ago, which I think was 1,959. The annual report covering 1996 shows a staffing level of 2,521. So I was just confirming that the decline—we don't have to get the maths exactly right—is approximately 560.

Ms Williams—According to the annual report figures, yes.

Senator ROBERT RAY—I am just wondering, given that short-term departures from Australia in 1996 were 2.7 million and now are 4.4 million, how that reduction of staffing is enabling you to cope with what must be an increased workload in looking after the interests of Australians travelling overseas.

Ms Williams—There were obviously some positions overseas and also in Australia. I think it is fair to say that over that period we really have become a much more flexible, more adaptable and more highly skilled work force, including on the consular side. If you look at the sorts of reductions that we have made, they have really been on the administrative side, with administrative streamlining and also the introduction of new technologies. In relation to the consular side of the work, the consular branch has actually expanded to meet exactly the sorts of demands that you are talking about. You would also be aware of our crisis centres from previous committees. The sort of training we provide, the staff and our response times in handling consular emergencies or other emergencies, I think, have also been quite notable.

Senator FAULKNER—The broad picture that I think I have gained sitting at this committee table over recent years—and you might care to comment on this, Dr Raby—is that there is much greater pressure on the consular staff than has been the case. The pressure on those staff is growing—pressure and responsibilities. That is fair, isn't it?

Dr Raby—I think there is a high level of service provided to Australians overseas, and the minister is very keen to ensure that that is maintained. We have made most of the efficiencies in administrative or support areas, not in policy or consular areas.

Senator FAULKNER—Is it a case of more pressure, more work, fewer resources?

Dr Raby—No, I think it is better allocation of resources and greater efficiency in which the resources are deployed. Certainly, we feel we are in a position where we can do the job that the government asks of us.

Senator ROBERT RAY—How do you set your staffing levels? Is it entirely at the discretion of your department or is it a matter of discussion at any stage with the department of finance?

Dr Raby—The staffing levels reflect our budget allocation and we work within that envelope.

Senator ROBERT RAY—All right. When the budget allocation is made and discussed with the department of finance, do staffing levels constitute part of that negotiation?

Ms Thorpe—No. We discuss dollars with the department of finance. How we spend our dollars is part of the whole devolution. It is part of our responsibility to spend our dollars to meet the outputs of government.

Senator ROBERT RAY—I would have thought one of the factors determining how you spend your dollars would be how many staff you needed to employ. I would have thought that one of the arguments to and fro as to the amount of resources allocated in the department would be the required staffing level.

Ms Williams—Obviously we keep our staffing resources under review and we are constantly making decisions about where we allocate our resources. In cases where we identify the need for additional staffing resources for a particular area of work or an emerging priority, we of course build that in to any discussion that we have with Finance. An example of that would be the new security measures—the additional funding for security.

Senator ROBERT RAY—Your department got additional funding, didn't it, rather than having to make savings to fund security?

Dr Raby—Yes.

Senator ROBERT RAY—That is just a snide attack on the department of finance. It did not extend the same courtesy to parliamentary departments. You need no longer consider that.

Senator FAULKNER—Editorial comment.

Senator ROBERT RAY—Only very briefly. If it does not involve too much work—I do not want to create work—would it be possible to indicate where those 562 staffing positions disappeared from? What I mean by that is to indicate where staff losses have been in terms of overseas versus Australia, administrative versus policy and those sorts of things. I am asking you to take that on notice and saying to you that, if a large amount of resources have to be devoted, just respond to me in that way. But if it can be answered I would appreciate it.

Senator FAULKNER—What about pressures? We talked about pressure on the consular staff. What about staffing resources in the policy area? Can you make a broad assessment of that?

Dr Raby—As I said, I think that we are very comfortable that we are able at present to do the jobs the government asks us to do. We have adopted very flexible approaches to staffing and various task forces. You would have seen those that have been created to negotiate some of the big bilateral trade deals. We are able to move staff around to serve peak loads and peak demands. Also I think we have become a lot better at how we use our time. There is a lot more discipline over meetings and we get much more value from those processes. New technology is also very heavily used. That, in a department that depends on communications for its lifeblood, has been a very significant contributor to increased productivity. As Ms Williams said, having said that, we constantly have staffing resources under review and constantly seek to ensure that we are able to perform the jobs that the government asks us to do.

Senator FAULKNER—So you are saying to the committee that you believe the staffing levels are adequate to meet all the demands being placed on the department?

Dr Raby—I think we are meeting those demands and I think we are confident that we have adequate resources to do the jobs that we are currently asked to do. Priorities in this portfolio, as you know, change and quite unexpected demands arise. That is, in addition to our flexible approach to staffing, why we need to keep staffing resources and all of the resources of the department constantly under review.

Senator ROBERT RAY—What is your attrition rate on staff per year? Do you have a target? Some departments do have a target that they regard as ideal in terms of turnover.

Ms Williams—I do not know if I have our attrition rate, but I think we are notable for being one of the departments that have a very high retention rate. The ANAO has been looking across departments, as you are probably aware, at work force planning. I think we also have—and this fits in with what Dr Raby was saying—quite a sophisticated approach to work force planning because of the nature of our operations overseas and in Australia. But I do not actually have our attrition rate and, no, we do not have a target. We have a high retention rate.

Senator ROBERT RAY—You tell us you have a sophisticated approach; what is that approach? If you have a very high retention rate, it does mean trouble many years hence when they are all ready to retire. A very smooth staffing turnover is always the aim, as I understand it, although the cost of training and retraining means the higher the retention rate, the less your training costs are. You can get big humps.

Ms Williams—I understand what you are saying.

Senator ROBERT RAY—How does your sophisticated approach avoid this?

Ms Williams—Obviously, needing to staff our posts overseas means that we need to make quite focused decisions about where people go and what sort of skills they have for those positions. We run a postings and placements process that is centralised with the staffing branch. That involves input from staff themselves in terms of their own career development and training requirements. It also involves posts and work areas identifying the sorts of skills that they need. We run the placements processes every couple of months and a postings process twice a year. So we are constantly refining the skills that we need to meet our posting requirements and also our requirements at the Canberra end.

Senator ROBERT RAY—As we have gone through this period of staff reductions, would you say that there have been a lot more top-ended salaries than bottom-ended salaries appearing in the department?

Ms Williams—Senator, are you asking—

Senator ROBERT RAY—What tends to happen as staffing comes down in a department is that the higher salary bands remain fully occupied or increase and it is the lower ones that go. I am asking whether this is what has happened in this department.

Dr Raby—We can get some numbers for you on that. We will take the facts of the case on notice. I will make a general observation. Obviously, given that technological change has driven so much of the productivity growth in the department in recent years—and it is similar in all white-collar industries—you will find that the productivity gains are first and foremost made at the lower skilled level of the work force distribution. Also, there is another trend for

us—that is, the nature of the foreign and trade policy agenda, with a number of very big projects that we have had to deal with, particularly on the trade side, such as the US FTA, FTA negotiations with Thailand, ASEAN and so on. We have needed to have more senior officers leading those major international negotiations to reflect both the importance and complexity of negotiations and the levels of people you deal with on the other side.

You will see that we have created a number of senior level, dedicated positions, including an ambassador for counter-terrorism, an ambassador for the environment and so on. Those positions deal largely with international negotiations that require people at that level and reflect the importance of the issues. It is also a way for us to make our work force more flexible, because under those structures we have been able to move people in and out at short notice to meet peak load demands when policy issues are developing. If the statistics show that that has been the trend, I think there are at least two drivers of it: technological change and the nature of the international agenda we are dealing with.

Senator ROBERT RAY—What was your efficiency dividend for this financial year?

Ms Thorpe—Senator, I do not actually have the figures for 2004-05, but I do have the figures for 2005-06. Will that satisfy you?

Senator ROBERT RAY—Yes.

Ms Thorpe—For 2005-06, our total efficiency dividend was \$7.223 million.

Senator ROBERT RAY—What is that in percentage terms of your total budget?

Ms Thorpe—It is 1.25 per cent of our total budget, but we remove out of that the passports component because we have a direct agreement with the department of finance—a cost recovery based agreement—so it is worked out on our appropriation, less the amount for passports.

Senator ROBERT RAY—Dr Raby, it is said that very large departments find it easy to meet an efficiency dividend and very small ones find it extremely difficult to do so. You can challenge this, but I would classify your department as a middle department—in terms of size, not influence. How do you find having, year on year, to achieve the savings to meet the efficiency dividend and, I assume, fund some of your pay rises?

Dr Raby—Any savings are difficult. That is the nature of the exercise. I would say the efficiency dividend overall has been, for us, a fairly positive driver of productivity growth. It has forced us to look more carefully at priorities and to look at how we can achieve those objectives to continue to deliver on the jobs the government sets us and also to be able to have pay rises according to the certified agreement.

Senator ROBERT RAY—We often speculate at these committees whether you can have efficiency dividends going on forever. Have you ever looked at whether there will ever have to be an end point where the savings will just become counterproductive?

Dr Raby—We operate in the framework that we are given.

Senator ROBERT RAY—You just follow orders; okay.

Senator FAULKNER—I want to ask about the issue of language skills within the department. Do you keep measures of departmental employees who have language proficiencies?

Ms Williams—Yes, we do.

Senator FAULKNER—Could you very briefly outline to the committee what the proficiency levels are?

Ms Williams—We have a proficiency scale of five, split into speaking and reading. We talk about S1R1 as basic, through to S5R5 as native speaker or near native speaker. We aim to train people to S3R3, which is professional level proficiency.

Senator FAULKNER—So S is for speaking and R is for reading.

Ms Williams—Yes.

Senator FAULKNER—And S3R3 is the key level?

Ms Williams—That is the standard that we aim most of our training at.

Senator FAULKNER—Do you have figures that indicate how many employees would have proficiency at or above the S3R3 level?

Ms Williams—I have a figure for staff having been tested in the last six years as S3R3 proficiency. We have a second element to this. We have tier 1, tier 2 and tier 3 languages—that is, not all languages but the way that we categorise them. Approximately 30 per cent of staff have tested as professionally proficient, S3R3, or above in the tier 1, tier 2 and tier 3 languages within the last six years.

Senator FAULKNER—Can you explain to me tier 1, tier 2 and tier 3?

Ms Williams—We undertook a review of our language training approach strategy a couple of years ago and determined that we would have a structure of priority languages—the languages that we determined that you really needed to have proficiency in to operate. Prior to that, we were spreading our resources across almost all languages and giving people an S1, S2 type approach. So we determined the tier structure. Tier 1 is Japanese, Mandarin and Indonesian. Tier 2 is Arabic, French, Korean, Spanish and Thai. Tier 3 is Bislama, Burmese, Cantonese, Farsi, German, Greek, Italian, Khmer, Lao, Malay—do you want me to keep going?

Senator FAULKNER—Is it basically the rest?

Ms Williams—No, it is not the rest.

Senator FAULKNER—Sure. Give us the full picture.

Ms Williams—Melanesian Pidgin, Polish, Portuguese, Russian, Tok Pisin and Vietnamese.

Senator FAULKNER—So what this really indicates, which sounds to me as if it is sensible, is that you have identified certain languages for priority training. Is that correct?

Ms Williams—That is right. As I said, I think the previous approach was to give a lot of people a low to medium level of language training. We turned that around and said, ‘What are our priority languages? What do we need to put into that to get them to a professionally

proficient level of training?’ We still provide six weeks basic language training—really basic, how-to-get-around stuff—across the range of languages as well.

Senator FAULKNER—I assume that means that the 30 per cent figure can be broken down further into the tiers.

Ms Williams—Yes.

Senator FAULKNER—I also assume—and correct me if I am wrong—that there would obviously be some crossover between the tiers. There will be some people who speak languages that appear in more than one tier—in two or possibly three tiers.

Ms Williams—That is right.

Senator FAULKNER—I am not necessarily expecting it to add up to 30 per cent, but it would be close, I imagine. Could you give us that breakdown? Let me be clear: 30 per cent of the department have language skills at the S3R3 level or above. That is correct, isn’t it?

Ms Williams—Yes.

Senator FAULKNER—Now that you have provided that information, which is helpful, about the three tiers, can you break the 30 per cent down into the tiers?

Ms Williams—I have it for tier 1. I will need to check and get back to you for the other two tiers. For tier 1 languages, 61 staff have S3R3 Indonesian, 45 Japanese and 67 Mandarin. In fact, I can even give you comparative figures, if you would like, from 10 years ago.

Senator FAULKNER—If you want to put them on the record, that is fine.

Ms Williams—These are 1994 figures. For Indonesian it was 36, 24 in Japanese and 31 in Mandarin.

Dr Raby—The point with that is that it is from 10 years ago from a higher staffing base, so the proportions are significantly bigger now.

Senator FAULKNER—But would it be fair to say that the priority languages may well have devolved and changed over the ten-year period? This would not be a static picture, would it? Did you have priority 1, 2 and 3 10 years ago?

Dr Raby—I do not think so.

Senator FAULKNER—That is the thing. The trouble always with these sorts of approaches and figures is that you have to try and compare apples with apples. The general picture is obviously helpful to understand. I suppose the other element of this, Dr Raby, that comes into play is what level the staff are who have this level of language proficiency. Are we talking about APS 4s, APS 6s, SES band 1s, whatever it might be? I do not necessarily expect you to have those figures with you. But, if it is not too difficult a task, it might be useful information to be taken on notice.

Ms Williams—I am happy to do that. One of the things that we did as part of the language training review was to pick up exactly the point that you are referring to in terms of encouraging staff to retain their language proficiency as they move through the organisation. We have been quite active in doing that, and this includes provision of immersion courses, refresher courses and ongoing lunchtime classes. As you would imagine, Senator, once you

make that sort of commitment to somebody in terms of language training, the key is to continue to maintain it until the ambassador or SES level.

Senator FAULKNER—With your overseas missions, do you have language designated positions there?

Ms Williams—Yes, we do. We have two categories: language designated and language desirable.

Senator FAULKNER—What are ‘language designated’ and ‘language desirable’?

Ms Williams—‘Language designated’ means that the person selected for the post either already has a language to an S3R3 level or will be provided with language training to ensure that they reach that level. There are fewer ‘language desirable’ positions. That suggests that it is not mandatory but would be encouraged and that we would make an effort to ensure that someone was provided with language training. That category is a bit more flexible.

Senator FAULKNER—Is there a pattern to these language designated and language desirable positions at overseas posts? Are these identified by proportion of staff at posts or the like or do you insist on having one or two in each position?

Ms Williams—I do not have the figures in front of me on language designated positions across the network, but it was one of the issues that we looked at at the time of the language training review, and we changed our approach to language training. Obviously, if we were not going to spread our language training across all staff, and we were going to make decisions about targeting language training, we then needed to determine who we were going to target and in which positions. In consultation with posts, and given the nature of the business and the level of interaction, a range of factors determined what would be a language designated position. That is not static either; that is something that you would constantly keep under review.

Senator FAULKNER—Is there broad policy guidance on this or is it done on a case by case or post by post basis?

Ms Williams—Case by case, post by post.

Senator FAULKNER—Do you have a list for each post of how many language designated and how many language desirable positions—

Ms Williams—Yes, I do. I can follow that up for you today.

Senator FAULKNER—If you would not mind taking it on notice and providing that; it sounds like it is a matter of pulling out a sheet of paper. That would be helpful. What about the situation with heads of mission? Is there a requirement of a certain language level for the local language? Is there a requirement that heads of mission are at the S3R3 level or are there any requirements at all?

Ms Williams—No, there is not a requirement. Having said that, there are some language designated heads of mission positions overseas. I do not have the list in front of me but I can think of some off the top of my head, because I know them. Heads of mission for Spanish speaking posts receive language training, for example, and they are language designated positions.

Senator FAULKNER—Is this a limitation on the department as far as filling particular posts is concerned? Dr Raby, is this something that you have to take account of when you look at who might be an appropriate person to serve as a head of mission—in other words, language competence at a minimum of the S3R3 level?

Dr Raby—As you know, head of mission appointments are made by the minister, who makes a recommendation to the Prime Minister. For head of mission there are a number of factors that would come into play, even in posts where language may be desirable, which need to be weighed and balanced—and the minister would carefully do that, I am sure—such as seniority, particular skills and the context. There may be some posts where it is very difficult for a head of mission to operate without the local language, either because his or her peers would normally all have the local language and that therefore makes it difficult to operate or because the host government very narrowly works in the local language and does not have the capacity or facility to operate in another language. For example, a post like the Netherlands is an extreme case, but their senior government officials, ministers and others would all be able to work in English, so in that particular case language competency, although something that would be considered, would be given much less weight in the mix of things than perhaps other skills.

Senator FAULKNER—Let's take East Asia as an example. Can you tell me whether the Australian ambassadors in the East Asian posts meet the S3R3 language ability level?

Ms Williams—I do not know off the top of my head. I certainly know that the senior deputies in those posts—so, Beijing and Tokyo—have higher than S3R3 language competence.

Senator FAULKNER—The reason I ask this is that it has been suggested to me, whether or not it is right, that they do not.

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

Senator FAULKNER—I would have thought this might be an issue, Dr Raby, that might have come across your desk if that is the case.

Dr Raby—We will take it on notice, Senator.

Senator FAULKNER—But you are not aware of that?

Dr Raby—We will take that on notice.

Senator FAULKNER—But you are not aware of this issue?

Dr Raby—The issue itself?

Senator FAULKNER—Well—

Dr Raby—It hasn't been—

Senator Hill—Somebody has been complaining they did not get promoted; is that the story?

Dr Raby—It has not been raised with me; I can say that, certainly. But I think the point that Ms Williams is making is that now all senior deputies in those posts are required to be language competent, and then with the head of mission there is a range of other considerations

as well as language that need to be factored in. Certainly, no-one has raised this point with me.

Senator FAULKNER—What you are saying is that deputy heads of mission and the like probably do have S3R3 language ability or above, but as I say what has been suggested to me is that, particularly through East Asia, the ambassadors themselves, the heads of mission, do not reach this level of language ability, and it is a pattern across the board and it is an issue.

Dr Raby—We will get the facts for you. As for the question, it certainly has not been raised with me. One thing I can say, from dealing—to quite a large extent, given my responsibilities for North Asia—with the Australian business community, senior Australian visitors and those who have got major interests in North Asia, is that I have only heard the most positive comments made about our heads of mission in these places. I have not heard this raised by anyone.

Senator FAULKNER—There is no point in shooting down straw men here. There is no suggestion—I am certainly not making any and, to be honest, I have not heard any—that there is any broader question about our heads of mission. I am focusing on the issue, which I am sure you are aware of, that goes to the level of language ability. I have heard about it. If it has been raised with me, Dr Raby—and I am so far out of the loop it is not funny—I am surprised that you are not aware of it. If you could let us know I would appreciate it. In posts like Beijing, Jakarta, Tokyo and Bangkok I thought it would be well known in the department whether our heads of mission had language skills at the S3R3 level. I thought you would be able to say but you cannot say. You can only say that the deputy heads of mission are at that level or above. Is that right?

Dr Raby—Even that we will take on notice. That is the general impression, I think, that we have.

Senator FAULKNER—I would appreciate you taking that on notice if you are not able to say.

Senator ROBERT RAY—I have asked at a previous estimates committee about a case concerning a suspended DFAT officer, whose name was then released in this process—not by me—Trent Smith. Can I have an update of where that is up to? I was not at the last estimates. I do not know that it was even raised—it was not raised. It was possibly quite a few months ago.

Dr Raby—Senator, you recall there was an investigation into a possible breach of the code of conduct.

Senator ROBERT RAY—Was that one?

Dr Raby—Pardon?

Senator ROBERT RAY—You said ‘a possible’, so is that one?

Dr Raby—No, there were three allegations. You recall also that Peter Kennedy had been appointed to do the investigation. His report was delivered to the department and to Mr Smith on 13 April 2005. Mr Kennedy found that Mr Smith did breach the code of conduct in respect of all three allegations referred to Mr Kennedy relating to the provision of assistance by Mr Smith to the opposition in the preparation of Senate estimates questions. Mr Kennedy found

that in respect of each of these three allegations Mr Smith breached the APS values by failing to uphold the apolitical APS value and failing to uphold the integrity of the APS.

Senator ROBERT RAY—I did ask previously and I was supplied with the total departmental resources. I think the answer that I was given on 3 June 2004 to that point in time by Mr Chester was \$350,000 to \$360,000. Have you got an updated figure for that?

Dr Raby—Yes. The latest figure we have to date, the total cost exclusive of GST, is \$451,963, comprising total legal costs, GST exclusive, of \$345,583; and Mr Kennedy's fees, GST exclusive, of \$106,370.

Senator ROBERT RAY—He was paid on a per diem rate.

Mr Moraitis—No, he was paid on an hourly rate in accordance with work performed.

Senator FAULKNER—What was the hourly rate, please?

Mr Moraitis—It was, as I recall, \$150.

Senator ROBERT RAY—Do those figures take into account Mr Smith's remuneration for, what is it now, 2½ years?

Mr Moraitis—No. The code of conduct figures were the figures that Dr Raby spelt out. Since Mr Smith was suspended in February 2003, the salary figure would be about \$145,000.

Senator ROBERT RAY—Is that in addition to the \$451,000?

Mr Moraitis—Yes, it is.

Senator ROBERT RAY—Are there any other additional costs, if I am just looking for the totality of what this exercise cost?

Mr Moraitis—That is the total cost.

Senator ROBERT RAY—There are no other?

Mr Moraitis—Not that I am aware of, no.

Senator ROBERT RAY—Mr Kennedy investigates this and brings down a verdict, does he? Is that the way the process works? Just help me out here.

Mr Moraitis—A verdict on?

Senator ROBERT RAY—The three things he was investigating.

Mr Moraitis—Yes, he is the determining officer.

Senator ROBERT RAY—Am I wrong to characterise it as an investigation? Is it more an evaluation? Obviously he talks to witnesses, accumulates evidence and then brings down a finding. I am trying to grasp exactly what the role is here.

Mr Moraitis—It is very much an analysis of the facts in relation to the allegations brought to his attention to consider. So in a way it is investigating, considering statements by relevant witnesses, yes.

Senator ROBERT RAY—I should have asked this question early on: are any of these findings subject to further legal action?

Mr Moraitis—Not that I am aware of, no.

Senator ROBERT RAY—That is good; I can ask questions, then.

Dr Raby—The department has appointed—

Senator ROBERT RAY—I will get to that.

Dr Raby—Okay.

Senator ROBERT RAY—There has been no external legal appeal. I did not want to infringe on any court deliberations. Having established that, anticipate my question, Dr Raby, and answer what happens next, if you were about to.

Dr Raby—The next steps. The department has appointed an independent external delegate, Mr Dale Boucher, to determine what, if any, sanctions should apply in respect of the breaches of the APS code of conduct by Mr Smith.

Senator ROBERT RAY—Is that an agreed appointment? I do not know the process here. Who actually appoints that person to consider penalty?

Dr Raby—The secretary of DFAT.

Senator ROBERT RAY—Is there any consultation elsewhere on that appointment or is it solely the preserve of the secretary to do that?

Mr Moraitis—In this situation, I understand that in the case of the appointment of an external sanctioning delegate, which is the case here, under the Public Service Act, the Public Service Commissioner is required to be consulted. That has occurred in this case.

Senator ROBERT RAY—That has occurred?

Mr Moraitis—Of course.

Senator ROBERT RAY—I am just asking.

Mr Moraitis—Yes, that has occurred.

Senator ROBERT RAY—Thank you. I do not know if Mr Boucher is doing it out of the goodness of his heart or if he is being recompensed for his efforts? By how much, if he is being recompensed?

Mr Moraitis—As expected, he will be recompensed. His rate is, I think, \$300 per hour. Again, that is on a work basis.

Senator ROBERT RAY—You have no estimate of how long this task will be and when it will be complete?

Mr Moraitis—Mr Boucher has just been appointed.

Senator ROBERT RAY—When was he appointed?

Mr Moraitis—He was appointed on 4 May this year. He has commenced his sanctioning determination process. So it is still early stages. I really could not give you a time line, as it were.

Senator ROBERT RAY—All this started with an inquiry over what was called the Lackey leak? Is that right?

Dr Raby—No. The Lackey leak was a separate inquiry conducted by the AFP.

Senator ROBERT RAY—There was no linkage between that and information in that inquiry that led to this other inquiry?

Mr Moraitis—As has been mentioned in previous estimates, if I recall correctly, in the course of the investigation in relation to a leak—the so-called Lackey leak—

Senator ROBERT RAY—Sorry for the alliteration!

Mr Moraitis—facts suggesting alleged breaches of the code of conduct relating to something totally unrelated to that investigation were revealed, and that led to a code of conduct investigation.

Senator ROBERT RAY—That is why I was saying there was some linkage between the two.

Mr Moraitis—It all arose in the context of the investigation into the leak of a cable, yes.

Senator ROBERT RAY—Let us get back to the Lackey matter. Is that closed now?

Mr Moraitis—As far as I understand, it is. It would be our security division which handles that. I am not aware of that, but I understand that it came to an end a while ago. The AFP ceased investigation.

Senator ROBERT RAY—Are there any other officers under suspension on pay at the moment?

Ms Williams—Besides Trent Smith, there is another officer who is suspended on full remuneration. I think we have referred to that person at a previous estimates. There is also somebody suspended without remuneration, and there is another employee on full remuneration who is not technically suspended—I think we have also mentioned this at previous estimates—but the employee is denied access to the RG Casey Building on security grounds.

Senator ROBERT RAY—Let us go to case 1: suspended on full pay. When did that start? In other words, how long has that officer been suspended on full pay?

Ms Williams—That officer has been suspended since August 2003. I think we have mentioned this suspension at previous estimates; it is in relation to a criminal offence and the staff member has a suppression order on their identity—

Senator ROBERT RAY—Let me assure you I was not going to ask—

Ms Williams—and also on the details of the case.

Senator ROBERT RAY—By the way, that does not apply here, but we will not push the point.

Senator FAULKNER—I was going to suggest that I do not think that the suppression order would go to the costs. This has been a suspension on full pay, hasn't it?

Ms Williams—Yes.

Senator FAULKNER—I think previously, in fact, evidence has been provided about the dollar figure that has been involved in the salary costs. That is my understanding.

Ms Williams—I do not recall. I do not have those figures with me, but the person concerned is at the APS4 level.

Senator FAULKNER—We have previously got that information.

Senator ROBERT RAY—We do not know when that case—let us call it case A—will be resolved? It is not in your hands.

Ms Williams—It is not in our hands.

Senator ROBERT RAY—The second case was suspension without pay.

Ms Williams—Yes.

Senator ROBERT RAY—When does that date from?

Ms Williams—From 13 April this year.

Senator ROBERT RAY—So it is a very recent one. Is action for disciplinary or other procedures proposed in that case?

Ms Williams—I think that case is currently with a sanctioning officer.

Senator ROBERT RAY—The third case, which is suspension on pay but—

Ms Williams—I think the third case is not technically a suspension.

Senator ROBERT RAY—They are disbarred from the RG Casey Building. Is that the sanction or the reward? What can you tell me about this without infringing on privacy or anything else? That is the easiest question I can ask you on that.

Ms Williams—I might need to ask my legal colleague to help me in terms of what we can say about that.

Mr Moraitis—This is a case that is subject to some proceedings of appeal, and it also involves another agency which is involving security matters. Decisions by those agencies have been upheld by the Administrative Appeals Tribunal and, on that basis, that person's reward or sanction for being barred from the RG Casey Building has been upheld. But the process is still ongoing and that person is pursuing their remedies under various options.

Senator ROBERT RAY—I think I follow that. So there are four cases in all. Mr Smith is one, and there are three others. There is one on a criminal basis, one just very recent, so we await the developments, and the other is more of a security matter.

Ms Williams—That is right.

Senator ROBERT RAY—Have we got any ongoing inquiries into any leaks that have been referred to the AFP by the foreign affairs department?

Mr McKinnon—We have had no leak investigations for two years. We have not conducted any leak investigations nor have we had any cause to refer anything to the AFP for investigation.

Senator ROBERT RAY—Can I take from that, Dr Raby, one of two things: there have been no leaks at all out of the department of the foreign affairs or you have given up chasing them?

Dr Raby—No, I think it reflects our record in managing leaks. I can assure you that if there were a leak involving officers of the department we would certainly pursue that.

Senator ROBERT RAY—Just going back to the Smith case, it is almost a case of derivative use here, isn't it? You investigate one thing, which may in the future—I am not suggesting it did in this case—suggest that you will launch a case into one thing as a fishing expedition that leads you into other areas. I just have a concern here. I am not sure I am articulating it right, but we are very careful where we allow derivative use in the legal system, and that appears to be what has happened in the Smith case.

Mr Moraitis—I would not characterise it that way, Senator. I do not think there is any suggestion or intention, as far as I can understand, of any so-called fishing expedition.

Senator ROBERT RAY—Actually I did not express it that way, to be fair to myself. I said that there may exist a potential, in this case, by using information derived from one investigation to prompt another one. I am really asking what safeguards—apart from the basic integrity of the department, which I do not challenge—there are from launching an investigation into one thing hoping that the fishing expedition will turn something else up. There has always got to be a danger.

Mr McKinnon—Senator, if I could make an observation based on practice: what we do as a department is to look into all unauthorised disclosures of official information which the department has had access to. There is no sense, as we start out, that we have a broad scope in mind and we look at that. I do not dispute the possibility that you could find something that you were not looking for, but it does not set out with a broader scope than the original disclosure—unauthorised—of information.

Senator FAULKNER—What was the Lackey investigation into?

Mr McKinnon—That was an investigation into the leak of a record of conversation between Minister Downer and the New Zealand High Commissioner.

Senator FAULKNER—I recall that that involved the checking of a whole lot of records of departmental officers, including electronic records, didn't it?

Mr McKinnon—That would be a standard way of pursuing an unauthorised disclosure of information, to look at our electronic records to see who had access.

Senator ROBERT RAY—You can tell from our questions today that you do not have to launch an investigation into anyone in your department assisting us.

Dr Raby—Again I emphasise that I am not a lawyer, but as I understand it there are two levels to these issues when they arise. One is that there can be criminal misconduct. In such a case, there is AFP involvement and investigation. The other is the APS code of conduct. I think that is what has led to your question—that there are two levels or areas of inquiry that need to be pursued.

Senator ROBERT RAY—Just so you know, I will let you know what has led to my question. I have never met Mr Smith; I would not know him if I fell over him. But I worry when a top-secret AUSTEO code-worded document is called for by a minister's office, I see it appear in a newspaper three days later, no leaker is ever found and \$600,000 is spent on a much more trivial offence. I ask where the justice is in that. You asked me where I am coming

from: that is where I am coming from. That is my problem with this. I am not saying you should not enforce the code of conduct—of course you should. But my problem is with where the justice is when a far more heinous crime is let go.

Senator FAULKNER—The Lackey investigation involved the examination of an officer's private email records, didn't it? It was not just departmental records.

Mr McKinnon—I would have to take that on notice.

Senator FAULKNER—In this case, Smith's private email records were investigated, weren't they? Senator Ray has his own attitude to this, and I happen to share those views. But I also was for many years, some would say too many years, the shadow minister representing the shadow minister for foreign affairs at this committee, who was provided with no information. I know what it means to say this before a parliamentary committee. There was no information on this matter from Smith directly, indirectly or any other way—just so you know. I have a third category to add to Mr Raby's two categories. The third category is a vendetta. That is what I believe this is. In other words, Ms Lackey in her searches and investigations went through people's personal records, not just departmental records.

