



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION
COMMITTEE

ESTIMATES

(Additional Estimates)

THURSDAY, 16 FEBRUARY 2006

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BY AUTHORITY OF THE SENATE

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SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE

Thursday, 16 February 2006

Members: Senator Johnston (*Chair*), Senator Hutchins (*Deputy Chair*), Senators Mark Bishop, Ferguson, Payne and Stott Despoja

Senators in attendance: Senators Chris Evans, Faulkner, Ferguson, Fierravanti-Wells, Hogg, Hutchins, Johnston, Ludwig, Payne, Robert Ray and Trood

Committee met at 9.05 am

FOREIGN AFFAIRS AND TRADE

In Attendance

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

Department of Foreign Affairs and Trade

Combined portfolio overview

Foreign Affairs and Trade

Mr Doug Chester, Deputy Secretary

Ms Gillian Bird, Deputy Secretary

Ms Penny Williams, First Assistant Secretary, Corporate Management Division

Ms Ann Thorpe, Chief Finance Officer

Mr Chris Moraitis, Senior Legal Adviser

Mr Marc Innes-Brown, Head, Iraq Task Force

AusAID

Mr Charles Tapp, Senior Associate, Pacific and PNG Division

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

Austrade

Mr Hamish McCormick, Executive Director, Government and Corporate Services

Ms Helen Monro, General Manager, Government, Industry and Policy Group

Mr Michael Abrahams, Group Network Manager, Client Services

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

1.1.1: North Asia

Mr Peter Baxter, First Assistant Secretary, North Asia Division

Mr Michael Mugliston, Head, Asia Trade Task Force

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 A. Ritchie, First Assistant Secretary, South Pacific, Africa and Middle East Division

Mr Marc Innes-Brown, Head, Iraq Task Force

Mr Paul Foley, Assistant Secretary, Middle East and Africa Branch

1.1.5: Bilateral, regional and multilateral trade negotiations

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

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

Mr Ric Wells, Head China FTA Task Force

Mr Peter Baxter, First Assistant Secretary, North Asia Division

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

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

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

Ms Elizabeth Schick, Assistant Secretary, Americas Branch

Mr Michael Mugliston, Head, Asia Trade Task Force

Mr Paul Wojciechowski, Director Thailand, Vietnam, Laos Section

Mr Peter Rayner, Director Malaysia, Brunei, Singapore Section

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

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

Mr Ric Wells, Head China FTA Task Force

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

Mr Michael Mugliston, Head, Asia Trade Task Force

Mr Chris De Cure, Head, APEC 2007 Task Force

1.1.7: International organisations, legal and environment

Ms Lydia Morton, First Assistant Secretary, International Organisations and Legal Division

Mr Chris Moraitis, Senior Legal Adviser

Mr James Larsen, Assistant Secretary, Legal Branch

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 John Carlson, Director General, Australian Safeguards & Non-Proliferation Office

Mr Andrew Goledzinowski, Assistant Secretary, Counter Terrorism Branch

Mr Bryce Hutchesson, Assistant Secretary, Strategic Affairs Branch

Mr John Sullivan, Assistant Secretary, Arms Control and Counter-Proliferation Branch

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 Margaret Bowen, Director Ministerial and Executive Liaison Section

1.3.2: Services to attached agencies

Ms Penny Williams, First Assistant Secretary, Corporate Management Division

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

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

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

Mr Noel Campbell, Chief of Protocol/Assistant Secretary, Protocol Branch

Output 2.1: Consular and passport services.**2.1.1: Consular services****2.1.2: Passport services**

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

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.**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

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.**

Ms Annmaree O'Keeffe, Deputy Director General Global Programs Division

Mr Charles Tapp, Senior Associate Pacific and PNG Division

Mr Murray Proctor, Deputy Director General Asia Division

Mr Dereck Rooker-Smith, Acting Deputy Director General Corporate Governance and Review Division

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

Mr Paul Lehmann, Assistant Director General Resources Branch

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, Deputy Director General, Asia Division

Mr Scott Dawson, Head of AIPRD Secretariat

Mr Paul Lehmann, Assistant Director General Resources Branch

Australian Trade Commission (Austrade)

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

1.1: Awareness raising

1.2: Government advice and coordination

1.3: Services and opportunities

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

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

2.1: Consular, passport and immigration services.

Mr Hamish McCormick, Executive Director, Government and Corporate Services

Mr Greg Field, Chief Finance and Information Officer

Ms Margaret Ward, General Manager, Export Finance Assistance Program

Mr Tim Harcourt, Chief Economist

Ms Hazel Bennett, Group Manager, Analysis and Planning

Mr Michael Abrahams, Group Network Manager, Client Services

CHAIR (Senator Johnston)—I call the committee to order and declare open this public hearing of the Senate Foreign Affairs, Defence and Trade Legislation Committee. I welcome Senator Helen Coonan, representing the Minister for Foreign Affairs and the Minister for Trade. I also welcome to the table Mr Doug Chester, deputy secretary; Ms Gillian Bird, deputy secretary; Mr Charles Tapp, Senior Associate of the Pacific and PNG Division of AusAID; Mr Hamish McCormick, Executive Director of Government and Corporate Services for Austrade; and accompanying officers. The committee will begin proceedings this morning with a combined portfolio overview for the three agencies. It will then examine the additional expenditure for each agency, commencing with the Department of Foreign Affairs and Trade

When officers are first called upon to answer a question 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 answer. The committee has resolved that Thursday, 30 March 2006 is the return date for answers to questions taken on notice at these hearings.

Before we start, there are a few formal procedural matters to go through. Senate standing order 26(2) requires that all evidence taken during estimates hearings must be in public

session. That includes answers to questions on notice. There is no capacity to receive evidence, including answers to questions on notice, in camera or on a confidential basis. All answers given will be automatically published in *Hansard* upon receipt by the committee. It is the witnesses' responsibility to ensure that answers are accurate and that there are no impediments to them appearing on the public record.

I also draw attention to the privilege resolutions agreed to by the Senate on 25 February 1988 concerning the conduct of Senate committees. I draw attention in particular to resolutions 1(9), 1(10) and 1(16). Privilege resolution 1(9), which deals with the question of relevance, reads as follows:

A chairman of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry. Where a member of a committee requests discussion of a ruling of the chairman on this matter, the committee shall deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted.

The Senate endorsed in 1999 the following test of relevance of questions at estimates hearings:

Any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings.

I ask senators to bear this in mind when framing questions. I further advise that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees, unless the parliament has expressly provided otherwise. I also remind senators and officers that under privilege resolution 1(16):

An officer of a department of the Commonwealth or of a State shall not be asked to give opinions on matters of policy, and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a Minister.

An officer of a department of the Commonwealth may be asked to explain government policy, describe how it differs from alternative policies and provide information on the processes by which a particular policy was selected. Evidence given to the committee is, of course, protected by parliamentary privilege. I also remind all witnesses that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. Minister, I will go to you firstly. Do you have an opening statement?

Senator Coonan—I wish to inform the committee that:

... the government has directed that officials appearing before Senate legislation committees should not answer questions directed to them on matters before the commission of inquiry being conducted by the Hon. Terrence Cole into certain Australian companies in relation to the oil for food program. While examination of officials by the committees might be appropriate in the future, the government considers that Mr Cole should be able to proceed with his inquiry and present his findings without parallel public questioning that would not assist consideration of complex issues.

I realise that this matter has been exhaustively canvassed in earlier committees, but nevertheless that remains the government's directive to officials and I will table the statement.

CHAIR—Thank you, Minister.

Senator ROBERT RAY—Can I ask when the Department of Foreign Affairs and Trade was informed of this cabinet decision?

Ms Bird—I saw that cabinet decision last week.

Senator ROBERT RAY—When last week?

Ms Bird—I am not sure exactly which day, but it was during last week.

Senator ROBERT RAY—I see. And how was that decision conveyed to officers of your department?

Ms Bird—We have a system whereby cabinet decisions are circulated to senior officers in the department on a need-to-know basis. There is a covering form that those officers sign when they have seen it. As I said, I saw the decision and I signed it.

Senator ROBERT RAY—You saw the decision?

Ms Bird—And I signed the covering sheet to indicate that I had seen it.

Senator ROBERT RAY—What I am really asking is how all those officers sitting at the table with you and behind you got an understanding of this decision. I am asking how and, if you like, when they were informed.

Ms Bird—When I saw the decision, I advised Mr Innes-Brown, who is the head of the relevant area of the department. I also mentioned it to Charles Tapp from AusAID when we were talking about the estimates hearing.

Mr Chester—I also saw the cabinet memo sometime last week. I think it was Thursday or Friday last week. Relevant staff in the department were informed of that decision at the regular meeting of division heads that was held on Monday afternoon of this week. The division heads—most of whom were sitting behind me here; I think some are still there—were advised of the terms of that directive.

Senator ROBERT RAY—Thank you. Minister, what is the definition of ‘matters’ contained in the statement? This is so we can have guidance as to what matters we may or may not raise.

Senator Coonan—Obviously that is something that will be interpreted very broadly and it certainly goes to any matters that might go to the knowledge of the Commonwealth. The reason for that is that the statement made by Mr Cole that I know was mentioned in earlier estimates refers to the fact that the knowledge of the Commonwealth is something that the inquiry will be able to canvass. So the government has interpreted it very broadly.

Senator ROBERT RAY—Knowledge of the Commonwealth about what?

Senator Coonan—About any matters that relate to the oil for food program or any issues to do with that.

Senator ROBERT RAY—So it is the oil for food program per se or Australia’s involvement in the oil for food program?

Senator Coonan—I think it is broader than that because it could obviously extend to the modus operandi of any of the parties leading up to it, tangentially to it, so the government will interpret it broadly.

Senator ROBERT RAY—But not tell us how they interpret it?

Senator Coonan—I have endeavoured to tell you how it is interpreted. It will be interpreted broadly and it deals with any of the matters that could have any bearing on the issues that have been identified very broadly by the commissioner in the statement that I am sure you are aware of.

Senator ROBERT RAY—Given that this was a decision of 6 February, why wasn't the parliament, or at least the opposition, informed of this particular directive, given the fact that you knew that a range of senators and staff would be preparing questions? Was it just a big joke to say, 'We'll let them do another week's work on all of this'?

Senator Coonan—No, it is certainly not intended to be a joke. The government takes this matter very seriously indeed and the decision, which is of course a cabinet decision, speaks for itself. The committee has been informed at an appropriate time.

Senator ROBERT RAY—I am taking you up on that. Do you think it is appropriate to ambush the committee at 11 o'clock on Monday morning when you have known of that decision for a week and you have let maybe even government senators but mostly opposition senators prepare questions and waste staff resources and hours when in fact you were going to gag public servants? Where is the fairness and decency in that? Tell me.

Senator Coonan—To start with, today is Thursday and the opposition and, indeed, all senators have been aware for a number of days that this is the government's position in relation to these committees. So, in respect of this particular committee, I doubt very much whether your comments would apply. As to the—

Senator ROBERT RAY—Let me take you up on that, Minister.

Senator Coonan—Excuse me, let me finish my answer. In relation to the earlier matter, when you were informed first, I gather, on Monday, that was an appropriate time to let the committee know that the government had taken a decision and to let everybody know that that is the way in which we would be approaching the estimates.

Senator ROBERT RAY—You were able to tell departments on Tuesday, Wednesday and Thursday last week. And, by the way, the implication is that we have had enough notice here. What do you think we have been doing for the last three days? Sitting in our offices preparing for this? Of course not. We have been spending 12 hours a day at estimates committees. The preparation was done last week. And I bet that the preparation on these questions finished in the departments the moment they were notified that they did not have to answer questions. Meanwhile, we have spent scant resources on it because you want to ambush us in the estimates committee.

Senator Coonan—It is certainly not the intention of the government to ambush anyone. We announced the government's position in relation to this on Monday and, of course, it continues today.

Senator ROBERT RAY—Can you affirm that this decision applies to members of the department but not to independent statutory authorities?

Senator Coonan—Independent statutory authorities have different status. For instance, a different arrangement applies to, for instance, APRA than applies to, for instance, the tax

office, because, whilst the commissioner and the second commissioner are statutory office holders, all the other officials—for instance, in the tax department—are subject to the Public Service Act and subject to the direction.

Senator CHRIS EVANS—What are you saying in relation to the Australian Trade Commission?

Senator Coonan—I appreciate that Austrade, indeed, has some separate functions, but the government takes the view in relation to Austrade that all officials are subject to the direction.

Senator CHRIS EVANS—That is despite the fact that it is a statutory authority?

Senator Coonan—That is what I have said.

Senator ROBERT RAY—Have you had legal advice to that effect?

Senator Coonan—I will take that on notice.

Senator ROBERT RAY—You are taking it on notice because you do not know or you do not want to consult with the staff at the table and find out? Are you taking it on notice just to fob us off or because you genuinely do not know and the information is not available?

Senator Coonan—We have never had estimates where I have been on this side of the table and you have been where you are. I do not do that. I have taken it on notice because I want to inform myself.

Senator ROBERT RAY—I was not accusing you of anything. On other occasions this week, knowledge has been at the table.

Senator Coonan—I am certainly prepared to see if there is some knowledge at the table, but you asked me about my view and I will ask the officers.

Senator ROBERT RAY—I am sorry, I am asking you, representing the foreign minister. I am not ever asking you for Minister Coonan's view—of course I am not. It would be most unfair if I did.

Senator Coonan—Okay. You just said, 'Do you have legal advice?' Anyway, we know now.

Senator ROBERT RAY—For the rest of the hearings, when we say 'you', we mean DFAT.

Senator FERGUSON—Minister representing.

Senator ROBERT RAY—Yes.

Senator Coonan—All right. I still think we need to take it on notice. There is some uncertainty about the status of how this arose, that is, the information I am giving the committee that all of the Austrade officials are subject to the direction.

Senator FAULKNER—What is the uncertainty about the status? What do you mean by 'status'?

Senator Coonan—I did not mean the status of what I have told the committee but whether there was legal advice. That was the question I was addressing.

Senator FAULKNER—This is a question of fact: either legal advice was sought or it was not sought. This is the sort of question that is very regularly asked at estimates committees. You would be aware that the process surrounding the seeking of legal advice is something where questions are asked and answers given. There is an issue about the substance of advice, and that is a very different matter. What is being asked here is whether advice was sought. It seems to me that that is something that officials at the table ought to be able to answer. So I am surprised that you question the status. I do not know what that means.

Senator Coonan—I am trying to give a responsive answer. The officials at the table do not appear to be aware of any advice. I initially wished to take it on notice because I do take very seriously the question and want to find out for myself what the issue was with DFAT and with the status of the advice.

Senator FAULKNER—The officials at the table are not aware of whether advice was sought. This would be in Mr Moraitis's area, I assume. Would that be right, Mr Chester?

Mr Chester—I am not sure it is in Mr Moraitis's area.

Senator FAULKNER—Senator Coonan, could you ask officials at the table whether there are other officials available who can provide an answer to this question? If the officials at the table do not know, do we have anyone behind them who might be able to assist us?

Senator Coonan—That is why I was taking it on notice.

Senator FAULKNER—You do not need to take it on notice if there is an official behind you who can assist us.

Senator Coonan—There is no way I can clarify that for you from the knowledge of the people at the table or behind me. I will take it on notice.

Senator ROBERT RAY—Can someone explain to us how the Trade Commission differs from the department in its legal entity?

Senator Coonan—What I have told the committee is that so far as the government is concerned the directive applies to all officers in Austrade.

Senator ROBERT RAY—What we are really trying to clarify is the definition of 'officials'. What we were able to establish in the Senate Rural and Regional Affairs and Transport Legislation Committee was that the Wheat Export Authority, being a statutory body, was not subject to this particular direction. If for some reason Austrade fits into a different category, I would like to know the reasons. I am not asserting that it does or it does not; I would like to know the reasoning behind it.

Senator Coonan—What I can say, Senator Ray, is that certainly Austrade has always been subject to the direction of the government. That has certainly always been the policy and the practical effect of how the government and Austrade relate. The government takes the view that Austrade is subject to the direction I have referred to this morning.

Senator ROBERT RAY—When you say 'the government takes the view', I put it to you that it was never considered before I asked you the question. It is not recorded in the cabinet decision; is it recorded anywhere else when Mr Innes-Brown passed on the thing? Was it passed on then, was it? Was it considered? I am not asking the official a question; I am asking

you, Minister. You can delegate if you want to. I am wondering when the government interpreted that it applied to statutory authorities.

Senator Coonan—Austrade has always acted under the direction of the government. Obviously, if you have a direction of this character it applies to people who are subject to direction.

Senator ROBERT RAY—There is no embellishment to this statement anywhere, is there? I understand that you have read the statement out but there is no supporting material or other things that will clarify the situation?

Senator Coonan—No. We have not exhaustively set out in the direction the officials who would be in and who would be out. I am saying that it applies to those who operate under the direction of the government, and that includes Austrade.

Senator ROBERT RAY—I take it that this direction only applies, obviously, to Senate legislation committees?

Senator Coonan—That is the current position and it applies because the inquiry is currently under way. It has a reporting date of 31 March. So far as I am aware the commissioner has not sought an extension of time. The government takes the view that there should not be parallel public questioning during the currency of the inquiry. It is not meant to be forever. Indeed, the statement comprehends that the kinds of questions you might want to ask are, no doubt, questions that would be a proper line of inquiry once the commission has concluded.

Senator ROBERT RAY—I take it from this emphasis on parallel public questioning that you would be quite happy for us to do it in camera?

Senator Coonan—No, that is not the case. It is clearly subject to direction. Even parallel questioning in camera is not consistent with the commission having an opportunity to pursue this inquiry the way they want and to not subject potential witnesses to another line of inquiry at the same time.

Senator ROBERT RAY—Therefore, why did you leave it at Senate legislation committees? This is hardly a hypothetical I am putting to you; it is quite a prospect. The references committee, chaired very ably by my colleague on the right, could of its own volition set up an inquiry tomorrow into the annual report of the Department of Foreign Affairs and Trade and call whatever public servants it likes, and it would not be covered by this particular resolution.

Senator Coonan—That is certainly true. That is a hypothetical and, were Senator Hutchins to do that, then no doubt we would have to give consideration to what would be an appropriate way to deal with that.

Senator ROBERT RAY—Another gag?

Senator Coonan—Not a gag but a direction that there not be some other inquiry pursuing the same line of questioning.

Senator ROBERT RAY—I could ask a question to test whether it is a gag or not, but we will leave that to later on.

Senator CHRIS EVANS—While officials are checking whether any advice was provided as to whether the direction applied to Austrade, can Austrade officials tell me when they were told about the government direction?

Mr McCormick—I saw the decision yesterday.

Senator CHRIS EVANS—Does that explain why you forwarded to the Foreign Affairs, Defence and Trade Legislation Committee answers to questions on notice that canvassed these very matters of the AWB?

Mr McCormick—No.

Senator CHRIS EVANS—You provided answers to this committee yesterday from questions on notice. The answers were presented to the committee members on a set of questions asked by my colleague Senator Hogg which go directly to issues about Austrade's involvement with AWB and advice provided to AWB. All of these questions were answered in full by Austrade and answers were provided to us yesterday.

Senator Coonan—It is correct, though, that answers to questions on notice are answers by the minister.

Senator CHRIS EVANS—As I understand Austrade's relationship with the minister, the minister gets to sign them and to sign off on them before they are sent back—that is right?

Senator Coonan—But they are answers by the minister; they are not answers by Austrade.

Senator CHRIS EVANS—They are answers clearly provided by Austrade. I do not think that Mr Vaile last week was sitting up writing the answers himself. They are provided to the minister and he ticks off on them coming to the committee. I am just asking why Austrade was prepared to engage with the committee and answer questions yesterday but is not prepared to engage with me and answer questions today. The official has just indicated that he found out yesterday that Austrade was going to be included in the gag. That really does take us back to the earlier question: how was Austrade informed and under what authority a statutory authority was included in that order, given that earlier in the week a similar statutory authority was excluded and the government was happy to exclude it on the basis that it was a statutory authority and did not come within the terms of this gag order.

Senator Coonan—The position is that officials may not comment on matters before the Cole inquiry. The government takes the view that Austrade is subject to direction. In relation to your press release, I understand that this is related to earlier supplementary budget estimates on 3 November, which certainly predated the establishment of the Cole inquiry. The answers that you have received were answers on notice by the minister.

Senator CHRIS EVANS—The minister very kindly provided the answers yesterday—and if you want to make it the minister, fine. The minister yesterday provided answers, no doubt provided to him by Austrade, and the first one was: which Austrade post provided advice to AWB on the oil for food program issues?

Senator Coonan—Let me check one thing on your press release. You have referred to AusAID in your press release: do you mean Austrade?

Senator CHRIS EVANS—I am happy to have a chat with you about that but I do not know that a debate about my press release—

Senator Coonan—I am not seeking to be clever about it. I am just asking so that I am clear.

Senator CHRIS EVANS—I want you to be clear. The questions asked by Senator Hogg and answered yesterday were to provide answers on Austrade's involvement with AWB and I was very pleased to receive them. Now today I hear, despite getting these answers yesterday, that answers will not be provided today. I assumed, when I thought about it last night, that the reason they had provided them was that, like the Wheat Export Authority, Austrade is a statutory authority. I went and looked at Austrade's status and the description on the government website, which said that Austrade is a statutory authority. I thought that that explained it all because, like the Wheat Export Authority, not only would they provide answers to questions yesterday; they would provide answers to questions today. Mr McCormick told me that Austrade was told yesterday. It takes it a full circle back to Senator Ray's question: on what advice was this particular statutory authority excluded when the Wheat Export Authority was included as being able to answer questions by government decision on Tuesday?

Senator Coonan—In relation to your earlier point, the Cole commission was not set up before the last estimates. It had been announced, I think, but it certainly had not commenced its hearings. In relation to Austrade, it operates subject to direction and, clearly, even though there have been some answers by the minister to some questions on notice, officials from Austrade are subject to the direction.

Senator FAULKNER—Minister, can you inform the committee as to whether officials of Austrade are employed under the Public Service Act?

Senator Coonan—I will let Mr McCormick answer that.

Mr McCormick—Austrade employees are not employed under the Public Service Act, currently.

Senator FAULKNER—They are not employed under the Public Service Act. In fact, aren't you employed under the provisions of the Australian Trade Commission Act? Aren't you employed on the basis of terms and conditions set or determined in writing by the Chairman of the Australian Trade Commission?

Mr McCormick—Austrade employees are employed on the basis of the conditions in the Austrade act. There are employing powers there. I do not know what more I can say. If you want some details, then I can—

Senator FAULKNER—Employees of the Australian Trade Commission are in precisely the same position as employees of the Wheat Export Authority. You can confirm that, Senator Coonan?

Senator Coonan—No, they are not.

Senator ROBERT RAY—What is the distinction?

Senator Coonan—The distinction is that Austrade has been given a clear direction. Its employees are subject to direction, whereas the WEA officials are not.

Senator ROBERT RAY—I see. Who gave them the direction, and when?

Senator Coonan—They are subject to the government's direction which I have read out.

Senator ROBERT RAY—Where is that specified?

Senator FAULKNER—Why?

Senator Coonan—I have just given it to you.

Senator ROBERT RAY—The WEA exemption and them appearing does not appear anywhere in this decision, and nor does this group. Do not make it up as you go along.

Senator Coonan—They have been given a direction.

Senator ROBERT RAY—By whom?

Senator Coonan—By the direction that the government has in fact decided by cabinet decision.

Senator ROBERT RAY—Officials—that is, public servants—have been given a direction. If these are not public servants—

Senator Coonan—Anyone is subject to that direction.

Senator ROBERT RAY—they have not been given a direction.

Senator Coonan—They have been given a direction, and it was a cabinet decision.

Senator ROBERT RAY—Is it specifically mentioned?

Senator Coonan—No, it does not specifically mention them but certainly they are included in the direction that the government has announced and has been implementing throughout these hearings.

Senator ROBERT RAY—Prior to your evidence here today, where else have they specifically been directed? Other than your interpretation on the run now, where previously has a statutory authority been ruled within the ambit of this statement?

Senator Coonan—They operate subject to the government's direction.

Senator FAULKNER—Minister, how can the government direct non-public servants in the terms of the directive that you have read out to this committee?

Senator Coonan—That is what the government has purported to do.

Senator FAULKNER—I know it has purported to do it; that is obvious! That is not good enough, Senator Coonan.

Senator Coonan—Senator Faulkner, I am in the middle of trying to answer your question.

Senator FAULKNER—You use the word 'purported'. Of course it has purported to do it.

Senator Coonan—The government has made a decision. Austrade has been given a direction and its staff are subject to the government's direction for the purposes of these hearings.

Senator FAULKNER—They are not public servants. You use the word ‘purported’; I know the government has purported to do it—fraudulently!

Senator Coonan—That is not appropriate, Senator Faulkner. It is a perfectly appropriate direction for the government to give. The government can make a decision and give a direction, and that is what it has done.

Senator FAULKNER—They are not public servants. How does the government direct officers of Austrade, employed under the Australian Trade Commission Act—I think it is section 60; I stand to be corrected but it is certainly under the terms of the act? How can the government claim that the directive that you read out applies to those employees?

Senator Coonan—Because Austrade operates subject to direction.

Senator FAULKNER—Subject to what direction?

Senator Coonan—Subject to the government’s direction.

Senator FAULKNER—Are you aware of the provisions of the Australian Trade Commission Act?

Senator Coonan—Perhaps not in great detail—

Senator FAULKNER—Obviously!

Senator Coonan—but I certainly have an awareness of the broad provisions.

Senator COONAN—Do you believe that the Australian Trade Commission is a statutory authority?

Senator Coonan—What I believe is not appropriate—

Senator FAULKNER—Can you tell us whether it is a statutory authority?

Senator Coonan—What I am saying here is that, irrespective of what it is, the government has given a direction to Austrade and that is what they will follow.

Senator FAULKNER—It is not a question of ‘irrespective of what it is’. It is not competent for such directives to be given to statutory authorities. The government cannot ‘purport’ to do something—to use your own extraordinary terminology. You are not entitled to act improperly or fraudulently in this.

Senator Coonan—And the government has not acted improperly or fraudulently. What the government has done is make a decision and give a direction to an authority.

Senator FAULKNER—It is not the government. I am surprised that you are not aware of this. I do not have a copy of the Australian Trade Commission Act before me, and I have asked the secretariat of this committee to provide me with one soon. But—I know this and I thought it was just general knowledge—doesn’t the Austrade board actually determine the direction of its activities?

Senator Coonan—Obviously it has a role that is defined in the act.

Senator FAULKNER—That is right, and that is its role, isn’t it, Minister?

Senator Coonan—I am not going to give an interpretation of what the board does. We can get a copy of the act and you and I can have a conversation about it.

Senator FAULKNER—I don't want a conversation.

Senator Coonan—But, for the purposes of where we are at the moment, what I am saying is that the government has made a decision, Austrade operates subject to direction and it has been given a clear direction—

Senator FAULKNER—No it does not!

Senator Coonan—for the purposes of this hearing.

Senator FAULKNER—Austrade operates subject to the direction of its board.

CHAIR—If I can interrupt, I think we are talking at legal cross-purposes here. At the end of the day, I do not think it is going to go anywhere. I do not think you are going to get any response that is going to be helpful to these estimates. Accordingly, I think we should move on, because the minister has made her position clear.

Senator ROBERT RAY—On that point: when you say if we will get anything helpful or not, it is helpful to know that a government decision has not been transmitted properly to all the units. There is gathering evidence across the board that it was a fairly hotchpotch transmission. First of all, the Senate Rural and Regional Affairs and Transport Legislation Committee told us that they had given verbal instructions and later confirmed that they had given written ones. Trying to establish whether they are written instructions and precisely where they went is useful. But, I agree, we are almost at the end of this line of inquiry. I think we are almost at the end.

Senator FERGUSON—On a point of order: we have reached the stage where we are debating the issue. Senator Faulkner is debating the issue with the minister and I think estimates is always considered to be a place to ask questions, not debate the rights or wrongs of a decision. If he wants to debate it, he should debate it in the chamber, which is the proper place to question government decisions.

CHAIR—I think that is right and I think you should pursue your questions as to what process has taken place. But, as to the interpretation of whether or not a direction is lawful, it is neither here nor there.

Senator ROBERT RAY—The minister, in answer to my broader question, 'What happens if it goes to the references committee?'—admittedly it is slightly hypothetical—indicated that further action may then be taken. Can I ask you, representing the government: how is it that I cannot ask public servants here a question when I see the head of the Public Service, appearing at the National Press Club yesterday, answering questions on the Australian Wheat Board? Isn't that interfering with the Cole inquiry? What has happened to parallel public comment when the No. 1 public servant in the land is across the road being expansive on these issues?