Mr McKinnon—As I said, I would have to take on notice what records were gone through. The AFP conducted the investigation and, as far as DFAT is concerned, in our own investigations there are no private emails. Staff are all aware every time that they log on to our information systems that they are the department's information systems and that their access is monitored.

Senator FAULKNER—Let us be clear. In the investigation of the Lackey leak, officers' personal as well as departmental records were accessed. That is true, isn't it?

Mr McKinnon—Again, that predates my time in this division. I would have to take that on notice.

Senator FAULKNER—I want to be absolutely clear. Ms Lackey is the high commissioner.

Mr McKinnon—Yes.

Senator FAULKNER—So in the investigation of the Lackey leak, which is how it is being described—and that is fair enough—officers' personal and departmental emails, electronic records and other records were being accessed. You have heard what I have said about Smith and, given that I have had carriage of these matters at this estimates committee for far too long, I have come to the conclusion that it is a vendetta, and I would add that category, Mr Raby, to the two that you mentioned before. You should know this anyway, Mr McKinnon, that some form of internal DFAT process that took place turned this information up?

Mr McKinnon—I again would have to take on notice exactly how the investigation proceeded. But, in general terms, the way we would conduct an investigation is to investigate who had access electronically to a piece of information—a document. If there was evidence of any criminal activity, we would refer that to the police.

Senator ROBERT RAY—I will ask a more general question because I simply do not know the answer. Have any other DFAT officers, first of all, been charged with breach of the code? I am looking for previous experience in this regard. Do you know of any?

Ms Williams—I can give you some background. Is the question ‘ever’ or is it a sense of where we are at that moment in broader—

Senator ROBERT RAY—In this case, a highly esteemed retired public servant is brought in to do the investigation—Mr Kennedy, who we had a lot of dealings with when he was the Public Service Commissioner. He was the exemplary estimates officer at the table in the way he answered questions. I am just wondering how you dealt with it in the past, whether you have had to deal with it in the past and whether you used that and the example of a past thing to guide you in this case. Or is this the first time you have done it for a number of years?

Ms Williams—In terms of referring it out?

Senator ROBERT RAY—Yes, referring out for investigation what you think is a breach of the code and what has happened in the past. I think Mr Moraitis may be able to help us.

Mr Moraitis—There have been code of conduct investigations in the past, including in the recent past, unrelated to this matter. It unfortunately occurs on occasions. I think this is the first occasion the department has referred a code of conduct investigation to a person outside the department. That is because of the specific nature of this case. It involved, as you may recall, about two years ago an action in the Federal Court, which amongst other things alleged apprehended bias by the department.

Senator ROBERT RAY—You lost that one.

Mr Moraitis—No, we did not lose that one. I would not characterise it that way.

Senator ROBERT RAY—Magnificent defeat!

Senator FAULKNER—You have characterised it the Billy Snedden way: ‘We didn’t lose but we didn’t win either’.

Mr Moraitis—Put it this way: the suggestion was that there was apprehended bias within the department. The department, of course, did not accept that. On advice, we considered an appropriate way was to appoint a person outside the department. The suggestion of apprehended bias or actual bias of course can be made by anyone at any time, but Mr Kennedy is external to the department and has an arm’s length relationship with the department. That is the case this time and we think that that was an appropriate way to proceed in these circumstances. It is not something we will do as the norm.

Senator ROBERT RAY—It is quite clear that the person who makes the finding does not allocate the penalty.

Mr Moraitis—That is a separate process; correct.

Senator ROBERT RAY—Is the court case the reason you have gone external again? Is that guidance to you to say it would be a safer process to go external?

Mr Moraitis—It follows from the circumstances of the general history of this case; in all the circumstances, we came to the view that having an external sanctioning officer would also be appropriate to ensure that due processes—

Senator ROBERT RAY—What are the potential penalties laid out in the code?

Mr Moraitis—Under the Public Service Act? I do not have it with me but if I recall it ranges from no penalty, obviously, to termination of employment. There is a whole spectrum in between. I cannot recall. There could be fines. There could be reduction of classification. There could be counselling. I am not sure if that is technically regarded as a sanction but it is an appropriate response. I am just going from memory now and I cannot recall the exact details. But that is the spectrum of possible decision making by a sanctioning officer in any code of conduct case under the Public Service Act.

Senator ROBERT RAY—My final question on this is about when Mr Boucher reports. Does he report with a recommendation to the secretary of a proposed penalty or action, or does his decision stand per se?

Mr Moraitis—I would have to check the Public Service Act on the relevant regulations, but my understanding is that the sanctioning officer would prepare a draft report and send it for comment to the relevant officer—the subject of the investigation of the sanction. Subject to any comments made by that officer, the sanctioning officer would finalise that report and recommend a course of action. But I would have to take on notice whether that is a recommendation which is more or less in fact, in reality, a given or whether there is some other form or degree of discretion by any agency head. My recollection of other occasions of sanctioning officers making decisions is that the sanctioning officer's decision pretty much is more than just a mere recommendation.

Senator ROBERT RAY—As well as taking it on notice, you might like to get us a response later today so if we have a follow-up question—

Mr Moraitis—Of course.

Senator ROBERT RAY—I do not normally do that with questions on notice, but I think that is just one simple check.

Mr Moraitis—I will do that.

Senator ROBERT RAY—Thank you for that.

Proceedings suspended from 10.31 am to 10.48 am

Senator FAULKNER—Could you please give us a broad picture, Dr Raby, of Australians who are imprisoned overseas. Could you indicate to the committee how many there are?

Dr Raby—I will ask Mr Smith to come forward. Sorry, there are a couple of follow-ups to questions. Can we do those now and then revert to your question?

Senator FAULKNER—Do they relate to questions my colleague Senator Ray was asking?

Mr McKinnon—The follow-up that I have is a direct response to something that you were asking.

Senator FAULKNER—That is fine; I am here.

Mr McKinnon—This morning you asked whether we had access to any private emails of Mr Trent Smith in our investigation of the Lackey leak. I said I would come back to you on that. What I would like to place on the record is that, at that time, as people logged into our

communications system, there was a security warning and an official undertaking to the effect that ‘all the information on this system is and remains the property of the Commonwealth of Australia through the Department of Foreign Affairs and Trade’. That warning, in broad terms, goes on to say that the person logging on has a responsibility to keep themselves informed of all departmental policies, procedures and guidelines relating to IT security and mentions some of the sanctions that might apply for misuse of or unauthorised access to any of the department’s documents on that file and goes on in those terms. I will not read it all out—unless you want me to, Senator—but, at the bottom of that warning on our information system, it says: ‘By continuing behind this point, you are agreeing to the above terms of access.’ I can further confirm that we only used information from that machine and our servers. I can answer that we did not take account of any private information of Mr Smith.

Senator FAULKNER—And departmental officers agree to those conditions. Can you generate an email outside the departmental premises using that system, for example?

Mr McKinnon—I do not think that you can. If you asking about whether you can access external email services such as, for example, Yahoo! or commercially available services, you can of course make a link to any internet address through our servers, yes. But, to take that question one step further, in investigating it we could not go out to the servers held by anybody else. We could only look at information that was cached on our systems.

Senator FAULKNER—It is no different to members of parliament who use the systems available to them for personal email traffic as well as for their parliamentary business.

Dr Raby—Chairman, Mr Moraitis has a follow-up to a question that was asked by Senator Ray.

Mr Moraitis—Senator Ray, you asked me before the break what the process was regarding sanctioning officers. I tried to give you my recollection, but over the break I have confirmed that the process is as follows: the sanctioning officer makes a decision, and that is it. The decision of the sanctioning officer is given to the delegate in the department and that decision is it. There is no further action taken by the department.

Senator ROBERT RAY—So it does not have to be ratified by anyone in the department?

Mr Moraitis—It has to be implemented if there is any sanction, of course.

Senator ROBERT RAY—I understand that, but what you are saying is that it is basically an adjudication and not a recommendation for action by someone in the department.

Mr Moraitis—It is not a recommendation; it is a decision by a sanctioning officer, and that decision is given.

CHAIR—I invite Mr Smith to respond to Senator Faulkner’s question on prisoners.

Mr R. Smith—Senator, there are currently 153 Australians serving sentences in prisons overseas.

Senator FAULKNER—Thank you for that. I assume you would have a breakdown of where those sentences are being served.

Mr R. Smith—Yes, I do.

Senator FAULKNER—Can you provide that to us, please?

Mr R. Smith—I can give that to you. It covers quite a range of countries. In the United States of America, there are 29 Australians; in New Zealand, 17; in Thailand, 12; in Vietnam, 10; in China, 11; in Greece, seven; in Hong Kong, five; in Indonesia, four; and in Italy, five. Then there is quite a wide spread of countries where we have one, two or three.

Senator FAULKNER—Could you perhaps provide that to us in written form. That might be helpful.

Mr R Smith—Certainly.

Senator FAULKNER—Thank you for that information. This includes those who are actually serving sentences, those who are perhaps on remand, those who are subject to legal processes or who are being held in advance of legal proceedings being concluded or sentences being brought down, does it?

Mr R Smith—No, that includes only Australians that have been convicted and sentenced.

Senator FAULKNER—So only convicted prisoners. Have you a figure in relation to others who are incarcerated but who have not been convicted—that is, where the legal processes have not been finalised?

Mr R Smith—I do not, I am sorry—but I can certainly get that for you quite quickly.

Senator FAULKNER—Can you explain to the committee, in the circumstances of convicted prisoners, what role the department plays. If you can give that broad picture to the committee, I think that will be helpful.

Mr R Smith—Certainly. We provide a range of consular assistance and support to Australians who are arrested overseas from the time that we are advised of their arrest and detention all the way through to the termination of their prison sentence. You asked specifically about what we do once they have been convicted and sentenced. The sort of support that we provide there includes providing regular prison visits. The frequency of those visits depends on a range of factors, including the country they are in, the conditions of detention and the prisoner's own wishes. It might be worth making the point that one of the things that we do once the individual—

Senator FAULKNER—I do not mean to interrupt you, Mr Smith—it is very helpful information—but I ask you to speak up a little. The acoustics in this place are terrible.

Mr R Smith—One of the things that we do with the individual once they have been sentenced is to work out a schedule, a frequency, of prison visits. That is done by agreement. It obviously needs to take into account things like location and the ease with which we can get to the prison, but those prison visits are regular. There are a range of other things that we do. We will ensure that mail is getting through to the prisoner, for example. We will monitor their welfare to ensure that they are being treated fairly in accordance with proper standards. If they have concerns about their treatment in the prison, we will ensure that is properly investigated.

We will ensure that there is no discrimination. For example, if it is a right or a privilege under the prison arrangements that the individual can have access to work, we make sure that they are not discriminated against as a foreigner in terms of their access to those sorts of rights and privileges. In some circumstances we can provide financial assistance in the form of a prisoner loan. That is not available in all cases but it is available in cases where basic

needs are not provided as a matter of routine by the prison authorities. Those loans are made to the prisoner so that they can access some of those basic needs. Also, where, for example, the individual's family wants to help in the form of financial support, we provide a mechanism for getting that financial support to the prisoner.

Senator FAULKNER—Is there a consistent approach on any Australian intervention in legal cases, appeals or the like in terms of support that is provided or given in these circumstances, or is this something that is basically dealt with on a case by case basis? How does that work?

Mr R Smith—There are some basic principles that apply in each and every case but the practical reality is that each individual case is different and the sort of support that we provide will differ from case to case. The principles are important, though. One of them—and this has been given a very substantial airing in the context of the Corby case—is that the government can at no point get involved in the substantive defence of a prisoner. What we can do is ensure that the individual has access to legal representation. Where we can provide support to the individual or to the individual's legal team in the provision of basic information, we will do that. A very important part of our role is to ensure that a trial process is managed fairly and managed with reasonable expedition—in other words, that there are no undue delays. We will pursue any suggestion of absence of due process with the appropriate authorities of the country concerned.

Senator FAULKNER—What is the situation with that principles based approach? They are obviously important principles. What is the interface, if you like, with the Attorney-General's Department here in Australia on those matters, if any?

Mr R Smith—The consular function is one that is obviously the responsibility of the Department of Foreign Affairs and Trade. There are some aspects of support that can be provided to Australians overseas that are managed by the Attorney-General's Department. The one in particular that I am referring to is a scheme whereby Australians can apply to the Attorney-General's Department for financial support for their legal defence where they are unable to provide that or fund that themselves.

Senator FAULKNER—But is it true that, as far as the Australian government is concerned, direct contact with a prisoner is provided by the consular officials or consular services?

Mr R Smith—That is the usual practice, yes.

Senator FAULKNER—Is there any other way it can be done?

Mr R Smith—There may be circumstances where members of an individual's legal team may seek to speak to other members of the government or other agencies in government. There is nothing unusual or irregular about that. But the principal point of contact—the principal interface—is through the consular service in the Department of Foreign Affairs and Trade.

Senator FAULKNER—Have you got statistics that indicate how often the Australian government has intervened with another government after the conviction of an individual to seek either a pardon—that is one broad area—or clemency? Could you provide some

information to the committee on that? I think those are the main two areas but there may be some other category of approach that might have been made.

Mr R Smith—I would have to take on notice the question of how many instances there have been. I can talk a bit about the circumstances in which the government would, as a matter of policy, do that. For example, where an Australian has been given a death sentence, the government will as a matter of policy—this is a practice that goes back quite some time—support clemency applications in relation to those cases. There is another broad policy that we have. That is, where an Australian has served a sentence overseas that is equivalent to the sentence he or she would have received for a comparable crime in Australia, we can intervene with the detaining authorities or government to seek clemency in those circumstances. That approach would normally be made one year before the equivalent sentence has been served.

Senator FAULKNER—I might come back to those issues of pardon and clemency. Let me just go perhaps to another broad issue of prisoner exchange agreements. Perhaps I could ask the question in these terms: perhaps you could provide a brief status report to the committee on the broad question of prisoner exchange and what, if any, work is being undertaken at the moment in relation to prisoner exchange agreements. You might also indicate to us where prisoner exchange agreements are in place.

Mr R Smith—I should make the point that the responsibility for prisoner transfer agreements in fact rests with the Attorney-General's portfolio but let me try to answer your question in the broad with that caveat.

Senator FAULKNER—I will stop you there. I was asking previously about the Attorney-General's responsibility. I appreciate that. Could you perhaps indicate to the committee what DFAT's role is in relation to any such negotiations and the interplay with other governments and the agencies of other governments? I will first ask you: what is the role of DFAT in relation to these prisoner exchange agreements and their development?

Mr R Smith—When prisoner transfer agreements have been negotiated with other countries, those negotiations are led by the Attorney-General's Department. The Foreign Affairs and Trade portfolio would in normal circumstances—in the usual course of events—be involved in those negotiations but not as the lead agency. I think it is also worth making the point that, when decisions are made about what countries we might seek to negotiate prisoner transfer agreements with, the DFAT portfolio is consulted in that process.

Senator FAULKNER—Specifically, are you able to say to us what the situation is in relation to Indonesia on the issue of prisoner exchange agreements?

Mr R Smith—Again, with the caveat that the lead agency in this matter is the Attorney-General's Department.

Senator FAULKNER—I do appreciate that, thank you.

Mr R Smith—My understanding is that a team of officials is travelling to Indonesia next week for discussions with the Indonesian government on a prisoner transfer agreement. We have previously provided the Indonesian government with a draft of such an agreement, or a model agreement, if you like. Those discussions will take place, as I said, next week in Jakarta.

Senator FAULKNER—When did DFAT involvement commence with the prisoner exchange agreement with Indonesia?

Mr R Smith—I could not give you an exact date. I think the discussions on this would have gone back now at least two months—maybe two to three months.

Senator FAULKNER—What is DFAT's involvement in that negotiating team? Are you represented in that negotiating team?

Mr R Smith—Yes. There will be a DFAT official on that team.

Senator ROBERT RAY—I do not know if you know this information as part of that negotiating process. You said there were four Australians in detention in Indonesia. Do you know how many Indonesians are in detention in Australia? Is that part of the equation you look at when you discuss these matters?

Mr R Smith—I do not know offhand.

Senator FAULKNER—I will just go back to the issue of pardon and clemency. You have indicated that perhaps the clemency issue is a more complex picture and certainly involves any Australians who may have been sentenced to death. We appreciate that. I will just focus now on those cases you are aware of where the Australian government has sought a pardon for an Australian imprisoned overseas. Could you quantify for the committee how many such cases there have been in the past few years—perhaps the past five years?

Mr R Smith—I am sorry; I do not have those figures. I will have to take it on notice.

Senator FAULKNER—How difficult will it be to find that information?

Mr R Smith—We will check it. If we can get back to you during the course of the day we will certainly do that.

Senator FAULKNER—One case, of course, that has come to attention is the case in relation to the Maldives, which there has been some public discussion about. What involvement did the Department of Foreign Affairs and Trade have in that particular issue? This is when Mr Howard, the Prime Minister, sought a pardon for an Australian by the name of Scanlon who was convicted of an offence in the Maldives.

Mr R Smith—It might be easier for me to talk more generally about the government's involvement in the broad. In terms of the Department of Foreign Affairs and Trade's involvement, what I can say is that obviously our high commission in Colombo, which has accreditation to the Maldives, monitored Mr Scanlon's case very closely. Mr Downer wrote to the foreign minister of the Maldives on two occasions expressing the hope that Mr Scanlon's admission of guilt and the fact that at that time he had spent about 17 months in prison would be taken into account and that his application for a pardon would be considered favourably.

Senator FAULKNER—What was the date of the two communications from Mr Downer to the foreign minister of the Maldives?

Mr R Smith—I do not have the dates, I am sorry. I will have to check that.

Senator FAULKNER—I would appreciate it if you could and provide those to the committee as soon as you are able. You said you could speak about the role of DFAT

specifically and the Australian government more broadly. Did you want to also just provide a brief report to the committee on the role of the Australian government more broadly?

Mr R Smith—Certainly. Again, this has been aired publicly in recent times. This is an example of the application of the policy I referred to earlier when we support clemency where an individual has served a sentence that is equivalent to the sentence he or she would have received in Australia for a comparable offence. The government on that basis supported Mr Scanlon's request for a pardon. The advice that we received from the judicial commission of New South Wales was that a 12-month prison sentence would be the likely sentence in Australia for a comparable offence. In a sense, Mr Scanlon's case then met that criterion I referred to. That was then the basis for the approach, and it is a matter of public record that the Prime Minister then raised Mr Scanlon's case when he visited the Maldives. I believe that was in September 2002. That then led to Mr Scanlon's release.

Senator FAULKNER—When you say the government supports such a request, what is the decision-making process involved here? Is this a decision that involves more than one department? Obviously there is a lead agency for making this decision and obviously the responsibility lies somewhere. Perhaps you could explain that to the committee if you are able to—where the actual decision is made about the appropriateness or otherwise of any request for pardon or clemency.

Mr R Smith—That would be a decision taken by the government, not by any department.

Senator FAULKNER—When you say by the government, they are decisions of ministers?

Mr R Smith—That is correct.

Senator FAULKNER—Can you say which minister? It may be the Prime Minister, of course.

Mr R Smith—I do not know what happened in this particular case, but clearly the Prime Minister was involved in this process as he took it up with the Maldives government during his visit.

Senator FAULKNER—When the decision was made by ministers, it was communicated to your department? I assume it would have to be.

Mr R Smith—I imagine that was the case, but I do not have those details about the precise sequence of events at that time.

Senator ROBERT RAY—I think you said there are diplomatic representatives in Sri Lanka that cover the Maldives.

Mr R Smith—That is correct.

Senator ROBERT RAY—Were they present at the meeting in Male when the Prime Minister made representations to the president?

Mr R Smith—I would imagine they were, yes.

Senator ROBERT RAY—No, no. We cannot give evidence of what we imagine at estimates. We get too much of that.

Mr R Smith—I think the likelihood—

Senator ROBERT RAY—Not even the likelihood.

Mr R Smith—I will take it on notice.

Senator ROBERT RAY—If you do not know, just say you do not know.

Mr R Smith—We will find out for you.

Senator Hill—He can say that it is likely they were, but you might not attach much value to that.

Senator ROBERT RAY—It was just the word ‘imagine’. We do not have much imagination on this side of the table.

Senator Hill—It is likely they were, but if you want us to check it we will.

Senator ROBERT RAY—I think it is important so that we understand the involvement.

Senator Hill—Will you check that.

Mr R Smith—We will certainly check that.

Senator ROBERT RAY—Thank you.

Senator Hill—And I think you wanted the process that led to the ministerial intervention in that one. Am I correct?

Senator FAULKNER—I have asked a number of questions. In the broad, some of them could be summed up with that description. I think they have been quite clear in their nature. Let me go to that meeting. If you do not know whether the head of mission in Colombo was present, do we have any indication as to who else was present? This was a meeting, as I understand it, between Mr Howard and—was it the Prime Minister of the Maldives? Were they the key people?

Mr R Smith—I understand it was the—

Senator FAULKNER—Or the president.

Mr R Smith—I understand it was the Maldives foreign minister.

Senator FAULKNER—Between Prime Minister Howard and the Maldives foreign minister. We do not know at this stage whether the high commissioner was present, but do we know who else was present?

Mr R Smith—I would have to take that on notice.

Senator ROBERT RAY—Was this the sole matter for discussion or were there other bilateral matters?

Dr Raby—This is a question involving the Prime Minister and the Prime Minister’s travel. It should really be directed to the Department of the Prime Minister and Cabinet. We will endeavour to establish what DFAT’s presence was, or involvement, but it is not for us to comment on conversations that the Prime Minister has.

Senator FAULKNER—Normally when prime ministers meet foreign ministers there is a role for the department of foreign affairs. You would appreciate that, Dr Raby. Everybody knows that.

Dr Raby—Yes, and I have just said that we will find out for you exactly what the DFAT involvement was, what level and so on. But questions concerning conversations that involve the Prime Minister should be directed to the Department of the Prime Minister and Cabinet.

Senator ROBERT RAY—Actually, to be precise, we have not asked about conversations; nor were we going to. We are asking about subject matters for discussion. It is a separate question. In other words, was this the one issue discussed or were bilateral aid issues discussed at the same time—which would impinge back on your department et cetera. In other words, was this a one-off conversation on one matter or was it broadened out to other issues—which does sort of encompass your department? I am not seeking the nature and the detail of the discussion, but the broad topics.

Dr Raby—The discussion was involving the Prime Minister, not the foreign minister.

Senator ROBERT RAY—I understand that, and I am not seeking any details of the discussion. But presumably you got some report back. Were there any aid decisions made at this meeting that would have affected your department? That is a legitimate question.

Dr Raby—I cannot say anything other than what I have said. It was a conversation involving the Prime Minister. Questions concerning the Prime Minister need to be addressed to the Department of the Prime Minister and Cabinet.

Senator ROBERT RAY—I am asking now whether, as a consequence of that meeting, the department knows of any other subjects that were decided on—such as aid issues, Commonwealth relations or whatever else—that impact on your department rather than private conversations between the Prime Minister and the foreign minister on a matter that did not directly concern you.

Dr Raby—We have no knowledge of those other matters.

Senator ROBERT RAY—I am not even saying there were other matters. One of the interviews inferred—

Senator Hill—It seems that they certainly do not have information here on that issue.

Senator ROBERT RAY—Would it be possible to take on notice whether anything came out of that meeting—other than the pardon—that required the Department of Foreign Affairs and Trade to take action.

Senator Hill—The role of DFAT.

Dr Raby—I am very happy to reply on the DFAT related aspects.

Senator ROBERT RAY—Thank you.

Senator FAULKNER—Did the department of foreign affairs provide briefing to the Prime Minister or anyone else attending for this meeting? When I read the schedule of special purpose flights, I know that Mr Moore-Wilton was on the plane and Mr Jordana was on the plane. Can we at least know whether DFAT briefed the Prime Minister or other attendees in advance of that meeting with the Maldives foreign minister?

Dr Raby—I cannot provide that information now, but the normal procedure involving prime ministerial travel is that the Department of the Prime Minister and Cabinet makes contact with the relevant geographic area of the department and seeks input into its briefing—

that is, it will request input into the Prime Minister and Cabinet briefing for the Prime Minister. One would presume that may have happened in this case. That is the normal process. But I cannot say, and we would have to look at that and get back to you.

Senator FAULKNER—You do not know if that happened?

Dr Raby—Not in this case, but we will get back to you on that.

Senator FAULKNER—I would appreciate it if you would. I would have thought that it would be a matter of being able to establish very quickly if the high commissioner was present. I suspect he was not, by the way.

Dr Raby—If we can find out during the course of today, we will.

Senator FAULKNER—I would appreciate best efforts being made.

Dr Raby—Yes.

Senator FAULKNER—A number of questions have been taken on notice at this hearing today, but I think that this is one that could be nailed down in pretty short order. I would appreciate an early response from you.

Dr Raby—I am happy to do that.

Senator FAULKNER—When you said that such decisions are made by government, Dr Raby, are you saying to us seriously that you are not aware—that you cannot even say to us—which minister has responsibility for making such decisions? I find that very surprising.

Mr R Smith—Perhaps I can answer that. These are consular issues. The Minister for Foreign Affairs has responsibility for consular issues. In some circumstances he might choose to consult with the Prime Minister on it, but I think that it falls within the responsibilities of the Minister for Foreign Affairs to make decisions on these consular issues.

Senator FAULKNER—If a decision is made by the Minister for Foreign Affairs, when is the department informed—how is the department informed that such a decision is made? I am happy to use the Maldives as an example. When do you get to hear about it? When did you get to hear about the fact that the government had decided to seek a pardon for Mr Scanlon?

Mr R Smith—I assess that we would have heard about it immediately the government made that decision, but I cannot give you the precise time line, simply because I do not have that information here.

Senator FAULKNER—Do you have an understanding as to when the Minister for Foreign Affairs might consult with other colleagues, including the Prime Minister, on these matters? You say it is a responsibility of the Minister for Foreign Affairs; it is a consular matter. I accept that; that sounds logical to me. Do you have any idea if and when these matters are discussed with the Prime Minister or other ministers?

Mr R Smith—That would be entirely a matter for the minister.

Senator FAULKNER—Does the department brief on cases where pardons or clemency are being sought?

Mr R Smith—Yes. The Minister for Foreign Affairs is kept very closely briefed on a very large number of consular cases, including those where the option of seeking or supporting clemency is one we have available to us.

Senator FAULKNER—Did you brief on the Maldives Scanlon case?

Mr R Smith—I do not have any information with me on that now, but in the normal course of events the department would have briefed the Minister for Foreign Affairs, yes.

Senator FAULKNER—Do you know if the department was responsible for the preparation of the letters—the correspondence—that went from Mr Downer to the foreign minister of the Maldives?

Mr R Smith—I do not know that for a fact, but again that would normally be the procedure.

Senator FAULKNER—Could you take those two matters on notice, please, and, as you investigate these issues, I hope over the lunch break, come back to us.

CHAIR—Senator Stott Despoja has some questions on prisoners as well. Do you want to ask them now?

Senator STOTT DESPOJA—Some of the more general questions have been answered but I would like some clarification in relation to the prisoner exchange and prisoner transfer policy. Are you willing to take any further questions on that, specifically on how many requests there have been for transfers and how long it usually takes—or is that something you want directed to Attorney-General's?

Mr R Smith—They would be matters for the Attorney-General's portfolio.

Senator STOTT DESPOJA—I might follow them up that way. I have questions about specific cases but I am not sure if Senator Faulkner wants to continue.

Senator FAULKNER—We might come back to this.

Senator STOTT DESPOJA—Mr Smith, I want to pick up on your comments regarding legal assistance to Australian citizens who have been detained in other countries. I specifically want to start with the Talaal Adree case. I was happy to wait till output 2.1 but, given that some of these issues have been raised, it would be good to pursue them now. You said it was government policy or a principle that the offer of legal assistance or advice and, of course, consular visits were provided to Australians who are in custody or detained in foreign nations. I want to ask about the case of Talaal Adree, who is in Kuwait. I understand, as of the weekend, that consular access has been provided. Can you explain to the committee why it took so long for Australian consular officials to be granted access to Mr Adree?

Mr R Smith—I will just clarify the point you raised about legal assistance being provided by the government to Australians overseas: we do not provide legal assistance per se. What the government will do is ensure that an individual has access to legal representation. We do that, for example, by providing information to an arrestee on the local legal system and what they should expect. We ensure that we provide them, for example, with a list of English-speaking lawyers from which they can select a legal representative. The option is also there for them to apply for financial assistance from the Attorney-General's Department to fund that

legal representation. The principal role we have is to ensure that an individual has access to legal representation, and we facilitate that but do not provide it, if you see the distinction I am making.

Senator STOTT DESPOJA—Absolutely, and I am glad you raised that. In relation to another matter, obviously, there has been some debate about the case of Schapelle Corby and the government's role in providing or offering legal assistance and/or financial assistance. I am happy for you to pursue this now, if you like, to clarify for the committee whether or not the government has offered the assistance of two QCs for the appeal. What does that involve? Is the government paying for those QCs or ringing up QCs or other legal representatives and asking them if they will help Schapelle Corby—that is, without government assistance? If you want to pursue this now I am happy to get into that issue because in response to Senator Faulkner's questions, when you talked about the provision of basic information, consular access et cetera, I did not think we had a specific answer as to whether or not the government provided legal assistance that was paid for by the government as opposed to, as you explained, applications to the Attorney-General's for financial assistance. What is the case in the Corby case? Are we paying for it? Have they applied for it? Who is paying for the QCs who are supposedly being offered by the Australian government?

Mr R Smith—As I understand it, the Corby legal team has applied for assistance under the Attorney-General's financial assistance scheme. That application has been approved so that is where the financial support is coming from. On the issue of the QCs, again, my understanding is that the QCs in question offered their services to the Corby legal team pro bono, and the government put them in contact with the Corby legal team and left it to the two parties to follow that up. I think that falls within the facilitation role that I referred to earlier.

Senator STOTT DESPOJA—In relation to that facilitation role or the offer that the government made, when was that first made? When was the contact first made with the Corby legal team on that issue?

Mr R Smith—I am uncertain. Can you leave that with me and I will see if I can get an answer for you shortly.

Senator STOTT DESPOJA—Okay. You might want to pursue the Adree case first because I suspect colleagues will have questions on Schapelle Corby.

Mr R Smith—The Talaal Adree case is one that we have been pursuing very actively since the day that we were first advised of his detention in Kuwait. That was on 14 February this year. We learnt about his detention the following day, and we took action immediately to seek consular access to him. I have to say that it has been a very frustrating and unsatisfactory process. We have made repeated representations to the Kuwaiti authorities for consular access. We have done that in Kuwait and we have done that with the Kuwait Embassy in Canberra. It was only, as you said, on 28 May that we were finally provided direct consular access. There had been some telephone contact with Mr Adree in the intervening period. Consular officials had sought on a couple of occasions to visit the prison where we learnt he was being held but they were turned around at the door and not granted that access. So it has been, as I said, a very unsatisfactory process. Obviously getting access on Saturday was a

welcome development, but we continue to register with the Kuwait authorities our dissatisfaction with the way consular access had been delayed.

Senator STOTT DESPOJA—I have heard that the government has tried 17, 18 or 19 times to visit Mr Adree but was unsuccessful. You said they had been to the prison a couple of times. I have heard publicly that there were a dozen or so attempts. Do you have a specific figure for the committee as to how many times we sought permission and either it was denied or access was not made available?