Senator Coonan—I suppose it is a matter of interpretation. I do not know whether that is a comment, Senator Ray, or whether it is a question. Clearly, what might have happened in the Press Club is a bit different to the kinds of lines of inquiry that—

Senator ROBERT RAY—But there is no accountability.

Senator Coonan—could be pursued here.

Senator FAULKNER—Senator Coonan, has Minister Vaile provided a direction in writing to the Australian Trade Commission in the terms of the directive that you have read out to this committee?

Senator Coonan—Senator Faulkner, the direction has been communicated. The cabinet decision applies to Austrade, as it does to the other agencies appearing in this committee, such as DFAT and AusAID. I am not going to take it any further than that. It was obviously communicated.

Senator FAULKNER—You cannot say it is obvious.

Senator ROBERT RAY—If it was not in writing, just say no, and then we will move on. Do not obfuscate.

Senator Coonan—It is a government decision and a cabinet decision—that is in writing.

Senator ROBERT RAY—But I bet you did not pass the cabinet decision around.

Senator Coonan—I have not passed it around, Senator Ray.

Senator FAULKNER—I will ask Mr McCormick, who I understand is representing Austrade. Whether he is an officer of Austrade or is seconded to Austrade, I do not know—and I do not want to go into his personal status, but obviously either is possible and I am not sure which he is. I want to know whether Austrade was given a direction in writing from the minister in similar terms to that which Senator Coonan provided at the commencement of this hearing.

Mr McCormick—I saw the cabinet decision yesterday, I asked whether it included Austrade and I was told that it did.

Senator FAULKNER—With respect, that is not an answer to my question. I am asking very clearly and directly whether Minister Vaile provided a direction in writing to Austrade in similar terms to the directive that Senator Coonan read out in relation to public servants earlier in this hearing. Did the minister provide a direction to Austrade in writing? That is my question.

Mr McCormick—I have not seen such a specific written direction.

Senator FAULKNER—But isn't that what is required under section 10(1) of the Australian Trade Commission Act?

Mr McCormick—You are asking for a legal interpretation. I am not sure—

Senator FAULKNER—The act says:

The Minister may give to the Commission, in writing, such directions with respect to the performance of its functions, and the exercise of its powers, under this Act, as appear to the Minister to be necessary.

That is what the act says, so I am asking—and it is a crucial question, and it does have a legislative base—whether such a direction in writing was given by Minister Vaile to Austrade.

CHAIR—If I can interrupt for a moment, you are clearly asking him for a legal opinion. Mr Vaile is a member of cabinet. That clause there clearly would include a minister sitting in cabinet making a decision which is communicated to the statutory authority's head. For him to go to the various vicarious aspects of who has issued it when his minister is part of cabinet

is clearly a matter of legal opinion, and he is quite right to say that you are asking him for a legal opinion.

Senator FAULKNER—First of all, with respect, Chair, I am not asking you for anything—I am not.

CHAIR—I know you are not.

Senator FAULKNER—Secondly, I am not asking for a legal opinion. I am asking whether the minister provided, under the terms of section 10 of the Australian Trade Commission Act to Austrade, a directive in similar terms to that which Senator Coonan announced at the beginning of this hearing.

CHAIR—And I am telling you that that is clearly a matter—

Senator FAULKNER—I am not asking you.

CHAIR—I know you are not, but I am telling you.

Senator FAULKNER—I know you are running interference—

CHAIR—No, I am not running interference—

Senator FAULKNER—because the minister is in trouble.

CHAIR—I am trying to be as placid and courteous as I can to you. I am telling you that it is as clear as day that that is a matter of legal interpretation. You are asking this official for a legal opinion—I am telling you that. As clear as you think that section is, I am telling you that you are asking him for a legal opinion, and he is not going to give it to you.

Senator FAULKNER—And I am saying to you that you are wrong, and that you are deliberately interrupting the flow of this questioning before this committee because the minister cannot answer a properly directed process question.

Senator Coonan—You have not asked me. And I agree with the chair: quite clearly, how you construe that section and how you construe a notice or effective notice under the section is very much a matter for legal interpretation.

CHAIR—Senator Faulkner, if you want to take it further I am entirely in your hands. I want to be fair to you, but it seems to me, beyond any question of a doubt, that you are asking for a legal opinion.

Senator FAULKNER—I am not; and, if I were, I am entitled to ask what I want. But I am not asking for a legal opinion and, frankly, all you are doing is interrupting the proper questioning of this committee. So my question to you again, Minister, is: did Minister Vaile write in accordance with the terms of section 10 of the Australian Trade Commission Act 1985 directing the employees of Austrade in similar terms to those that you have outlined to this committee related to public servants in the Department of Foreign Affairs and Trade?

Senator Coonan—You are asking me whether or not there has been compliance with a specific section of an act. I am not going to give you that opinion. I do not think I have to. What I have told you is that there has been a cabinet decision. There has been a direction to Austrade. It has been conveyed. And Austrade will be subject to the direction for the purposes of this hearing.

Senator FAULKNER—So the act has not been complied with.

Senator Coonan—I did not say that.

Senator FAULKNER—I am saying it.

Senator Coonan—You can say what you like, Senator Faulkner, within reason. I am not saying that.

Senator FAULKNER—I make it absolutely clear that no evidence has been presented to this committee that Minister Vaile has issued an instruction to Austrade officials in accordance with the provisions of the Austrade act.

CHAIR—That is your interpretation.

Senator Coonan—To leap to that conclusion, Senator Faulkner, you would have to say that a lawful, properly constituted cabinet and a decision made as a result of that cabinet meeting and recording that decision was not an appropriate way that could found the direction that is the subject of this hearing.

Senator FAULKNER—The act says, Minister:

The Minister may give to the Commission, in writing, such directions with respect to the performance of its functions—

et cetera. It wasn't done, was it? It was not done, yet you are gagging Austrade officials at this hearing.

Senator Coonan—Nobody is gagged here. There is a direction, which is a lawful direction. It applies to Austrade and it is for the purposes of this hearing. And the reasons have been well canvassed and well founded.

Senator ROBERT RAY—Minister, I thought you indicated earlier that this direction—for which, if you don't mind, we use the shorthand term of gag, because if it looks like a gag, smells like a gag and is a gag then we will call it a gag—

Senator Coonan—You know I do not agree with that.

Senator ROBERT RAY—You understand our definition.

Senator Coonan—I do.

Senator HUTCHINS—It quacks like a gag.

Senator ROBERT RAY—Yes, thank you—or non-quacks like a gag! Minister, you indicated at one stage of your answer that this applies until the Cole commission finishes on 31 March or—quite properly, I think you added—if there is an extension. So can I take this as a commitment that questions relating to the Australian Wheat Broad and this department's role in it are in order once the Cole commission has concluded its public hearings?

Senator Coonan—They may be.

Senator ROBERT RAY—Oh, I see!

Senator Coonan—That is what in fact the direction says.

Senator ROBERT RAY—May be?

Senator Coonan—May be.

Senator ROBERT RAY—But you may gag again?

Senator Coonan—What the direction says is that they may be. It is very difficult to preempt every event, as you would know, Senator Ray. I am trying to be straightforward about this. It says ‘may be’ appropriate.

Senator ROBERT RAY—But, given the fact we were ambushed on this, you have got to understand I am a little cynical when people start qualifying whether we can pursue this at the next estimates hearing, which I assume will be about 20 May. I imagine it will be about then or maybe 25 May—well after the Cole commission has finished. Clearly I will understand your position if Cole asks for a three-month extension. I would still not agree with your gag, but I would understand the position. So can I ask you this: would it require a new government decision if Cole has finished his inquiry to in fact continue to enforce this particular provision?

Senator Coonan—That is hypothetical. We are looking at the hearings for today. I will refer to the direction for the sake of making my point. What it says is:

While examination of officials by the committees might be appropriate in future—

and it does not say when in the future—

the Government considers that Mr Cole should be able to proceed with his inquiry and present his findings without parallel public questioning that would not assist consideration of complex issues.

Contemplated and comprehended within the direction is a process that involves the commissioner concluding his hearings and making his findings. I do not know when that will be, but I did point out that the date in the letter is 31 March. As far as I know there has been no request for an extension of time.

Senator ROBERT RAY—Clearly I can see that, if there is an extension of time and that impinges on this, you will keep your other draconian gag on. What I am asking is: if those inquiries are finished by Mr Cole, what is the status of us to asking questions here? That is quite a reasonable thing; I am not going to waste days of my life preparing questions for next May if we are not going to be able to ask them.

Senator Coonan—The best answer I can give you is that it might be entirely appropriate for you to ask the questions that you wish to now ask in May. No doubt you will have a lot more information by then, if the Cole commission has made its findings public.

Senator CHRIS EVANS—I want to ask a question of Mr McCormick. You have said you found out about the direction yesterday. How was it conveyed to?

Mr McCormick—I read the cabinet decision.

Senator CHRIS EVANS—You had not seen it before then?

Mr McCormick—No.

Senator ROBERT RAY—Nor a newspaper?

Mr McCormick—I had obviously read newspapers, but I read the decision yesterday.

Senator CHRIS EVANS—How do you determine that it would be applied to Austrade?

Mr McCormick—I read it and I had no reason to believe it did not apply to Austrade. I sought some advice from the minister's office and I was advised that it did actually expressly apply to Austrade.

Senator CHRIS EVANS—Thanks for that.

Senator ROBERT RAY—Different subject?

CHAIR—I would be delighted to entertain a different subject.

Senator ROBERT RAY—Good. I was just reading in the annual report, on page 66, about Iraq. I have some questions relating to that. Firstly, what is the current status of the Coalition Provisional Authority?

Mr Innes-Brown—The Coalition Provisional Authority no longer exists.

Senator ROBERT RAY—Yes, I understand that it does not exist. Are there any liabilities surrounding it, like debts or things yet to be wound up, in terms of its previous activities?

Mr Innes-Brown—I would have to take that on notice; I am not aware of the answer to that.

Senator ROBERT RAY—Let us see what you are aware of. When was it established?

Mr Innes-Brown—It was established shortly after the commencement of the coalition operations in Iraq and the removal of Saddam Hussein's regime.

Senator ROBERT RAY—And when was it formally terminated?

Mr Innes-Brown—At the end of June 2004.

Senator ROBERT RAY—What was Australia's role in the provisional authority?

Mr Innes-Brown—Could you be more specific?

Senator ROBERT RAY—Did we contribute any money to it or any personnel?

Mr Innes-Brown—We contributed personnel in various areas.

Senator ROBERT RAY—How many personnel?

Mr Innes-Brown—I do not have that detail here with me at present.

Senator ROBERT RAY—Did we provide just a few—like two or three—or was it 15 or 20? Without being specific—

Mr Innes-Brown—I do not have the exact detail.

Senator ROBERT RAY—Haven't you?

CHAIR—Do you want to take that as a formal question on notice?

Senator ROBERT RAY—I can't believe this, Chair. Seriously: 'We don't know.'

CHAIR—I am sure Mr Innes-Brown will take that on notice. The question is: how many Australians and in what areas were they deployed with the provisional authority?

Senator ROBERT RAY—Who made these appointments?

Mr Tapp—A number of personnel were employed and deployed for various activities, either in or associated with some of the work of the CPA. I am afraid I cannot tell you exactly

which individuals were part of the CPA and which ones were merely in there for shorter terms providing advice. I think AusAID had an association with a total of 31 people, but I will have to take on notice the specifics of which ones were directly working within the CPA.

Senator ROBERT RAY—Let's exclude those who were just short-term advisers helping out on the side, and just look at those who were working for the provisional authority. How do they get to be on the provisional authority's staff? What is the process? They do not just appear overnight in Baghdad; they must be nominated by someone or appointed from somewhere.

Mr Tapp—Yes, there would be selection processes involved depending on the skills that were required.

Senator ROBERT RAY—Can I make it very simple, Minister, because they are taking the question at too sophisticated a level: I really want to know how a person from Australia gets over there, which department sponsors them, who appoints them and what the process is.

Mr Tapp—I can comment for some of the people who were associated with us.

Senator ROBERT RAY—I want to know about the department first and AusAID second. Who are you representing? I thought you said you are representing AusAID.

Mr Tapp—AusAID, yes. I am trying to answer your question.

Senator ROBERT RAY—Sorry, if it was all done through AusAID, please proceed.

Mr Tapp—I am not sure whether it was all done through AusAID. Most of the technical advisers were through AusAID; I think there may have been some through Defence.

Senator ROBERT RAY—I only have questions, at this stage, within the ambit of DFAT. If we need to expand it further, we will.

Mr Tapp—I cannot say with total authority that everyone was through AusAID within the ambit of this portfolio, but I think the majority would have been.

Senator ROBERT RAY—That is understood. Okay. Mr A goes over to work there. How is he sent there? Is it your organisation that looks at candidates and says, 'We suggest this person' and then they go over? Who pays for them?

Mr Tapp—It would depend on what the different activities were that we were conducting in Iraq. We were working in a number of areas on the humanitarian side, so there were a number of people who were working in the humanitarian area. We were working in a number of different sectors: the economics sector, the water and sanitation sector, the petroleum sector, the fire and emergency services sector, and the agriculture sector. There were a number of sectors that we were involved in, and the process for the selection of advisers in those circumstances would have varied depending on the type of person that was required and the length of time that they were going to be needed.

Senator ROBERT RAY—All right. How were the majority selected? Did AusAID select them and send them over, or did they have to recommend them to someone over there?

Mr Tapp—No, as I said, it would vary. I cannot give you an answer that relates to the majority. If there were some which involved some areas such as in the economic sector, that would have been different to the process for the water and sanitation sector.

Senator ROBERT RAY—Who paid their salaries?

Mr Tapp—AusAID was paying for a number of the people who were working over there. In terms of who was specifically paying their salaries, that would vary. In some cases we may have been paying for a service, in which case another body or department would have actually paid the salary. If they were people from our department—from AusAID itself—then we would have been directly paying the salary.

Senator ROBERT RAY—So they would have remained at your direction? In other words, going back to the interchange we had earlier, they would be officials subject to the direction of the department?

Mr Tapp—No, there were individuals there. It depended on the basis on which people were there. There were some people under contract. Some people who were working there may have been under the direction of people more senior within the CPA, for example. It varied. I cannot give you a specific answer which will cover all the different people that were in Iraq and that AusAID had an association with.

Senator ROBERT RAY—I am trying to establish that AusAID selected them and paid them. Were there any exceptions to that?

Mr Tapp—Certainly AusAID would have been involved. Whether AusAID directly paid people—no, in some cases it may have been through contracts or payments made from a department that was the one paying. The relationship was different. A broad array of people was involved undertaking different activities.

Senator ROBERT RAY—They would have been paid for, though, by the Australian Commonwealth be it by your section of the department, the whole department or other departments.

Mr Tapp—Yes—the 31 people who were involved in various ways. However, I have made it clear that I am not sure that all of those were working within the CPA. But the 31 people that were working in relationship to AusAID funded activities were funded by AusAID.

Senator ROBERT RAY—And you will take on notice how many worked for the CPA?

Mr Tapp—Yes, I am very happy to do that.

Senator ROBERT RAY—There were 31 from AusAID. Are there any other DFAT sponsored—if you understand that term—officials working for the CPA excluding those who were selected and either funded or coordinated by AusAID?

Ms Bird—I would like to double-check my figures. We at the table are aware of one DFAT officer who was selected to work in the CPA. We understand he worked with Ambassador Bremer. My recollection is that his role was particularly to do with dealing with other countries' involvement in Iraq. To be precise I would like to get back to you. That is the one DFAT officer that we at the table are aware of.

Senator ROBERT RAY—Not many, in other words? One is a pretty small figure.

Ms Bird—As far as we are aware.

Senator ROBERT RAY—What is the situation for hiring people who were not officials—using that term—that is, contractors, to go over and help? That question is directed to the minister or to anyone to whom she delegates.

Mr Tapp—I have answered that question from our perspective.

Senator ROBERT RAY—What we have been trying to establish—just to spell it out for you; there are no traps here—is how many were public servants, officials or even working for statutory authorities and whether other people were brought in from outside that ambit.

Mr Tapp—I may not have been sufficiently clear earlier. Some people were contracted to do some of the work. There were people working for state governments. And I would need to clarify, for example, whether the salaries of the people from the state governments were still being paid by the state government and we were just responsible for the ancillary costs. There was a mix of people used in various ways for various lengths of time and for various activities within Iraq. We had a very broad program of assistance in Iraq.

Senator FAULKNER—Ms Bird, let us take the case of the DFAT officer—you know of one and you have indicated that there might be someone else. Did that DFAT officer report back to DFAT?

Ms Bird—I have some clarification; I can add to my previous answer. I have confirmed that the DFAT officer was working in the CPA from March 2003 until March 2004. That officer's responsibility within the CPA was for donor coordination and for mobilising international resources for the reconstruction of Iraq. In that capacity he was working to the CPA, to Ambassador Bremer. That was his key role in the CPA. During the course of his duties he would be in touch with our people so we would have had a knowledge and an awareness of what he was doing. He was funded by the Australian government but he was working for the CPA in that capacity.

Senator FAULKNER—I appreciate that but I was just asking about reporting. You would appreciate that we have asked questions about reporting on many occasions at this and other committees. I wondered whether this particular officer had a reporting line back to the department.

Ms Bird—I will check to see whether there is anything more I can add. My understanding is, as I said, that he was working in the CPA to the CPA and would of course have been in contact with our people in Baghdad.

Senator FAULKNER—Minister, in relation to those who have been identified in this hearing as working with the Coalition Provisional Authority, is one of the officials able to say how many of those were of a similar status to the DFAT officer—in other words, were actually Commonwealth public servants?

Mr Tapp—I will take that one on notice. I am not exactly sure how many of them were public servants.

Senator FAULKNER—I suppose if you do not have the figures you should take it on notice. Are you able to say whether the contingent you mentioned was a mix of public servants and others of a different status and category?

Mr Tapp—I have said that, regarding the people in Iraq whom we were dealing with and to whose work we were contributing, there was a mixture of public servants, individuals from state governments and people who were working under contracts. It was a mixture.

Senator FAULKNER—I appreciate that, and you have taken the specific numbers on notice.

Mr Tapp—Yes. For example, a number were advisers from within our organisation who were employed in different ways. Some were public servants and some were not.

Senator FAULKNER—You are going to get specific numbers for me; I appreciate that. Did those who were public servants have reporting obligations back to AusAID or DFAT? Can someone assist us with that?

Mr Tapp—It depends. For example, if one of them was over there doing some feasibility work for a particular activity then they would have clearly been communicating back to us on issues around that. If someone was working in the context of the CPA then their work would have been related to the CPA. It depended on what it was that people were doing. There was a broad mix. We had some highly specialised people there and we had some people who are less specialised. They were in different sorts of roles.

Senator FAULKNER—Did they have employment contracts covering their involvement with the Coalition Provisional Authority?

Mr Tapp—Again, that would depend on whether they were public servants or not.

Senator FAULKNER—Did the public servants come to any contractual or other arrangements?

Mr Tapp—I do not have the details in relation to that. I will take it on notice. I cannot answer that question here.

Senator FAULKNER—I wondered whether, if they did have any such contractual arrangements—and I am using that term broadly—reporting obligations were contained within such contracts. Will you have a look at that?

Mr Tapp—I will take that on notice.

Senator CHRIS EVANS—I am trying to get more of an overview of AusAID's role. What was your involvement and representation prior to the occupation? What involvement in Iraq did AusAID have prior to the military occupation? Were you represented there for some time beforehand?

Mr Tapp—No, we had not had programs in Iraq, Senator.

Senator CHRIS EVANS—So you had no programs in Iraq prior to the military occupation—

Mr Tapp—We had no programs in Iraq prior to 2003.

Senator CHRIS EVANS—When you said you had 31 people, was that at one time or was that over the course of the last few years?

Mr Tapp—That was over the course of a period of time.

Senator CHRIS EVANS—I assumed that. What has been your standard establishment in Iraq over the last couple of years?

Mr Tapp—Again, that would depend on the different times within the program and also on some issues such as security, which would have a bearing on people who could work and operate within Iraq and who could not.

Senator CHRIS EVANS—I am not asking you for a detailed answer to this question. I am just trying to get a sense of it, a description of initial involvement, building up for certain purposes and phasing down. Can you describe for me the tenor of your involvement—what your priorities were—

Mr Tapp—I would describe the tenor as probably a greater level of involvement within the earlier period, 2003 and maybe to early 2004, then it had tailed off a bit. Certainly, security issues have had an impact as well in terms of what people are able to do.

Senator CHRIS EVANS—Do you mean by that that you have pulled people out on certain occasions or that you have reduced your representation—

Mr Tapp—In some cases it was more a case of not replacing people. Some of the work that we have been doing in support of Iraq has not necessarily required us to have people there for some of the things that we have been doing.

Senator CHRIS EVANS—Is it the case that, like a number of other organisations, you sometimes have people based in neighbouring countries but whose primary function is involved with Iraq?

Mr Tapp—There have been situations where some work may have been done in neighbouring countries. That would be correct.

Senator CHRIS EVANS—You had people whose focus was on Iraq but for security reasons were—

Mr Tapp—Yes, or in relation to what was the most convenient or logistically sensible place to conduct training programs, for example.

Senator CHRIS EVANS—So the 31 people may not include those?

Mr Tapp—I think that all of those people are included in that 31.

Senator CHRIS EVANS—What was your priority in terms of the specialist skills you sent in immediately after the occupation?

Mr Tapp—I think that there was a pretty significant focus on the humanitarian side. There was a focus on governance issues. There was also a focus on agriculture. There were a number of other things as well. You asked me for a broad priority on that. Overall, there would be the contribution made through AusAID to Iraq since 2003. To date, I think they have spent \$123 million across a number of areas. Those would be the ones that have the broader emphasis.

Senator CHRIS EVANS—I accept that you do not have the specifics of all the people. I am just trying to get a sense of your role. I am happy for you to give me more general answers and, if I want more detail, I will follow up with a question on notice. In terms of the three categories of priority you have identified, what sort of skill base do people have for that sort

of work? I do not want to go back to the contract discussion because I found that we went around in circles a bit, but are there people out of AusAID permanently who have gone in there with those particular skills? You obviously hired some as well. What sorts of skills are you looking for? For instance, do you look for people who could speak the local languages?

Mr Tapp—That can be in some situations an important one. I am aware of one role in the economic sector where that was actually very important. There are some others in the economic area where that was less of an issue. It was more a case of public expenditure management or being able to deal with broader macroeconomic forecasting issues. So it would depend. We may have required people who have some water and sanitation experience. There was a broad range. I should also point out that it was very specific in relation to particular roles. Australia was just one of a number of other countries that had provided multinational organisations that were providing assistance in various areas. Often we were filling a gap. Sometimes it would be a particular requirement and sometimes it would be a broader requirement. That would have been something that would have been dependent upon the conditions and requirements on the ground.

Senator CHRIS EVANS—If the CPA indicated to you that they needed someone to do some sanitation work and asked if you could help with that, you might choose someone for that required purpose. Is that the way it works?

Mr Tapp—The water and sanitation area was a very specific one that we were asked to take a particular role in, and we had a pretty significant engagement early on in that area.

Senator CHRIS EVANS—You mentioned these economic forecasting types doing the macroeconomics. For what purpose were they doing that?

Mr Tapp—In relation to some of that work, it is best that I refer you to the Treasury, because Treasury were the department of the Commonwealth that were most engaged in that area. We were merely providing in that situation the funding and the support that they were going to need.

Senator CHRIS EVANS—So they were not your people?

Mr Tapp—In the sense that we were providing some funding for them, but the ones who were dealing directly with the details of what it was they were doing and everything else were those who were working under the CPA. For more detail I refer you to the Treasury department.

Senator CHRIS EVANS—Sure. Were they Treasury officials or were they outside people?

Mr Tapp—There was a mixture in that context.

Senator CHRIS EVANS—And they were employed to be involved in this economic forecasting?

Mr Tapp—And a number of different things. All I can say is that the best description at that time of the economic situation in Iraq was perhaps ‘chaotic’. A part of it, within the context of the CPA, was that, while they may have been going in for a particular skill, they were required to do an enormous range of things. In that case ‘all hands to the pump’ might have been a better way of describing what was—

Senator CHRIS EVANS—It is ‘multitasking’ these days, isn’t it?

Mr Tapp—Perhaps. On the details of that again—

Senator CHRIS EVANS—I am not asking for the details. What were your priorities in the agricultural function?

Mr Tapp—In the agricultural function, one was looking at issues relating to the support and rehabilitation of the agricultural sector within Iraq, as the CPA was looking at a number of different sectors within Iraq.

Senator CHRIS EVANS—So it was basically how to revive their agricultural sector?

Mr Tapp—Yes.

Senator CHRIS EVANS—So for that were we providing people with specialist skills in particular areas of agriculture or just general advice?

Mr Tapp—It was a mixture.

Senator CHRIS EVANS—If they had a need for an expert in cotton farming, you might supply someone for that sort of purpose?

Mr Tapp—It would depend.

Senator ROBERT RAY—Minister, of these approximately 31 people appointed, was Mr Michael Long one who was sponsored by DFAT?

Senator Coonan—No, he was not sponsored by DFAT.

Senator ROBERT RAY—Do you know which government department did?

Mr Tapp—The issue in relation to the appointment of Mr Long is before the Cole inquiry.

Senator ROBERT RAY—What? Who appointed him to the CPA?

Mr Tapp—Issues relating to contracting are before the Cole inquiry.

Senator ROBERT RAY—You noticed that I directed my question to the minister, not to you. What about Mr Trevor Flugge? In the role that he played there, was he under the auspices of DFAT?

Senator Coonan—Senator, as you would appreciate, the details of these particular people, how they were employed and in what capacities they were there in Iraq are clearly matters that will be canvassed in the inquiry.

Senator ROBERT RAY—I have to dispute that, Minister. These are people who were employed for their skill to assist the construction of Iraq, not flog wheat, pay bribes or anything else. They were sent there, in fact, to help on the reconstruction of Iraq. It is nothing to do with whether they worked. I presume, if they were employed and contracted, their loyalty is to the Australian government and to the provisional authority, not to their previous employer.

Senator Coonan—They are witnesses currently before the inquiry so, clearly, the basis on which they were there and no doubt when they started would all be matters that are being currently canvassed.

Senator ROBERT RAY—So you are saying that their role on the Coalition Provisional Authority will be canvassed before the Cole commission. You know that?

Senator Coonan—It may well be.

Senator ROBERT RAY—Oh, it may well be! On what basis do you know that?

Senator Coonan—Because they are witnesses already, so why would you constrain or try to confine the areas that they may be questioned about? It seems to me to be perfectly obvious that those matters could be relevant.

Senator ROBERT RAY—All right. But I have asked you the question. You are not confined, like the public servants, so would you care to answer it?

Senator Coonan—I am sorry?

Senator ROBERT RAY—I am asking you the question. You are not gagged. They are gagged. You are not. I am asking you.

Senator Coonan—I am also not going to provide any information about that because there is currently a commission of inquiry set up to get to the bottom of all of these matters. I am not going to be pre-empting anything here.

Senator ROBERT RAY—To what extent are those 31 people—I am just using that as a shorthand: there could be 33 or 29, I do not care—trained, if you like, or educated as to potential issues of conflict of interest when they go to Iraq? In other words, you are paying their salary either directly or indirectly, they are working to assist in Iraq but they may also work for the provisional authority, so how are they bound by conflict of interest rules not to go off and do something on the side for someone they were previously associated with?

Mr Tapp—Again, this will depend upon the way under which the people are employed, in terms of how conflict of interest issues or what have you may be applied. For public servants it is very clear. In relation to others, there are different ways in which that may be covered.

Senator ROBERT RAY—Could you give me an example of how, with a contractor, you would cover the contractor's expenses? Is it just a contract to do it, from which salary, airfares and accommodation are all taken out?

Mr Tapp—We have an enormous number of different contracts. The nature of those contracts and how those contracts are made up varies enormously. Some of those contracts can be on the basis of a flat fee which may be paid upon the delivery of a particular service. Some of those contracts may be based upon work which is done on a monthly basis or a weekly basis or even a daily basis. Some may be done on the basis of a sum for the work, plus expenses; sometimes expenses may be broken out or travel may be broken out. It varies enormously between different contracts, and that tends to be a function of individuals, companies or what have you. And that is part of a negotiation process.

Senator ROBERT RAY—Have you satisfied yourself that the people on those contracts properly fulfilled them and acquitted all moneys properly?