Mr R Smith—The figure of 16 I think came from the time when this matter first became public. That figure of 16 represented the number of representations that we had made to the Kuwaiti authorities at that point. Since then there have been a series of further representations leading ultimately to consular access being provided on 28 May.

Senator STOTT DESPOJA—In relation to the access on 28 May, given that, as you would be aware, there have been allegations by Mr Adree that he has been subject to torture, I am wondering why consular officials did not take a medical practitioner with them to meet with him last Saturday. Is that something they attempted to do, or was it a decision not to take a medical professional with them on that occasion?

Mr R Smith—As far as I am aware, we did not seek to take a medical practitioner. We had had some contact with Mr Adree by telephone in the meantime, as I said, and he had told us that he was in good health at that time, though he again reiterated his claims that he had been mistreated. Let me say on that that when we hear of any allegation of mistreatment against an Australian overseas in prison or anywhere else we take very swift and very robust action with the authorities concerned. We did that in Mr Adree's case. We did that on several occasions in the representations we made to Kuwaiti authorities. We demanded that the matter be investigated. We demanded an assurance that Mr Adree was being treated properly, that he was not being mistreated, that he was being treated in accordance with international standards. We do not stand still when these allegations are made and we certainly did not in Mr Adree's case.

Senator STOTT DESPOJA—Could you perhaps clarify what you mean by the investigation, which the government has initiated, obviously? You have been in contact with the Kuwaiti government to ensure that he is being treated appropriately—humanely—in line with conventions. I am just wondering what evidence you have to prove that that is the case. Is it the word of the Kuwaiti government or are there external bodies that verify his condition or his situation? When you say it has been investigated, what does that mean?

Mr R Smith—We cannot investigate these claims ourselves because we have no jurisdictional authority to do that in other countries. What we do is insist on there being a proper investigation by the relevant authorities in the country concerned. What that means differs from country to country. We have to be satisfied, though, that the investigation was a fair and reasonable one and got to the bottom of the matter.

Senator STOTT DESPOJA—I understand that investigations will vary from country to country. What does an investigation of this kind entail in Kuwait? I am just wondering what investigation took place, to your knowledge, and what information or evidence has been presented to the Australian government. I understand that the Australian government cannot

undertake much of this investigation, although I would be curious to know what steps our government has taken to pursue the issue—if not investigate, pursue the issue—with the Kuwaiti government: his allegations that Westerners were present and his allegations of torture. What investigation took place, to your knowledge, by the Kuwaiti government?

Mr R Smith—At this stage, we are not certain of that. We have not yet received a report from the Kuwaiti authorities on what investigation they have conducted into this. That is something that we continue to pursue with them. In other words, we have not yet been satisfied on this matter, and we continue to pursue it with the authorities.

Senator STOTT DESPOJA—In terms of continuing to pursue that, has the Kuwaiti government given you any indication as to when they will present you with a finding? I just want to clarify. It is being investigated? Do we know that the Kuwaiti government is investigating the allegations of torture or is it simply that the Australian government has raised it with the Kuwaiti government? It sounds as though there is no commitment by that government to look into those allegations.

Mr R Smith—We have had an assurance from the Kuwaiti authorities that they would look into the matter.

Senator STOTT DESPOJA—But we do not know if they are doing anything?

Mr R Smith—But we do not have any more precise details about the manner in which they are investigating. For example, we do not know if they have constituted a board of investigation. We do not have that precise information. That is what we are seeking—both information about the process that they have in place and also, in a sense more importantly, the results of that process.

Senator STOTT DESPOJA—So we have a commitment to investigate but we have no knowledge of what, if any, investigations have taken place and in what form?

Mr R Smith—That is correct. That commitment goes back quite some time. On 26 April, our ambassador in Kuwait took up these allegations of mistreatment with senior officials of the Kuwaiti foreign ministry, who gave an undertaking that they would pursue the matter. And we have ourselves followed it up in further contacts with them, but we do not yet have the information that we have requested.

Senator STOTT DESPOJA—What would be the next step in that process in terms of trying to obtain that information? I understand the difficulties involved here and that the Australian government is trying all it can, but I am just wondering what happens next.

Mr R Smith—Following the visit on Saturday, when Mr Adree again repeated his earlier claims of mistreatment, we instructed our ambassador in Kuwait to pursue this matter again, to get further information on what investigation they have under way, and, obviously, to push for a full and proper investigation if the information we get in response to that first request is not satisfactory. The ambassador will now take this up in further representations. I am not sure if a meeting has been arranged yet. Sometimes it can take some days before meetings can be set up.

Senator STOTT DESPOJA—The parliamentary secretary, Mr Billson, in his public comments, noted that consular officials did notice some physical evidence that was consistent

with Mr Adree's allegation of torture. I am just wondering exactly what consular officials noted.

Mr R Smith—The claim was that his fingernails had been pulled out or something to that effect. The consular officials did note some—I think the expression they used was 'minor damage' to one fingernail.

Senator STOTT DESPOJA—I am just wondering what 'minor damage' constitutes in terms of fingernails. I bite my nails. That is minor damage.

Mr R Smith—I cannot elaborate on that.

Senator STOTT DESPOJA—I am really curious as to why on the one hand a parliamentary secretary would note that. The parliamentary secretary said that consular officials had noted he was in good health, but then there was also evidence of physical indications that he may have been tortured. I am just wondering if minor damage to a fingernail is the only evidence that those consular officials noted. I do not even know medically what kind of weight that would hold. Again, that is why I am wondering why there was not a medical professional present. Can you give us more indication of what consular officials noted?

Mr R Smith—That was the extent, I think, of the observation that they made about evidence, if you like, of mistreatment. I do not know what that means. Given the uncertainties about this, it just underlines the importance of us pursuing this with the Kuwait authorities as we are doing and having the matter properly investigated.

Senator STOTT DESPOJA—I acknowledge that.

Senator Hill—I think it would be unwise to draw any conclusions as to the cause of that minor damage.

Senator STOTT DESPOJA—Indeed, and I am not wishing to draw conclusions; I just think that it has been publicly stated by the parliamentary secretary. There are two things. First of all, he has relayed information from consular officials that this Australian citizen appeared to be in good health. I am just wondering about that when this particular citizen has made allegations of torture. On the other hand, the same consular officials have said that they have noted that there is some physical evidence that might support allegations of torture. Isn't there a danger in all of us relying on non-medical assessments such as these? Again that goes to the point as to why a medical professional—a medical practitioner—was not present at the meeting on Saturday between Mr Adree and Australian officials.

Senator Hill—That is an argument you are putting, but also a medical practitioner may not be the person who draws the conclusion as to what causes particular damage.

Senator STOTT DESPOJA—Given that we are talking about the physical and possibly mental health of an Australian citizen detained overseas, does it not make sense to have a doctor present when consular officials have their first access to this person? And when will the next available opportunity be for Australian officials to take a medical practitioner in to meet him?

Senator Hill—I do not know the answer to that, but the evidence that has been given is that it has not been easy in these circumstances to obtain access. There are tactical issues.

Presumably you are wanting to establish a relationship that will give greater access for the future. I guess judgments are made as to the best way to proceed.

Senator STOTT DESPOJA—I am not denying that it has been difficult for the Australian government to get access or for consular officials to get access. I commend the Australian government for its efforts in trying to access Mr Adree. What I am wondering is this: based on the evidence from Mr Smith today, it does not sound as though Kuwaiti officials or the Kuwaiti government prevented the Australian consular officials from taking a medical practitioner in. I am just wondering when the next available opportunity will be for consular officials to take a doctor in to see this man, who has alleged that he has been tortured.

Mr R Smith—On the question of why a doctor was not taken in with the consular officials on this first visit, there was no suggestion by Mr Adree, his family or his lawyers, with whom we had been in contact, that his health was suffering at that time. There was really no need to have a doctor present for that consular visit. Obviously one of the things that we do as part of a routine consular service is to ensure that detainees have access to proper medical treatment. There was no need for that to happen on this occasion because we understood Mr Adree to be in good health.

The question of whether or not there may have been some physical evidence of mistreatment again really goes to the question of what proper investigation is being undertaken into his claims, and that is a matter that is a responsibility of the Kuwaiti authorities. We will continue to do what we are already doing: pursuing the matter vigorously with the Kuwaitis. But I am not sure that having a doctor there would have added much to that.

Senator STOTT DESPOJA—Thank you. While I acknowledge that there is a role for the family and the lawyers as to whether or not they feel that their family member or client is in good health, I would have thought that an international claim—this has been a public claim of torture—would have warranted investigation that would have included a medical practitioner attending the first consular access. I will wait and see if a doctor gets access to Mr Adree in the future. I would have thought that, to at least alleviate any concerns that the Australian government or people have, it would be appropriate to get a medical or health professional in to see this man.

Mr R Smith—Again, by his own admission, he is in good health. The question of mistreatment previously is one that is being investigated by the Kuwaitis. We will do what we can to ensure that that is properly investigated.

Senator STOTT DESPOJA—Thank you. I will look forward to more information on that. I am happy to hand back and then perhaps ask questions later.

Senator ROBERT RAY—On the same issue: I never saw the precise figure verified, but on how many occasions did we seek access in this case before we were finally granted it?

Mr R Smith—There were about 20 or 22 representations made to the Kuwaiti authorities before consular access was granted.

Senator ROBERT RAY—How would that stand up in comparison to other cases? Is this a very unusual one?

Mr R Smith—It is unusual. It is not completely unprecedented. There are countries where, for one reason or another, we have had trouble getting access to Australian nationals, but it is unusual; and, as I said, it is highly unsatisfactory. We have made that position very clear to the Kuwaiti authorities. I have made it clear directly in a discussion with the Kuwaiti ambassador here.

Senator ROBERT RAY—Is this just an Australian experience in Kuwait or is it one shared by countries like-minded with Australia when dealing with their nationals in Kuwait?

Mr R Smith—I am not certain about that. I am not sure that I would be in a position to discuss what experience others have had.

Senator ROBERT RAY—I think it is relevant, inasmuch as it may affect your approach in future. If you find other countries that are more successful in getting access much earlier, we could learn about it, or we could combine with other countries that are denied access the same as us to make stronger and firmer representations. That is why I asked that question.

Mr R Smith—Yes, we certainly do that in cases where we assess and others assess that there is a systemic problem in terms of a country's exercise of its Vienna convention obligations. This was the first instance in which we have had these kinds of problems in Kuwait.

Senator ROBERT RAY—You mentioned a figure before about a number of Australians detained overseas. It has gone straight out of my mind, but it is in the 130-odd range, isn't it?

Mr R Smith—The figure that I gave this morning was 153.

Senator ROBERT RAY—Do you actually categorise or keep a statistic on the broad reason why they are in jail—that is, terrorist offence, drug offence, violence or whatever else?

Mr R Smith—Obviously in our consular case records we have information about the nature of the charges—

Senator ROBERT RAY—In each case, but you do not tabulate them at any stage?

Mr R Smith—We know in broad terms, for example, that a substantial proportion of those—something close to 50 per cent—are for drug offences; that is of the 153 that I gave you. I do not know off the top of my head what the figure for terrorism related offences would be, but we could put that information together.

Senator ROBERT RAY—After a couple of fairly notorious cases, are we satisfied that the department's warning system for overseas travellers has been sufficient on drugs?

Mr R Smith—We have been, through our consular information programs, for a long period of time giving very strong emphasis to the antidrug trafficking messages.

Senator ROBERT RAY—I think I agree with that, but have you tried to evaluate whether your strenuous methods have reached the right target audience? I assume we can say that probably 99.9 per cent of Australian travellers do not carry illicit drugs, but how do you get to the 0.1 per cent that do? They may not be mainstream people who would, for instance, access your site or necessarily even look at the screen on the plane. Do you try to identify—

Mr R Smith—We do. We also work with various community groups that we think can help us to get particular messages out. For us it is not just a question of publishing a pamphlet

or putting a warning up on the web site. We are quite active and, I think, quite creative in the way that we try to identify whether there are particular demographics which are overrepresented, if you like, in our drug-related prison population overseas, and we do what we can to work with community groups which represent those demographics to try and get the sorts of messages that we want out. The level of cooperation we have on that is really very good.

Senator LUDWIG—You have indicated what DFAT does. Do you assist other departments in raising awareness amongst potential travellers between the ages of 18 and 25 by, say, providing articles or sponsoring other news items in youth work, for argument's sake, in other department areas? Or do you confine yourselves to work in your area?

Mr R Smith—The antidrug trafficking message is one that other agencies are promoting—the department of health most obviously. This does not directly answer your question, but perhaps a useful illustration of one of the other things we do is working with the Lonely Planet guidebook company and looking at creative ways of getting messages to particular groups—younger travellers, in the case of Lonely Planet. We sponsored a publication last year with Lonely Planet which provided travel information for five Southeast Asian countries. It was a little booklet that contained some quite sharp messages of the kind that we wanted to get to younger travellers and backpackers, and that booklet was then inserted into the Lonely Planet guidebooks that were targeted at that particular demographic.

Senator LUDWIG—Perhaps you can take it on notice as to whether or not you have provided any articles or information to, say, the youth drug awareness program that is currently being run out of a number of departments, to try to get the message across to travellers between the ages of 18 and 25 about the dangers of this type of trade.

Mr R Smith—I think the answer to your question is no, I do not believe we have. But I think is a very good idea and one that is worth pursuing.

Senator LUDWIG—Why haven't you? Have other departments asked for information about this issue from you?

Mr R Smith—Not as far as I am aware, but I can check that and get back to you.

Senator LUDWIG—Thank you.

Senator ROBERT RAY—Maybe Dr Raby could answer this question. About 18 months ago the most asked question—and the most bitterly asked question—of me in Indonesia was about the travel warnings on our web site, which most Indonesians for some reason or other thought were a massive injustice. The question they asked me was: why is Indonesia singled out? What effect do you think those advocating a boycott of Bali will have on reinforcing that prejudice in Indonesia and what can we do about it?

Dr Raby—I might ask the First Assistant Secretary of the South and South-East Asia Division, Paul Grigson, to comment on that.

Mr Grigson—I think your question had two parts to it. The first is the travel advice. We continue to get asked questions about that at different times by Indonesian officials and other Indonesians. We explain our position to them and they accept that. The undertaking we make is that we will keep it under review but that our first and major priority is giving advice to

Australians. More broadly, on a travel ban to Bali, I do not think that will assist anybody's case.

Senator ROBERT RAY—I am wondering more about the way you handle it back in Indonesia. It was a slightly more subtle question. Across the board, a lot of Indonesians took offence at the travel warning. How do we handle the extent to which this will focus their attention on it being another injustice in our relations with Indonesia? Do we say: 'Well, it's not official government policy. It's just some people on the side—a few travel agents and a few others—pushing it'?

Mr Grigson—That is right, Senator. To date there has not been a great deal of media coverage of the Corby case—until the verdict, and then there were some front-page articles. Minister Downer has been in contact with the foreign minister and there have been comments by the Indonesian government spokespeople that they understand that this case will not affect the broader relationship. That is the message we will keep pushing. At this stage there is no evidence that it has.

Senator ROBERT RAY—Thanks very much.

Senator LUDWIG—I want to turn to a more general issue concerning some questions I asked DIMIA in respect of the Ms Alvarez Solon deportation case. First of all, 2001 was when Ms Solon was deported by DIMIA. Can you tell us whether there was any contact at that time between the passports section, your consular advice area or your embassy's advice area—it could have involved a number of sections—and either the Philippines embassy or DIMIA?

Mr R Smith—There was contact from the Philippines embassy in Canberra with our South and South-East Asia Division in 2001. This was just in the days before Ms Alvarez Solon was removed. We believe there was also some discussion between officers of that division and DIMIA. Those officers were essentially passing on to DIMIA concerns expressed by the Philippines embassy about Ms Alvarez Solon's health and fitness for deportation.

Senator LUDWIG—What role do you play in that?

Mr R Smith—We do not really have a role. In this case what we were doing was passing on to DIMIA—which is the responsible agency of government—concerns expressed by the Philippines embassy. That was the extent of our role.

Senator LUDWIG—And what were those concerns that were expressed by the Philippines embassy to you?

Mr R Smith—They were concerned about Ms Alvarez Solon's health and whether or not she was in a fit state to be removed.

Senator LUDWIG—Did you facilitate a reply back through DIMIA to the Philippines embassy?

Mr R Smith—No, what we did was to explain to the Philippines embassy that these matters were the responsibility of DIMIA and, I think by extension, encouraged them to pursue that with DIMIA, which we understand they were doing.

Senator LUDWIG—What did the Philippines embassy say about that?

Mr R Smith—I do not know that we have any documentary records of that, but I think they would have accepted that that was the case.

Senator LUDWIG—With respect to the consul in Manila, what role did they play in the deportation process of Ms Alvarez?

Mr R Smith—They played no role. The embassy in Manila was aware of the removal. Certainly the immigration section of the embassy—if I can distinguish that from the foreign affairs and trade component of the embassy—were aware, because they were managing those arrangements at the Manila end. The Foreign Affairs and Trade officials in the embassy were aware of this because the officers in the South and South-East Asia Division who had these discussions with the Philippines embassy advised our embassy in Manila of those concerns.

Senator LUDWIG—What did they advise them? Is there a file? Or is there a telegram that is used in this process? Perhaps we could pin it down to some dates. First of all, could you give us the date when the Philippines embassy asked for assistance—that was from Canberra to DIMIA—and then the subsequent date for Manila.

Mr R Smith—There was an email sent by the Philippines desk officer in the South and South-East Asia Division on 20 July 2001, which simply reported the discussion that the desk officer had with the Philippines embassy.

Senator LUDWIG—Is that email available to the committee?

Mr R Smith—That email, along with some other papers, has been provided to the Palmer inquiry. I would have to take advice on whether that could be released to the committee.

Senator LUDWIG—All right. You kept a copy of it, obviously.

Mr R Smith—Yes, we found a copy of this email.

Senator LUDWIG—So you only provided a copy to Mr Palmer. You kept a copy for your own records.

Mr R Smith—Yes.

Senator LUDWIG—So you will take that on notice as to whether you can release it?

Mr R Smith—We will take advice on that question, yes.

Senator LUDWIG—When was the Manila consul aware that Ms Solon had arrived in Manila from Australia?

Mr R Smith—They were aware on 20 July, as a result of this email that was sent from Canberra to Manila.

Senator LUDWIG—Were they asked to meet her at the airport or provide any assistance?

Mr R Smith—No, they were not. We have also identified a hard copy of that email with a hand-written annotation from one of the DIMIA officers in Manila to the effect that there was no DIMIA presence required at Manila airport for her reception, that there was no further action required, and that the head of mission and the deputy head of mission in Manila had been advised of that.

Senator LUDWIG—That email was to whom in the Manila office?

Mr R Smith—I think that could best be described as a file note.

Senator LUDWIG—Was that signed or notated by anybody? Or was it the receiver of the email that notated that and put it in the file?

Mr R Smith—It was a hard copy of the email that I referred to earlier, which had been annotated by hand by an individual who I understand was one of the DIMIA representatives in Manila.

Senator LUDWIG—Are you able to identify who they are?

Mr R Smith—I am not sure it would be appropriate to name names.

Senator LUDWIG—That is why I asked you before I asked the question. Perhaps you could take it on notice and see what you can make available. In asking for the original—

Senator Hill—It is not our normal practice to identify public servants by name.

Senator LUDWIG—As to whether or not you are going to provide the email and the annotated file note, if you need to alter it to obscure the name or a detail, the committee will take it on that basis as well. What address was used? Was a consular address on the email?

Mr R Smith—The email was sent to, from memory, two or three officers in the embassy in Manila.

Senator LUDWIG—Was it DFAT to DFAT?

Mr R Smith—Yes.

Senator LUDWIG—Was it addressed to the ambassador or was it addressed to individual officers?

Mr R Smith—I believe it was not addressed to the ambassador but the ambassador was provided with a copy of it.

Senator LUDWIG—What other action resulted from that email?

Mr R Smith—Piecing it together from the records that we have, it appears that there was some internal discussion. I am not sure how far that went, but the matter concluded with the advice that I just referred to: no DIMIA presence was required at the airport for her arrival. The head of mission and the deputy head of mission had been advised of that. This handwritten annotation concludes with 'NFA', which we obviously take to mean 'no further action'.

Senator LUDWIG—Was DFAT in Canberra advised that that was the action that was going to be taken in respect of that file?

Mr R Smith—I am not aware of any further communication from Manila back to Canberra on that. We have no record of that.

Senator LUDWIG—Can you then explain Mr Downer's comments? Mr Downer stated on 16 May:

... as far as my department is concerned, we didn't know anything about her case until the end of last month, and when we were asked - our embassy in Manila - was asked to try to find her, then they duly did that, and she, having been found, then they provided her with the appropriate assistance.

The English is his. Did the department know anything since that time about the Alvarez or Solon case, prior to last month?

Mr R Smith—Let me try and answer the question this way. We first became aware, at senior levels of the department, of the full circumstances of this case on 22 April this year. What we did at that point was to check our passports and consular databases to establish, firstly, what passports had been issued to Ms Alvarez Solon and, secondly, whether or not Ms Alvarez Solon was registered on our consular system as a consular case. The check of the passport system indicated that three passports had been issued to Ms Alvarez Solon in the time since she had become an Australian citizen. That also indicated that the department was not consulted on her passport status in 2001.

Let me be clear. We received a request from DIMIA for access to her passport dossier in September 2004, which was then not pursued by DIMIA when we explained to them that we needed to have a proper authorisation for the release of that dossier for privacy purposes. The check of our consular system established that Ms Alvarez Solon was not registered as a consulate case. That was the basis on which Mr Downer made the comments you referred to. Since that time, we have identified a number of other papers on our records which indicate that there was some knowledge in different parts of the department about her case.

Senator LUDWIG—We will come to that shortly. What does senior level mean?

Mr R Smith—That means that senior officers of the department became aware of the full circumstances of the Solon Alvarez case when DIMIA invited us to a meeting on 22 April this year, the main purpose of which was to institute action to try and locate Ms Alvarez Solon.

Senator LUDWIG—Is there a cut-off between what the department knows and what the senior level knows? Can you describe what the senior levels are? Does that mean you, Dr Raby? Where does it start and stop?

Dr Raby—For this specific case I am not sure, but the senior levels are the senior executive service, branch head level up—and director upwards. That would be generally how we would distinguish it.

Senator LUDWIG—That is helpful. What were the names and nationalities on the three passports?

Mr R Smith—They were Australian passports. The first passport was issued to Ms Vivian Solon Young and was issued in that name on 27 August 1986 and was valid for five years. The second passport was issued in the same name on 2 June 1992 with a 10-year validity. The third passport was issued in the name of Vivian Solon on 24 November 2000, again with a 10-year validity. But it might be worth making the point that that third passport was never collected by Ms Solon, as she was then named in her passport.

Senator LUDWIG—You indicated that DIMIA had not consulted in 2001. What do you mean by that? There no passport inquiry or request for information in relation to what?

Mr R Smith—In relation to her passport status.

Senator LUDWIG—What names were given or requested? You say there was no contact from DIMIA in relation to those documents. Was there contact from DIMIA in relation to whether any other person had a passport?

Mr R Smith—No. My point there was that when we first became aware of this on 22 April we checked our passport records to see whether or not there had been an inquiry made by DIMIA in 2001 and no inquiry was made.

Senator LUDWIG—In respect of any passport?

Mr R Smith—In respect of this passport.

Senator LUDWIG—Yes, that was why I was trying to differentiate. Was there a file note, an action or a log kept?

Mr R Smith—There would be an entry in what we call our passport information control system or on a file. Could I also make the point that DIMIA itself has access to the passport information control system that I referred to. So they can at any time access those records to check passport status themselves. They do not need to make a formal approach to the passports area of the department except where they want access to the full passport file, which means the application form and so on.

Senator LUDWIG—It would not necessarily show up on your system whether DIMIA has accessed that passport file.

Mr R Smith—I do not believe so—no, I am advised it would not.

Senator LUDWIG—But, in any event, there was no formal request to access the full file.

Mr R Smith—Correct, not in 2001.

Senator LUDWIG—The issue about receiving a dossier—what exactly do you mean by that?

Mr R Smith—What I mean by that is the passport file which would contain the application form she would have filled out in order to be issued with the passport. It would provide the information about the forms of identification she provided as part of her passport application.

Senator LUDWIG—What did you mean when you said that it was not pursued by DIMIA?

Mr R Smith—The request that was made in September 2004 we responded to by preparing the documentation and telling DIMIA that we had documentation available to provide to them but that, consistent with our Privacy Act obligations, we required them to give us a formal authorisation for the release of that dossier. That was not followed up—in other words, we did not have the correct privacy authorisation from DIMIA to enable us to release that dossier.

Senator LUDWIG—Who made that request from DIMIA? If there is a problem with identifying the person, perhaps we could identify what section or level you understood them to be at.

Mr R Smith—I do not know the individual, but the request was made by the Brisbane office of DIMIA to the Brisbane passports office.

Senator LUDWIG—Was there an explanation as to why they wanted that information?

Mr R Smith—No, there was not.

Senator LUDWIG—Was it by email or letter?

Mr R Smith—It was initially by email. There was then a letter provided but that letter also did not give us the proper privacy authorisation. We went back to DIMIA by email, attaching to that email the pro forma that they are required to fill out in order for the dossier to be released. That was not sent back to us.

Senator LUDWIG—You will take it on notice as to whether you can provide those documents to the committee. I do ask for them.

Mr R Smith—We will take advice on that.

Senator LUDWIG—In respect of the form for privacy, is that a usual form that is completed for interdepartmental requests for information?

Mr R Smith—It is a standard form that we require in order to release a passports dossier to an agency.

Senator LUDWIG—Is there any note on the file as to why it was not completed? Was there any follow-up by either DIMIA or DFAT in respect of that form?

Mr R Smith—No. The record ends with the email that went back from DFAT to DIMIA attaching the pro forma for them to fill out.

Senator LUDWIG—You have indicated there was nothing after that. There was no reply from DIMIA.

Mr R Smith—No.

Senator LUDWIG—The privacy form to be completed—it is not an unsurprising form; it is one that is always attached for interdepartmental correspondence. What I am trying to understand is: does it just require a DIMIA signature or a DIMIA request? Does it require a particular level? What process would DIMIA have to go through or, alternatively, what do you require?

Mr R Smith—As I understand it, we require the request to be made and signed by a duly authorised officer.

Senator LUDWIG—What is a duly authorised officer?

Mr R Smith—I believe it is an officer identified by DIMIA as officers authorised to make these requests of us.

Senator LUDWIG—That is a bit circular, isn't it? If the DIMIA office signed it you would not know whether or not they were authorised.

Mr R Smith—We would, because we would have a list of those authorised officers provided to us by DIMIA, and that is designed to safeguard unauthorised DIMIA officers from seeking that information where they have no proper authority to do so.

Senator LUDWIG—Did you check whether the particular officer making that request from the Brisbane office was authorised?

Mr R Smith—I think the answer is that the first request that was made was not made by a duly authorised officer. That name would have been checked against the list of authorised officers we had from DIMIA. That is why we went back to them. We were not trying to be difficult, but, as I said, the dossier had been prepared for release to DIMIA but we take our

privacy obligations very seriously and we do not release personal information unless we have the proper authority under the Privacy Act to do so, and so we were acting consistently with those proper processes.

Senator LUDWIG—I understand that. I was just trying to fathom whether or not the officer that you were corresponding with could have signed the form or whether they had to seek an alternative compliance officer or someone else to sign it. If they did require that then I can go back to DIMIA and ask them what happened there.

Mr R Smith—I do not know the answer to that.

Senator LUDWIG—But you said you had a list of who could sign and who could not sign.

Mr R Smith—That is correct.

Senator LUDWIG—So you would know whether the officer that was making the request from the Brisbane office could or could not sign that document because you could check the document and say, 'They are on the list' or 'They are not on the list.' That still does not mean that you can give them the information. That just means that they have to fill it out, sign it and send it back to you. I accept that. Can you tell me that?

Mr R Smith—I am not sure of the exact sequence. My understanding is that, either because the officer who signed the request by DIMIA was not an authorised officer or because the request did not come in the right form, we did not have the authorisation that we required under our guidelines to release the information.

Senator LUDWIG—Perhaps you could just check your records and confirm which it was.

Mr R Smith—Certainly.

Senator LUDWIG—Was there any exchange between the Queensland police Missing Persons Unit and DFAT in respect of this matter in September 2003?

Mr R Smith—Yes, there was. On 9 September 2003, the consular branch of the department received a request for information by telephone from the Queensland police. That request was seeking information on the identity of the individual that they understood had met Ms Solon Alvarez at Manila airport when she returned in July 2001. I understand that the request came to us because the Queensland police—who, as I think you are aware, had a missing persons investigation under way into Ms Solon Alvarez—had understood that the welfare officer who met Ms Solon Alvarez at the airport was an officer of the embassy. The officer who took that request then sought clarification from our embassy in Manila. They were able to confirm that the officer in question was not an officer of the embassy, but they were able to establish that she was an employee of the Overseas Workers Welfare Administration, which is a Filipino government agency. We were also able to advise that the full records of that case could be requested in writing from the head office of the Overseas Workers Welfare Administration. That information was then passed back to the Queensland police.

Senator LUDWIG—Was the request that the Queensland Police Service made to DFAT made by email or by letter?

Mr R Smith—By telephone.

Senator LUDWIG—Was any subsequent email or letter sent to DFAT in respect of this issue?

Mr R Smith—Not from the Queensland police.

Senator LUDWIG—When they provided that, is there a file note in respect of the telephone conversation with the Queensland police Missing Persons Bureau?

Mr R Smith—There are some rough handwritten notes of the first telephone request for information, but the gist of it is then conveyed in an email that was sent by the consular officer to Manila. The only record we have of the subsequent discussion—the discussion when the information that we received from Manila was passed back to the Queensland police—was contained in a follow-up email from the consular officer in Canberra to the embassy in Manila. That simply noted that the information had been provided to the Queensland police and that if the Queensland police needed further information they would request it.

Senator LUDWIG—First, what was the gist of the file note as to what it contained in terms of the telephone conversation with the Queensland police Missing Persons Bureau? Are you able to provide those handwritten notes?

CHAIR—We might have a break now.

Senator LUDWIG—Do you break at 12.30?

CHAIR—We break at 12.30 sharp, yes. Would you like this question answered or would you like to leave it until we return?

Senator LUDWIG—Maybe he could answer it briefly and then we can return to it later.

Mr R Smith—The email which provided the gist of the inquiry we had from the Queensland police noted that they were seeking information on the welfare officer who met Ms Solon Alvarez when she arrived at Manila airport. It said that Ms Solon Alvarez was an Australian citizen who had been removed by DIMIA, which at the time was not aware that she was an Australian citizen. The email asked for whatever information could be provided on the welfare officer who met her at the airport, and it was particularly seeking confirmation about whether or not she was an officer of the Australian embassy.

Senator LUDWIG—Who was that from and who was it to?

Mr R Smith—That was an email from the officer in DFAT in Canberra who took the telephone request from the Queensland police and it was to the Australian embassy in Manila.

Senator LUDWIG—On what date?

Mr R Smith—On 9 September 2003.

Senator LUDWIG—All right. I will follow that up later.

CHAIR—We will reconvene in an hour's time.

Proceedings suspended from 12.33 pm to 1.49 pm

CHAIR—Welcome back. Mr Smith, I understand that you have some answers to matters raised before lunch.