Mr Tapp—We have very clear policies in relation to the accountability of the use of Commonwealth funds. So, yes, I can certainly assure you that we have processes in place that

we would be using to be able to assess the performance of various contractors or individuals who are being paid for by this agency.

Senator FAULKNER—You have a contract services group, haven't you?

Mr Tapp—It is a slightly broader branch, but we have a branch which contains the contract-servicing functions, yes. I think contract services group used to be the formal title of the branch.

Senator FAULKNER—When did that title cease to be relevant?

Mr Tapp—I cannot remember, but we certainly have a contract services function within the agency where we conduct a large amount of contracting, so undoubtedly it is an important part of our agency. I am not trying to be pedantic; I am trying to respond to the question.

Senator FAULKNER—The contracts that AusAID and other government agencies might write are published after they have been finalised, aren't they? The details are published?

Mr Tapp—The broad details of a contract normally are published in the *Gazette*.

Senator FAULKNER—Yes.

Mr Tapp—Not the full details of—

Senator ROBERT RAY—They are FOIable, aren't they? They are subject to freedom of information?

Mr Tapp—All sorts of things are subject to freedom of information.

CHAIR—We will now break for morning tea.

Proceedings suspended from 10.31 am to 10.46 am

CHAIR—I call the committee to order. Before I go to senators for further questions, Mr Tapp, I believe you have some clarifications.

Mr Tapp—At this point, for form's sake, I think it would be sensible to make two very small clarifications of a couple of things I said earlier. I believe I said that the funds spent in Iraq since 2003 through our agency had totalled \$123 million. I have been informed that it was \$126 million. I apologise for having provided that incorrect number. I think I also said that we had had no program before 2003. I should have said that we had had no program in the immediate period before 2003. I am informed that, back in the 1980s, we did have some very small activities in Iraq. So, again, I do apologise.

CHAIR—Thank you for your precision.

Senator FAULKNER—Before the break we were asking about the broad methodology in regard to AusAID contracts. Instead of me asking a range of questions about this, perhaps a witness from AusAID could let me know what the contract supervision processes are in AusAID.

Mr Tapp—Again, that will vary. Some of our contracts are very small value contracts for a very discrete activity over a very short period of time and some of our contracts relate to many tens of millions of dollars over a number of years, so we would calibrate the amount of monitoring, evaluation and performance assessment that we were putting in place on those contracts according to their level. However, we are absolutely committed to the importance of

monitoring contracts and monitoring contract performance. We do have various procedures. There are stipulations within contracts relating to all sorts of matters requiring the monitoring of the implementation and the means of implementation of those contracts. For example, if we had a contract that was given for the provision of a study, then we would be particularly concerned about the outcomes of the study—the document which was being provided.

If we have a contract, for example, for the construction of rural water systems, then we would have fairly elaborate processes in place to ensure that those water systems had indeed been installed, that they had been done to an appropriate quality in a way that was appropriate within the terms of the contract that we might have. So it varies. I can assure you that from an AusAID perspective in terms of monitoring implementation of contracts it is a very important issue for us.

Senator FAULKNER—How often do you have a tender process before the letting of the contract?

Mr Tapp—I can take that on notice. I would not be able to give you an immediate response here to that. I know that we have many contracts and many tender processes but I am sorry I do not have that information directly available here. I would be very happy to take that on notice.

Senator FAULKNER—Do you have a dollar figure threshold that is applied beyond which a tender process is required? You have outlined to the committee that some of your contracts are for comparatively small sums of money and some are for large. I wonder whether there is a threshold where a tender process automatically kicks in. Are you able to say that to us?

Mr Tapp—Yes, there is. I cannot give you the exact figure here. We are bound by the Commonwealth procurement guidelines in relation to Commonwealth procurement. On some of the small value contracts we do go out and do other processes to select individuals who may be of particular interest and have particular skills within certain areas. In response to your question, yes, there is a figure. I do not have it and I will seek to get it for you, Senator.

Senator FAULKNER—Do you apply the provisions of the government procurement guidelines in each and every case to the process we are talking about?

Mr Tapp—We apply the provisions of the procurement guidelines, yes.

Senator FAULKNER—In all cases?

Mr Tapp—Yes, Senator.

Senator FAULKNER—These are procurement guidelines generated in the Department of the Finance and Administration, are they?

Mr Tapp—They are the Commonwealth procurement guidelines. The guidelines contain some exceptions to them but we apply the Commonwealth procurement guidelines. We also have guidelines of our own in relation to our application of the Commonwealth procurement guidelines, which act as a help and assistance to the processes and procedures that we may apply.

Senator FAULKNER—I was not aware of that. Could you table a copy of those?

Mr Tapp—I think we have done that previously at an estimates hearing but—

Senator FAULKNER—Have they been updated since then?

Mr Tapp—They may well have been, Senator. I think that they are available on the AusAID website but I will take that on notice and we will provide those to the committee.

Senator FAULKNER—The purpose of my question is that these are your own internal guidelines. They go to exceptions, don't they?

Mr Tapp—No, they go more to the processes and procedures. It is quite important that there be transparency for people to understand how we will be operating and functioning. So, as much as anything else, they are supposed to be a helpful guide to people who are interested in doing business with our agency.

Senator FAULKNER—I suppose the cornerstone of the Commonwealth procurement guidelines is competitiveness—that there is a competitive process.

Mr Tapp—Value for money is the cornerstone of the Commonwealth procurement guidelines. I can assure you that in AusAID we operate and comply with the Commonwealth procurement guidelines. We are required to do so and we do.

Senator FAULKNER—Are all the contracts that you let published in the *Government Gazette* or is there a threshold figure below which that is not required?

Mr Tapp—I would have to take that on notice; I am afraid I cannot answer that. I do not know whether there is a threshold or not in relation to publishing in the *Gazette*.

Senator FAULKNER—So the application processes, advertising and so forth are all done consistent with the procurement guidelines? There are no special arrangements for AusAID contracts?

Mr Tapp—What do you mean by special arrangements?

Senator FAULKNER—Could I be confident that, in any of the contracts that I see listed in the *Government Gazette* that have been let by AusAID, in each and every case the Commonwealth procurement guidelines have been applied and applied rigorously?

Mr Tapp—Yes, absolutely.

Senator FAULKNER—That is what I wanted to know. Could I draw your attention to contract 1109570. That is the contract ID number.

Mr Tapp—I do not have the list of contracts in front of me. Which contract does that refer to?

Senator FAULKNER—This is an AusAID contract. The contract value is \$679,345.70. The contract date is 28 April 2003 and the supplier name is Mr Trevor Flugge. In relation to that particular contract, could I ask first of all what advertising process took place prior to the letting of that contract?

Mr Tapp—The processes and implementation related to that contract are before the Cole commission. I am not able to answer that question.

Senator ROBERT RAY—Is it before the commission?

Mr Tapp—It is part of the matters which would be deemed to be before the commission.

Senator ROBERT RAY—On what do you base that?

Mr Tapp—I am saying to you that I am not able to answer that question because the matter relating to the selection of Mr Flugge and the contract therein are considered to be before the—

Senator ROBERT RAY—It is before it, is it? Is that what you are asserting?

Mr Tapp—No, I am saying that I am not prepared to answer that question, based on the direction that we have been given by the government that that matter is something which would be considered to be before the Cole commission.

Senator FAULKNER—Could I ask you, Minister, about this particular contract, which is a \$679,345.70 contract between AusAID and a supplier, Mr Trevor Flugge, for agricultural assistance in Iraq. The contract date is 28 April 2003. Could someone tell me what the end date of the contract was, please? Minister?

Senator Coonan—As we have made very clear, matters to do with contracts such as this are matters that could be before the existing inquiry. It has been set up to properly investigate all of these matters and no doubt to get to the bottom of these contracts, any contracts that are relevant. Potentially this contract is and therefore it is covered by the commission and should not be the subject of further questioning here, under the direction.

Senator FAULKNER—With respect, what I am asking—and please listen to the question—

Senator Coonan—Yes, I am listening very carefully.

Senator FAULKNER—We know, because it has been gazetted in the government *Gazette*—I have been frank about this—

Senator ROBERT RAY—Gag the *Gazette*, I say!

Senator FAULKNER—Maybe. That is very alliterative, at least.

Senator ROBERT RAY—That is all.

Senator Coonan—There is some public information there that you have got.

Senator FAULKNER—There is public information in the sense that the contract date is clear—28 April 2003. That is in the *Gazette*.

Senator Coonan—Yes.

Senator FAULKNER—Anyone can find it—even me. What I am asking for is a simple piece of information: what was the end date of the contract? How this offends you or any witness at the table I do not understand.

Senator Coonan—I have given the answer that all matters to do with the contract, including its duration, are matters that are properly the subject of the Cole inquiry and come within the existing direction.

Senator FAULKNER—So you will not tell me the end date of the contract?

Senator Coonan—I personally do not have it, and the officers are subject to the direction. In any event, I would have thought that it clearly comes within the scope of the direction.

Senator FAULKNER—You may not have the end date in the papers before you, but you could easily ask an officer at the table to provide that information.

Senator ROBERT RAY—They are not gagged from informing you; they are from informing us.

Senator Coonan—I understand that, but in any event these matters are the subject of the Cole inquiry and it is not appropriate that I say anything further.

Senator FAULKNER—Are you able to say whether there was a public advertisement in relation to this matter before the letting of this contract?

Senator Coonan—What we can say is that there is some public information that you have. Anything that you do not have that obviously relates to this contract properly comes within the purview of the Cole inquiry and the government direction.

Senator FAULKNER—Are we able to say whether there was a competitive tendering process for this contract with Mr Flugge to the value of \$679,000?

Senator Coonan—It is the same answer.

Senator FAULKNER—Are you able to say whether the government's procurement guidelines applied in relation to the letting of this contract?

Senator Coonan—It is the same answer.

Senator FAULKNER—Are you seriously saying, Senator Coonan, that you will not indicate to this committee whether or not the government's procurement guidelines were adhered to in relation to the letting of this contract?

Senator Coonan—As the officer said, the government's procurement guidelines are 'value for money' and 'fit for purpose' and all of those things. Whether or not they applied will obviously be dealt with, and are the subject of matters that can be dealt with, by the Cole commission.

Senator FAULKNER—Are we able to say who suggested Mr Flugge might be an appropriate person to be awarded this contract?

Senator Coonan—The same answer applies.

Senator FAULKNER—Are we able to say anything about the process that determined that Mr Flugge would be awarded this \$679,000—of public money—contract?

Senator Coonan—These are matters that clearly could be within the purview of the Cole commission. The same answer applies.

Senator FAULKNER—Were the decisions in relation to the awarding of this contract solely made within AusAID?

Senator Coonan—The same answer applies.

Senator FAULKNER—Are you willing, Minister, to say anything about the decision-making process in relation to the awarding of Mr Flugge's contract?

Senator Coonan—As has been said, probably ad nauseam by now, in committees this week and in other places, this government has nothing to hide. We want to get to the bottom of this and we want to establish the truth of all of the matters that are relevant to the issues before the Cole commission. That is why it has been set up. It should run its course and the commissioner should be able to get on with hearing the evidence and making his findings. We do not hide from it; we do not resile from it. We simply think that it is appropriate that there not be an additional line of questioning while that process is under way. That is my answer to the line of questions that you are putting to me now.

Senator FAULKNER—I would suggest to you that, if the government has nothing to hide, it might be a very appropriate thing to do to answer the questions that are being directed to it at this estimates committee about the expenditure of a very large amount of public money. This is, front and centre, what estimates committees are about. Do you accept that?

Senator Coonan—I do accept that there is a proper place and time for the line of questioning, perhaps, that you are seeking to advance here. The statement and direction that the government have given on this matter comprehend the fact that there will be a time when the questions may be appropriate. We are not suggesting that this will never ever be an appropriate line of questioning—it may well be. It is a timing issue.

Senator FAULKNER—Do you accept that \$679,345.70 of public moneys is a very substantial amount of taxpayers' money, an amount for which parliamentary accountability is very appropriate?

Senator Coonan—This government takes very seriously the expenditure of taxpayers' money and is accountable. That is why we have set up a commission to get to the bottom of this matter.

Senator FAULKNER—If it is accountable, why won't you answer the questions?

Senator Coonan—Because we have got a process to deal with it that is on foot and will make appropriate findings with all the evidence available to them.

Senator FAULKNER—Who is 'we' in this instance—'we will make appropriate findings'? What do you mean by that?

Senator Coonan—The findings will be made by the commissioner—

Senator FAULKNER—I thought you just said 'we'.

Senator Coonan—The findings will be made by the commissioner, not by the government.

Senator FAULKNER—You just said 'we will make appropriate findings'. Did you mean 'we the government' in that instance?

Senator Coonan—No, I did not. I meant the commission will be making the findings and the government will obviously be interested to know what they are. In that way we are accountable. That is what I was meaning.

Senator FAULKNER—You say 'in that way we are accountable'. You are accountable as a result of Commissioner Cole's findings—is that what you are saying to the committee?

Senator Coonan—No, we are accountable more broadly than that—of course we are. But we have set up a process whereby the commission can have access to all of the documents, all of the information, all of the relevant evidence. The commissioner can seek an extension of the terms of reference if he feels in any way constrained. He says he has not to date, apart from the one extension that has been given by the government. That does not exclude other processes, because the direction comprehends a time when it might be appropriate for a committee to ask the questions that you are currently asking, not now.

Senator ROBERT RAY—When Halley's Comet comes back.

Senator Coonan—I think it would be before then.

Senator FAULKNER—In answer to a question on notice recently—question (46) in the November questions on notice—it was indicated:

AusAID currently adopts the policy position that contractual information will not be designated confidential.

Has there been a change of policy?

Senator Coonan—Not that I am aware of, but there has been a supervening direction in relation to information relevant to the Cole commission of inquiry.

Senator FAULKNER—Can you confirm that question (46) of the questions on notice taken in the last round actually states that policy position about contractual information?

Senator Coonan—I will refer that to the minister, but I would think that the answer is that there has been a supervening decision and direction in respect of matters that are the subject of the Cole commission of inquiry.

Senator ROBERT RAY—What is the attitude to having DFAT, AusAID or contractors on your payroll arming themselves with weapons in Iraqi? Was that encouraged?

Mr Tapp—I am assuming that you are referring to some photographs which appeared recently in the media.

Senator ROBERT RAY—No. I am not asking about any specific case because I would hate to see you gagged. So I am asking generally. What is the general departmental policy? I concede that with a degree of hypocrisy at least one of our Senate friends does exactly the same thing.

Senator CHRIS EVANS—Everyone looks around the table.

Senator ROBERT RAY—Not here!

CHAIR—Thank you. Defamation by association. I think the question is: is there a policy?

Mr Tapp—I am not sure whether or not we have a policy. Normally it would not be expected that AusAID officers or people under contract would carry guns. We might need to consult with the AFP, for example, to see about that. I cannot tell you whether or not we have a formal policy on that.

Ms Bird—In DFAT's case, our people in Baghdad are protected by ADF personnel; that is the process we have.

Senator ROBERT RAY—It raises the broader question of how do you ensure the ethical standards of these people you employ. I read in the paper today—and this is an example; I am not asking you to respond to it because it is not someone from your department—about someone from the CPA who flew over to London and had talks on wheat board business. That is one example and we will not go to that because it will be raised at the Cole inquiry for sure. How do we make sure that our representatives we are paying for, and really do represent the reputation of Australia, are behaving themselves? Carrying guns is one thing, and you know of all the UN problems of peacekeepers around the globe and their misbehaviour. How do we, at AusAID, ensure that their behaviour reflects well on the country?

Mr Tapp—We have various issues and clauses within contracts and processes for monitoring things. There is a specific case which relates to, as far as I am aware, a couple of individuals. I cannot comment on that one because that matter is before the Cole inquiry.

Senator ROBERT RAY—You were not asked to.

Mr Tapp—I am responding in broad terms here. We do have, as I said previously, a lot of processes in place to monitor the performance and behaviour of people who are operating under the auspices of expenditure of Commonwealth funds.

Senator FAULKNER—I would like to ask you about another contract, which is contract ID 1113473, dated 8 May 2003. Are you aware of that contract, Mr Tapp?

Mr Tapp—I am aware of that contract.

Senator FAULKNER—Can you confirm the contract date for that contract was 8 May 2003?

Mr Tapp—Information on that contract may be on the public record through the *Gazette*. The process relating to that contract, what that contract was referring to and what individuals under that contract were doing are considered to be before the Cole inquiry, and I am not able to respond to questions on that.

Senator FAULKNER—Minister, it is gazetted. It is in the public arena.

Senator Coonan—Presumably this is Mr Long's contract, is it?

Senator FAULKNER—I do not think it is. As you know, it is always a mistake to make any such presumption.

Senator Coonan—I am not assuming anything. I am just asking you whether it was Mr Long's contract?

Senator ROBERT RAY—We think Mr Long was in the department of Ag.

Senator FAULKNER—I do not believe so, given the answers to questions from Senator Ray earlier today. Minister, given that it is on the public record that this identified contract 1113473 is recorded as having a contract date of 8 May 2003, it seems quite preposterous that the officer at the table cannot confirm that for the benefit of the committee. I hope you would agree.

Senator Coonan—The public information is there.

Senator FAULKNER—So we can confirm that?

Senator Coonan—If it is in the *Gazette*. I do not think we are taking issue with the fact that it is a published piece of information. I am not.

Senator FAULKNER—Thank you. That is a different answer to the one given by the officer at the table.

Senator Coonan—No, he said he could not give you any more information about it. You are going to go on to ask, ‘When is its end date?’ I do not know that, but the interesting point about it is that it could have been varied in some way and it is clearly something that the Cole commission will need to address.

Senator FAULKNER—If a contract in AusAID is varied in some way, is such a variation recorded in the *Gazette*?

Mr Tapp—I am not sure. I will have to take on notice the question of the publication in the *Gazette* of variations of contracts.

Senator FAULKNER—How often do you have variations of contract?

Mr Tapp—Again, like the question of how often we have contracts, that will depend. For example, we may have extensions of periods of time in some contracts or some of the services may change. Some of them may be more material and some may be immaterial. But in relation to what is published in the *Gazette*, I will take that on notice.

Senator FAULKNER—This has been published in the *Gazette*. I will be frank with you, Minister—how would I know whether there has been some contract variation? I do not.

Senator Coonan—I did not assert that. I just said that it may have been a possibility.

Senator FAULKNER—I have not found a public record of any such variation. But I have found a public record of contract 1113473, which is a contract between AusAID and the Australian Wheat Board Ltd. I asked if someone could confirm the contract date, which is on the public record. That contract date is 8 May 2003. I now ask if someone at the table can confirm what is on the public record—that is, that the contract value is \$440,772.20.

Mr Tapp—The *Gazette* has details in relation to that contract.

Senator FAULKNER—It has some details.

Mr Tapp—In relation to what is on the public record, it is stated in the *Gazette*.

Senator FAULKNER—So you can confirm the contract value is \$440,772.20?

CHAIR—No, that is not what he is saying. I think he is saying that he has no reason to doubt the *Gazette*.

Senator Coonan—That is right.

Senator FAULKNER—Chair, I have no doubt that one day, when you are preferred as a minister, we will be able to ask you questions—and I look forward to that, as you do, no doubt. But in the meantime, if you do not mind, I will limit my questioning to the minister who, it has been determined by Mr Howard, has the jump on you. But we are looking forward to some time when you are there.

CHAIR—Thank you for those sentiments. They are very nice. I am just trying to be fair to the witness.

Senator FAULKNER—You will get on eventually.

Mr Tapp—The public record, in terms of the *Gazette*, contains some information, some of which you have read out, including a contract value.

Senator FAULKNER—Yes. The description of that contract is—I quote directly from the *Gazette*:

Provision of advice on Grain Handling and Distribution for the Agricultural Assistance in Iraq.

Senator Coonan—To be able to develop your line of questioning from that line, you are clearly coming within the terms of the direction.

Senator FAULKNER—Wait a minute, I did not actually ask a question. That was the preamble. My question is—

Senator Coonan—At least you have nowhere to go! We know where you are going, I am afraid. I am just trying to help you.

Senator FAULKNER—It sounds like you are really onto me! I was going to ask you whether you could confirm that was the description of the contract.

Senator Coonan—All I can say is that the public record stands. I have no reason to disbelieve the public record.

Senator FAULKNER—Can you confirm the description of the contract?

Senator Coonan—No, I cannot. I can say that the record is a public record, that is what it says, but what it means and what it contains and how long it goes for are matters that are clearly properly the subject of the Cole inquiry.

Senator FAULKNER—The supplier name here is AWB Ltd. You can confirm that?

Senator Coonan—If it is on the public record in the *Gazette* I have no reason to disbelieve it.

Senator FAULKNER—You can help us probably with this, Mr Tapp, because you are clearly very expert in these matters. The ANZSCC description on this contract is ‘other business services’. What does that descriptor normally mean?

Senator Coonan—That is clearly the subject of the direction.

Senator FAULKNER—Let me direct my question to you then, Senator Coonan, though I am not so sure that you are as expert as Mr Tapp in these matters.

Senator Coonan—I do not claim to be.

Senator FAULKNER—No—and very wise, too; you can nevertheless seek advice from him. Did you hear my question?

Senator Coonan—It is a classification system, I am told.

Senator FAULKNER—That is right, it is a classification system. I do not think it is a classification system that is being examined at the Cole royal commission, so perhaps we could hear what this particular classification is.

Mr Tapp—I believe it is a classification system under AusTender, Senator, but I am afraid I am going to disappoint you enormously—I am not expert in relation to the classification

systems under AusTender. I will have to take that on notice, I am afraid. I believe it is just part of a classification system under the AusTender system, but I will need to check on that. I will take your question on notice.

Senator FAULKNER—Can you say to me who the AWB contact person was for AusAID in relation to this contract?

Mr Tapp—No, I am afraid I cannot answer that question.

Senator FAULKNER—You can't answer it or you won't answer it?

Mr Tapp—I cannot answer that question because that may be considered to be before the Cole commission of inquiry.

Senator FAULKNER—Minister, can that name be provided, please? I am interested in knowing the contact point in AWB for the letting of this contract with AusAID for \$440,772.20 of public moneys.

Senator Coonan—The details of how this contract was let and, I would think, who the relevant people are in relation to the contact point or contact person is a matter for the inquiry.

Senator ROBERT RAY—You are happy for me, Minister, to write to Commissioner Cole pointing out all these areas that he has not yet looked at that he should look at, and you will endorse it?

Senator Coonan—It is a matter for you, Senator Ray, what you do.

Senator ROBERT RAY—Good; it will be very interesting.

Senator FAULKNER—In relation to this particular contract—not the \$679,000 to Mr Flugge but the \$440,000 to the AWB—can I be assured, Minister, that the government procurement guidelines were applied strictly to the letting of the contract?

Senator Coonan—That will be a matter that could be the subject of the inquiry.

Senator FAULKNER—You can't be serious!

Senator Coonan—Well, it might be.

Senator ROBERT RAY—Oh, it might be! Right.

Senator Coonan—I am not going to pre-empt the extent to which Commissioner Cole may wish to take something like that into account. I am not going to pre-empt that.

Senator ROBERT RAY—Are we allowed to mention the term 'United Nations' here at all, or is Mr Cole likely to take that into account? I am serious. This comes back to your definition of 'matters'.

Senator Coonan—I know—

Senator ROBERT RAY—Just no guidance whatsoever.

Senator Coonan—I said it was broad. I have never pretended to say that the government would not interpret this broadly. And, in fact, the actual statement of the commissioner very specifically says that he will be looking into the role of DFAT in the process of obtaining the United Nations' approval of AWB wheat contracts within the United Nations oil for food program.

Senator ROBERT RAY—But this person was engaged as a contractor to this department to work on other matters.

Senator Coonan—That is right. Well, maybe, maybe not. But it is certainly something that I would think, on the definition that I have given you this morning, would be capable of coming within the direction, and it is within the direction.

Senator ROBERT RAY—On the broad question of Iraq, moving away from these contracts, do we now have a clearer picture from the Coalition Provisional Authority, from our mission in Iraq and from our representatives, be they contractors are otherwise in Iraq, of how the previous regime funded suicide bombers?

Ms Bird—We have nothing specifically on that, no.

Senator ROBERT RAY—We do not know which bank they used?

Ms Bird—I need to take this on notice; I do not have those details.

Senator ROBERT RAY—I am not just going to ask one question, have it taken on notice and not ask the rest, so you can take them all on notice, I guess. I would like to know: have we yet been informed whether the previous regime, as I believe and most people believe, rewarded the families of suicide bombers? Which bank account were those families funded out of? What currency were they were paid in?

Ms Bird—I will have to take that on notice.

Senator ROBERT RAY—Thank you. Minister, I want you to take on notice, if we have been informed of the bank, whether it was a Jordanian bank. Finally, this question on notice can be answered when you think it is convenient to answer, as opposed to the others which I think should meet the 30-day deadline. For this one I am leaving you with flexibility in relation to your interpretation. Did any of the money paid as kickbacks find its way into any of those accounts? Obviously I do not expect that answer by 30 March because it would probably breach the gag.

Senator Coonan—That will be subject to the Cole inquiry.

Senator ROBERT RAY—The last question, yes; I put that provision in. I doubt it, by the way. I do not think those sorts of international events will have that remit back into an Australian commission of inquiry, but I am making it clear that I do not expect that question to be answered until the government thinks it is the appropriate time.

Senator Coonan—Yes, thank you. I have made a careful note of it.

Senator ROBERT RAY—I would like to ask about the Iraq Task Force. We have been informed that DFAT is the lead agency. Is that correct?

Mr Innes-Brown—That is correct.

Senator ROBERT RAY—Mr Innes-Brown, would you like to identify your role in it, and then I will direct questions to you.

Mr Innes-Brown—Sure. I am the current head of the Iraq Task Force in DFAT.

Senator ROBERT RAY—When you say the ‘current head’, have other people held the same title as you?

Mr Innes-Brown—That is correct.

Senator ROBERT RAY—Do you have any idea of whom they are?

Mr Innes-Brown—Yes.

Senator ROBERT RAY—Can you inform me.

Ms Bird—The Iraq Task Force has been in existence since September 2002, so a number of different officers have had that role. Can we take that on notice?

Senator ROBERT RAY—I would like to ask Mr Chester a question coming from that. If there has been a number, do you think there is a potential problem of corporate knowledge, something that we have run into in many other instances in the Public Service. It has been going for only 3½ years. How many heads have we had?

Mr Chester—I think we have had four heads of the task force. I think Mr Innes-Brown is the fourth.

Senator ROBERT RAY—Why the turnover? Is it specific to this or is it just the normal process that every time you are appointed to a Public Service job you start looking for your next one?

Mr Chester—I think it is probably more prevalent in a department such as Foreign Affairs and Trade—

Senator ROBERT RAY—True!

Mr Chester—because we have a number of positions overseas which last for a defined period of time, so there is quite a deal of movement within the organisation. In terms of moving people in and out of positions overseas, there is probably something like 300-plus movements a year of staff just to cover that part of the department, so it is the nature of the organisation. We do try to maintain as much stability as we can in keeping people in positions when they are back in Canberra, but the nature of the organisation is that there is a fair degree of movement.

Senator ROBERT RAY—The trouble with that answer—and I am editorialising—is that other departments do not have your excuse; however, we will take that up with them. We know when it was established. Who is represented on it—which departments and agencies?

Mr Innes-Brown—There is an administrative unit in DFAT which is called the Iraq Task Force. We also have interdepartmental meetings. Currently, regular attendees at these meetings include PM&C, Defence, A-G's, ONA, Austrade and AusAID. I think that covers it.

Senator CHRIS EVANS—Is AusAID represented separately?

Mr Innes-Brown—We attend meetings. It is a structure where we have regular interdepartmental meetings and the various agencies that I just listed send representatives along to those meetings.

Senator ROBERT RAY—Is it anticipated that the Iraq Task Force will continue to exist until the military deployment is finalised? Is that the approximate anticipated time span?

Mr Chester—It will obviously continue to exist for as long as we believe it is needed. We do not have a trigger point to not have the task force.

Senator ROBERT RAY—Were appointments to the CPA and other related matters in Iraq run through the task force or handled separately by the departments?

Mr Tapp—From an AusAID perspective, a number of the individuals were paid for through our agency. Certainly, some of it would have been discussed in that task force—

Ms Bird—What I can say is that there was no formal role for the Iraq Task Force in terms of CPA appointments. There may from time to time have been discussions, but that was not one of the roles of the Iraq Task Force.