Mr Smith—I have answers to a number of the questions that we took on notice this morning. I will answer as many as I can now. We were asked what number of Australian prisoners there are overseas in addition to those already sentenced. The answer to that is 90. These are Australians in detention awaiting trial or further investigation. I can provide a by-country breakdown if that is of interest to the committee.

Senator FAULKNER—You might just give us the major ones and any you have done for those who have been convicted, perhaps, and place the rest on notice. Would that be all right?

Mr R Smith—Certainly, Senator. The main ones are: the United States, 12; New Zealand, seven; Indonesia, 10; Argentina, four; Cambodia, three; Hong Kong, three; India, three; Japan, three; Peru, four; Philippines, four; and Vietnam, four. The rest are spread across a number of different countries.

Senator FAULKNER—Thank you.

Mr R Smith—There were a number of questions about the case of the Australian whose clemency application we supported in the Maldives. Mr Downer wrote letters to his Maldives counterpart on 31 July 2001 and on 29 January 2002. We were asked whether those letters were prepared by the department. I can say that the department prepared drafts of those letters. Ultimately, of course, the letters that the minister signed were his own letters. A question was asked about the presence of the Australian High Commissioner to Sri Lanka and the Maldives at the Prime Minister's meeting. I can confirm that the High Commissioner was present. I understand that some officers from the Prime Minister's office and department were also present, but we do not have details of those. We were asked whether DFAT provided input to the brief prepared by—

Senator FAULKNER—Just before you move on, what was the High Commissioner's name, please?

Mr R Smith—The High Commissioner at the time was Mr David Binns. I can confirm that DFAT did provide input to the brief prepared by the Prime Minister's department for his visit to the Maldives. There was a question about whether we were working with any other agencies—government youth agencies in particular—in disseminating messages about the dangers of drug trafficking. The answer to that is no. We have been focusing our efforts in the dissemination of consular information on other areas, but we think it is a suggestion that is well worth taking up and we propose to do that.

Finally, on the question of the request that was made by DIMIA in September 2004 for passport information on Ms Alvarez Solon, I can confirm that the request received from DIMIA was not submitted in the approved format, nor was it signed by an authorised officer, according to the list of authorised officers provided by DIMIA. The question on how many clemency or pardon applications the government has supported over the last 10 years is one that will require some more work and we will have to provide that in writing to the committee.

Senator LUDWIG—That explosive information in respect of DIMIA being aware that Ms Solon had been deported from Australia: what happened to it from there?

Mr R Smith—Do you mean the information that we received from the Queensland police?

Senator LUDWIG—Yes, which you then put in an email, the contents of which you read out before the break. What did DFAT then do in respect of that information?

Mr R Smith—As I explained, Senator, we then sought information from the embassy in Manila to answer the question that we had been asked by the Queensland police.

Senator Ludwig—What was the response from Manila?

Mr R Smith—The response was to confirm, firstly, that the individual whose identity they were seeking to establish was not an officer of an embassy; secondly, that she was an employee of the Overseas Workers Welfare Administration, which is a Philippines government agency; thirdly, that the case records, if you like—the detailed records of this matter; in other words, the support that was provided by this individual when Ms Solon Alvarez arrived at Manila airport—could be provided by the head office of the Overseas Workers Welfare Administration on written request to their head office. That was the information that we got back from the embassy in Manila, and that was duly provided to the Queensland police.

Senator LUDWIG—Who received the email that I have asked you to provide, which summarises the position? I am not asking about the person, but what level inside DFAT received that? Did they share that information with anyone inside DFAT? It seems quite an extraordinary circumstance where you then put a file note and send it off to say that an Australian citizen has been deported. What happened in respect of that issue?

Mr R Smith—Well—

Senator LUDWIG—Doesn't it seem like that to you, Mr Smith? It seems quite extraordinary to put a file note to say that an Australian citizen has been deported and not give that a second thought.

Mr R Smith—The request that we had from the Queensland police was quite a specific request. It was a request put to us for information that would assist the missing persons investigation that Queensland police was conducting into the whereabouts of Ms Solon Alvarez. What the individual who actioned this request did was to follow it up in a quite proper way with the embassy in Manila who were able to answer the question that was asked of us by the Queensland police. That was the gist of the email that was sent to the embassy in Manila. That information was provided back to us and we provided it to the Queensland police. It was quite a specific request, as I said, asked in the context of the Queensland police's missing persons investigation.

Senator LUDWIG—But what about the content of it? Did anyone from DFAT in either Canberra or Manila then contact DIMIA and say, 'By the way, an Australian citizen has been deported; are you aware of it and what are you going to do about it now?'

Mr R Smith—There is no record on our files of any contact between DFAT and DIMIA at that point.

Senator LUDWIG—So it was just ignored.

Mr R Smith—It was not ignored. The request for information that we had from the Queensland police was quite assiduously followed up.

Senator LUDWIG—What level of bureaucrat did that go to? Do you have particular levels? Was it a senior bureaucrat?

Mr R Smith—I would describe the individual who managed this request for information as a junior to mid-level officer.

Senator LUDWIG—Are you aware whether they shared that information with anyone?

Mr R Smith—From the records, it appears that that was not the case.

Senator LUDWIG—When the email was sent to Manila, it contained the same information—that there was an Australian citizen deported?

Mr R Smith—What it did was to pass on the request for information from the Queensland police, including the information that the Queensland police gave us in order to give some context to the inquiry.

Senator LUDWIG—Was that sent to the ambassador?

Mr R Smith—That was sent to the consular section of the embassy in Manila.

Senator LUDWIG—Are you aware of whether they did anything with that information?

Mr R Smith—What the consular section of the embassy in Manila did was to seek answers to the questions that the Queensland police had asked—that is, the identity of the welfare officer who had met Ms Alvarez Solon on arrival at the airport.

Senator LUDWIG—Did they make any attempt to locate Ms Solon Alvarez?

Mr R Smith—No.

Senator LUDWIG—Is there any reason they would not do that?

Mr R Smith—Because we were not asked to do that.

Senator LUDWIG—Is there any file note to say whether they knew where Ms Solon Alvarez was?

Mr R Smith—No.

Senator LUDWIG—When did this file note become known to the more senior level of the department?

Mr R Smith—When we located that email when we were doing the searches that I referred to earlier, which was in mid May of this year.

Senator LUDWIG—Do you have a date?

Mr R Smith—We uncovered that particular email on about 18 May this year.

Senator LUDWIG—When did you provide information to the Palmer inquiry?

Mr R Smith—All the papers that we found were passed to the Palmer inquiry I think on 25 May. We advised them a couple of days earlier that we had some papers that we thought would be of interest to them, and a couple of days later they picked those papers up.

Senator LUDWIG—When Ms Solon was deported—and you indicated earlier that there was no further action in respect of that file—are you aware if anyone from the embassy in Manila met the plane or went to see her when she had disembarked?

Mr R Smith—We understand that no-one from the embassy met her at the airport.

Senator LUDWIG—Following that, do you know if there was any file note or information in the Manila embassy on whether they went to see what happened to her with the OWWA?

Mr R Smith—I am not aware of any. That would in any case have been handled by the immigration section of the embassy rather than by the DFAT officials in the embassy.

Senator LUDWIG—Have you made inquiries as to whether or not anyone from the Manila embassy did follow that up—in other words, have you asked that question of the embassy in Manila?

Mr R Smith—We asked the embassy in Manila to identify all the papers they had on file relating to this case. The papers that we have found are the ones that I have referred to already, and they are the papers that have been referred to the Palmer inquiry.

Senator LUDWIG—Was that information that you collected reported by cable?

Mr R Smith—Which information?

Senator LUDWIG—From Manila.

Mr R Smith—At what point?

Senator LUDWIG—When senior bureaucrats became aware of the information, was it reported by email or cable?

Mr R Smith—As part of our follow-up to this, when we became aware of Ms Solon Alvarez's full circumstances, we did exhaustive file searches in Canberra, in the different parts of the department that we thought might have had some involvement, as well as in the embassy in Manila. The papers that we identified were found on files and electronic databases—emails and so on—and they are the papers that have been provided to the Palmer inquiry. The ones that came from files in the embassy in Manila were sent back to Canberra probably by fax.

Senator LUDWIG—What date was that?

Mr R Smith—It was probably around 18 May. I am sorry to be imprecise; I can check that precisely if you would like me to.

Senator LUDWIG—Yes, please. The document in Manila was the one dated 20 July 2001. What other documents were there?

Mr R Smith—Just let me check my records. There was a copy of the 20 July 2001 email that was found on the Manila embassy files. Some other copies of that same document were found on Manila embassy files that bear handwritten annotations. I think I covered some of those this morning.

Senator LUDWIG—Yes.

Mr R Smith—There were some other papers mostly pertaining to the 2003 contact from Queensland police that were found on Canberra files.

Senator LUDWIG—When was the minister's office advised of this?

Mr R Smith—They were advised of our discovery of these documents as soon as we found them, which I think was on 18 May. Again, I would like to check that exact date, if you do not mind.

Senator LUDWIG—If you would not mind—how long will it take you to check on that?

Mr R Smith—Somebody will be following that up now. I should be able to get back to you after the break.

Senator LUDWIG—What information was then provided to the minister's office by DFAT at that point in time? We have not ascertained the date or particular time, but it was roughly around the 18th.

Mr R Smith—We advised the minister's office on the documents we had discovered and, obviously, on the state of the knowledge that we had of Ms Solon Alvarez's case as reconstructed by the information in these documents.

Senator LUDWIG—There were a couple of articles in newspapers. One appeared in the *Australian* on 17 May 2005 entitled 'Manila failed to check records'. There was also a similar article in the *Age*. Are you aware of anyone from those newspapers contacting the DFAT office?

Mr R Smith—I do not recall the articles and I am not aware of any contact from the newspapers concerned.

Senator LUDWIG—I have a broad question. Are you aware of whether DIMIA has asked DFAT to check on the whereabouts of any other Australian citizens currently?

Mr R Smith—No.

Senator LUDWIG—Has DIMIA made inquiries of DFAT currently about the whereabouts—

Senator Hill—Do you mean citizens that have been deported?

Senator LUDWIG—Yes.

Senator Hill—That is pretty wide—

Mr R Smith—The answer to that is no.

Senator LUDWIG—Has DIMIA made any inquiries of DFAT in respect of passports for people who may have been deported? I will make it a bit more specific this time and make it passport information.

Mr R Smith—Not that I am aware of.

Senator LUDWIG—Will you check on that too?

Mr R Smith—We can check that.

Senator LUDWIG—What is DFAT's role in the preparations for Ms Solon's return to Australia?

Mr R Smith—The embassy in Manila has been providing support for Ms Solon Alvarez in Manila while the arrangements are made for her return to Australia.

Senator LUDWIG—Who is making those arrangements? Has DFAT been tasked with the coordination of that return?

Mr R Smith—No. At this stage, those arrangements are being made principally by the legal team supporting Ms Solon Alvarez in Manila.

Senator LUDWIG—Is DFAT playing a role in terms of current support?

Mr R Smith—Yes, we are. We are broadly providing consular support to Ms Solon Alvarez. That ranges quite widely. We are providing her with temporary accommodation. We are providing her with other forms of assistance, including access to medical services. We are providing support to members of her extended family who have come to support her in Manila. We are generally ensuring that her needs are met. In doing that, we are obviously working very closely with her legal team and with her family members.

Senator LUDWIG—Has her legal team made requests currently for DFAT assistance or is that being afforded? Perhaps you can advise the committee of what the current position is in respect of that?

Mr R Smith—As I said, there is a range of consular support services being provided on an ongoing basis. We are working with her legal team and her family members to make sure that they are what she needs. There is obviously some discussion taking place with them about the arrangements for her return to Australia.

Senator LUDWIG—For day-to-day issues, like access and those sorts of things, who deals with that? Does DFAT deal with that or do the family or lawyers?

Mr R Smith—That is really a matter that is being managed by her legal team. I am not entirely certain the extent to which her family is participating in those decisions.

Senator LUDWIG—I was only interested in if DFAT either had a role or were playing any role in an ancillary way in those issues.

Mr R Smith—We are providing support to Ms Alvarez Solon as she needs it. In determining what those needs are we are working closely with her legal team as well as with Ms Alvarez Solon herself.

Senator LUDWIG—When was the Philippines embassy advised of the circumstances of Ms Solon's deportation from Australia?

Mr R Smith—I am not certain. That would really be a matter for the immigration department.

Senator LUDWIG—Have you had subsequent contact with the embassy in respect of the matters that have been revealed on or about the 18th—and I think you are now trying to establish that date?

Mr R Smith—Yes, we have had some contact with the Philippines embassy, principally to clarify with them some media reports which contain ambiguous references. We had some correspondence back from the Philippines embassy.

Senator LUDWIG—Can you say what the nature of that was?

Mr R Smith—It related I think to the question of what sort of support or reception arrangements were provided by the Philippines government or, more particularly, by the Philippines missions in Australia, the consulate in Brisbane or the embassy in Canberra, for Ms Alvarez Solon's arrival in the Philippines in 2001.

Senator LUDWIG—Do you know whether the embassy in Manila were in contact with the Philippine government in the Philippines either in 2001 or subsequently in 2003 when the email was sent?

Mr R Smith—Are you talking about the Australian Embassy in Manila?

Senator LUDWIG—Yes, whether they had any contact with not only OWWA but outside of OWWA—whether they had any contact with the Philippines government.

Mr R Smith—There is certainly nothing on our records to suggest that the foreign affairs and trade part of the embassy did. I could not say with any certainty whether or not the immigration section of the embassy might have had some.

Senator LUDWIG—And you are aware of the media release from the embassy of the Philippines on 17 May 2005?

Mr R Smith—Yes, in broad terms.

Senator LUDWIG—Have you answered the embassy yet on that?

Mr R Smith—Answered a press release?

Senator LUDWIG—In the sense that they raise a number of issues. Have you sought to speak to the embassy about some of the issues they have raised?

Mr R Smith—We did seek some clarification from the embassy on at least one issue. As I recall, there was an ambiguous reference to the department of foreign affairs which we wanted to confirm was a reference not to the Department of Foreign Affairs and Trade in Canberra but to the Philippines department of foreign affairs in Manila. The embassy confirmed that that was the case.

Senator LUDWIG—So that was the only response that you provided to the embassy of the Philippines in Canberra; is that right?

Mr R Smith—There may have been some other issues discussed. I do not have the details at my fingertips.

Senator LUDWIG—Perhaps you could just check on that and let us know in due course what that was.

Mr R Smith—Certainly.

Senator Hill—Firstly, I apologise for again being late back. I can give a full explanation, but it is probably not appropriate in public. We seemed to get onto the Corby matter and then drifted away from it. Is that matter complete now or is it planned that it be pursued again in another part of the hearing?

Senator FAULKNER—I think it comes up in 2.1.1, does it not, Dr Raby?

Senator Hill—I cannot really see the logic in starting it and not finishing it.

CHAIR—I have some indication that perhaps Senator Stott Despoja may have some questions on that matter.

Senator Hill—I do not mind that; I just wondered why we did not deal with it before.

CHAIR—Point taken.

Senator FAULKNER—I think it was raised incidentally, just in the overview. I thought it might be useful for us to get the broader picture of what was happening with those who were incarcerated overseas, and that has been provided by witnesses. My understanding is that we will revisit it in 2.1.1.

CHAIR—I think we are probably quite keen to get onto the outputs. Do you have more on the overview, Senator Faulkner?

Senator FAULKNER—I had two general questions I wanted to ask.

CHAIR—And then we can start on the outputs.

Senator FAULKNER—I will leave it at one general question and then come back to the other one at a later stage. I wondered if the department had had any involvement in the reported issue of Prince Charles proposing that he open the Commonwealth Games. Has that matter come to the department's attention? I raised it with the Department of the Prime Minister and Cabinet and also the Office of the Governor-General. I am happy to deal with that in one of the subprograms or one of the programs if it is easier.

Dr Raby—I do not have any advice on that.

Senator FAULKNER—Which program does that come under?

Dr Raby—I am not sure if it is one for us.

Senator FAULKNER—I am not sure, either. That is why I was asking.

Dr Raby—If it involves Buckingham Palace, I think it needs to be directed to the Department of the Prime Minister and Cabinet.

Senator FAULKNER—I have done that. I just wanted to check whether the High Commission in London had any role in relation to this.

Dr Raby—Perhaps we could deal with it when we are on output 1.1.3, Americas and Europe.

Senator FAULKNER—I will just flag that with you. I am happy to revisit it then. From my point of view, I am happy to go onto the outputs.

[2.17 pm)

CHAIR—We will now move to output 1.1, which is the protection and advocacy of Australia's international interests through the provision of policy advice to ministers and overseas diplomatic activity. Are there any questions on output 1.1.1, North Asia?

Senator FAULKNER—Yes. I have an issue that I would like to raise. Dr Raby, could someone outline to the committee what representations the department or the minister may have made to Japan about Japan's whaling program—just to put a time frame around this so

that we keep it pretty contemporary—since the 2004 meeting of the IWC, the International Whaling Commission?

Ms Morton—That is handled by the Ambassador for the Environment. Would you like to do that now?

Senator FAULKNER—I just assumed it would be North Asia because I thought that is where we had previously dealt with questions about Japan. But, again, I am happy to accept the guidance of the committee on this. Can you help me with that, Dr Raby?

Dr Raby—We can do it now.

Senator Faulkner—Is that matter normally handled by your North Asia desk?

Dr Raby—Whaling is being handled by the Ambassador for the Environment. North Asia, particularly the embassy in Japan, is obviously involved and there is some input from the bilateral area into the Ambassador for the Environment's work. But, principally, the lead for this is the Ambassador for the Environment, given the IWC dimensions of it as well.

Senator FAULKNER—Where do you want to handle this?

Dr Raby—I have invited Ms Adams to comment first.

Ms Adams—Could I have the question again?

Senator FAULKNER—I asked a broad question about representations that the department or minister might have made to Japan since the IWC meeting in 2004.

Ms Adams—I do not have a complete record of every time that issue would have come up in conversation since that meeting in 2004, but I think most of that information is on the public record in terms of the current issue of the proposed increase in scientific whaling and the Prime Minister's involvement, as well as the environment minister's involvement. The embassy in Tokyo and I have raised our concerns on whaling generally as well as concerns about the specific proposal that has been in the public domain.

Senator FAULKNER—So you have certainly made representations yourself, as Ambassador for the Environment.

Ms Adams—I have.

Senator FAULKNER—Can you outline your own activity in that regard?

Ms Adams—Most recently I have raised this issue with my counterpart, the Japanese ambassador for the environment, Ambassador Nishimura, in the context of the margins of climate change meetings. Last week, as Senator Ian Campbell said in that estimates committee, I was with him in New York when Senator Campbell raised the issue with the Japanese vice minister for environment. I have also raised our concerns about these issues with other whaling nations, Norway and Iceland, when I have seen my counterparts in the context of other international meetings. From within the department, we have been helping to coordinate joint demarches in Tokyo, although of course the embassy in Tokyo is primarily coordinating that.

Senator FAULKNER—Mr Downer made a visit to Japan in March this year. That is right, isn't it, Ms Morton?

Ms Morton—Yes, he did.

Senator FAULKNER—That meeting was from 21 to 23 March—is that correct?

Ms Morton—Yes. It was just before Easter.

Senator FAULKNER—Was the whaling issue raised by Minister Downer during that visit?

Ms Morton—I do not recall that it was, no.

Senator FAULKNER—It was not?

Ms Morton—I do not believe so, no.

Senator FAULKNER—It was not raised by the minister. Was it raised by officials during that visit?

Ms Morton—Not to my knowledge.

Senator FAULKNER—The Prime Minister made a visit to Japan from 20 to 21 April this year, didn't he?

Ms Morton—He did, yes.

Senator FAULKNER—I think they are the correct dates.

Ms Morton—Yes, I think so.

Senator FAULKNER—You see, we depend on media reports for these things. You have to understand we have the disbenefit of being in opposition. That is why I ask the questions. We are dependent on the paper trail and the media to track the Prime Minister's movements into Japan, into the Maldives. Was the issue of whaling raised by the Prime Minister on that visit?

Ms Morton—I believe it was, yes.

Senator FAULKNER—At what level were those representations made?

Ms Adams—I think that is all on the public record. Further detail would be a question for Prime Minister and Cabinet.

Senator FAULKNER—I am not asking for further detail; I am just asking at what level the representations were made. I am not sure whether it is on the public record or not. One tries to keep across the public record but may not have been able to do it completely.

Dr Raby—I do not think we can answer on the level of representation during the visit. However, not only did the Prime Minister make Australia's concerns known during his visit to Japan but he has subsequently written directly to Prime Minister Koizumi. So he has taken two opportunities to raise this with Japan.

Senator FAULKNER—Yes, I am aware that the Prime Minister has written to the Japanese Prime Minister and it was raised as an issue during his visit to Japan.

Dr Raby—Yes.

Senator FAULKNER—All I was asking you was if you can tell me who it was raised with.

Dr Raby—Yes, and I am saying I do not think we can at this stage. We will have to take that on notice.

Senator FAULKNER—What was the date of the Prime Minister's letter to the Japanese Prime Minister? Have you got that, Ms Adams?

Ms Adams—No. I do not have a copy of the Prime Minister's letter with me.

Senator FAULKNER—Do we know the date of the Prime Minister's letter to the Japanese Prime Minister?

Dr Raby—No, I do not have a date.

Senator FAULKNER—We don't know?

Dr Raby—We can get that for you as well.

Senator FAULKNER—How long will it take to establish that, Dr Raby—when that was sent?

Dr Raby—I think we can provide both pieces of information after the tea-break.

Senator FAULKNER—Thank you. Before the Prime Minister raised this issue on his visit to Japan from 20 to 21 April, are you aware of the issue being raised at the ministerial level at all, Ms Adams?

Ms Adams—No, I am not aware of it being raised at ministerial level prior to the recent set of representations on the proposed increase of the so-called scientific whaling program.

Dr Raby—I think, Senator—I have to check—the announcement of the extension of the program of humpback whaling postdated the foreign minister's visit to Tokyo. So I believe that we were not aware of this proposed extension. We have a longstanding policy of opposing all forms of commercial and scientific whaling by Japan, and it is a matter of ongoing representation in our relationship: the Japanese are very aware of our position. But this extension to humpback whaling is much more recent and I think what we have seen since then is a very strong series of statements by the government setting out our strong opposition and a big international campaign to try and build support internationally through the IWC to address this issue. Ms Adams is very much involved in that, along with the Minister for the Environment and Heritage.

Senator FAULKNER—The media reports of Mr Howard writing to Prime Minister Koizumi, I think, were published on 22 and 23 May. So it is quite recent, isn't it? That is when the media reports were published, so I assume they were contemporaneous with the letter. I think that is a fair assumption—we don't like making assumptions, but it is comparatively recent, isn't it? It is a week or so ago.

Ms Morton—Yes.

Senator FAULKNER—That is the ballpark, isn't it, Dr Raby?

Dr Raby—I believe so, but we will get you the precise date.

Senator FAULKNER—But the issue was not raised by Minister Downer in his trip to Japan, was it? When did this issue start being raised at the officials level? I appreciate the point that you are making in relation to the announcement on humpback whales. That was a

recent announcement by Japan. Do you know when the Japanese announced the doubling of the annual quota for minke whales?

Ms Adams—I can say there has not been an announcement as such. There was an advance draft, I understand, tabled in the scientific committee of the IWC that was confidential but then leaked progressively into the media. About, I guess, the end of April to early May reports started to appear of that. It is due to be formally discussed this week in the scientific committee of the IWC.

Senator FAULKNER—When was that tabled before the scientific committee of the IWC?

Ms Adams—That meeting is on now, so—

Senator FAULKNER—Yes, but when was the Japanese communication presented to the scientific committee of the IWC?

Ms Adams—I do not know those exact dates. The Department of the Environment and Heritage is actually the lead agency on the IWC process. We do not take the lead on that in that forum. It is the whaling commissioner—Dr Conall O’Connell, deputy secretary in the Department of the Environment and Heritage—and the Antarctic Division of DEH who participate in, work with and follow closely that scientific committee. But we can get the dates for you.

Senator FAULKNER—Is it the foreign minister who is responsible for dealing with the Japanese on this? It is being handled by DFAT and the foreign minister, isn’t it?

Dr Raby—No, the lead agency is the Department of the Environment and Heritage, and Senator Campbell has been taking the lead on this. The Ambassador for the Environment has been a longstanding position based in DFAT, but on all these matters the foreign minister takes a very close interest.

Senator FAULKNER—What is DFAT’s role?

Dr Raby—DFAT’s role is to support the activities of Senator Campbell, to support the Ambassador for the Environment and, as necessary and required through our diplomatic mission in Tokyo, to make representations.

Senator FAULKNER—So how do you know what the minister for the environment is up to, Ms Adams? You would have to keep in close contact, wouldn’t you?

Ms Adams—I occasionally travel with him overseas and we work very closely together in those international negotiations where we are both present. Yes, I work very closely with his office as well as with the minister himself in Canberra, so it is not too hard to keep track of.

Senator FAULKNER—Who do you report through to on whaling issues?

Ms Adams—The foreign minister and the environment minister.

Senator FAULKNER—Both?

Ms Adams—Yes.

Dr Raby—This is a longstanding arrangement for the Ambassador for the Environment.

Senator FAULKNER—So, Dr Raby, the Ambassador for the Environment is reporting through to the foreign minister and the environment minister.

Dr Raby—Yes.

Senator FAULKNER—I accept that Environment is the lead agency on this issue. I am just trying to explore the role of DFAT and the foreign minister here. We know it was not raised in Mr Downer's visit. I wondered how engaged DFAT was in diplomatic efforts to deal with this important issue.

Dr Raby—The engagement, again, is through the Ambassador for the Environment principally. Our ambassador in Tokyo has also, on instructions from the foreign minister, made representations. We are coordinating a joint demarche in Tokyo with other antiwhaling nations.

Senator FAULKNER—Who does that coordination?

Dr Raby—The embassy in Tokyo.

Senator FAULKNER—So that is a DFAT responsibility.

Dr Raby—Yes, although embassies are whole of government bodies. The effort is being led by the ambassador in Tokyo.

Senator FAULKNER—What is he actually doing?

Ms Adams—Coordinating with like-minded pro-conservation countries to formally approach the foreign ministry in Japan and the fisheries agency to put Australia's position and like-minded countries' position.

Senator FAULKNER—Who determined that the ambassador undertake that course of action and responsibility?

Ms Adams—The environment minister and the foreign minister.

Senator FAULKNER—Jointly?

Ms Adams—Jointly.

Senator FAULKNER—When was that decision made?

Ms Adams—I do not have a precise date. It is not a formal process. There is no piece of paper that has two signatures on it, but that was an agreed whole of government approach. I can find a date—

Senator FAULKNER—Agreed by whom?

Ms Adams—The environment minister and the foreign minister.

Senator FAULKNER—So it was just something informally done over a cup of coffee, was it?

Ms Adams—No, I did not say that. I said that there was not a piece of paper that records that decision but DFAT requested the embassy in Tokyo to coordinate a joint demarche on a specific date that I can give you. I do not have that right here.

Senator FAULKNER—If you can come back with that information that has been taken on notice, that might be helpful. But it sounds like it is true that these diplomatic efforts began in earnest in late May. Is that right, Dr Raby?

Ms Adams—More likely mid-May.

Senator FAULKNER—If you can give me a date and what activities were undertaken, I would appreciate it.

Dr Raby—Just one comment on that. The Prime Minister made his representations on either 20 or 21 April and that is the most senior level representation that can be made. I think it was made quite soon after the public announcement of their intention to extend the scientific program to humpback whales. So I think the dating of very senior level representation is 20-21 May during the Prime Minister's visit to Tokyo.

Senator FAULKNER—You just said April a moment ago.

Dr Raby—Sorry, 20-21 April during his visit.

Senator FAULKNER—Unfortunately there is no clarity on any of these dates. It seems to me that there are two elements of the announcement made by Japan, as I understand it, but again I only depend on the reports I have been able to read. One relates to the humpback whales and the other relates to doubling of the annual quota of minke whales. I think there are two broad elements to this.

It seems logical to me that departmental activity would be generated by those announcements—by knowledge and understanding of those intentions becoming clear to DFAT. That is perfectly logical. All I am trying to establish is what the time lines are and what occurred. If you can provide that information to the committee, it would be appreciated. If we go on like this, all the whales will have migrated again by the time we get it clear—the ones that have not been killed, of course.

CHAIR—Have you finished 1.1.1?

Senator FAULKNER—I have made a valiant attempt to deal with 1.1.1.

CHAIR—You have done well.

[2.40 pm]

CHAIR—We will move to output 1.1.2, South and South-East Asia.

Senator ROBERT RAY—With regard to the proposed ASEAN Treaty of Amity and Cooperation, has the department looked at all the implications of the signing of that treaty in regard to any pre-emptive military action? Would the signing of that treaty debar such a course of action into the future?

Mr Grigson—We have provided advice to ministers on the treaty. I think it has been made public that we have three concerns with it. One is the effect of the treaty on other relationships. The second is our capacity to make comments on issues such as human rights. The third is the operation of a high council—

Senator ROBERT RAY—I cannot hear the third one.

Mr Grigson—The third is the operation of what is called the high council. It is a body within the treaty. It has in fact never met, but it is a concern to us. Apart from that, as I said, we have provided advice on the treaty to ministers.

Senator ROBERT RAY—They are the three downsides that we see. What do you think are the upsides?

Mr Grigson—As you know, ASEAN ministers agreed in Cebu in April that membership of the East Asian summit would revolve around three criteria. One of those criteria was a commitment to accede to the Treaty of Amity and Cooperation.

Senator ROBERT RAY—That is a very direct benefit, but I was really asking you—I did not make it clear, obviously—what other provisions in the treaty we would see as an overall benefit to the region and Australia more generally.

Mr Grigson—The treaty is considered by the ASEAN countries and others that have acceded to it to be a symbol of a commitment to cooperatively resolve problems within the region.

Senator ROBERT RAY—So the Spratly Islands issue will just disappear, will it?

Mr Grigson—I would not go that far.

Senator ROBERT RAY—Has DFAT sought legal advice on the treaty—as to its implications?

Mr Grigson—Yes.

Senator ROBERT RAY—Do not worry; I am not going to ask you to produce it. But you have?

Mr Grigson—Yes.

Senator ROBERT RAY—On how many occasions?

Mr Grigson—We have produced advice internally.

Senator ROBERT RAY—It is internally developed advice?

Mr Grigson—Yes.

Senator ROBERT RAY—You have not had to go to external sources or A-G's?

Mr Grigson—Not that I am aware of.

Senator ROBERT RAY—What has been reported back to DFAT from our various posts in the region as to feedback as to how ASEAN countries are regarding Australia's current position on this treaty? You might say, at the same time, what our current position is.

Mr Grigson—I think, as the minister has made clear, that we are willing to talk to our ASEAN colleagues about our concerns about the treaty. As I said, there was a discussion in April in Cebu about criteria. Following that, we have talked with ASEAN officials about the issues we have with the treaty. Those talks are ongoing.

Senator ROBERT RAY—Ongoing at the moment?

Mr Grigson—They are.

Senator ROBERT RAY—Is there a uniformity of view being fed back by ASEAN members or does each have a difference of emphasis?

Mr Grigson—No. I think it would be fair to say that the view that came out of Cebu was that the three criteria that were decided were accepted by all ASEAN members that attended.

Senator ROBERT RAY—It is all very well to have a collectivist view on what I might call the treaty of mateship and amity, but I am wondering whether individually that is being reflected in the view of each country. It is quite often a different thing when you get away from a conference atmosphere. They may well be saying to you, ‘We’d like you to sign it but we now understand your concerns in this area or that area.’ I am just wondering whether we are getting different reporting back in as to that.

Mr Grigson—No. The view is that the ASEAN countries collectively and individually have encouraged us to consider whether we might be able to sign. We are now discussing our concerns with them; they understand what those concerns are.

Senator ROBERT RAY—I am not presuming we will, but how would an Australian signature reflect back on any of our other treaty arrangements, be they ANZUS or the five power defence pact? Have we looked at that? Are there any implications for those?

Mr Grigson—We have provided advice to ministers on that.

Senator ROBERT RAY—I am asking you to provide me with some advice—not to tell me what advice you provided government, because you are not entitled to do that at the table. I am seeking an analysis of that treaty and whether it does impinge. Forget what advice you have given to government; you are not allowed to say that. But you can advise me.

Mr Grigson—As I said before, Mr Downer has addressed publicly the three concerns we have. One of those would be how accession to the treaty might impact on our other relationships. That is one of the concerns we are continuing to discuss with ASEAN officials.

Senator ROBERT RAY—I presume that at least two, maybe three, countries that have already signed up for this—Malaysia, Singapore and Brunei—are also members of the five-power—almost six-power—defence pact now. They would have had to take that into account. I am trying to find out whether any of our existing treaties are a barrier to signing this one—or is it simpatico?

Mr Grigson—As I said, we have concerns about how it might impact on other relationships and treaties that we might have. We are discussing those concerns with ASEAN to make sure that our concerns are satisfied.

Senator ROBERT RAY—That would require DFAT to be able to define exactly what our current treaty obligations are—it is not so much obligations under this proposed treaty, is it?

Mr Grigson—No.

Senator ROBERT RAY—It is a bit fuzzier than that—warmer or whatever else you might like to say. Minister, do we have a timetable for a decision on whether we eventually sign or do not sign?

Mr Grigson—No.

Senator ROBERT RAY—I asked the minister. It is a government decision, not a bureaucratic one.

Senator Hill—As I understand it, we have not got a timetable, but, if you accept that signature would be a prerequisite to the East Asian meeting, you could say that it requires matters to be considered before that time.

Senator ROBERT RAY—When is that meeting?

Mr Grigson—December.

Senator ROBERT RAY—December this year?

Mr Grigson—Yes—tentatively scheduled.

Senator ROBERT RAY—Tentatively scheduled at this stage?

Mr Grigson—That is right.

Senator Hill—They may even have other meetings earlier than that that could be part of that requirement—is that right?

Mr Grigson—That is correct.

Senator ROBERT RAY—Do you think we fully understood the import of signing this treaty as linked in to attending this December meeting early enough or did it only emerge, as you said, at Cebu? Should we have anticipated this before then? Did we have signs of it before then? I am unsure of this.

Mr Grigson—No. It emerged as a linkage from the Cebu meeting—as one of three criteria.

Senator ROBERT RAY—At the moment there is just ongoing discussion. Is it just with ASEAN members or is it with ASEAN Plus Three that we are having the ongoing discussion?

Mr Grigson—ASEAN officials.

Senator ROBERT RAY—If the meeting is in December and it is still tentative, I suppose that invitations have not been officially offered.

Mr Grigson—That is correct.

Senator ROBERT RAY—That is all on that, thank you.

Senator FAULKNER—Dr Raby, I have noted that in *CrisisWatch*, the May bulletin, one area that is described as having deteriorated in terms of the April 2005 trends is Afghanistan. Does this fit with the view of DFAT? I hope someone from the department might be able to indicate to us what the view of the department is in relation to the security situation there.

Dr Raby—Mr Grigson can comment on that.

Mr Grigson—There are two factors to take into account in security in Afghanistan. The first is that, following the winter thaw each year, there is a cyclical upturn in security problems. That is occurring this year. The second is that the national assembly elections are scheduled for September, and it is quite possible that there might be some increase in security problems in the lead-up to that. There is also a very thorough description of security issues in Afghanistan in our travel advice.

Senator FAULKNER—Would you accept that broad assessment by the International Crisis Group that there has been a recent deterioration there?

Mr Grigson—Yes. It is cyclical. I would say that over the long term security is improving across Afghanistan, but I would be the first to say that it is a significant challenge for the government.

Senator FAULKNER—Are you able to provide a broad assessment of the strength of al-Qaeda forces in Afghanistan as an element of this broader security picture?

Mr Grigson—No, I would not be able to give you any detailed assessment of that. I would need to take that on notice.

Senator ROBERT RAY—Would your mission in Kabul ever report back on that on a regular basis?

Mr Grigson—We are not represented there. We cover it out of Islamabad.

Senator ROBERT RAY—Who would report back to us about developments in Afghanistan?

Mr Grigson—Generally on security we would get that information through Islamabad, from the high commission in Islamabad.

Senator ROBERT RAY—Their own assessments or do they share material with other like-minded countries to assist us?

Mr Grigson—They would do both—provide their own information and, as you say, share information.

Senator FAULKNER—You mentioned the Afghani general elections. It is a September date, isn't it?

Mr Grigson—That is correct, yes.

Senator FAULKNER—Can you remind me of it?

Mr Grigson—The exact date is 18 September.

Senator FAULKNER—Have we any indication of whether preparations for the elections are on schedule—accepting the difficulties that you have pointed to in your previous answer? Has this had a major impact on preparation for the elections?

Mr Grigson—The election schedule slipped as a result of organisational difficulties. I think that many of those have been addressed. At this stage, it is in the calendar for 18 September.

Senator ROBERT RAY—Is Australia providing assistance here?

Mr Grigson—Yes, \$3 million.

Senator ROBERT RAY—Any personnel—Electoral Commission or any other involvement? Is it just a straight grant of assistance?

Mr Grigson—I will check for you, but looking at the briefing here it is just a straight grant.

Senator FAULKNER—When you say the scheduling has slipped but the date has not—

Mr Grigson—The elections were originally scheduled for April-May, and they have now slipped to September.

Senator FAULKNER—I appreciate that that change has occurred, but you are not suggesting that, given the new date, there has been further slippage in the schedule?

Mr Grigson—No.

Senator FAULKNER—I just want to be clear on that.

Mr Grigson—No.

Senator ROBERT RAY—You mentioned before that we were not represented in Kabul. When was the last time we had diplomatic officials visit there?

Mr Grigson—I will get you the exact date. It was certainly in this half of the year. I think it was as recently as a couple of months ago.

Senator ROBERT RAY—That will do.

Mr Grigson—I will get you an exact date.

Senator FAULKNER—This presence is normally organised out of Islamabad?

Mr Grigson—Yes.

Senator FAULKNER—Is that occurring on a regular or an irregular basis?

Mr Grigson—We leave it to the judgment of the Head of Mission in Islamabad to make those visits. But, as I said, she has been recently and she keeps a very careful eye on it to, among other reasons, ensure that the travel advice is kept up to date.

Senator ROBERT RAY—Have we made representations to the provisional government there about the absolute explosion in drug production in Afghanistan?

Mr Grigson—As you know, there has been a major problem there with narcotics. We have done what we can to help them with narcotics control and border control issues. We have provided \$2 million to support international efforts on combating opium cultivation. But nobody would deny that it is a major challenge for them.

Senator FAULKNER—Our announcement to withdraw troops from Afghanistan I think was made in late 2002—is that right?

Senator Hill—Our announcement to withdraw troops from Afghanistan—

Senator FAULKNER—Our decision. I thought it was late 2002.

Senator Hill—I think that is about right.

Mr Grigson—I think it was December.

Senator FAULKNER—I count that as late 2002. Has the Afghan government formally made any request of Australia since that time for a continuation of military assistance or for new military assistance?

Senator Hill—Yes, they have. Afghan ministers, from time to time, have said that they would appreciate any further assistance Australia could give. The embassy here in Canberra has said likewise. They encourage international military assistance, particularly in training their forces. It is fair to say they encourage support to ISAF. They encourage contributions to the PRTs, the provincial reconstruction teams. They certainly include military components.

Senator FAULKNER—Did Australia indicate to the Afghan government that it would send a delegation, I think it may have been a military delegation—in fact, I think it may have

even been a commitment you made yourself, Senator Hill, but we can check that—to try and establish what, if any, contribution Australia might make.

Senator Hill—We have sought to keep abreast of the situation because obviously we are very interested in seeing a consolidation in the gains that have been made. We think that the progress in Afghanistan has been impressive. I thought that the way it was being coloured a little while ago was somewhat negative. There certainly has been a recent increase in incidents but, overall, the progress in Afghanistan has been quite extraordinary. That does not underestimate the challenges that still remain. You mentioned the narcotics one, which is one of the big ones.

We seek to keep abreast of where the international community's contribution is at, whether it is in terms of aid, reconstruction support or military support. We do that through our dialogue with the Americans, the British, Canadians, New Zealanders, others who are contributing forces there and, more recently, through NATO. We can also do that through the experiences of our diplomatic representatives who visit there from time to time or we can do it through delegations that visit from time to time.

Senator FAULKNER—Thanks for that, but what I was asking specifically was whether Australia had indicated to Afghanistan that it would send a military delegation to try to establish what the needs were and, as I said, what Australia may or may not be able to do. Did that occur in 2003?

Senator Hill—I think it was during the visit of one of the Afghan ministers to Australia that I indicated that we would look to send a small military delegation at an appropriate time to build on our knowledge but that expectation should not grow from such a mission; it would simply be to ensure that we are being kept well informed. A small mission went late last year.

Senator FAULKNER—Following that small mission, did we formally indicate to the Afghans that there would be no further support forthcoming?

Senator Hill—No, I do not think we have had any such communication in recent times. My recollection is that, from time to time, they have made reasonably specific requests and we have indicated that we believe we are quite extensively involved elsewhere in terms of our military operations and we could therefore not meet their requests at that time. Sometimes those requests have come through the United States but, presumably, they originate at least in part from the Afghan government.

Senator FAULKNER—What was the outcome of the delegation that you speak of that went last year?

Senator Hill—There have been no decisions at a government level that have been made as a consequence of the delegation. The delegation obviously reported to ministers. There have been discussions across departments. I think it succeeded in making a useful contribution to our contemporary knowledge of the security and development issues, but there has been no government decision that flowed from it.

Senator FAULKNER—Was there any formal communication or correspondence from the Afghan government regarding the decision of late 2002 that Australia would be withdrawing its troops from Afghanistan?

Senator Hill—There has certainly been correspondence from time to time. They have been very appreciative of the contribution we made in defeating the Taliban and giving them an opportunity for a better future.

Senator FAULKNER—Apart from being appreciative about that, have there been any formal requests for extra assistance?

Senator Hill—You asked me that question earlier and I have answered with the qualification that I am not too sure how formal you would describe it as. There have been expressions from time to time—

Senator FAULKNER—That is why I asked the question in this form.

Senator Hill—to the effect that any further assistance that could be given would, of course, be appreciated.

Senator FAULKNER—So we are to assume that is a formal request. I asked you broadly before; now I am asking whether it has been put more formally to the Australian government.

Senator Hill—That requires a definition, doesn't it? I have described it the way it is and you can decide whether that is formal or not.

Senator FAULKNER—Did those communications include a request to reconsider the withdrawal of Australian troops?

Senator Hill—I do not recall, in those terms.

Senator FAULKNER—Have there been formal responses by the Australian government? In other words, responses by letter or other form of formal communication to the requests by the Afghan government?

Senator Hill—Not that I can recall. If you want DFAT to search its records, we can do that. I cannot recall formal responses because I would not really characterise the requests as formal requests.

Senator FAULKNER—I would not mind the record being checked on that, if we could.

Mr Grigson—Yes, Senator.

Senator FAULKNER—I accept that there is inevitably a definition, I suppose, about what is formal and what is not. If, for example, there was a communication in writing from the Afghan government and a response by the Australian government in writing, that fits my definition of formal. As you said, I can make my own definition. It seems to me to be a reasonable one in the circumstances.

Senator Hill—Have there been exchanges of letters on this issue? We will check that.

Senator ROBERT RAY—Has any consideration been given in the long term for us to be diplomatically represented in Kabul, once the situation is more secure, or wouldn't the demand for services justify that?

Dr Raby—The question of diplomatic representation is kept under constant review. It is the subject of consideration but obviously there are certain difficulties and expense involved in that. Also, there is the question of how much value added at this particular time can come from what would be a fairly expensive operation.

Senator ROBERT RAY—Yes. To what extent are we able—I know we do to an extent—to share representation? I know in certain parts of the globe we are represented by other countries. That is the first thing. To what extent do we share, for instance, with New Zealand or very like-minded countries? Is there any potential there to expand?

Ms Williams—There are some different ways that we cooperate overseas. We have some co-location arrangements—I am just trying to recall them now; we may only have one or two—where we share facilities. Obviously, on the consular side, we do have a consular sharing arrangement. Rod Smith could perhaps give you more detail about that. In terms of more integrated sharing arrangements, no, there are none that I am aware of.

Senator BARTLETT—Can you tell me what work the department is currently doing on the issue of a possible outbreak of bird flu in the region. You noted in your annual report that you had done a bit of preparatory work there. What is your assessment of the current risk?

Dr Raby—This is really one for the department of health. It cuts across a number of divisions, obviously, so it is difficult for us to give a succinct response, but it is one that we monitor from our diplomatic missions. Where WHO has a presence in-country, our diplomatic missions stay close to WHO activity and liaise with WHO. We also liaise closely with WHO in Geneva, through the headquarters. But in terms of health assessment and health responses, that is really with the department of health.

Senator BARTLETT—Looking at your annual report, it says that you closely monitored the outbreak of avian influenza and prepared in-depth assessments of its potential impact on Australian exports to the region, particularly exports of poultry products. Can you, firstly, give me some sort of general view of what that assessment found and, secondly, tell me whether that assessment included impacts on tourism into Australia—which I presume you count as an export?

Dr Raby—I cannot at this moment, but the trade related outputs are to be taken tomorrow evening, and we could revert back to that then if you wish. Otherwise I can take it on notice and perhaps get back to you before the end of the day or earlier tomorrow.

Senator BARTLETT—I am not sure if I will be here in this committee tomorrow evening, but something on notice would probably suffice.

Senator FAULKNER—We are hoping you are here and we are not.

Dr Raby—I know the annual report said that we did that in conjunction with Austrade, but risks to Australia's live animal and food trade also very much involve the Department of Agriculture, Fisheries and Forestry.

Senator BARTLETT—I am particularly interested in the impact on tourism. Live animal imports are not my favourite thing, I might say.

Dr Raby—Could we take it on notice please?

Senator BARTLETT—Sure. Something else in your annual report is the broader issue of engaging mainstream Islam in the region and some of the other aspects that are also mentioned in the budget papers and the PBS: the Australia-Malaysia Institute, the Australia-Thailand Institute and all those related aspects. I am trying to keep it general, because I think that gives you an opportunity to represent it as you see fit. Given some of the related public

concerns and perceptions about the so-called danger of Islam and Islamic extremism and fundamentalism, what is the focus of the sort of work that the department is doing in this area? How are you trying to not just engage mainstream Islam but also increase awareness about the real nature of mainstream Muslim communities in South-East Asia?

Dr Raby—That is another broad cross-cutting question—an area that the foreign minister is particularly interested in—but much of the activity is focused in the South-East Asian area. I might invite Mr Grigson to add to the answer.

Mr Grigson—We have got a number of different programs running where we try to encourage discussion and consultation among various Muslim communities in South-East Asia and in Australia. You would know from media reporting last year that Mr Downer and Mr Wirajuda hosted an interfaith dialogue that was very successful. It had delegations from almost all the South-East Asian countries and Australia and New Zealand. We will be looking to have another such dialogue at some point. Within the department there are a number of institutes, and the Australia-Indonesia Institute certainly has a long-running program of Muslim exchanges, interfaith exchanges. We have recently brought five Moslems from Thailand to Australia, which was run out of my division. That was very successful. We look for opportunities where we can to encourage those sorts of exchanges.

Senator BARTLETT—So is it focused through one or two particular bodies or institutes like the Australia-Malaysia Institute?

Mr Grigson—It comes from a number of different sources but the majority of them are my division. The Australia-Indonesia Institute is located within my division. You mentioned the Australia-Malaysia Institute, which is just starting to get up and running. That, similarly, is within my division. The interfaith dialogue was funded by Australia, including some funding from AusAID, but that was largely organised by my division—and similarly the visit from Thailand. So, while there are a number of different sources of funding, we do keep a coordinated approach to our efforts.

Senator BARTLETT—I know you have mentioned visits to Australia. Are there any plans for further delegations? I am thinking particularly of what I might call community level delegations rather than parliamentarians and church leaders and the like, important though that is. Are there proposals for community level exchanges?

Mr Grigson—The Australia-Indonesia Institute has had some people visit Indonesia. We are looking at sending two Muslim representatives or delegates, for want of a better word, to Thailand to make a visit there. We are looking at the most effective ways of trying to get our message out about diversity and harmony, for want of a better noun. We would choose people depending on the circumstances. Where a senior Muslim leader is best suited, they are the person we would choose, but we are not tied to that approach. We are willing to look widely at what is the most effective way to go forward.

Senator BARTLETT—Is this the right place to ask further about the Australia-Indonesia Partnership for Reconstruction and Development?

Mr Grigson—Yes, it is.

Senator BARTLETT—Could you give me an update on that? I think that had not met when we were at the February estimates but has since met and is under way.

Mr Dawson—What particular aspects would you like our response on?

Senator BARTLETT—My understanding is that there has been at least one meeting since last estimates and presumably some decisions out of that. Could you, firstly, confirm that there has been a meeting or more than one meeting, and then tell me what has been resolved and put in place.

Mr Dawson—There was a meeting of the joint commission for the partnership on 17 March in Canberra. That has been the only meeting of the joint commission at ministerial level so far. That meeting took a number of important decisions, which were recorded in a ministerial statement which has been publicly issued. It affirmed certain objectives and principles for the partnership. It dealt with a range of governance issues for the joint commission about what its mandate was and how it would make decisions. It identified a range of early activities for funding from the \$1 billion package. It also looked at some of the key objectives and principles that would underpin the development of an agreement to cover the \$500 million in concessional loans to be provided as part of the partnership and looked at issues of joint management and the arrangements to cover procurement under the partnership.

Senator BARTLETT—How does it proceed from here? Do you have further meetings, or do you have a body of people now that basically can sort it out as it goes along without needing to have further summit style meetings?

Mr Dawson—I think the joint commission agreed that the commission itself would try to meet at least annually, but there is provision there for meeting at other times. There has been at least one further announcement since the meeting of 17 March during the Indonesian President's visit, where a large scholarship program was announced. We are now pursuing a number of issues which were outlined as part of the further work in development of the partnership. Those issues were identified during the March meeting—in particular, the development of an overall partnership framework, which is really a set of guidelines and criteria to help determine the priorities for activities to be funded under the partnership, and also the development of an umbrella agreement to cover the concessional loan program. So we are in discussion with Indonesian officials at the moment about those issues. When we have got agreement at officials level we would be looking to have those agreements ratified by ministers.

Senator BARTLETT—Thank you for that. I might leave the tsunami aid package at that at the moment. I have one or two other quick things on Indonesia.

Senator PAYNE—I want to ask a couple of questions. Firstly, on the Australia-Malaysia Institute which was announced in April, I think the announcement said it was having its inaugural meeting in May—and I know today is only 1 June. Did that happen?

Mr Grigson—Yes.

Senator PAYNE—And did they set down a program for future activities?

Mr Grigson—They sketched an outline of that program and they are going to consider that out of session. They look to get running on a full program in the next financial year.

Senator PAYNE—Thank you. I have some questions on Burma. Is this the right area?

Mr Grigson—This is the right area.

Senator PAYNE—Have we appointed a new ambassador?

Mr Grigson—We have: Bob Davis.

Senator PAYNE—And when does he take up his position?

Mr Grigson—He has started.

Senator PAYNE—He has presented credentials?

Mr Grigson—He has.

Senator PAYNE—The US state department made a statement at the end of last week, I think, acknowledging 30 May 2003—the re-detention of Aung San Suu Kyi and the attack on her motorcade. Did we make any similar statement?

Mr Grigson—We have remained very concerned, as you know, about the circumstances in Burma and have continued to make representations in Rangoon. The most recent string was 16, 17 and 18 May, focusing particularly on the plight of political prisoners and Aung San Suu Kyi.

Senator PAYNE—We made representations then?

Mr Grigson—That is correct.

Senator PAYNE—As well as that, did they go to any of the recent bombings or the reported attacks on the Shan minorities in particular and the displacement occurring there?

Mr Grigson—There are two issues there. The first is the recent bombings. It has not been possible for us to make a clear judgment about who is responsible for those. In our ongoing discussions we make clear our concerns, of course, about security generally in Burma. As far as the second issue is concerned, there are continuing clashes, and we continue to make our views very clear in discussions. There can be no surprise among Burmese ministers about our views on these issues.

Senator PAYNE—Do we have any new information on the national convention and its progress—whether it looks like becoming a more useful body?

Mr Grigson—No. Similarly, our position on that remains the same. While it remains closed to all who might wish to participate in an open debate, it is not a credible convention.

Senator PAYNE—What is the current status of our human rights engagement?

Mr Grigson—It remains suspended.

Senator PAYNE—Thank you. Chair, before she had to go to another committee, Senator Stott Despoja asked me to indicate that she would be putting questions in 1.1.2 on notice.

Senator FAULKNER—No doubt you have seen the publicity which came about as a result of a major article in *Time* magazine. I asked some questions briefly of CDF during the committee's hearing last night. Have any of the matters canvassed in the article in the broad been raised with the department of foreign affairs by any other country or NGO?

Mr Grigson—Certainly not to the knowledge of my division, Senator. I could check more widely for you.

Senator FAULKNER—Thank you.

Senator ROBERT RAY—I am not sure how widely we can canvass this, but following the bombing outside the Australian Embassy in Jakarta, have we had a long, hard rethink about location and security of the building? I obviously do not want you to give us the crown jewel secrets regarding what you are doing. Are you doing something substantial about it?

Dr Raby—Yes. We could respond now, or under 1.1.8.

Senator ROBERT RAY—I'm here now. I might not be here later.

Mr McKinnon—Yes, Senator, we have had a rethink, obviously, after the bomb attack in Jakarta. We had a program of security improvements already under way at that embassy, many of which factored into the fact that there were no casualties within the building; the great bulk of casualties were innocent passers-by, minding their own business. We have in place a whole range of measures to upgrade the security of the building—replacing the perimeter fencing, facade hardening and a range of other measures which we would not go into. It has also been announced that we will be relocating the building at an appropriate time.

Senator ROBERT RAY—So there are long-term plans just to relocate the building?

Mr McKinnon—That is what we are trying to do now.

Senator ROBERT RAY—Are you looking for a site first-off?

Mr McKinnon—Yes.

Senator ROBERT RAY—You have not done—

Mr McKinnon—We are in that process.

Senator ROBERT RAY—You are in the process of looking for another site?

Mr McKinnon—Yes.

Senator ROBERT RAY—You mentioned before—there is probably information on the record; I do not know—innocent passers-by being killed. Have we been able to do anything to help their families? If so, what?

Mr McKinnon—I am sorry, Senator. That is not my area.

Senator ROBERT RAY—It was a general question.

Senator Hill—My understanding is that we have done so but the detail would have to be provided.

Ms Thorpe—In terms of the non-Australian nationals who were injured, the Prime Minister and the Australian Red Cross jointly announced, on 11 September, an assistance package that was to be provided. That money came through AusAID. It contributed around \$1 million to the program.

Senator ROBERT RAY—Have we had any assessment or follow-through as to how well that program has worked?

Ms Thorpe—You would have to ask AusAID because the funding came through them.

Senator ROBERT RAY—No-one else knows at the moment?

Mr Grigson—We provided medical assistance to those injured and assistance to their families. I think I recall a report that the last of those being assisted medically returned to Indonesia last week. I can certainly get you a follow-up on the program for the families.

Senator ROBERT RAY—Is the relocation and strengthening of security in Jakarta the highest priority you have got in our various missions around the globe?

Mr McKinnon—It is a very high priority. It is in the early tranches of funding, so we are moving as quickly as we can to identify a suitable site and to organise the move. Of course, that presents difficulties itself. In the meantime, because there will inevitably be some time before we can find and secure a site and build a new chancellery, we have undertaken a whole range of measures to lift the security at the existing chancellery site up to a higher level than it was previously.

Senator ROBERT RAY—Is there any pressure from our neighbours there to move on?

Mr McKinnon—Not that I am aware of.

Senator ROBERT RAY—Are some of the US missions still closed in Jakarta?

Mr McKinnon—I am not sure. We can check that. Monday was a public holiday. To my knowledge, they were scheduled to open yesterday and did do so, but we will check to see whether they did or not and come back to you this afternoon.

Senator ROBERT RAY—There is no hurry with that, as long as we get a response at some stage. What about Australian diplomatic residences in Jakarta? Are they assessed at any threat?

Mr McKinnon—Threat assessment takes into account not only the chancellery but also all the living arrangements. There are a range of measures to improve those where that is possible.

Senator ROBERT RAY—Thank you.

Proceedings suspended from 3.31 pm to 3.51 pm

CHAIR—Mr Smith, I understand that you have some answers to questions asked earlier. Senator Faulkner is not here. I think he would be most interested in those answers, wouldn't he?

Dr Raby—They are mainly about Vivian Alvarez Solon. I think Senator Ludwig led the questioning in that. If I could also say, while I have the floor, that we have some other responses to questions that were asked before the break, including on the US embassy opening in Jakarta and on whaling.

CHAIR—This might be an opportunity to have those answers. Mr Smith, please lead off.

Mr R Smith—On the Vivian Alvarez Solon issue, I said I would confirm the date on which we identified the documents we discussed earlier in the day. That was 18 May. We advised the Palmer inquiry—more specifically, Mr Comrie—of those documents on the same day, although it was some days later before they were collected by the inquiry. We were asked earlier about whether any passport checks had been made by DIMIA of DFAT

passports in relation to Australians in detention. The answer is that there are none we are aware of. I say that carefully because the sort of information that DIMIA provides to us when it makes requests of that kind would not normally give us enough information to know about the status of an individual, so I think that really is a question best asked of DIMIA.

Senator Ludwig also asked me to clarify contacts with the Philippines Embassy in Canberra. There were a number of discussions with the Philippines Embassy in Canberra around the middle of May. They were essentially to clarify some media reports that were around at the time principally in relation to two issues. The first was whether or not the Philippines Consulate in Brisbane had arranged some kind of welfare support for Ms Solon Alvarez when she returned to the Philippines, and the advice we had from the embassy was that none was organised by the Philippines consulate. That support was provided by the Overseas Workers Welfare Administration. The other issue, as I think I said earlier, was in relation to some ambiguity in a press release that was put out by the embassy referring to the department of foreign affairs. We sought clarification from the embassy that that was a reference to the department of foreign affairs of the Philippines government in Manila, not the Australian Department of Foreign Affairs and Trade in Canberra, and that was confirmed by the embassy.

The other issue was, as I think I said earlier, in relation to some ambiguity in a press release that was put out by the embassy referring to the department of foreign affairs. We just sought clarification from the embassy that that was a reference to the department of foreign affairs of the Philippines government in Manila, not the Australian Department of Foreign Affairs and Trade in Canberra, and that was confirmed by the embassy.

Dr Raby—Ambassador Adams was here a minute ago to answer Senator Faulkner's questions with respect to whales in terms of the timing of announcements by the Japanese and so on. We can revert back to that if you are agreeable, Chair, when the ambassador returns. Separately, whilst we are waiting for her to come to the table, Senator Ray asked about the opening of the US embassy in Jakarta. Senator Ray is absent; shall we hold that answer over until he returns?

[3.56 pm]

CHAIR—It is best to hold it over, I think. We are now on 1.1.3, Americas and Europe.

Senator STOTT DESPOJA—Can I seek clarification. I have a couple of quick questions on the issue of David Hicks and Guantanamo Bay. I am wondering under which output you would prefer me to ask it. I wondered if Americas and Europe might be appropriate.

Dr Raby—Could I suggest that we take that up under 2.1, Consular and passport services.

Senator FAULKNER—I wanted to ask about the security of the mission in Cambodia. I was not sure whether it was a 1.1.2 or a 1.2.

Dr Raby—It would be 1.2. But we have already, under 1.1.2, had a discussion on the security of the embassy in Jakarta.

Senator FAULKNER—I am happy to leave it until then. I was not sure.

Dr Raby—Ambassador Adams is here. We could answer those questions on whaling now if that is agreeable.

CHAIR—That might be an idea.

Ms Adams—I have confirmed with Australia's whaling commissioner that the Japanese proposal, the JARPN II proposal, was first circulated in confidence to members of the scientific committee of the IWC on 1 April. That is an in-confidence circulation of documents in advance of the scientific committee meeting which, as we discussed before, is on right now. Details of that proposal started to leak out after that 1 April circulation, and Senator Ian Campbell issued press releases on the more general issue of the revised management scheme, which was associated with the resumption of commercial whaling, on 1 April, and another one more specifically on the Japanese proposal on 13 April. He then raised, as I mentioned before, with the vice-minister for environment from Japan our concerns in New York on 21 April. That was the same day that the Prime Minister raised our concerns during his visit to Japan. You asked about who he raised those concerns with. It was the parliamentary secretary for foreign affairs, Mr Onodera. That was on advice from the embassy in Tokyo that he was the relevant senior foreign ministry figure.

I should underline that, of course, work on the broader issues of the revised management scheme and the resumption of commercial whaling have been ongoing and we have been working, particularly through the whaling commissioner and DEH, as I said before, constantly since the last meeting and before on issues such as the whale sanctuary that we propose as well as opposition to the revised management scheme. On those more general issues, Senator Campbell raised concerns and sought coordination with the US and the UK in London in mid-March when he was there for other business.

You sought some other dates. We formally requested that Tokyo coordinate a joint demarche on 4 May. There had been much discussion, particularly amongst the whaling commissioner network, leading up to that, but it was formally requested of the embassy on 4 May. You also asked the date of the Prime Minister's letter to the Japanese Prime Minister. That letter was dated 18 May.

CHAIR—There being no further questions on 1.1.3, we will move now to—

Senator FAULKNER—There is the question we held over to 1.1.3. It is just a brief one. I want to check whether there had been any involvement at all by DFAT on the issue of the invitation to the opening of the Commonwealth Games. I think Dr Raby said that it was unlikely, but that we could check it during consideration of this particular subprogram.

Mr Newman—We have seen the story you referred to in the press, but we have seen nothing, officially or unofficially, that would give it any credence.

Senator FAULKNER—If you have seen nothing about it or know nothing of it, I will not ask you any questions about it.

[4.01 pm]

CHAIR—We will move now to 1.1.4, South Pacific, Middle East and Africa.

Senator ALLISON—In the last week or so, there have been reports of pretty violent clashes between the Moroccan military and police and protestors over peaceful protests that have been conducted right around Western Sahara in the occupied territories. Has the department heard about that?

Mr Ritchie—No. To my knowledge, we have not heard about that. Let me check and I can get back to you.