Senator ROBERT RAY—The question I asked was whether any of these appointments were run by the committee—not whether or not it had a role. Let us just go to an answer to my question: were they run through?

Mr Tapp—I think some of the appointments would have been discussed in some of the meetings. Would all of them have gone through it? The answer is no. I would not believe that all of them would have been, but they would have been discussed.

Senator ROBERT RAY—Given the horrible problems we had with the previous task force and the recommendations that came down as to record keeping, how well have records of the task force meetings been kept?

Mr Innes-Brown—The general practice is to keep records of important decisions.

Senator ROBERT RAY—Decisions, not matters discussed?

Mr Innes-Brown—Or issues that arose, yes.

Senator ROBERT RAY—Given the problems that came out of the task force on border protection, which were remarked on by far more than just politicians and which were conceded by others, has anyone looked to see whether the record keeping is adequate?

Ms Bird—We are confident that the record keeping of the Iraq Task Force is adequate.

Senator CHRIS EVANS—In terms of the report into the task force from inside Iraq, what form did that take? I know that Defence has told us that they got sit reps from the commander of the Australian Defence Force inside Iraq. Did those sit reps come to the Iraq Task Force?

Mr Innes-Brown—The general line of reporting from Iraq came from our mission in Baghdad, usually by cable and occasionally also by email. In terms of the reporting that came from some of the other areas of Australians represented there, whether it be the CPA or other bodies, I think that previously in Senate estimates hearings there has been evidence about some of the nature of that information and how some of that information was conveyed to DFAT. Some of those reports did come to DFAT. My understanding is that not every report from some of those organisations or bodies came to DFAT as a matter of course.

Senator CHRIS EVANS—I was trying to understand what came to the task force and how the task force did its work in the sense of intelligence—and I use that in the broadest term. How did that come before the task force?

Mr Innes-Brown—I understand there was a period in the phase from shortly after the establishment of the task force into 2003—given the pattern of work and so on—that the task force was producing situation reports which were circulated to relevant agencies so that everyone was coordinated on Iraq related matters.

Senator CHRIS EVANS—The task force itself was producing sit reps?

Mr Innes-Brown—I believe so, yes. I would like to get some more detail on it. I was not around but my understanding is that information would come in from various points and they would synthesise it and send out sit reps so that people were broadly aware of what was going on. There was obviously a lot happening during that period.

Senator CHRIS EVANS—Sure. In terms of incoming information to the task force, who sends it to you and how is it collected? Does everyone come to the meeting and give a five-minute report or is an agenda drawn up on what has been happening in the last week or two or do the DFAT cables, the Defence sit reps et cetera get shown to people as the meeting starts? I am just trying to understand what comes to them and how they do their work in the sense of what is happening inside Iraq and what has been happening—

Ms Bird—The Iraq Task Force was in many ways an information-sharing mechanism. You would bring together the different departments and agencies that had an interest or a role in Iraq. Those different representatives would talk to different issues so they would come with their own information. As Mr Innes-Brown was saying, the main source of information that we as DFAT had would be the reporting that we had from our post in Baghdad.

Senator CHRIS EVANS—Did you distribute them regularly to the other members of the committee or was the information verbally conveyed?

Ms Bird—There were the sit reps, which would have gone to members of the committee. Members of the committee would also have access to—

Senator CHRIS EVANS—Which sit reps?

Ms Bird—The sit reps that were being produced by the Iraq Task Force. They would obviously be circulated.

Senator CHRIS EVANS—But I am asking: how does the information that is contained in the Iraq Task Force sit reps get compiled? What are you using as your basis for that?

Ms Bird—As I said, from DFAT's perspective it was largely our diplomatic reporting. Those cables would also have a distribution that would involve the key departments and agencies.

Senator CHRIS EVANS—So they get it directly before they come to the meeting, as it were?

Ms Bird—Through the cable system.

Senator CHRIS EVANS—Yes. What about AusAID, Mr Tapp? What did you contribute to the task force? How did you convey any information or contribution you could make to the task force?

Mr Tapp—Very simply, our role was really on the edges, because we were dealing with some of the humanitarian issues at the time. Our central communication system is the normal diplomatic reporting system but, as is the case for DFAT, there may have been some email traffic and what have you. But if we were going to a task force meeting and any information needed to be updated, that information would have been provided.

Senator CHRIS EVANS—How would you provide that information?

Mr Tapp—It depends. Sometimes that information might be provided through cable traffic; sometimes, it might be provided through emails; or it might be provided at the meeting of the Iraq Task Force when officials came together.

Senator CHRIS EVANS—When you say cables or email, do you mean that cables or emails that came to you from AusAID officials in Iraq might be circulated to the other agencies?

Mr Tapp—Also, DFAT, through its system, often provides some reporting in relationship to humanitarian issues or what have you. There was a lot of reporting from various diplomatic posts in relation to humanitarian issues, such as what other donors were interested in doing. That might have been coming from some of our people who were posted internationally at various missions. If we did not have a posted officer in a mission, sometimes it would come from DFAT officers who might be tracking that. That is part of the portfolio function—to be able to provide reporting through the cable system. That is the key reporting mechanism that we have.

Senator CHRIS EVANS—So AusAID officials in Iraq would send information to you through the normal DFAT cable-reporting system, rather than a separate advice system.

Mr Tapp—It would depend on the issues. If we had somebody in Iraq, they might pass some information to be communicated back to Australia through the cable system. We did not have a diplomat posted within the mission in Baghdad. We had some people who were working within Iraq at different points. But the cable system is the important communication system for the portfolio, and the portfolio includes us.

Senator CHRIS EVANS—I guess what I am asking—and I do not want to labour this, and obviously I am not making myself clear—is this: did the 31 officials that AusAID had in Iraq at various times provide information to AusAID back in Australia using something other than the Department of Foreign Affairs and Trade cable system?

Mr Tapp—Some of them provided information back to us; some of them did not. Some of them may have provided it to other departments.

Senator CHRIS EVANS—There must have been a reporting line to you, though.

Mr Tapp—It depends. I spoke earlier about the people working the economic area. That was an area where Treasury were the ones taking the main—

Senator CHRIS EVANS—Some of these people are AusAID officials.

Mr Tapp—I said that some of the people were providing email reports back to us.

Senator CHRIS EVANS—You seem to be very vague, though. I want to be clear.

Mr Tapp—I am not trying to be vague.

Senator CHRIS EVANS—You are doing a good job of it, though.

Mr Tapp—There were a number of different means of communication. For us, the primary one was through the cable system, but there were other communications which would have come by email, or there may have been reports that were submitted directly to us, for example.

Senator CHRIS EVANS—Thank you for that.

Senator ROBERT RAY—When was the subpoena from the Cole royal commission to produce all documents received by DFAT?

Ms Bird—I am advised that the notice to produce—that is the technical term—we got was dated 1 December.

Senator ROBERT RAY—I take it from answers we have got to questions to other departments that you were the lead agency for the production of documents.

Ms Bird—The notice to produce that we received from the Cole commission asked for DFAT documents.

Senator ROBERT RAY—Are you telling me that you have not collected documents from other departments to send on?

Ms Bird—What we had done previously in the context of the Volcker inquiry and report was to contact a wide range of agencies about this issue. That material was indeed on our files, so that material was available to Cole.

Senator ROBERT RAY—That is quite different.

Senator FAULKNER—That, I have to say, is very different to evidence that we have heard from a number of other agencies.

Senator ROBERT RAY—We should interpolate that we tend to think that your evidence is probably accurate, and that the evidence of others is based on a misunderstanding.

Ms Bird—Perhaps I should elaborate a little about what we understand with the Cole commission processes, and bear in mind that obviously the Cole commission is master of its own procedures. The Cole commission has, we understand, separately contacted a number of departments and agencies. I am not sure exactly which ones. That is entirely up to the Cole commission. As I said, the Cole commission gave us a notice to produce. That notice to produce related to DFAT papers. We did, perhaps fortuitously, have on our files a wide range of material from other relevant departments and agencies because we had done that in the context of Volcker. That might be how that impression was conveyed.

Senator FAULKNER—Ms Bird has indicated to the committee that DFAT received a notice to produce on 1 December 2005. What was the date by which DFAT was required to comply with the notice?

Mr Moraitis—I would like to clarify this for the sake of completeness. The original notice to produce referred to three companies, as you are aware from the public record. There have been subsequent notices to produce as Commissioner Cole has broadened the terms of reference. My answer will be in relation to the first notice to produce. The request originally was for about 15 or 16 December. Following consultation with the solicitors assisting the commission, that date was extended by a few days to 21 or 22 December.

As I have just mentioned, there have been subsequent notices to produce which add to the original request. They focus on specific issues that have emerged during the course of the inquiry which, of course, the inquiry was not privy to at the beginning or did not request us to produce. Those notices were subsequently sent to us. For example, as you will recall, in early

February Commissioner Cole requested a broadening of his terms of reference and obviously there was a further notice to produce.

Senator FAULKNER—Mr Moraitis, I am sure you would have assumed that there would be some questioning about this given that questions on these process issues have been asked of a range of agencies over the last couple of days—the process issues relating to the supply, collation and forwarding of documents. First of all, what were the terms of the 1 December notice to produce? There are two ways of going here. You could table a copy of the notice, which might be easier—but you may not want to—or you can read the terms of it into *Hansard*. I do not mind which way we go. It is important that this be clear. You would be aware, as I have said, that in other agencies these questions have been asked. There is a bit of uncertainty about some of the process. At a minimum, can you read the terms of the notice to produce? What was required of DFAT in the subpoena?

Ms Bird—Before we go any further, this is a notice we received from the Cole commission. Whether the Cole commission would want it put into the public arena is something I think we should check with them. This is a formal legal document that we have received. I would want to take some advice on that.

Senator FAULKNER—I want to know what was required of DFAT and when it was required. That is what we are interested in at this stage. I would have thought providing the terms of the notice would be a sensible way of doing it. It can be done without tabling the notice.

Ms Bird—As I said, we are happy to talk in the broad about what we have done and what was required. In terms of formally tabling the document we received, I want to take that on notice.

Senator FAULKNER—Perhaps someone can check quickly—perhaps during the lunch break. We know there are DFAT officers assigned to attend the Cole commission because that has come up in evidence at other committees—and we will get to that at a later stage. That is fair enough. Mr Chester, is that something that could be dealt with as quickly as possible? I am sure you will be able to come back, at worst, after the lunch break and give us an answer, having sought a quick view of the commission.

Senator Coonan—We will certainly do that. The process questions you are pursuing—relating to timeframes—may be entirely appropriate. But the actual ambit or purview of what is being sought may be something that is relevant to the inquiry, and we will certainly check whether there is an issue about it. I just flag that it may be characterised differently from the issues of dates and when.

Senator FAULKNER—I think we have to be clear here. Mr Cole's inquiry is a public inquiry.

Senator Coonan—There are a lot of documents that are not published in an inquiry of this nature.

Senator FAULKNER—It is a public inquiry. I am accepting Ms Bird's definitional point that she will respond to my question broadly, but I am asking Mr Chester or the responsible

member of the executive of DFAT to see whether we can get a quick response on that. I would be surprised if the document could not be tabled after lunch.

Senator Coonan—We will certainly check it. I am just mentioning that we will come back to you on it. There may be an issue; there may not be.

Senator FAULKNER—Thank you. All I am asking is for you to come back to me on that quickly. In the meantime, Ms Bird, can you give us the broad parameters of the request, which, by the way, is something that has been clearly dealt with in other agencies.

Mr Moraitis—In broad terms, the notice to produce requested DFAT to provide documentation relating to material that Commissioner Cole has identified as relevant to his inquiry; that is, in relation to AWB, Alkaloids and Rhine Ruhr, the three companies which are in the terms of reference for the inquiry. It was for a period going back some years. That has been more or less agreed with the commission. They are basically the broad terms for that original notice to produce. As I said, there have been subsequent requests to broaden that documentation request to reflect the terms of reference as they have been expanded as requested by Commissioner Cole.

Senator FAULKNER—Thank you. Referring to the primary, first or original notice, we know from Ms Bird's evidence that the notice was received on 1 December. Can you indicate to the committee when the notice was complied with?

Mr Moraitis—The original notice to produce was complied with by, as I said, 21 or 22 December. It was well before the Christmas break.

Senator FAULKNER—Perhaps you can give us a precise date as soon as possible.

Mr Moraitis—Yes.

Senator FAULKNER—Did you receive one or more other notices as a result of either the expansion of the terms of reference of the commission or other reasons?

Mr Moraitis—Yes, I can confirm that, in addition to the original notice to produce of 1 December, two subsequent notices to produce have been requested to date. If I recall correctly, one related to the Tigris issue and the second one was more broad and related to BHP. It was subsequent to Commissioner Cole's statement of 3 February.

Senator FAULKNER—Can you give me the date that those notices were received by the department?

Mr Moraitis—I will take that on notice and have the answers for you after lunch. Off the top of my head, it would be late January and the first week of February.

Senator FAULKNER—Are you able to say whether both of those notices have been complied with now?

Mr Moraitis—As far as we believe.

Senator FAULKNER—What was the compliance date—the date when those documents had to be provided to the commission?

Mr Moraitis—In terms of the second two, I do not think there was a specific date. The assumption from our side was certainly ‘as quickly as possible’. I think we tried to meet that and did meet that, but I will seek confirmation of that from the text.

Senator FAULKNER—The questions are: what was the date of the notice, what was the date by which DFAT was requested to comply with the notice, and has the notice been complied with?

Ms Bird—We will get you that information as soon as we can.

Senator FAULKNER—I am sure you understand what the committee is seeking in this regard.

Mr Moraitis—Of course.

Senator FAULKNER—If we take a step back to the first notice, you indicated that there was some agreement with the commission in relation to what I would describe as a minor extension to the date that the commission determined for the lodgment of that material. Is that correct?

Mr Moraitis—That is correct.

Senator FAULKNER—Was that negotiated with the commission?

Mr Moraitis—As I said, in discussions with commission solicitors assisting the commissioner, the terms of the notice were discussed and practical considerations were examined by the solicitors, and it was agreed by the solicitors that an extension of a few days was quite feasible.

Senator FAULKNER—So you negotiated an extension to the date by which DFAT was obliged to comply with the notice. Is that right?

Ms Bird—Yes. There was a very large volume of material. We wanted to make sure we had done it thoroughly. That was obviously the commission’s intent as well, and it was a mutually agreed date.

Senator FAULKNER—Coming back to the question that Senator Ray asked a moment ago, as I understand the evidence that you have given the material that is supplied is generated not just in your own portfolio.