Senator ALLISON—It is my understanding that some hundreds of people have been injured and jailed as a result of it. There has been a request for United Nations Security Council intervention. Can you also advise whether Australia would support such a move? What has Australia done to press Morocco to agree to proceed with the referendum, which I think was agreed on with the peace plan some 13 years or more ago? Has the government taken any action?

Mr Ritchie—Our position has been to support a referendum to allow a decision on self-determination by the people of Western Sahara. That has been a constant approach by the government.

Senator ALLISON—But Australia has, nonetheless, abstained from a number of UN resolutions to do with the referendum.

Mr Ritchie—It has, indeed, because the UN resolutions, as I understand it, did not attract consensus. There have been large numbers of abstentions.

Senator ALLISON—How does the department see a resolution? What is likely to be an outcome in the next short while?

Mr Ritchie—It is difficult to be optimistic, I think. As I say, our position is that we would like to see a resolution which is accepted by all the parties to this conflict. But it is very difficult to see how that is going to come about.

Senator ALLISON—Some would say that there needs to be more pressure put on Morocco to agree to what it agreed to almost 15 years ago. What has Australia done in that respect?

Mr Ritchie—As I say, our position has been to support the holding of a referendum to allow self-determination to take place, and that position has been put in the United Nations and elsewhere.

Senator ALLISON—Has there been any change in the government's position on providing assistance to the 190,000 people who are currently in exile in the Algerian desert?

Mr Ritchie—Not to my knowledge but, again, I can check on that.

Senator ALLISON—As I understand it, the situation is fairly grim for those people as supplies and so forth have dried up in recent times.

Senator STOTT DESPOJA—I have some questions on progress in relation to the establishment of an Australian diplomatic mission in Libya. Mr Ritchie, can you provide the committee with an update on how that is progressing?

Mr Ritchie—As you are probably aware, the intention to establish a post was announced by Mr Downer and Mr Vaile last year. We are proceeding with talks with the Libyan government to that end now.

Senator STOTT DESPOJA—The announcement, which I think took place in May—I have certainly seen a press release that indicates the decision to establish a new mission—is to reflect the positive developments in Australia's relationship with Libya since the restoration of

diplomatic ties. Can you outline for us some of the positive aspects of that relationship and the developments in the last year or so?

Mr Ritchie—I think something that my colleague from the international security division might be better placed to comment on was Libya's decision in the nuclear area, which we greatly welcomed and which really opened up the field for engagement across a broader area. There is a fair degree of commercial interest in Libya from various Australian companies and we, as the ministers have indicated, would like a diplomatic representation to underpin that.

Senator ALLISON—You mention companies—and, again, this has been referred to in public comments by the minister. Apart from Woodside, can you outline some of the other companies in Australia that have got commercial links or have made investments as part of this renewing of not only diplomatic ties but also trade links?

Mr Ritchie—Let me take that on notice and get back to you with a fuller answer. I think that, with the establishment of a presence there, including an Austrade presence, the potential would open to tap into the Libyan market. It is quite a substantial market for a number of Australian exporters, not only companies such as Woodside, which want to invest in the petroleum area. The potential is seen as fairly substantial with Libya. Also, in terms of commercial potential, it might be a question to ask of Austrade as well.

Senator STOTT DESPOJA—In the press release, there is a link between those commercial opportunities and the number of Australians who will reside in Libya as a result of this developing positive relationship. Again, I am happy for you to take this on notice, but I am curious about the number of Australians of which you are aware who are currently in Libya and what kind of increase we have seen in the number of Australians who have moved there since the announcement.

Mr Ritchie—We will certainly take that on notice.

Senator Hill—Woodside have made big investments and have a number of Australians living and working there. From my personal experience, they tell me that they are finding it both enjoyable and professionally rewarding. They speak highly of the welcoming attitude of the Libyan government and people. Oil Search won acreage recently. I think Santos won some acreage. BHP Billiton certainly bid and I know is interested in other industrial prospects in Libya. The Libyan government is very keen to encourage agricultural investment from Australia. We are just starting off on the path, but the prospects are very good and it is really a new opportunity to build Australian financial investments in that part of the world. That part of the world is particularly close to the European market.

Senator STOTT DESPOJA—Thank you. Certainly I can see the potential for that investment and for a relationship with Libya. That goes to the heart of my questions. I am curious not only as to what commercial interests are represented but also—even more interested—as to the increase in commercial investment in Libya since May last year, since the resumption of those diplomatic ties. And also, while I have no doubt that the minister is correct that Australians who are residing in Libya are finding it a positive experience, I am curious to know what kind of consular services are available to those Australians. Is it through Egypt, for example? And could you take on notice to get information as to any calls that have been made on consular services by Australians who are now living in Libya. I would also be

curious to know how this new relationship—developing relationship—has manifested itself at a government level. Are we looking at increased communications with the government? I would think clearly that would be so. Are there human rights dialogues that are in the offing? It is one thing to state that it is a positive and no doubt burgeoning relationship, but I would like some more information on how that is developing and what exactly is taking place.

Mr Ritchie—I will get back to you on that. Consular coverage is from Cairo. From my experience in the division, I have not seen any particular consular issues, but I am subject to correction by my colleague from the consular area. In terms of the flowering or opening up of the relationship, that may take some time. We have to establish ourselves and see where that leads. The first area where there will be substantial movement, I would think, would be the commercial area.

Senator STOTT DESPOJA—Finally, and again I am happy to have the information on notice, in relation to the flowering or developing relationship, however we care to put it, what dialogues are we seeing between our two countries on a range of issues—not just human rights, but transnational crime, security issues, security issues in the region? It would be interesting to know just what dialogues are taking place between our two countries as part of this relationship. Thank you.

Senator BARTLETT—I want to ask about the memorandum of understanding with Nauru. Firstly, I notice in the budget papers or the PBS that the funding for the temporary consulate there is earmarked only for a further year, to the end of the upcoming financial year. Is that an indication that the thinking of the department is that the temporary consulate will be maintained only for a further year?

Mr Ritchie—No, it is not an indication of that. I think it is appropriated—my colleague from FMB may correct me—from year to year.

Ms Thorpe—Yes, we have just been asking for it from year to year. You will find that for the last few years we have received similar funding. The way we have been doing it is just as a year-to-year approach.

Senator BARTLETT—What factors do you use each year in deciding whether or not to maintain the temporary facility for a further 12 months?

Mr Ritchie—The factor would be the amount of business we have with Nauru. We have quite a lot of business with Nauru at the moment.

Senator BARTLETT—What is the extent of that—the range of business that you have with Nauru at the moment?

Mr Ritchie—We have a memorandum of understanding on the overseas processing centres. On aid, we have a substantial aid relationship. For example, the secretary of finance is an Australian. There is another finance official there. The head of the police force is an Australian. The aid relationship is quite extensive, and that will continue.

Senator BARTLETT—My understanding was that it was envisaged that the aid relationship would continue for a reasonably long period. I do not expect you to put an end date on it, but I would have thought that clearly for a few years yet it would be at least at that

level. Surely it would be beneficial to have some sort of better idea of the consulate's status than just a year-to-year proposition.

Dr Raby—The presence on Nauru is also very much part of our broader approach to the Pacific and building good governance in the Pacific. It is important that we work through states where we can exercise some influence to help improve and strengthen governance as a way of improving long-term viability of Pacific island states. That is a very important principle that underlies government policy. The decision on any overseas mission, of course, and how it will be funded—on a regular ongoing basis or renewal basis—is a decision for ministers, not for the department.

Senator BARTLETT—I appreciate that, and I totally agree with what you said prior to that. I am not suggesting that the be-all and end-all of our support for Nauru is having a consulate there, but obviously a consular presence is a significant thing, even just to coordinate the range of different activities, some of which you have outlined. Is there any re-evaluation being done of whether to change that status from temporary back to permanent or at least to make it a bit more longer term than year to year?

Mr Ritchie—There is no re-evaluation as to making the consulate-general permanent.

Senator BARTLETT—Going to the memorandum of understanding with the Nauru government, I understand that the current one winds up at the end of this month and you are about to start negotiating a new one, which I understand would be a two-year MOU. Can you give me an idea of the sorts of things you seek to pursue and reach agreement on in the new MOU?

Mr Ritchie—It will be something that we will have to discuss first with the government of Nauru. We can foresee a continuation of some of the projects we have under way already. I have mentioned some of those. We will be attempting to work with Nauru to achieve some moves in the direction of economic reform, to try to make Nauru somewhat more viable than it is at the current time. But other than that, I prefer not to go into the detail of the negotiation that we will be conducting with the government of Nauru very soon.

Senator BARTLETT—Obviously the details of what sorts of assistance and what sorts of issues would be something that you would work out in your discussions, but is it expected that the overall level of financial assistance that is intended to be provided to Nauru over the next few years would maintain itself at about the current level?

Mr Ritchie—I would prefer not to speculate on the amount.

Senator BARTLETT—I am not talking about the processing centre here. I know it depends on the numbers there, and that is not in your sphere. I am not seeking it in a dollar sense, but you are not approaching these negotiations with an aim of tapering off on assistance?

Mr Ritchie—I would prefer not to speculate on the amount that we will be looking at.

Senator BARTLETT—You mentioned the economic management aspects of Nauru. We have already been providing some officers to assist with getting the budget in order and those sorts of things, to put it in layman's terms—is that right?

Mr Ritchie—Yes, correct.

Senator BARTLETT—What form has that taken? That has been a couple of Finance officials, has it?

Mr Ritchie—It would be either a Treasury or a Finance official—from the Department of the Treasury or the department of finance. There is one other Finance official there, from my recollection. So as you say, it is an attempt to get the budget into some sort of order, and I think the results on that at this stage are reasonably encouraging.

Senator BARTLETT—So you are hoping to be able to maintain that type of assistance?

Mr Ritchie—Yes.

Senator BARTLETT—What about the APS officers, even though the funding presumably does not come out of DFAT? In terms of the general level of presence of those officers on the island, is the aim to maintain around the same number of people and the same roles?

Mr Ritchie—For those who are employed in relation to the processing centre, I could not speculate. But the police chief is an Australian, and I would imagine that that would continue to be the case—or at least I see no indication that we will not be continuing.

Senator BARTLETT—Is your division happy with the way the current MOU has panned out? Has it fulfilled all its goals, or have there been any aspects that have not played out as intended?

Mr Ritchie—That is probably also a question to ask of AusAID with respect to their aid programs. I think in general terms the answer is, ‘Probably.’ There is a long way to go with Nauru, if I can be frank, in terms of the reforms of government and state enterprises, in particular, that I mentioned earlier. I think it is going to be quite a long process.

Senator BARTLETT—Is the two-year time period of MOUs a normal length of time for these sorts of agreements, given what you just said about this being a long process, which I would agree with. I think both sides would like to think that we are in this for the long haul. Two years seems pretty short—

Mr Ritchie—The MOU with Nauru is pretty well its own creature, *sui generis*—I am not sure that we have them with other countries—and that is the time period that has been decided on. That means we have to renegotiate every now and then and we have to check to see how goals have been reached. It gives us a chance to engage with Nauru on goals going into the future, so it is not a bad thing to do, I don’t think.

Senator BARTLETT—Leaving aside money issues, are there any significant changes in direction that need to be considered in the negotiations for the new MOU?

Mr Ritchie—I would not think so. Money issues are fairly important in, as I said, assisting Nauru with reforms of governance and trying to get some sort of sustainability about the economy. In a way they are money issues, but they are very big ones and very hard ones. So it is not only money issues but money matters.

Senator BARTLETT—I do not dispute that; I am just trying to get a sense of the pathways. Does the recent decision of the Nauru government to recognise Taiwan have any significant impact? Obviously there are some sensitivities that we need to deal with in terms of our relationship and the one-China policy in that direction, but does that have any

particular impact on our engagement with Nauru and the playing out of the MOU and other assistance measures?

Mr Ritchie—In broad terms, it does not impact on our willingness to engage with Nauru, but exactly the conditions that attended that recognition, in what Taiwan might actually be funding, might have an impact on the areas that we look at.

Senator BARTLETT—If Taiwan is putting some money into a certain area, we might put it into somewhere else so that we are not doubling up—that type of thing?

Mr Ritchie—Correct.

Senator BARTLETT—You are not inferring that they are putting money into this area so we will withdraw money, are you?

Mr Ritchie—I am not inferring that.

Senator BARTLETT—I have a final broader question, which is much wider than just Nauru but is, obviously, relevant to them as well. The department has been touching on exploring the options of more pooling of regional resources in the Pacific now and then. Is there any progress on that general issue that you could update us on?

Mr Ritchie—There has been progress. There is already a degree of pooling of regional resources—the University of the South Pacific, for example, is one of the primary tertiary institutions in the South Pacific. There are police programs under way. There are financial assistance programs, in terms of controlling financial flows, under way. There is a regional aviation initiative under way. So I think there has been progress on a pooling of regional governance. That does not mean to say that it stops here; there are probably further directions that can go in. The thinking behind it, basically, is that a lot of these countries are very small—Nauru has 10,000 people, for example. They do not have the income to afford all the arrangements that go with modern governance, so it make sense to pool some of those.

There is a way forward and I think that gradually the region is starting to think that it can, with benefit to themselves, the individual countries, look at other areas where they can possibly pool their governance. That said, there is also a fairly firm attachment to sovereignty throughout the region, as you have probably experienced. Occasionally that manifests itself in a wish to have their own national institutions. So it is not as though it is a matter of simply going ahead, the intellectual argument having been won. It is a matter of progressing incrementally and working out particular detailed arrangements in very functional areas, very technical areas, as we go along. Progress there will be incremental. There may be big leaps, but my feeling is that progress will be incremental.

Senator BARTLETT—With respect to the issue of modifying the entry status or work right status of people from any Pacific island countries, Nauru or elsewhere, into Australia, is that part of that mix or is that a separate issue?

Mr Ritchie—No, not at the present time.

CHAIR—We will move now to 1.1.5.

Senator FAULKNER—No, we are still on 1.1.4.

Dr Raby—Senator Ray has returned. With your permission, Chair, I will give him the answer to the question concerning the US embassy in Jakarta.

CHAIR—Please proceed.

Dr Raby—We can confirm that the US embassy opened, after the holiday on Monday, on Tuesday morning as scheduled.

Senator ROBERT RAY—Thank you.

Senator FAULKNER—I want to briefly touch on one issue that I assume comes under this output. It is the issue of an Israeli diplomat, Mr Amir Lati, if I recall, but I stand to be corrected on both the name and the pronunciation. Could someone explain to the committee what the process was for Mr Lati to be returned to Israel.

Senator Hill—What was the question?

Senator FAULKNER—What was the process by which Mr Lati was returned to Israel?

Dr Raby—I am not sure that we can answer that. I will ask—

Senator FAULKNER—Before I ask you about it, I am in the right subprogram for this, aren't I?

Dr Raby—I would have thought that Protocol would have been—

Senator FAULKNER—I am happy to leave it until then. You tell me what the name of that output is, and I will ask it there. It is always a test, isn't it, Dr Raby? It is a test I love setting for everyone. Don't feel guilty!

Ms Williams—It is 1.4.2.

Senator FAULKNER—Very good. Congratulations, Ms Williams.

Ms Williams—No, wait a minute—I am wrong. It is 1.4.1.

Senator FAULKNER—For a moment, you were going to the top of the class!

CHAIR—If you could hold the question over until then, that would help us.

Dr Raby—If you could remind us when we are there.

CHAIR—Are you happy with that, Senator Faulkner?

Senator FAULKNER—That is fine; I want to move on. So it is in 1.4.1 that it should come in?

Ms Thorpe—That is right.

Senator FAULKNER—Let me ask about whether Australia sent an official delegation to Iraq to observe the elections that were held in late January.

Mr Blazey—No, we did not. An Australian member of parliament did, however, travel to Jordan to observe out-of-country voting there.

Senator FAULKNER—It was to observe out-of-country voting from Jordan. Was that an official delegation?

Mr Blazey—She travelled as an Australian government representative, yes.

Senator ROBERT RAY—Who funded it?

Mr Blazey—I am not aware of who funded it.

Senator FAULKNER—But it was as an Australian government representative?

Mr Blazey—I am assuming that it was the parliament which funded it. I am not sure of the funding arrangements of the department of finance.

Senator ROBERT RAY—This was a member of parliament, was it?

Mr Blazey—That is correct.

Senator ROBERT RAY—As an electoral observer?

Mr Blazey—To observe out-of-country voting, yes.

Senator ROBERT RAY—That is usually funded by DFAT. So it was not on this occasion?

Mr Blazey—No, not on this occasion.

Senator FAULKNER—Which member of parliament was it?

Mr Blazey—It was Mrs Joanna Gash.

Senator Hill—This was the group Canada put together, I believe.

Mr Blazey—That is correct. She was part of an observation exercise which had been put together under the auspices of an international observation group which the Canadians were chairing.

Senator FAULKNER—And that was based in Jordan, wasn't it?

Mr Blazey—Yes, it was, although they also conducted out-of-country voting elsewhere, including in Australia.

Senator FAULKNER—I appreciate that; thank you.

Senator ROBERT RAY—Going back to the question of whether it was an official delegation, Minister, it does not sound like it is, in the sense that the person is not representing either the parliament or the Australian government but a—

Senator Hill—I do not know the answer to that. I had heard that she went as part of this delegation, but who authorised it and who paid for it I do not know. It should not be hard to find out.

Senator ROBERT RAY—Actually, we are probably not entitled to know, if it was not government. We are just trying to establish whether this is an official delegation or not. If it is some NGO that has sponsored it, that is a matter for Mrs Gash and the pecuniary interests declaration.

Senator Hill—I am presuming that her participation was sponsored by the Australian government, but perhaps I am assuming too much.

Senator FAULKNER—To help you, Minister, Mr Blazey described Mrs Gash as a government representative; hence the follow-up question. I do not know if you can help us any more, Mr Blazey.

Mr Blazey—Not at this time, but I can inquire into it and get back to you.

Senator FAULKNER—Can you or Mr Ritchie explain to the committee why it was decided, not only as far as any Australian observer was concerned but for international observers, in the broad that that official delegation would not go in-country to Iraq itself?

Mr Blazey—The assessment was primarily a security one.

Senator FAULKNER—Yes.

Mr Blazey—The assessment was primarily based on security considerations. We thought that it would not be advisable to have Australians in Iraq observing the elections. There was some consideration about international observers, but our assessment was that it was inadvisable.

Senator FAULKNER—And that was a careful assessment, I assume, was it, Mr Blazey?

Mr Blazey—Yes, it was. It was based, obviously, on the travel advice which tells Australians not to travel to Iraq if they can avoid it.

Senator FAULKNER—Regardless of that careful assessment, of course, one Australian parliamentarian managed to get there. That is right, isn't it?

Mr Blazey—I assume you are talking about Senator Lightfoot.

Senator FAULKNER—Well, I did describe him as an Australian parliamentarian. I was being as generous as I could. Yes: Senator Lightfoot.

Senator ROBERT RAY—Of long standing: Lightfoot of Kurdistan—very experienced.

Senator FAULKNER—You made this careful assessment that parliamentarians should not go there, but Senator Lightfoot went there.

Senator ROBERT RAY—So the question is: did he seek advice as to the dangerous security situation in Iraq from the Department of Foreign Affairs and Trade before he travelled there?

Mr Blazey—My understanding is he did not.

Senator ROBERT RAY—He did not.

Senator FAULKNER—Yes. Do you have any idea at all—you may not have, and I would not necessarily expect you to have—what the status of Senator Lightfoot's visit was?

Mr Blazey—No, I do not.

Senator ROBERT RAY—You were not asked to provide any briefing material before he went?

Mr Blazey—No, we were not.

Senator ROBERT RAY—We get a letter, I think—Chair, you might recall—from the foreign minister every now and then asking us to notify diplomatic posts if we are travelling on an official passport, and of course we are encouraged to travel on an official passport. That is why I had to ask that question.

CHAIR—That is correct.

Senator FAULKNER—It is true, I assume, Dr Raby, that parliamentarians are still encouraged to travel on an official passport?

Dr Raby—I myself do not know. One of my colleagues might—

Senator FAULKNER—That has been standard advice.

Senator ROBERT RAY—It used to be prohibited, so we never did. According to the Parliamentary Relations Office some years ago that policy changed 180 degrees so people would know—ambassadors and others might even get informed that X is travelling in their country. Anyway, that is neither here nor there. I am glad we have informed you of something today.

Dr Raby—I have learnt a lot today, Senator.

Senator FAULKNER—Did the department have any advance knowledge of Senator Lightfoot's travel plans for Iraq in January 2005?

Mr Blazey—Yes, we did. We received a copy of a letter from the PSCC. It was a copy of a letter from Senator Lightfoot to Senator Abetz which contained information on Senator Lightfoot's intention to travel to Iraq.

Senator FAULKNER—When did you receive that?

Mr Blazey—That was on 20 January.

Senator FAULKNER—What was the date of the travel? Do you recall that? I thought it was January.

Mr Blazey—It was late January. I do not have the exact arrival and departure dates in front of me.

Senator ROBERT RAY—But the election was on 30 January, wasn't it?

Mr Blazey—That is correct.

Senator FAULKNER—When you receive that advice about a parliamentarian travelling to Iraq—and obviously you receive it via the PSCC—what, if any, action does the department take?

Mr Blazey—The letter was forwarded to us for information only and did not seek any action from us.

Senator FAULKNER—But given the security concerns and advice to those who were on the official observer delegation—not going to Iraq—there was not any thought of some sort of proactive advice to Senator Lightfoot?

Mr Blazey—I understand that he was provided with the departmental travel advice.

Senator FAULKNER—Sorry, can you just say that again?

Senator ROBERT RAY—Provided with departmental travel advice—the advisory.

Senator FAULKNER—And that was just formally forwarded through to him, was it?

Mr Blazey—Yes—

Senator FAULKNER—It is accessible anyway, isn't it?

Mr Blazey—It is on the web site, but it was drawn to his attention.

Senator FAULKNER—But someone took the initiative to specifically draw it to Senator Lightfoot's attention.

Mr Blazey—That is correct.

Senator FAULKNER—A fat lot of good that was, but anyway it was the right thing to do.

Senator ROBERT RAY—Is there any record of our embassy in Istanbul providing any assistance to Senator Lightfoot on this trip, this visit?

Mr Blazey—We do not have any record of the embassy having been involved in any way with the trip.

Senator ROBERT RAY—I was thinking of transport or otherwise.

Senator FAULKNER—Was the limit of the assistance that DFAT gave in relation to this particular trip just the forwarding of the travel advisory?

Mr Blazey—No, we also had some contact subsequently when there was a concern that Senator Lightfoot might have lost his passport, but in the event it turned out that that was resolved. He had a visa in his passport which he was travelling with and there was some uncertainty. Apparently there were two passports involved and one might have been lost. But the visa which allowed his travel was contained in the passport which was not lost and therefore he did not require a replacement passport.

Senator FAULKNER—What do you mean by two passports?

Mr Blazey—I understand that he had two passports in his possession.

Senator ROBERT RAY—Same name in each?

Mr Blazey—Sorry?

Senator FAULKNER—Were they both Australian passports?

Mr Blazey—Yes.

Senator ROBERT RAY—I assume one was official and one was a private passport.

Mr Blazey—That is right. The concern was that he might have lost a passport which contained a visa.

Senator ROBERT RAY—But he lost the other one.

Mr Blazey—Apparently it was the other one.

Senator FAULKNER—Did he ever find it, just out of interest?

Mr Blazey—I do not know.

Senator FAULKNER—He probably does not either.

Senator ROBERT RAY—Can I ask a serious question. It may be that the officials at the table will not be able to answer it, but someone from consular services might. Is there a problem created—I am not trying to pick on Ross Lightfoot here—with people taking two passports overseas? You can get one stamped one way and one stamped the other. I do not know if the department believes that this is good policy or would try to discourage it.

Mr R Smith—There is no rule against an Australian travelling with two passports. There are circumstances where that may be advantageous.

Senator ROBERT RAY—The precise question concerns two Australian passports—not as a dual citizen with one Australian passport and one passport from the UK, but one official and one private.

Mr R Smith—That is what I meant.

Senator ROBERT RAY—It does not create any administrative problems—that you get stamped off on one—

Mr R Smith—I am sorry, I missed the last part.

Senator ROBERT RAY—It does not create a problem that they may get stamped out on one and stamped in on another?

Mr R Smith—I think the individuals would be encouraged to leave and arrive back in Australia on the same passport, but I imagine that the border control authorities would be able to cross-reference the two in any case.

Senator ROBERT RAY—We were getting onto the assistance given. Where was that assistance requested for the possible lost passport? Which embassy?

Mr Blazey—That was received here in Canberra through Senator Lightfoot's office. He had been in contact with his office in Canberra, I understand, which contacted us.

Senator ROBERT RAY—How long did that issue run until it was discovered that he had a passport with the appropriate visa in it?

Mr Blazey—Two days. I understand that we heard about it on 25 January, and on 27 January we were advised that the lost passport was not the one which contained the visa.

Senator ROBERT RAY—Are we certain that the passport was lost, not stolen?

Mr Blazey—I do not have any information on that.

Senator ROBERT RAY—You do not ever follow that up? I am not now specifying Senator Lightfoot, but do you not ever follow those issues up because of the value of passports on the black market?

Mr R Smith—Perhaps I can make a comment there. The usual expectation is that it would be up to the individual to follow up and, if the passport was in fact lost, report the passport to us as lost and we could then take action to cancel it. As far as I am aware, that did not happen on this occasion.

Senator ROBERT RAY—So it is still in limbo in effect?

Mr R Smith—As I understand it, the passport has not been formally reported to us as lost.

Senator ROBERT RAY—Next time we see him, we will remind him to do his civic duty.

Senator FAULKNER—Is the department aware of the fact that in Senator Lightfoot's much publicised report about his infamous trip to Iraq he said he carried his own weapon? Are you aware of that, Mr Blazey?

Mr Blazey—Yes, we have seen that in the report.

Senator FAULKNER—From memory, I think it is a .38 calibre pistol. Is that right?

Mr Blazey—That is my understanding, yes.

Senator FAULKNER—What obligations or requirements, if any, are there for people travelling on an official passport—parliamentarians in this case—in relation to them carrying such a weapon during their trip?

Mr Blazey—I am not able to answer that. I do not know.

Senator FAULKNER—Someone should be able to tell us.

Mr R Smith—I do not think that would be a matter of any policy that would be attached to the possession of a passport. I think it would be a question of wider issues of responsibility of Australian citizens, the extent to which they are meeting the security regulations of the country to which they are travelling and, equally, the security regulations associated with international travel—airline regulations and so on.

Senator FAULKNER—I think I know the answer to this, but do any Australian diplomats, for example, in Iraq carry weapons?

Mr Blazey—No, Australian diplomats do not carry weapons there.

Senator FAULKNER—Australian diplomats do not carry weapons, but one Australian senator does. What is the guidance here? It sounds to me as though you make a grand assumption that no-one will do it. Enter stage right Senator Lightfoot: the usual grand assumptions do not apply.

Dr Raby—I think the analogy with people on diplomatic passports is somewhat flawed, because people who are in another country on diplomatic passports are there on quite well defined official business covered by a range of guidance, directives and so on. My understanding is that, when one applies for an official passport—a member of parliament or a public servant—that passport is available for official business, but there are no specific requirements in terms of obligations on receipt of the passport.

Senator FAULKNER—Dr Raby, you are a very experienced official in foreign affairs—

Senator ROBERT RAY—Be careful if he prefaces his question—

Dr Raby—I do not like where this is going!

Senator FAULKNER—That is an unnecessary warning from Senator Ray. As an experienced official in DFAT—you have certainly appeared before this committee for very many years—do you know of any other instance where an Australian parliamentarian has carried a weapon overseas?

Dr Raby—No.

Senator FAULKNER—Does any official at the table know of such a circumstance?

Senator ROBERT RAY—Minister, do you think it would be a good idea the next time Minister Downer writes to us about the inadvisability of travelling to certain countries—I think you know the letter; it points out the diplomatic sensitivity of how you travel to Taiwan and a number of other countries—that he includes in that putting yourself at a security risk? In the end, if a parliamentarian is in some way endangered then other diplomatic staff may be, in

trying to retrieve the situation. Do you think that would be a good idea, to warn people that they have obligations not put themselves at risk? We are warned of everything else.

Senator Hill—The other side of the coin is that we are not wanting to isolate Iraq from the rest of the world in terms of the whole range of human activity. This is the dilemma we face. On the one hand, we warn people of the risks in Iraq and that they would be unwise to go but, on the other hand, we are wanting to see the reconstruction of Iraq. It similarly applies to politicians. Many politicians have visited Iraq and their presence is a benefit in terms of their encouragement and support of the democratic process and the education and experiences they can bring to the new breed of Iraqi politician.

Senator ROBERT RAY—How many other politicians have snuck over the Turkish border with a gun in their back pocket and two passports?

Senator Hill—You put it in its most dramatic terms, but many politicians have visited Iraq in the last few years. I have read many—not too many from Australia—positive reports of their visits.

Senator FAULKNER—You have visited, Minister, haven't you?

Senator Hill—I have visited, but I am in a slightly different position to—

Senator FAULKNER—Of course, but you have visited more than once, I believe, haven't you?

Senator Hill—I have.

Senator FAULKNER—How many times have you gone—two or three times now?

Senator Hill—I have gone five times, at about six-monthly intervals.

Senator FAULKNER—Have you ever carried arms?

Senator Hill—No, I have not carried arms.

Senator ROBERT RAY—The point being that if you carry arms in Iraq you are more likely, if you get captured by someone, to be far more vulnerable. That is my point. If you go in officially, as you did, the embassy and our diplomatic representatives know you are there and can provide the relative security necessary. It is different from coming in over the Turkish border and running around with a few people with AK47s firing off in the air or whatever. That really is reckless endangerment if anything goes wrong, because then we expect our diplomatic representatives or even our military representatives to intervene in those circumstances. I think people should be warned not to put Australian officials in that situation.

Senator Hill—But you can take that to another step and say that basically any Australian that does not accept the travel guidance could cause Australian officials to be put at risk. I would not carry a weapon because I would probably be a risk to myself and to others, but I think Senator Lightfoot regards himself as experienced in the use of firearms from his rural background.

Senator FAULKNER—He is an expert at shooting himself in the foot, but I think that is a very different thing!

Senator Hill—Even with that experience in firearms, I think he would have been better off without one. That is just a personal view.

Senator FAULKNER—Is there or is there not, Mr Blazey or Mr Ritchie, effectively a code of conduct—I do not know if I am using the right terminology—or code of behaviour or an overseas code of conduct which goes with the issue of an official passport? Is there a code of conduct that is issued with every official passport?

Mr R Smith—I am advised that there are rules or guidelines which govern the use of official passports. Those guidelines are provided to the agency which sponsors the passport, the passport holder, and it is then up to the agency to ensure that those guidelines are being met by the holders of the passport which it has sponsored.

Senator FAULKNER—What is the situation—

Ms Williams—I can perhaps add to that. We have an overseas code of conduct for DFAT officials. When DFAT officials are given their travel documents and are travelling overseas, they receive a copy of that.

Senator FAULKNER—That was my understanding. So there is obviously a link with an official passport and a code of conduct.

Ms Williams—I think the link is more with travel overseas rather than with the passport itself. DFAT officials, DFAT staff, travelling overseas receive a copy of our DFAT overseas conduct.

Dr Raby—To elaborate on that, when we travel, every time we get the travel advance we have to sign that we have read and understood the overseas code of conduct. It is very much an agency specific arrangement, a very rigorous one.

Senator ROBERT RAY—At \$600,000 a pop, I hope you do. That is what it takes to investigate a breach of the code of conduct.

Senator FAULKNER—So there are guidelines that regulate the behaviour of officials who are travelling on an official passport.

Ms Williams—Just to say once again, they are agency specific. They are guidelines for DFAT staff travelling overseas.

Senator FAULKNER—What are those guidelines in relation to firearms?

Ms Williams—I do not have a copy of them here, but I am more than happy to follow that up this afternoon and give you a copy.

Senator ROBERT RAY—You say that each agency is informed of its responsibilities. Who informs the agency of its responsibilities?

Ms Williams—Are you talking about passports?

Senator ROBERT RAY—Yes.

Mr R Smith—My understanding is that the guidelines which are provided to sponsoring agencies are provided with the issue of the official passport. They do not so much provide a code of conduct for the behaviour of the individuals but rather guidelines on the

circumstances in which it is acceptable and appropriate to choose the official passport, which is essentially while travelling on official business.

Senator FAULKNER—And nobody can tell me what these guidelines are—or whether there is a guideline—in relation to carrying firearms?

Ms Williams—As I said, I am happy to get you a copy and table that, but I do not know off the top of my head.

Senator FAULKNER—I just thought that there would be a lot of officials in the room who had travelled overseas and who would obviously have read the code of conduct for overseas service and so somebody would know. Or is it just so absurd and preposterous, Dr Raby, that there was need even to write it down—nobody would ever do it?

Dr Raby—Certainly there is no explicit reference to firearms in the code of conduct—the DFAT code of conduct, that is. In the code of conduct there is a number of elements; that is why I think we are hesitant, because to recite them verbatim without making a mistake is a big challenge at this time of day. But the general tenor is that you will obey the laws of the land that you are in, that you will also obey Australian law and that you will not bring Australia, the Australian government or the Department of Foreign Affairs and Trade into disrepute through behaviour. That is the tenor of the code of conduct for DFAT.

Senator FAULKNER—But we would have a very serious problem on our hands, wouldn't we, if we had an officer of the Australian Public Service carrying a firearm while they are travelling on an official passport? Let us be serious about that. We would have a real problem on our hands, wouldn't we?

Dr Raby—Certainly in the case of a DFAT officer, the answer would be yes.

Senator FAULKNER—Do your guidelines or principles apply only to DFAT? Surely the same principles would apply, for example, if an officer of the Department of the Environment and Heritage was travelling, as we heard—

Senator FERGUSON—A greenie!

Senator Hill—A greenie.

Senator FAULKNER—A what?

Senator ROBERT RAY—Not for the record, that one?

Senator FAULKNER—I do not know whether there is someone particularly in Senator Hill's mind there that it has caused him so much amusement. Perhaps I used the wrong department. It obviously tickled Senator Hill's fancy talking about firearm carrying—

Senator FERGUSON—'Is there any guideline that prohibits the carrying of firearms'—that is what you should say.

Senator FAULKNER—We heard about all the work they are doing in trying to ensure that whales are kept alive, so I thought that might be a good example to bring up. Surely the guidance is broader than just for DFAT officers, isn't it, Dr Raby?

Dr Raby—The overseas code of conduct that Ms Williams was referring to is specific to DFAT. Other agencies, I presume, have their codes of conduct. We have ours and it is based on APS values and the upholding of APS values.

Senator ROBERT RAY—I only have one other matter to raise—that is, about what the department's reaction should have been or could have been to the notification that a parliamentarian was going to travel into Iraq—I am not trying to verbal you here—when, I think, your attitude was that election observers were not a good idea because of the security situation. You were informed of this, as I think Mr Blazey said, more as a courtesy. I understand that. But didn't that ring any bells in the department, other than just to send off the travel advisory, that this matter should be taken a little further? A little more counselling could have been done, or even a message back to the approving minister, who was Special Minister of State Abetz, that it may have been unwise to travel in the current security circumstances of January 30 this year.

Dr Raby—I think Senator Hill answered that, with respect, when he said that our role is not to discourage travel or prevent travel to Iraq. There is probably a better word. Our travel advisories seek to set out all relevant information, on the basis of which individuals can responsibly make decisions. Nor would it be proper for us to intervene or interfere with another agency, such as the Parliament of Australia.

Senator FAULKNER—Mr Rudd, the shadow minister, has been effectively blocked from going to Iraq, hasn't he?

Dr Raby—I do not know.

Senator FAULKNER—I do. I have a copy of a letter telling him so from the office of the Minister for Foreign Affairs.

Dr Raby—I think there was an issue about timing. I do not know that there was an objection in principle.

Senator FAULKNER—It says: 'The minister has decided that there should be no parliamentary travel to Baghdad for the time being. I am sure that you will understand the Australian embassy personnel who would assist in organising parliamentary visits are currently staying in temporary office accommodation and housing in Baghdad.' So it goes on. This letter was dated 23 March 2005. Minister Hill, you have travelled to Baghdad since that time, haven't you?

Senator Hill—Senator Ferguson might remember the circumstances better than I, but there were particular reasons related to the timing. In principle, I would like to see more Australian parliamentarians travel to Iraq.

Senator FAULKNER—I do not know what the relevance of Senator Ferguson's role in this is. Is this because of the joint committee?

Senator Hill—I think the Joint Standing Committee on Foreign Affairs, Defence and Trade was looking to go at the same time that Mr Rudd was. This is testing my memory now.

Senator FAULKNER—The date of the letter was 23 March 2005. In other words, you went a month or so later yourself.

Senator FERGUSON—Yes, but he is the defence minister. He goes with the forces.

Senator FAULKNER—I know that.

Senator ROBERT RAY—Yes, but he is the defence minister encouraging other parliamentarians to visit.

Senator FAULKNER—And here is Mr Rudd getting a letter from Mr Downer's office—

Senator Hill—I am in the process of trying to facilitate parliamentarians visiting Iraq now.

Senator FAULKNER—So it would be okay now—that is what you are saying. It was not then, but it is okay now—which is fair enough, if that is the situation.

Senator Hill—I have not seen the letter. I do not know what Mr Rudd asked for.

Senator FAULKNER—I am happy to show you a copy of it if you would like.

Senator Hill—Did he ask for transport? Was there an issue with transport at the time?

Senator FAULKNER—I assume that the department is aware of this. I do not know. Mr Rudd corresponded with Mr Downer on 21 February 2005 and then again in another letter on 28 February 2005, regarding possible travel to Baghdad. There was an additional letter to Mr Downer on 11 March 2005. So there were three letters. Basically, a character called Innes Willox, chief of staff for Mr Downer, has written back and said no. He said more than no, but that sums it up. So what you are saying now is that it is okay. You are in fact encouraging members of parliament to go.

Senator Hill—In principle, I am encouraging them. I would like them to go in the safest possible way.

Senator ROBERT RAY—Unarmed, one passport, no money.

Senator FAULKNER—No cash.

Senator Hill—I am responding to another request from the joint foreign affairs and defence committee on the subject at the moment, which is what I am referring to. That is across the parliament; it is not a party affair. But if we can facilitate it and provide them with safe transit and lodgings then I think, in principle, it is a good thing.

Senator FAULKNER—I know that Mr Rudd, as the shadow minister for foreign affairs, wants to consult with members of the new Iraqi government. I will pass on to him that you are encouraging such visits. Hopefully, you can pass on to Mr Downer that you are also encouraging such visits so that we can have a united view from government on this issue.

Senator Hill—I think that is a good idea for you to do that. He might join Senator Ferguson's travelling party—if you would like Mr Rudd to go along with the joint committee, Senator Ferguson?

Senator FERGUSON—I think he would have to fight some of his colleagues on the floor on the Defence Subcommittee.

Senator Hill—Why is everyone shaking their heads?

Senator FERGUSON—I want to clarify that the letter of request that went via Senator Hill was to accommodate some of your colleagues who felt that the parliamentary committee

should go to give some opposition members of the defence committee a chance to meet with our troops, who are stationed in Iraq. I have been trying to facilitate it in order to accommodate your colleagues, as well as some of my own.

Senator ROBERT RAY—It would be nice—if I can editorialise further—if we could facilitate some travel for them. It is not your fault, but it has been a ridiculous thing that that committee cannot travel and prosecute its duties. I say that as someone who has never been on the committee and who is never going to be on it.

Senator Hill—To be fair, I think on the last occasion we agreed to take the committee and the committee changed its mind.

Senator FERGUSON—In the last parliament the offer was there but we could not get many takers.

Senator ROBERT RAY—Where were you going, via Afghanistan?

Senator FERGUSON—We went there.

CHAIR—The silk route.

Senator FAULKNER—I will pass that on to Mr Rudd. No doubt he will be delighted that attitudes have changed. Has there been any action taken by the department that officials are aware of in the aftermath of the escapade of Senator Lightfoot when it became public that the senator had travelled to Iraq, lost one of his two passports, travelled with six Iraqi national guard soldiers all armed with AK47s and pistols—‘young men in excellent physical condition’—and that he was offered and accepted the use of a .38 pistol and so on and so forth? What are you smiling at, Chair? I am just quoting directly from Senator Lightfoot’s report. I am wondering whether there has been any follow-through as a result of this fiasco.

Mr Blazey—No action was taken.

Senator FAULKNER—Nothing was done?

Mr Blazey—No.

Senator FAULKNER—I do not think it is worth pursuing this matter too much longer. I am interested, Dr Raby, as to whether the advice to members of parliament travelling overseas remains as Senator Ray has outlined—I think, very accurately—to you in relation to travel on official passports. Informally at some point you might like to be assured that that is still the case. I have nothing further on Senator Lightfoot. Has the department engaged the services of Dr John Gee as a consultant? I am aware that he has been a contracted consultant with ONA. I wonder if he has been to the Department of Foreign Affairs and Trade.

Ms Williams—The answer is no, but I am just trying to find my papers on this.

Senator FAULKNER—You did have contact with Dr Gee, I assume, when he was involved with the Iraq Survey Group?

Mr Blazey—That is correct. DFAT officers did meet with Dr Gee.

Senator FAULKNER—When did those meetings take place?

Mr Blazey—We have records of meetings in Baghdad on 26 February 2004. Possibly also in the days following. It is not clear. This was in the context of the visit to Baghdad by the

then head of the Iraq Task Force. There was a meeting subsequently on 16 March at which Dr Gee met Mr Downer, at which a DFAT officer was present as well.

Senator FAULKNER—That was also—

Mr Blazey—That was 16 March in Canberra, on his return.

Senator FAULKNER—And they are the only two records that you have? I appreciate the point you made about the time following 26 February and the lack of clarity there, but the only two meetings that you have formal records of are those two?

Mr Blazey—That is correct.

Senator FAULKNER—Of course Dr Gee was a former departmental officer of the department of foreign affairs, I think.

Ms Williams—Yes, that is correct.

Senator FAULKNER—Let us move to the first meeting. I think you have said that the date was 26 February 2004.

Mr Blazey—That is correct, yes.

Senator FAULKNER—What was the location, please?

Mr Blazey—That was in Baghdad.

Senator FAULKNER—Can you say who was present at the meeting?

Mr Blazey—It was Dr Gee, Mr Barton, John Quinn and I believe Neil Mules, the then Australian representative in Iraq.

Senator FAULKNER—I know who Mr Barton is, but who is Mr Quinn?

Mr Blazey—At the time he was the head of the Iraq Task Force.

Senator FAULKNER—Can you indicate what the purpose of that particular meeting was, please.

Mr Blazey—The meeting was to discuss the Iraq Survey Group.

Senator FAULKNER—Are you able to provide any more detail than ‘to discuss the Iraq Survey Group’?

Mr Blazey—The information we have from Mr Quinn is that, at that meeting, Dr Gee and Mr Barton conveyed to him their concerns about the direction of the Iraq Survey Group.

Senator ROBERT RAY—What were those concerns?

Mr Blazey—They related primarily, as I understand it, to the forthcoming interim report of the Iraq Survey Group.

Senator ROBERT RAY—What were they concerned about with the interim report?

Mr Blazey—As I understand it, they were concerned about some methodological issues, the structure and, as Mr Barton has subsequently stated in public, the objectivity of the report.

Senator ROBERT RAY—Was a report sent back to Australia emanating out of this meeting, a report back to the department, in written form?

Mr Blazey—I believe there was a report back but the more substantive record of those concerns was contained in a letter which Dr Gee conveyed to Mr Quinn.

Senator FAULKNER—What was the date of that letter?

Mr Blazey—I believe it was 2 March.

Senator FAULKNER—Were copies of that letter provided to anyone else or just to Mr Quinn in his capacity as the head of the Iraq Task Force?

Mr Blazey—It was given to Mr Quinn, and according to Mr Quinn it was not distributed to other agencies, but he recalls that it might have been provided to the relevant deputy secretary in DFAT.

Senator ROBERT RAY—Who is? I am not going to ask who the irrelevant deputy secretary is. Who is the relevant one?

Mr Blazey—At the time I believe it was Mr Murray McLean.

Senator FAULKNER—In a previous committee, and I would have to really dredge the memory banks to establish where, I seem to remember something about a dinner at the ambassador's residence where Dr Gee was present.

Mr Blazey—My understanding—

Mr Stuart—I think you might be recalling Mr Barton's testimony in a recent Senate inquiry—

Senator FAULKNER—Yes.

Mr Stuart—where he said he was at a dinner with others. He did not specify—

Senator FAULKNER—Could you speak up a bit?

Mr Stuart—He did not specify everyone who was there. I think it was a dinner hosted by Mr Mules on 2 March in which Mr Barton—

Senator FAULKNER—I was left with the impression that Dr Gee was there. At that time Dr Gee's name was not—

Mr Stuart—Mr Barton was not willing to provide names of other participants.

Senator FAULKNER—As you would appreciate then, just so that we are clear, I do not think at that stage Dr Gee's name was in the public arena. I am certain that that was the case. His name was not in the public arena when that evidence was given. I think I can fairly say to you that I was left with the impression that Dr Gee, who was unnamed, was present at the ambassador's dinner. But if you are telling me that is not right, that is fine.

Mr Stuart—No, I was just recalling Mr Barton's testimony. He mentioned the dinner but he did not mention the names of all the participants.

Senator FAULKNER—At no stage, I could remind you, did Mr Barton ever mention Dr Gee's name.

Senator FERGUSON—Although you tried very hard.

Senator FAULKNER—I do not think that is fair at all. Anyway, that is a matter for argument. You can make that argument if you like. But it is proper to say that he did not

mention the names. He certainly did not mention Dr Gee's name and refused entreaties to do so—some of which even came from me. The reason I asked Mr Blazey the question is that I was left with that impression. You are saying to the committee that you have no record of Dr Gee being present at that dinner?

Mr Blazey—We certainly have a record of a meeting on 26 February. It does not indicate whether that was the dinner or just a meeting. But in the context of Mr Quinn's visit, there were contacts with both Mr Barton and Dr Gee in Baghdad at the time. We can try to find out who was at the dinner.

Senator FAULKNER—Wasn't the person we now know as Dr Gee described effectively by Mr Barton in his evidence as 'J'? I think Senator Ferguson would recall this. I do not have the transcript here, and I stand to be corrected, but it is my recollection that the dinner was about J's resignation.

Mr Blazey—I do not know who J was.

Senator FAULKNER—We do now. We did not at the time; that is true. I am just trying to explain. After Mr Barton's evidence, Dr Gee's name was not provided by Mr Barton. Dr Gee's name became public after Mr Barton's appearance before the Senate Foreign Affairs, Defence and Trade References Committee, which was inquiring into this matter. After Mr Barton's testimony before that committee was given, Dr Gee's name became public. That is what happened. Please accept that I am faithfully recording it, because that it absolutely right.

Senator FERGUSON—That is correct.

Senator FAULKNER—My recollection is this, and I do not think there is any argument about this: the aforementioned Dr Gee was actually referred to in evidence by Mr Barton as J. I do not think there is any argument about that. My recollection, but it is just a recollection, is that there was a dinner where the resignation of J, who turns out to be Dr Gee, is a matter for discussion. If you cannot confirm that, that is fine.

Mr Blazey—Mr Barton has never indicated to us who J was. Circumstantially that may be a conclusion, but I just do not know. No-one has ever told me who J was.

Senator FAULKNER—I cannot pull up the evidence of the committee now, and I do not intend to: it does not really matter at this point. I can assure you that Mr Barton has not, to this committee or anybody else, said who J is. It just so happens now that we all know. I can assure you that the foreign affairs and defence references committee in the first instance invited, and now has requested, Dr Gee to come before the committee and give evidence. These are just matters of fact. I do not think there is an argument. As I understand it, this is a matter that has been canvassed pretty broadly in the media—Dr Gee's name.

Mr Blazey—Is there a question for me in that?

Senator FAULKNER—You are responding to me that you are not aware of J and Dr Gee being the same person. I am just trying to say to you that I do not think it is a remarkable thing. It is not a state secret. Please accept that what I am saying to you is a fair assessment of where we find ourselves. My question went to the possible attendance of Dr Gee at the ambassador's residence at a dinner where—I am not sure whether he was there or not—I

believe resignations, including Dr Gee's, were perhaps matters of discussion. If you cannot help me with that, that is fine; I will just move onto the next question.

Mr Blazey—Resignations—

Senator FAULKNER—If you can help me, that would be great.

Mr Blazey—Resignations were certainly discussed at the time of Mr Quinn's visit; I can confirm that.

Senator FAULKNER—If resignation was discussed at the time of Mr Quinn's visit, that is helpful. Let us leave it there. Let us go to the meeting that Dr Gee had with Mr Downer on 16 Mar 2004. That takes place in Canberra, does it?

Mr Blazey—That is correct.

Senator FAULKNER—Are you able to say whether that meeting is also about the same matters that were raised in the previous meeting with Mr Barton and Mr Quinn?

Dr Raby—Senator, you will understand that conversations between the foreign minister and other persons are the foreign minister's business and are confidential to the foreign minister.

Senator FAULKNER—Let us not go to the substance of it then, let us just go to the process. Can you please indicate to the committee whether Dr Gee requested such a meeting with Mr Downer?

Mr Blazey—I think Mr Downer has said publicly that he requested the meeting.

Senator FAULKNER—Subsequently, Dr Gee did resign. That is true, isn't it, Dr Raby?

Mr Blazey—I am not sure of the date of his resignation, but the letter of resignation, which was conveyed to John Quinn, was dated 2 March. The meeting with Mr Downer was 16 March.

Senator FAULKNER—That is helpful. What you are saying to the committee is that the letter of resignation, in fact, predated the meeting with Mr Downer.

Mr Blazey—Yes, certainly the letter. I do not know when the resignation took effect. That is something between Dr Gee and the Department of Defence.

Senator FAULKNER—You do not have any knowledge of that? Are you able to say to the committee whether there were any outcomes of this meeting between the minister and Dr Gee?

Dr Raby—I think that goes to the same point about the discussion between the minister and him. We do not know what they discussed. We do not know what outcomes may have been agreed or discussed. Anyway, it is not appropriate for us to report on the content or otherwise of private conversations of the foreign minister.

Senator FAULKNER—How is it that DFAT has a copy of Dr Gee's resignation letter?

Mr Blazey—Because it was given to John Quinn when he visited Baghdad.

Senator FAULKNER—Did Mr Quinn formally pass that through to Defence? He was engaged by Defence, wasn't he?

Mr Blazey—Yes, he was. He was on contract to the Department of Defence.

Senator FAULKNER—Mr Quinn is not a Defence officer, is he? He is a DFAT officer.

Mr Blazey—Not at the time.

Senator FAULKNER—He was the head of the Iraq Task Force.

Mr Blazey—Sorry, I am getting confused. Yes, that is correct.

Senator FAULKNER—Mr Quinn is the head of the Iraq Task Force and what you are saying to us is that, effectively, Dr Gee presented his letter of resignation to Mr Quinn. Is that right?

Mr Blazey—That is correct. I do not know this, but I am assuming that there might have been a separate formal letter of resignation to his employer formalising the conclusion of their contract, but the letter to us was not in DFAT's capacity as an employer of Dr Gee.

Senator FAULKNER—I see. You are effectively saying to the committee, which I suppose is understandable, that there may have been a formal letter of resignation and there may be a letter from Dr Gee to the minister or the Department of Foreign Affairs and Trade outlining the reasons for his resignation. Is that the pattern that you are trying to get across to us?

Mr Blazey—I just do not know the precise mechanics of Dr Gee's resignation. That would have been something Defence would have handled.

Senator FAULKNER—Let me ask you this: who was Dr Gee's letter addressed to? That might help us.

Mr Blazey—It was addressed to John Quinn.

Senator FAULKNER—Who was the then head of the Iraq Task Force.

Mr Blazey—That is correct.

Senator FAULKNER—Do you know who Mr Quinn passed that letter on to?

Mr Blazey—I indicated earlier that John Quinn's recollection is that he did not convey that to other departments.

Senator FAULKNER—If that is yes, I hear that and heard that, which means—and we will have to address that in another place—that there is likely to be some other formal instrument that enables Dr Gee to formally resign, because Mr Quinn is an officer of DFAT and DFAT does not employ Dr Gee. That is right?

Mr Blazey—That is correct.

Senator FAULKNER—In relation to Mr Downer's meeting with Dr Gee, are you able to say if anybody else was present at that time?

Mr Blazey—I believe John Quinn was also present. I am not aware who else might have been.

Senator FAULKNER—So you think Mr Quinn was present. Are you aware of whether Mr Quinn kept a file note, minutes or notes in some form of the meeting?

Mr Blazey—We do not have a record on our file of that meeting.

Senator FAULKNER—But you have sufficient a record to know that Mr Quinn was present?

Mr Blazey—Yes. We asked John for his recollections of that meeting.

Senator FAULKNER—When did you ask him that?

Mr Blazey—Shortly before the last Senate estimates we asked that question.

Senator FAULKNER—Why did you ask him?

Mr Blazey—This was in preparation for Senate estimates.

Senator FAULKNER—But if you are refusing to answer such questions about the content of the meeting, why ask him?

Dr Raby—There is a difference between the substance of a private discussion that the foreign minister has and the mechanics, if you like, of the date and who might have been in the room at the time.

Senator FAULKNER—I accept there is a difference in that. But now you are saying you are not entirely sure who else might have been in the room, so it does not sound like the checking was absolutely thorough. Fair enough if you do not know, but can you say precisely who was in the room?

Mr Blazey—No, I cannot. We were simply seeking to establish DFAT officers' contacts with the Iraq Survey Group over the period.

Senator FAULKNER—All you can say is that Mr Quinn was present at that meeting.

Mr Blazey—That is correct.

Senator FAULKNER—And that he was the only DFAT officer present at that meeting.

Mr Blazey—Yes, that is my understanding.

Senator FAULKNER—Can you indicate as far as the department is concerned when it first became aware of Dr Gee's intention to resign from the Iraq Survey Group? I might say to you that it is possible here that the content of the dinner and perhaps the meeting that was held there may conflate a little. I think anyone would understand that that is the case. Nevertheless, separately to that I would like to ask you, as I say, when the department became aware of Dr Gee's intention to resign.

Mr Blazey—It was at the time of John Quinn's visit to Baghdad, so it would have been between about 26 February and 2 March.

Senator FAULKNER—Are you able to indicate when the department first became aware of Dr Gee's concerns about the reporting and operations of the Iraq Survey Group?

Mr Blazey—I believe it was around the same time. I will need to check on that, but my recollection is that it was pretty much around the same time.

Senator FAULKNER—Would you mind checking on that, if you could?

Mr Blazey—Certainly.

Senator FAULKNER—What sort of ongoing contact, if any, did you have with Dr Gee when he was working with the Iraq Survey Group?

Mr Blazey—The primary lines of reporting for Australians working in the Iraq Survey Group were through Defence. We had quite limited and occasional contact. We do not have a record of all Neil Mules's contacts, for example, with John Gee. It was a small Australian community in Baghdad and they might have met socially and in other contexts. But there was no official reporting of formal meetings between DFAT—

Senator FAULKNER—So you are saying that there was no line of reporting.

Mr Blazey—That is correct.

Senator FAULKNER—So it was more unofficial. Are you aware of whether the minister was provided with a copy of Dr Gee's resignation letter?

Mr Blazey—Yes, we believe the minister was provided with a copy of the letter.

Dr Raby—Chair, just before we leave this output, we have answers to Senator Stott Despoja's questions concerning commercial interests in Libya. We could give those now.

CHAIR—Thank you.

Dr Raby—You asked what companies are pursuing interests in Libya, as stated by Senator Hill. The main companies currently pursuing interest in Libya are Woodside, Oil Search, BHP Billiton and Santos. You asked about consular cases since May last year. Cairo has advised that there have been no specific consular cases arising in Libya since the announcement by Mr Downer and Mr Vaile on the opening of a mission in Tripoli. You asked about the number of Australians currently in Libya. Our mission in Cairo advises that there are 15 Australians registered with the post in Cairo. But understand that there are likely to be around 60 Australians currently in Libya, the largest group being with Woodside.

You asked about dialogue with Libya. Since the resumption of diplomatic relations in 2002, exchanges between Australia and Libya have principally been through the medium of high-level visits. From the Australian side, Mr Vaile visited Libya in July 2002, Mr Downer in May 2004 and Senator Hill in April 2005. From the Libyan side, two sons of the Libyan leader have visited Australia: Saif al-Gaddafi in December 2002 and Saadi al-Gaddafi twice from February 2005.

Senator STOTT DESPOJA—Just to clarify, in relation to the number of Australian citizens, was that the number of Australians—

Mr Ritchie—That is the number of Australians.

Senator STOTT DESPOJA—or the increase?

Mr Ritchie—No. There are 15 registered with the post in Cairo but the post understands that there are probably around 60. We do not have the figure on the increase on the number that have been registered. We could find that—

Senator STOTT DESPOJA—I would be interested.

Mr Ritchie—It is probably not likely to be many, but we will find that out.

Senator STOTT DESPOJA—It goes to the heart of my questions in relation to what has changed substantially between the comments by Minister Downer in May 2002 and today.

But I am happy to hear back from you and perhaps continue to pursue that, either through this forum or at another time. Thank you.

Senator CHRIS EVANS—I hope this has not been covered; I was at another committee. What action has been taken or what implications or follow-up is there for Australia following the final report of the Iraq Survey Group? Do we just file it?

Mr Stuart—I am not quite sure what sort of follow-up you had in mind. It was the final report at the end of a long process. I think there has been some discussion in parliament about its conclusions and some public comment but I am not sure what particular follow-up you would have in mind.

Senator CHRIS EVANS—There are a couple of things. Firstly, we made a significant contribution of Australian personnel to the group so I was interested in what debriefing occurred and what would be done with that information. I presume there was a debriefing process for the Australian personnel who took part. In what way will that inform foreign affairs and broader government decision making in the future in relation to their activities? Given the conclusions of the Iraq Survey Group, what does it mean for our own intelligence and advice provided to government prior to the decision to be involved in the military action in Iraq? How is that being dealt with?

Mr Stuart—There have been a number of processes that address that issue you have just raised. The so-called Jull committee report addresses that. In part the report of Mr Flood into the intelligence agencies addresses that. To that extent, the government certainly looked at those issues. But the actual report itself—

Senator CHRIS EVANS—If I could interrupt, my understanding at the time was that the question of the weapons of mass destruction was still in dispute them.

Mr Stuart—Yes. The conclusion of the report itself stated:

Saddam wanted to recreate Iraq's WMD capability ... after sanctions were removed and Iraq's economy stabilized, but probably with a different mix of capabilities to that which previously existed. Saddam aspired to develop a nuclear capability—in an incremental fashion, irrespective of international pressure and the resulting economic risks—but he intended to focus on ballistic missile and tactical chemical warfare ... capabilities.

I am reading from the summary of the report.

Senator CHRIS EVANS—A very selective summary, I would say.

Mr Stuart—It is 15 pages. I am a bit reluctant to try to read it into the record.

Senator CHRIS EVANS—You seem to focus on the thinnest thread supporting the case, rather than the—

Mr Stuart—No, I am reading from the beginning of the key findings. I am a bit reluctant to try to read this into the record. We obviously digested the report but, as I say, the questions that you raise about what this means for the performance of our intelligence agencies have been addressed at length in different processes.

Senator CHRIS EVANS—We have followed a few processes. I guess I was interested in what Foreign Affairs' response had been now that we have the final report. We were urged certainly by the government for a long period to await the final report. Quite frankly, your

response then seemed to concentrate on justifying the earlier decision in choosing the bits of the report to read. I do not want to labour that point. We now have the final report. We made a massive commitment in the sense of going to war. Do you think it is the case that the government or the department regard the matter as closed—that the Jull and Flood inquiries are the totality of any response and that we ought to forget about it and move on?

Mr Stuart—That is a question that involves many government agencies and not simply a DFAT response. I think for a start we would say that these issues were canvassed pretty thoroughly in those inquiries. As you know, there has been a result in terms of some changes in the intelligence community which I do not really feel comfortable about talking about, because I do not think that is what I am at estimates for. Those questions should perhaps be directed to those agencies.

Senator CHRIS EVANS—That is why I was asking you what DFAT's response was and what it meant for you. If the answer is nothing, that is fine.

Senator FERGUSON—Chair, those inquiries were a government response, not a DFAT response. You talk about 'the Jull inquiry'; it was a joint committee inquiry, which reported to the parliament.

Senator CHRIS EVANS—Mr Stuart raised those, not me.

Senator FERGUSON—But they reported to the parliament. They warrant a government response, not a departmental official's response.

Senator CHRIS EVANS—Mr Stuart raised them as responses of the government, Senator Ferguson; I did not raise them. My question is: what has DFAT done in response to the final report of the Iraq Survey Group? What lessons has it taken and what actions have occurred, if any? It may be that none have been taken. That is my question. I do not see why it is so perplexing a question, but if the answer is none, that is fine. I just want to be clear. I will rephrase it.

Mr Stuart—The answer is not 'none'. We have read and digested the report. We have adjusted our views. We think that it is an authoritative report. I note Mr Barton thinks that it is an authoritative report and has commented that it was objective and thorough. We have integrated those into our views on what the situation has been in Iraq. I just wanted to note in the comment that I made before that the report, as you have noted, had a lot of conclusions and quite complex conclusions, but the conclusions do underline the continuing threat the regime in Iraq posed.

Senator CHRIS EVANS—We know a lot about the process, even for the final report. I do not want to labour that point, but are there any actions or direct measures taken by the foreign affairs department as a result of the report, other than it generally informing their views?

Mr Stuart—We have done some fairly routine work providing media points and reflected our understanding of the report in some work in preparing speeches and public statements. It has certainly informed our position on proliferation issues. So to that extent, yes. That is why I said that it would not be correct to say that it has no effect on us; it does have some. But I think the major processes that went to your own questions about whether any lessons have been learnt have to some extent been conducted.

Senator CHRIS EVANS—Thank you for that.

CHAIR—Senator Ray or Senator Faulkner, do you have any further questions?

Senator FAULKNER—We are on 1.1.4. This includes the South Pacific, doesn't it, Chair?

CHAIR—It does.

Senator ROBERT RAY—Can we have an update with regard to PNG—where we are up to with negotiations having regard to the police who were withdrawn? I know it is an ongoing situation. I saw a statement by Foreign Minister Namaliu the other day.

Mr Ritchie—Foreign Minister Namaliu and Minister for Internal Security Bire Kimisopa came to Australia along with some officials on Thursday of last week for discussions with Minister Downer. On the afternoon of that day there was a discussion between officials of the Australian government and the Papua New Guinea officials who had come down. That was the start of the process of discussion on a way forward for the Enhanced Cooperation Program. A team will be going next week to Port Moresby to continue those discussions.

Senator ROBERT RAY—The PNG foreign minister seemed to imply that it might be possible for our law enforcement officials to return to PNG without the necessity of enabling legislation; that existing legislation—obviously not that which was overturned by the PNG courts—can be used. What is our assessment of that? Where are we with that?

Mr Ritchie—It is something that I do not want to go too far into because it will be part of our discussion with Papua New Guinea. We do want to gain for our police the necessary protections that they require for working in-line in Papua New Guinea.

Senator ROBERT RAY—What is the timetable for these meetings?

Mr Ritchie—The next meeting will take place next week in Port Moresby, on Thursday and probably Friday morning. We will take stock at that point and see where we are and set a date for a further meeting.

Senator ROBERT RAY—You may not be able to answer this question; you may not know. Have those who have been deployed back to Australia been reassigned to tasks or are they waiting for a final assessment as to whether they can return?

Mr Ritchie—That question was asked of AFP in another estimates committee.

Senator ROBERT RAY—I don't go to them all. Don't encourage me!

Mr Ritchie—My recollection of that exchange was that they are certainly not just waiting around. A large number have been assigned to the Solomon Islands, for example, to bolster our police presence there. Others are on other duties. They are not simply waiting around, as I understand the situation,.

Senator ROBERT RAY—I am also wondering how easy it will be to disentangle people back from the Solomon Islands if they need to relocate to PNG.

Mr Ritchie—That is an operational matter for AFP.

Senator ROBERT RAY—I read in the paper—I do not know how accurate the report was—a report that there was a security problem at Brisbane airport in regard to a visit by Sir Michael Somare. I have raised on one or two occasions in the past how diplomatically or

undiplomatically we sometimes deal with visiting VIPs. Can you assist us as to what happened and how it was dealt with?

Dr Raby—I do not think it is a question for DFAT. Because it involves heads of state, it is a responsibility of CERHOS, which is in the PM&C portfolio. The foreign minister is on record—as well as the Prime Minister—as making it very clear that the government does not believe in having exceptions to airport screening procedures. It is to ensure the safety of all passengers. The Prime Minister is perfectly happy to subject himself to these sorts of screenings when he travels internationally, and thinks that it is one rule for everyone. The actual act is administered by the Department of Transport and Regional Services.

Senator ROBERT RAY—I would have thought the real issue in the long term is how well the briefing—let us not pick on any particular country or individual—is carried out beforehand, before someone arrives in this country, as to what the requirements are, which is strictly, I would have thought, within your ambit rather than that of CERHOS, the department of transport or someone else. You are diplomats. You end up copping the backwash far more than Customs, the department of transport or anyone else if something goes awry.

Dr Raby—My understanding is that the airport security practices and procedures are explained before the travel by overseas dignitaries. What we cannot do is take the next step and ensure that overseas dignitaries understand or accept the practices that we apply equally to all.

Senator ROBERT RAY—If our Prime Minister or foreign minister travel overseas and they are exempt, do they insist on being searched? I do not disagree with you when you say that no-one is exempt; it is the tact with which you apply the exemption that we have been found wanting on a number of occasions. It has always seemed to create a disproportionate incident to what we would like.

Senator Hill—I think the vast number of dignitaries accept the screening without complaint because they know it is to their benefit and the benefit of all other passengers. It is hard to know in advance which one would take offence at this requirement. I know some other countries have different methodologies. In the United States, travelling domestically, I am expected to be screened, and I do not complain about that. The screening can be more intrusive than the Australian screening. But out of Washington they put me in a private room and screened me in there, apparently in case I felt that my privacy should not be intruded upon by this experience. I don't know whether it is suggested that, whilst not departing from the requirement for screening, we should have greater flexibility in doing it. But it is difficult to apply that in airports across the country. I can see how they can do it in Washington, because they have a constant stream of so-called dignitaries coming through.

Senator ROBERT RAY—They have probably had the worst history of any country in the world in dealing with dignitaries coming through. Leaving that aside, I am not trying to be critical of any particular incident here; I am just asking what precautions can be taken, without in any way impinging on what should be proper security measures. Was a DFAT officer present here in Brisbane to assist or was it just CERHOS?

Dr Raby—CERHOS.

Senator Hill—It is also not unreasonable to expect the diplomats of the country to brief their dignitaries on what the requirements are in the country that they are visiting.

Senator ROBERT RAY—You would not have knowledge as to whether that would have been done in the particular incident I have referred to.

Dr Raby—No, we do not, but we are looking at a more intensive effort with representatives of the diplomatic corps here as one possible way. We are evaluating whether that is the useful way to go to remind them of the requirements for dignitaries travelling in Australia.

Senator ROBERT RAY—I think that is all the questions on output 1.1.4.

CHAIR—Would you like to take an early break for dinner?

Senator Hill—Does that mean that you will come back early?

CHAIR—No, my advice here is that we should keep going.

Senator ROBERT RAY—To answer your question, no, we would come back at the normal time, not earlier. I am not trying to sway the jury.

Senator Hill—That is all right. I was just saying that—

Senator ROBERT RAY—You are never here on time, so it would not worry you anyway.

Senator Hill—It is just that I have particular difficulties today and I cannot be here between half past seven and half past nine tonight. I am happy for the committee to continue, but I gather there are some committee members that are unhappy with that.

Senator ROBERT RAY—You are supposed to provide another minister.

Senator Hill—I know, but we have run out of ministers.

Senator ROBERT RAY—What about parliamentary secretaries?

Senator Hill—We only have one.

Senator ROBERT RAY—Why have you only got one? That is why we introduced all these changes.

Senator Hill—We have had that discussion.

Senator PAYNE—I have asked that too.

Senator Hill—We all live in hope.

CHAIR—We all think there should be more.

Senator ROBERT RAY—Looking to my right, I can see why you do not have any more parliamentary secretaries.

Senator PAYNE—Robert, that is so uncharitable. It is not unsurprising but uncharitable.

Senator CHRIS EVANS—If you think carefully about what that means, Senator Hill was indicating that the parliamentary secretary would sit here for four days and he would be very busy elsewhere, so you might want to think about that.

Senator PAYNE—I sit here for four days anyway. What are you talking about?

Senator CHRIS EVANS—Senator Hill, I think this issue arose in the DVA hearings where you had to be away for two hours as well without a replacement. I was certainly asked my opinion of that prior to it and I thought I would let it go through to the keeper in the spirit of goodwill and the fact that we were under pressure. I know some other senators were concerned about that. I think there will be greater concern if it is to become regular practice or it is now to be another two-hour break without ministerial representation. I do not know whether you are not enjoying the cooperation of your colleagues—

Senator Hill—I spend a lot of hours sitting before committees but, if you do not want to sit between half past seven and half past nine tonight, fine.

Senator FAULKNER—Could we have a brief private meeting to see how we might work this through? I think the minister's aggression is unfortunate in this instance, given we are such a cooperative committee.

Proceedings suspended from 6.09 pm to 6.16 pm

CHAIR—I can inform people of the decision of the private meeting of the committee. Owing to a number of developments, including the fact that the minister is committed this evening and the opposition has a number of matters on, we have agreed to sit until seven o'clock and then adjourn until the morning.

Senator Hill—I would like to take the opportunity to thank the committee for its cooperation. I am hosting a function for the Korean defence minister tonight and, as it is the first time a Korean defence minister has ever visited this country, I was worried for a moment that we might have an embarrassing incident. I thank the committee for cooperating to assist.

Senator FAULKNER—Chair, can I indicate that this ought to be seen as a very special circumstance, without precedent. As I think you, committee members and the minister are aware, we were faced with a situation where there would not be a minister at the table anyway for a very long time, something which, as you know, in the view of the opposition, is unsatisfactory. In these circumstances, there is little alternative. The arrangement that has been worked through is sensible. I stress that it is an arrangement that is not setting a precedent for this or any other committee. We are just faced with circumstances beyond our control.

CHAIR—Thank you, Senator, for your cooperative contribution and thank you, Minister, for your explanation. We are continuing with 1.1.4.

Senator FAULKNER—I do not have anything further on 1.1.4.

CHAIR—Outputs 1.1.5 and 1.1.6 are the trade programs, and they are, by agreement, going to be considered tomorrow.

Dr Raby—If I may, Chair, we have a small correction of fact to a question asked by Senator Faulkner concerning DFAT contact with Dr Gee.

Mr Blazey—I have just been advised that there was an additional meeting which I had not mentioned which took place on 14 April. Dr Gee met the then DFAT secretary, Dr Calvert, for lunch on that day.

Senator FAULKNER—Which year?

Mr Blazey—It was 2004.

Senator FAULKNER—Dr Calvert and Dr Gee were the only participants in the lunch—the only persons present?

Mr Blazey—That is the advice I have.

Senator FAULKNER—Given that it was a lunch, I imagine it was comparatively or relatively informal. Is that the case?

Mr Blazey—I do not have any further information.

Senator FAULKNER—You do not have a record of it? Somewhere someone knows that the thing took place.

Mr Blazey—That is correct. I do not have any details on whether a record was made of it, but I shall certainly check.

Dr Raby—I think I can help on this. The knowledge of that meeting derives from the former secretary's diary.

Senator FAULKNER—And that is the limit of it?

Dr Raby—No. Mr Blazey has said that he will check to see if there is any more information in the system. I am just advising you on where the knowledge of it came from.

Senator FAULKNER—That is helpful; thank you. I think that in this circumstance we should ask the department to take on notice if they can provide further details consistent with questioning about a previous meeting with Dr Gee that is of a nonministerial nature. Dr Raby, if it is possible—and there may not be records available—could you provide that detail? I think you are aware of the questions that were asked. Certainly there were certain issues that were not canvassed in relation to Mr Downer's discussions with Dr Gee, but in relation to the first meeting of four participants, those matters perhaps could be also addressed in relation to this meeting. The only way I think we can do that is if you take that on notice. I think you understand the spirit of the questioning, don't you? If you are able to provide that information, if there are records or other information sources that you are able to tap into, you can do so in relation to the 14 April lunch.

Dr Raby—Certainly.

Senator FAULKNER—I qualify this by saying I accept that the records may not be as good in this case. But I hope you will be able to take that in the spirit the question is asked and go away and do your best on it.

Dr Raby—Certainly.

[6.22 pm]

CHAIR—We will move on to 1.1.7, 'International organisations, legal and environment'.

Senator FAULKNER—Is this where the IWC issue comes up?

CHAIR—I think it probably is.

Dr Raby—Yes.

Senator FAULKNER—Can I ask in relation to this whether the government has given any consideration to whether Japan might effectively be taken to the International Court of Justice for its abuse of the scientific research exemption? Has any thought been given to that at all?

Mr Moraitis—It has been made clear on numerous occasions that the government has not ruled out any legal or diplomatic options in relation to this matter. That is where I would leave it.

Senator FAULKNER—I am aware of that, so it is not ruled out. But I am asking whether legal advice has been sought in relation to the prospects of taking that course of action. I am not asking what the legal advice is; I am merely asking if it has been sought. I am asking about the process issues that surround it.

Mr Moraitis—I think, in the context of discussions of possible legal action in international tribunals, not only the substance but also the process of seeking or giving advice are inappropriate for legal advisers to reveal in public.

Senator FAULKNER—You and I have a very different view of the world if that is the case. What is the reason for that?

Mr Moraitis—In the context of canvassing the situation as it applies at the moment, as I have just stated and as the government has stated publicly, no option has been ruled out, whether diplomatic or legal. In that context, consideration of legal options and the processes leading to that are pertinent to any substantive issue.

Senator FAULKNER—This committee is entitled to know whether the government is expending funds or resources on that sort of matter. I am sorry but that is just core business for a committee like this. I do not accept the sensitivities at all. We are certainly entitled to know whether taxpayers' funds and resources of government are being spent on these sorts of things. It is a perfectly reasonable and, I would have thought, responsible question—and, I think, one that demands an answer.

Mr Moraitis—I will give you the answer, which is that, concomitant with the view that all legal and diplomatic options are open and are being left open, rest assured those options are being considered in the appropriate manner.

Senator FAULKNER—It is not all right—but has legal advice been sought by DFAT in relation to this whaling issue?

Mr Moraitis—I can say in general terms that relevant agencies are fully aware of the relevant issues at stake, including legal issues.

Senator FAULKNER—That is an unacceptable answer. I am asking a question about whether the department has sought legal advice in relation to the IWC and the whaling issue. It is a perfectly straightforward question.

Mr Moraitis—In relation to the IWC?

Senator FAULKNER—In relation to this whaling issue in the broad and what is occurring in the IWC. I am trying to leave it deliberately broad so that gives you some level of comfort with actually providing an answer to the committee.

Mr Moraitis—In broad terms, all issues relating to whaling and the IWC, including legal issues, are being considered and have been considered for quite a while, because the issue of whaling has been a longstanding—

Senator FAULKNER—Has specific legal advice been sought?

Mr Moraitis—In relation to the IWC?

Senator FAULKNER—Jesus!

Senator PAYNE—Chair, that is not necessary.

Senator CHRIS EVANS—In relation to the prosecution of Australia's policy on the whaling issue. I think Senator Faulkner was trying to do you a favour and keep it broad.

Mr Moraitis—In broad terms, yes, legal advice has been sought in relation to the issue of whaling in general, including the IWC.

Senator FAULKNER—Who has it been sought from?

Mr Moraitis—Relevant agencies which have an interest in this, the Attorney-General's Department and us.

Senator FAULKNER—You sought legal advice from yourself?

Mr Moraitis—We have looked at the issue—

Senator Hill—Taken internal legal advice.

Mr Moraitis—As I have said, it has been made clear that the government has not ruled out any legal or other diplomatic options.

Senator CHRIS EVANS—Have you commissioned outside legal advice? It seems that everything is done by one of the major legal firms these days, but this has all been done in-house, has it?

Mr Moraitis—We have not sought legal advice outside government. I can confirm that.

Senator CHRIS EVANS—Is that true of the other agencies as well—do you know?

Mr Moraitis—I cannot speak for other agencies.

Senator CHRIS EVANS—Are you the lead agency on this?

Mr Moraitis—No, the Department of the Environment and Heritage is. I think there is a whaling commissioner in that department.

Senator CHRIS EVANS—So is there an IDC or a task force? What is the basis of the cooperation between the departments on that?

Mr Moraitis—I think the Ambassador for the Environment has canvassed that. She described her role as being the point of contact on this issue between various agencies, including DEH and DFAT.

Senator CHRIS EVANS—I know you had a bit of a discussion about whaling earlier. I am sorry I missed that.

Mr Moraitis—I would just make the point also that I work in the same division as the Ambassador for the Environment, so we obviously have close dialogue and cooperation on a variety of issues, including this.

Senator FAULKNER—It is true, isn't it, Ms Adams, that Australia hosted the IWC in 2000?

Ms Adams—Once again, I am sorry to say that the whaling commissioner, the main, lead negotiator in that process, is in the environment department and would no doubt be able to tell you off the top of his head. I cannot; I was not in this role then. I can certainly find out for you from the whaling commissioner.

Senator FAULKNER—It is true, isn't it, that in 2000, when the IWC met in Adelaide, the government actually made some reference to a possible case against Japan? Isn't that a fact?

Ms Adams—I am sorry; I will have to check. I do not know.

Senator FAULKNER—When there is a major international meeting hosted in Australia by Australia, I am surprised that the department of foreign affairs does not have some record or recollection of what goes on. This was a major event, wasn't it?

Ms Adams—I am sure the Department of Foreign Affairs and Trade does. What I am saying to you is that I was not in this position at that time.

Senator FAULKNER—I appreciate that.

Ms Adams—I do not know the precise details and, rather than make it up, I prefer to get back to you.

Senator FAULKNER—Do you recall it, Dr Raby?

Dr Raby—No, Senator. We were all in different positions then. We can answer your questions and we will take them on notice and get back to you as soon as we can, as we have with so many other questions during the course of the day.

Senator FAULKNER—The difficulty with that, of course, is that these questions often require a level of follow-up. Has the government at any stage ever raised the prospect of a case against Japan in the International Court of Justice with the Japanese government? Has that ever been raised to your knowledge?

Mr Moraitis—Not to my knowledge, Senator, or that of the ambassador.

Senator FAULKNER—Perhaps Senator Hill can help us, because I recall that Senator Hill was the environment minister at the time. Do you recall the IWC meeting in Adelaide? No-one from the department of foreign affairs does, Senator Hill, which surprises and disappoints me. Do you recall the IWC meeting in Adelaide in 2000?

Senator Hill—Yes, I do.

Senator FAULKNER—Are you able to assist us? We do not have any officials who can. At that meeting was there reference to a possible case against Japan in relation to this matter?

Senator Hill—There were a number of issues raised at that meeting. I think it was the first meeting at which we sought to establish the South Pacific whale sanctuary. In relation to the Southern Ocean Sanctuary, there was the usual issue of the Japanese statement which had

been considered the previous day or previously by the scientific committee that it was going to continue to harvest minke whales in the Southern Ocean for scientific reasons. So there was debate on that issue. I do not recall debate on a legal action to prohibit it. Certainly, at that meeting and at subsequent meetings the debate was more about the legality of the scientific clause for harvesting, that seemed to be being driven by an intention to market rather than an intention to research. I do not recall a debate on that legal issue of the Southern Ocean Sanctuary and whether in international law that established a basis for an action.

Senator FAULKNER—Thank you. At least it is further and better information than we have had from the department. Can someone from the department tell me what role and activities, if any, the department is undertaking in trying to ensure that there is a good outcome on this Japanese proposal to increase the scientific research quota at this year's IWC meeting, the 2005 meeting—in other words, to try and ensure that that scientific research quota is not increased. I think we all agree what a good outcome would be, by the way, Ms Adams. I hope we would, anyway. I think there would be broad agreement about that. Please just take that as read.

Ms Adams—Yes.

Senator FAULKNER—Can you say to me what the department is doing to try and ensure we get a good outcome.

Ms Adams—You are certainly right on sharing the view on what a good outcome would be. As I have said several times, of course the main responsibility for the work in the IWC rests with the whaling commissioner in the DEH and in the Antarctic Division, where our main scientific work is carried out. Your question is about DFAT's role. We provide diplomatic support to that effort. We have spoken earlier in this estimates hearing about the work that we are doing, primarily through our embassy in Tokyo, but through other missions as well, to coordinate joint demarche in Tokyo. DFAT is also supporting the environment minister in his efforts to coordinate and consult with like-minded governments in preparation for the IWC meeting. As you know, he is currently in Europe talking with many European ministers on these very issues. That is an intensive program that he is doing this week, and DFAT embassies are supporting that as well as DFAT Canberra arranging those meetings and facilitating access to decision makers in those countries that he is visiting. You will also know, I am sure, that Senator Campbell is visiting some Pacific countries next week, and DFAT, once again, through its missions and Canberra, is facilitating that visit and arranging for meetings with senior relevant people so that we can do all that we can to be effective in the IWC meeting, having built coalitions and coordinated positions et cetera.

Senator FAULKNER—But a lot of the expertise in terms of these diplomatic negotiations lies in DFAT, doesn't it?

Ms Adams—Once again, with this specific issue, because it is a commission based on individual commissioners, the main network is actually the whaling commissioners. Dr Conall O'Connell is our whaling commissioner—his network of his counterparts is in fact the main bureaucratic level of operation. And then, of course, the environment minister will lead the delegation, and it is his counterparts and in some cases fisheries ministers who are the main people involved at the political level.

Senator FAULKNER—I have seen a lot of public statements on this from Mr Downer. I am not critical of that, but I have seen him make quite a lot of public statements in the last couple of weeks.

Ms Adams—Yes. The foreign minister and DFAT are actively supporting the environment minister, the whaling commissioner and the Antarctic Division in their work. We also contribute—

Senator Hill—That has always been the case. It has always been a cooperative effort.

Ms Adams—A legal expert is customarily part of the delegation to the IWC to provide specific legal advice. That will continue, as has long been the case.

Senator FAULKNER—Some of the countries that make up the IWC are landlocked countries, aren't they?

Ms Adams—Yes, that is right.

Senator FAULKNER—Does the department of foreign affairs try to keep an up-to-date assessment of how it thinks the votes—in this case, crucial votes at the 2005 IWC meeting—are going to come out?

Ms Adams—With the Antarctic Division and the whaling commissioner, yes, we do.

Dr Raby—Just to reinforce the point that the ambassador made, our global network of posts is very actively involved in representations, reporting back and reporting on host government views. It is a very dynamic process in support of this effort.

Senator FAULKNER—If I were ask you a question such as, 'How is a landlocked country like Mongolia likely to vote in the IWC?' you would be able to assist me.

Ms Adams—I do not think I would be prepared to be talking about other countries' voting intentions, but we would have our private assessments.

Senator FAULKNER—So you think you know, but you are not willing to tell us.

Dr Raby—It is a work in progress as well.

Senator CHRIS EVANS—Senator Campbell is concentrating on the Pacific rather than countries like Mongolia or Austria. I am just trying to understand why there is the emphasis on the Pacific nations.

Ms Adams—Could I say that it is not a sole focus on the Pacific. He is in Europe this week visiting a range of countries.

Senator Hill—That is why he cannot be at the estimates committee.

Ms Adams—I think he has put out a press release that details that. He also made reference in the DEH estimates to having played a role in encouraging the Czech Republic and the Slovak Republic to join the IWC on that conservation side, to speak loosely. But the Pacific countries are also important voting members of the IWC. Some of those are new members, and Senator Campbell as well as DFAT consider it very important that we put our full views on the conservation argument to those new member countries in the South Pacific to make sure that we have explained the reasoning behind our position and of course that we seek and encourage their support.

Senator CHRIS EVANS—Is Senator Campbell taking his lobbying roadshow anywhere apart from Europe and the Pacific?

Ms Adams—As I said earlier, he also uses the opportunities of other meetings to raise these issues with counterparts whenever he travels and whenever they visit here. It is quite a main—

Senator CHRIS EVANS—Looking at the list, it is obviously quite a diverse group that makes up the IWC: St Lucia, St Vincent and the Grenadines, San Marino, Senegal—it is a very diverse, well-spread group, many of the members of which, as Senator Faulkner has said, are landlocked. The immediate interest in whaling issues there escapes me. That probably reflects my ignorance. Are you able to explain to me what the basis of the IWC's membership is?

Ms Adams—The basis is which countries have signed and ratified the treaty.

Senator CHRIS EVANS—So it is self-selecting by virtue of having signed the treaty.

Ms Adams—Yes, it is a treaty body.

Senator FAULKNER—There have been plenty of allegations over the years, and certainly I have read of many suggestions even in recent years that there has been a fair bit of vote buying, for want of a better description, that goes on at the IWC. Is that right?

Ms Adams—I can say I too have seen reports. I have never seen any evidence and I am not able to comment further.

Senator FAULKNER—Isn't it a fact—and this is something that seems to be core business for DFAT, not for the Department of the Environment and Heritage—that there are a lot of allegations that certain countries or a certain country may have used their overseas aid budgets to influence the voting patterns at the IWC?

Ms Adams—Once again, I am not really prepared to comment on what other countries may or may not have done.

Senator FAULKNER—So this is not something you have to deal with?

Senator Hill—There have always been a lot of allegations. That is true. It is practically impossible to establish the fact. But from an Australian perspective, we are not in the business of vote buying, so we have to use other tactics. We try through persuasion on the merit of the case to influence countries to our point of view. That is what Senator Campbell is trying to do in the Pacific.

Senator FAULKNER—Has the verbatim record of the 52nd annual meeting of the IWC in Adelaide, Australia, 3 to 7 July 2000, been drawn to your attention, Mr Moraitis?

Mr Moraitis—No.

Senator FAULKNER—Well, I suggest that you get hold of it, because in that verbatim record these issues of Australian initiatives in relation to the International Court of Justice are canvassed publicly. Why would that be so at a meeting of the IWC and yet it is so problematic to talk about those issues before this committee?

Mr Moraitis—I am not aware of the verbatim record you refer to, Senator. I would like to see that.

Senator FAULKNER—Could I ask you to access that. As we are coming back on these issues in the morning—

Senator Hill—I do not think the verbatim record of the Adelaide meeting will show Australian officials accusing any state of vote buying.

Senator FAULKNER—I was not suggesting that, Minister.

Senator Hill—Sorry, I misunderstood.

Senator FAULKNER—You did. I am talking about these issues in relation to legal action. I do not want you to misinterpret that I am talking about the issue of vote buying. I am talking about the issue of legal action or prospective legal action, which is canvassed in detail in the verbatim record of the 52nd annual meeting of the International Whaling Commission held in your home city. You are not environment minister, and congratulations to you for grabbing the conference and getting it on there—well done!

Senator Hill—I actually gave a very good speech. That is in your verbatim record.

Senator FAULKNER—I have yet to read one of your very good speeches but I am sure that if you push enough over in my direction we will eventually find one that you made in 1952.

Senator Hill—This could be a first.

Senator CHRIS EVANS—Whaling conferences one year, warfare destroyers the next year; it is all go!

Senator Hill—You've got to be flexible!

Senator FAULKNER—We will come back to it. Mr Moraitis, please get hold of a record of it because the Australian delegate passes the microphone to his legal adviser to expand on legal issues; Australia brings to the attention of the commission recent developments in international legal practice and precedent, which for many international lawyers raised the possibility that Japan might not be acting properly within its legal rights when it issues scientific permits. Australia also refers to one of the so-called general principles of the law which are recognised as a source of international law under the statutes of the International Court of Justice, and goes on to outline this in considerable detail. I just find it remarkable in these sorts of circumstances that there can be this sort of public discussion in that sort of forum, yet officials are so concerned about any discussion of these matters at all before a committee like this.

Mr Moraitis—Senator, as a general proposition, may I respond, without having the benefit of seeing that transcript?

Senator FAULKNER—Sure. If you do not have the transcript, by the way, I am happy to provide it to you.

Mr Moraitis—Thank you for the offer.

Senator FAULKNER—I am sure DFAT are a long way in front of me in accessing this transcript.

Mr Moraitis—The specific question you are asking me is whether advice has been provided. As a legal adviser I feel I am not able to comment on that—certainly not on the substance of it. From the description you have given me of the discussion in the IWC, that is a canvassing in broad terms of the general principles of international law. I think it is quite legitimate to do that.

Senator FAULKNER—I am not suggesting it is illegitimate at all. I was asking you whether these matters were canvassed and whether similar matters are still being canvassed. I just don't feel that the reticence that you are showing on these issues is necessary. Given that this stuff is out there in the public arena and have actually been discussed openly at the IWC, it seems to me to be a little remarkable. Anyway, the best thing is for you to have a look at some of that record and we can talk about it further in the morning. I think there might be a level of comfort, though, Ms Adams, for those who care about this issue—and I think many Australians do, and obviously want to see the best possible environmental outcome here—and who hope that a lot of the diplomatic efforts are being handled by the diplomatic experts who, I assume, reside within the department of foreign affairs. I am trying to establish to what extent DFAT is putting the shoulder to the wheel on this matter.

Ms Adams—Yes.

Senator FAULKNER—It is still not clear to me, I must say. That you are working cooperatively with the Department of the Environment and Heritage is proper and worthy, and not a matter of criticism. It seems to me that maximum efforts must be expended in advance of the IWC meeting that is going to be held in South Korea. That is the first issue. The second issue, it seems to me, is that already, in the public arena, we have knowledge of the fact that at the IWC meeting which was hosted by Australia in the year 2000, when Senator Hill was minister for the environment, and when the meeting was held in his home city of Adelaide, which he considered to be a massive political coup at the time, the Australian government threatened to take Japan to the ICJ. Now I am not critical of that at all.

Senator Hill—No, I do not think that that did occur at that meeting. There may well have been discussions of the legal issues but I do not remember any threat being made at that meeting by Australia to take Japan to the ICJ.

Senator FAULKNER—I just refer you—

Senator Hill—I am happy to refresh my memory from the verbatim record that you have got there but I do not recall that. The achievement of the meeting was really to create a momentum towards the South Pacific whale sanctuary. Unfortunately, whilst momentum was created, it has been difficult to maintain.

Senator CHRIS EVANS—Is that due to your transferring to Defence?

Senator Hill—No. It is probably in better hands now. It is a contest of influence.

Senator FAULKNER—Has Professor Gillian Triggs from Melbourne University had any involvement at all with the Department of Foreign Affairs and Trade on these issues in the broad?

Senator Hill—She has certainly had involvement with the government because she was on a committee that was set up back in those days to advise the government on options for achieving our policy goal of better protection for whales. That included looking at the whaling commission; it included looking at all options.

Senator FAULKNER—Perhaps you may need to take this on notice but do we know whether the legal adviser to Australia at the IWC meeting in Adelaide in 2000 was in fact a DFAT official? Do we know that?

Mr Moraitis—We will have to take that on notice. I cannot recall who was at the 2000 meeting and whether it was in fact a DFAT officer. We could do that overnight, if you like.

Senator FAULKNER—I would appreciate it if you could establish that overnight.

Mr Moraitis—Yes, of course. At least, I will try my best.

Senator FAULKNER—If there is any background to any assessment by or involvement with DFAT in relation to either published or private advice from Professor Triggs, that would be helpful to know too, Mr Moraitis. Perhaps you could check that, now that we have a bit of time on our hands to do so.

Mr Moraitis—Sure. I am aware of at least one published work by Dr Triggs but I will follow up and try to provide you with as full an answer as I can overnight.

Senator CHRIS EVANS—I will ask a process question. Does the Japanese proposition to the meeting require a simple majority? What is the process in terms of the voting at the IWC?

Ms Adams—I can give you some information on that. You are speaking of the scientific program increase and whether there is any voting on that as such. The answer is no, there is not. There is an article in the convention that basically allows scientific whaling. So the numbers are not subject to approval by the commission as such.

What happens is that that proposal is put to the scientific committee, which debates the scientific merits or otherwise of that. Those discussions normally do not end in any sort of agreement. Arguments are put on various sides, but there is no mechanism within the treaty for the scientific committee or any other body of that treaty to prevent that occurring.

Senator CHRIS EVANS—What is the object of the lobbying exercise? What is the resolution of this conflict at the IWC meeting?

Ms Adams—It goes to a different and broader issue, which is the resumption or at least potential resumption of commercial whaling.

Senator CHRIS EVANS—That is a motion traditionally moved by Japan, as I understand it.

Ms Adams—Correct.

Senator CHRIS EVANS—Are you anticipating that will be moved again?

Ms Adams—There is the possibility, or the possibility of the revised management scheme effectively having the same impact—namely, allowing commercial whaling to potentially recommence under certain circumstances. That is a proposition that Australia is opposed to and it has made its opposition very clear.

Senator CHRIS EVANS—So you are not sure what will be the turning point in terms of the resolution at the meeting. It could be either of those options.

Ms Adams—Correct.

Senator CHRIS EVANS—With regard to the voting, is it a straight 50 per cent plus one vote of those in attendance?

Ms Adams—For those votes which go to key issues like commercial whaling, quotas and so on, it is a three-quarter majority. My understanding is that a 50 per cent majority is required for fairly straightforward procedural items, such as adoption of the agenda et cetera, but the issues that are covered in the schedules to the convention, which is sort of where the numbers are, require a three-quarter majority.

Committee adjourned at 7.02 pm