Ms Bird—That is correct.

Senator FAULKNER—It includes material from agencies within DFAT as well as the departmental elements of DFAT itself. Is that correct?

Ms Bird—As I explained, it included all of the documents within our possession, which included a large amount of material from other agencies—both portfolio agencies and non-portfolio agencies—because of the work we had done previously in the context of Volcker.

Senator FAULKNER—Was there a time frame from the commission regarding the notice?

Ms Bird—Yes, there was a time frame.

Senator FAULKNER—What was the time frame?

Ms Bird—I am told that there was some discussion about time frame, but the date which was settled with the commission—the one they wanted us to start from—was 1995, which was just before the oil for food scheme was in operation, and it went through until now.

Senator FAULKNER—Was that time frame also negotiated with the commission?

Ms Bird—Yes. They wanted to talk to us about the holdings that we had. Their interest obviously related to the oil for food program. That did not get under way until 1996, but I think, for the sake of completeness and to get a bit of context, they went back to 1995. So they had the lead-up to oil for food and then everything throughout the oil for food program.

Senator FAULKNER—Is it fair to say that in the department, as the committee examines this issue, we have basically got two sets of processes: the one that you referred Senator Ray to that effectively predated the commencement of the Cole commission and then a set of processes responding in a more formal way to requirements or notices from the Cole commission? Is that broadly the picture?

Ms Bird—We responded fully to the Cole commission. As I said, we had a lot of material on our files because of work we had done previously.

Senator ROBERT RAY—Have you sent that material—the material you had on this broad matter—anywhere else other than Cole?

Ms Bird—No.

Senator ROBERT RAY—Have you sent it to another department?

Mr Moraitis—No. All the material that has been requested by the Cole inquiry has been sent directly to the Cole inquiry.

Senator ROBERT RAY—I understand that. Have you sent a drop copy to any other department for information?

Ms Bird—It is a very large volume of material. We made that directly available to Cole.

Senator ROBERT RAY—How did you handle the question—and there is no trick in this one, for once—of the classification if, for example, any of it was secret or confidential or commercial-in-confidence? How was that handled in terms of what may be published by the commissioner?

Ms Bird—It is a very important point. We have had to go through a process, and maybe Mr Moraitis will explain it. We have had to go through with the Cole commission lawyers a process of declassifying documents. There are two purposes for that: obviously if they are wanting to show it to witnesses, or in any other way bring it forward in evidence, it would have to be declassified. So there has been an ongoing process looking at documents to that effect.

Mr Moraitis—From the beginning of the process, when notice to produce was delivered to us, the first issue was: how do you transfer a series of documents including national security classified documentation to an inquiry? This was obviously an interesting issue to deal with. We discussed this with our solicitors assisting the commission and there has been an understanding about how that should be done. There has been an ongoing process of ensuring

that the commission has all the access it requires for whatever purpose it requires, while consistent with our obligations.

Ms Bird—I should add: in keeping with the instructions the Prime Minister has given of full cooperation, we are obviously declassifying to the maximum extent possible.

Senator ROBERT RAY—Is there any value, when this is all over, in going back and looking at what extra documents other departments may have provided the Cole commission that they failed, or overlooked, to provide to you for the Volcker inquiry? In other words, you have handed over everything you have and everything every other department has given you up to that point, and you have handed over any other documents that you may have generated et cetera; but you have not had to, nor should you have had to, hand over other departmental documents. If something is discovered in those other departmental documents relating to the period of Volcker—

Ms Bird—I think that is hypothetical—

Senator ROBERT RAY—It is hypothetical in a sense, but I would have thought it was sound management to go back and make sure, for future reference, that that had not happened.

Ms Bird—As I said, I think it is hypothetical. We do not know that that is the case.

Senator ROBERT RAY—I am not saying it is the case, but you will never know if it is the case unless you look at it.

Ms Bird—It is true also, of course, that Commissioner Cole's terms of reference have expanded, as Mr Moraitis explained, so that has in and of itself generated additional documents that would not necessarily have gone to Volcker.

Senator ROBERT RAY—That is right, and that is highly distinguishable, I would have thought. I suppose the obvious question is: are you now satisfied that all documents retained within the department have been handed over? I am not even suggesting any would have been deliberately not handed over. I am asking: do you regard your system and search words for electronic retention systems as adequate and are you confident everything has been handed over?

Ms Bird—I am confident we have done everything feasible to provide all relevant documents, yes.

Senator FAULKNER—In relation to this classification issue you have just been canvassing with Senator Ray, if a document is declassified for the purposes of its being provided to the Cole commission, does that mean that document is permanently declassified? What is its status? Is it a temporary declassification?

Ms Bird—It is certainly declassified for the purpose of Cole. I am not sure whether it has any broader application.

Senator FAULKNER—That is what I am asking.

Mr McKinnon—The answer is that a declassification is a declassification for all purposes for all time.

Senator FAULKNER—Thank you. The original collation of documents was for the purposes of the Volcker inquiry, and that declassification was initiated or undertaken as a result of the Volcker inquiry, I assume.

Ms Bird—Yes, that was the impetus.

Senator FAULKNER—Can we assume from what you and Mr McKinnon have told us that the sort of analysis that you have talked about, undertaken for the provision of documentation for the Cole committee—in other words, the possible declassification of documents and the like—was not undertaken for material that was presented to Volcker?

Ms Bird—It will be slightly different for Volcker. He was not wanting to make that material public, for example, with witness hearings and the like. We did have to go through a process of ensuring that the Volcker investigators who looked at our material had, as I understand it, appropriate security clearances. We certainly did give them access to classified material, but you are correct, we did not have to declassify it.

Senator FAULKNER—But they had access to classified material?

Ms Bird—Yes, they did.

Senator FAULKNER—Certain classified material, I would imagine. I assume that it would depend on the classification, wouldn't it?

Ms Bird—They had the relevant classified material on our files.

Senator FAULKNER—You mean by that: all relevant classified material on your files? That is the import of my question.

Ms Bird—As far as I am aware, yes, that is correct.

Senator FAULKNER—In terms of the document collation for the Volcker inquiry, did you task a senior member of the department to undertake that role?

Ms Bird—The Volcker investigators came to Canberra. They wanted to go through our files themselves and they identified which of the papers they found they would take back with them to New York. That would have been done under supervision but that was how it worked for the Volcker inquiry.

Senator FAULKNER—For the Volcker inquiry, was there or was there not the collection of material from other agencies outside DFAT?

Ms Bird—In the context of Volcker, we did also get a range of material from a number of agencies. That was also made available to the Volcker inquiry.

Senator FAULKNER—That is the point. Those investigators working for Volcker did not hawk themselves around a whole lot of agencies, and that is fair enough. They went and plonked themselves down at Foreign Affairs. That is right, isn't it?

Ms Bird—That is correct.

Senator FAULKNER—So they were dependent on DFAT ensuring that whatever documentation came from other agencies had to be successfully extracted by DFAT itself?

Ms Bird—That is correct.

Senator FAULKNER—That is what I thought. Who was tasked with that responsibility? It seems to me to be an important and significant responsibility. At what level was the officer who was tasked with doing that?

Ms Bird—The compilation of relevant material in the context of Volcker was done under the supervision of the head of the Iraq Task Force.

Senator FAULKNER—So was this effectively a responsibility of the task force in the broad or a specific responsibility of the head of the task force?

Ms Bird—Successive heads of the Iraq Task Force have had oversight on this matter.

Senator FAULKNER—And who was the head of the Iraq Task Force at the time of Volcker? Was it Mr Pattison?

Ms Bird—No, it was not.

Senator FAULKNER—Who was it, then?

Ms Bird—It was Mr Bassim Blazey.

Senator FAULKNER—Okay. So he had that responsibility?

Ms Bird—Yes.

Senator FAULKNER—Are you able to tell us what agencies Mr Blazey contacted?

Ms Bird—My understanding is that a fairly wide range of agencies were contacted over the course of the investigation. I would have to take on notice the full list. I can say that the Volcker investigators were fully satisfied with the extent of cooperation they got from the Australian government.

Senator FAULKNER—I am not suggesting that they were not. It seems to me from what I have heard from agencies that some of this collection of material was a little patchy, with different processes applying in different agencies. We know that from the evidence that has been provided. That is not to suggest that Mr Cole, as we speak, does not have a very thorough set of documents—I am not suggesting that. But it is true, if you care to check the *Hansard* record in relation to the questions that have been asked of other agencies, that different approaches seem to have applied. A lot of agencies think that they have been providing material to DFAT in response to a subpoena from Cole, as you would appreciate from reading the transcripts. All I wanted to know in relation to the Volcker inquiry is which agencies the head of the Iraq Task Force requested documents from.

Ms Bird—I understand that it was a wide range of agencies, but let me take on notice the exact list.

Senator CHRIS EVANS—I might have missed this, but what was the deadline for preparing those documents for the Volcker inquiry?

Ms Bird—It was a bit of an iterative process. They came across to Canberra in February or March of 2005. They went through files and identified which papers they wanted. They took them back to New York. During the course of their investigation, they would occasionally come back to us with additional questions or issues, and we would pursue those with the relevant officials or agencies and provide material back.

Senator CHRIS EVANS—So the material provided to you by other agencies would have to have been compiled and made available to you by about February or March 2005?

Ms Bird—We certainly had quite a lot from that initial search. As I said, there was a bit of an iterative process as well.

Senator CHRIS EVANS—And that iterative process included other agencies apart from DFAT?

Ms Bird—Yes.

Senator CHRIS EVANS—When you say that they had access to the files, is that the form in which the information was provided by other agencies?

Ms Bird—Material was provided to us and put on our files.

Senator CHRIS EVANS—I see.

Ms Bird—What the Volcker people did was go through all of the material we had. As I mentioned, they identified which documents they wanted.

Senator CHRIS EVANS—When you were contacting the agencies to meet the Volcker requirements, are you suggesting that you actually specified what information you wanted in response to the Volcker request?

Ms Bird—We did. We had something a bit similar from Volcker. They identified which issues they were interested in. Clearly, what Volcker was interested in was the operation of the oil for food scheme and the role of businesses in that. We had some terms of reference which we made sure were conveyed.

Senator FAULKNER—I am now missing something here, because I do not quite understand the dates that you have given to Senator Evans. Volcker commenced his work in early 2004, didn't he?

Mr Innes-Brown—After April 2004—he was formally set up in April.

Ms Bird—You might recall, and it might be relevant, that he produced a series of reports—there were five Volcker reports—and it was the final one which went to the issue of the role of businesses in the oil for food scheme. That was at the tail end of his work.

Senator FAULKNER—Okay. So all this document collation and document search activity is focused on the fifth element of Volcker's work. Is that what you are saying?

Ms Bird—That is correct.

Senator FAULKNER—Hence what seems to be a slight non sequitur in the dates. However, that explains why the processes you are talking about occurred in 2005 and Volcker commenced his work after April 2004.

Ms Bird—I think that is right, because he produced previous reports about the UN's role—various interim reports—and the business part was at the end.

Senator CHRIS EVANS—I just want to follow through on that. You collected all that information from the various agencies in response to specified areas requested by Volcker relating to the three companies he was investigating, or was it more general than that?

Ms Bird—No. He was actually investigating all business interaction in Iraq. He was interested in the operation of all Australian companies that had participated in the oil for food scheme. Having looked at all the material, there were, as you are all aware, three companies about which some issues remained, and those were the three companies that were named in the Volcker report, but Volcker looked at a broader range of Australian companies.

Senator FAULKNER—When did you have your first contact with Mr Volcker or his investigators?

Ms Bird—We will have to take that on notice. There was contact before they came out, of course, but I will have to take on notice the precise first contact.

Senator CHRIS EVANS—In that first round of information gathering for the Volcker inquiry, was the Wheat Export Authority one of the agencies that provided you with material?

Ms Bird—Yes, they were one of the agencies contacted.

Senator FAULKNER—‘Contacted’ is different from the provision of material. It is one thing to be contacted, but it is another thing to cough something up.

Ms Bird—Yes.

Senator CHRIS EVANS—It is a separate question.

Senator FAULKNER—So you have not answered Senator Evans’s question, with respect.

Ms Bird—I thought the question was—

Senator FAULKNER—You have part-answered it.

Ms Bird—Yes, they were contacted.

Senator CHRIS EVANS—No, my question was: did they provide documentation as part of that request?

Ms Bird—That issue was raised at the estimates with the chairman of the Wheat Export Authority this week, and it was also answered by the Minister for Trade in the House yesterday.

Senator CHRIS EVANS—I am asking you as a DFAT representative. We do not necessarily get the same answers from different departments.

Ms Bird—I have nothing to add to what my minister said in the House yesterday and what the CEO of the Wheat Export Authority said in estimates this week.

Senator CHRIS EVANS—Your minister—do you mean Mr Downer?

Ms Bird—The Minister for Trade—we have two ministers.

Senator CHRIS EVANS—So you cannot tell me whether or not the WEA provided information as part of that search.

Ms Bird—My understanding is that that question was asked and answered in the WEA’s estimates hearing.

Senator CHRIS EVANS—Answered by whom?

Ms Bird—My understanding is that it was asked and answered in the WEA estimates hearing, and certainly the Minister for Trade—

Senator CHRIS EVANS—Answered by whom?

Ms Bird—By the head of the WEA; that is my understanding. But the Minister for Trade also answered that in the House yesterday.

Senator FAULKNER—I will make a political point, so it is directed to Senator Coonan. Senator, would you agree that Mr Vaile did not answer the question five times yesterday in the House of Representatives—

Senator Coonan—He did answer the question.

Senator FAULKNER—and hence, I suspect, that is the reason why my colleague is asking it? You would agree with that, wouldn't you, Senator Coonan?

Senator Coonan—No, I would not. In fact, I wish to place on the record that Minister Vaile did answer the question yesterday.

Senator ROBERT RAY—The lips moved!

Senator FAULKNER—That is right—in the sense that there are some words in *Hansard*, but I would put it a little differently: it was not that he would not answer, it was just that he could not answer.

Senator Coonan—He did answer the question.

Senator ROBERT RAY—We do not want to embarrass an official by contradicting him, of course—that would not be our aim.

Senator CHRIS EVANS—Ms Bird, I do not follow the House of Representatives as closely as I should, particularly when I am doing 14-hour days in estimates, so could you inform me what the minister said?

Ms Bird—I could get you a transcript, if you wish.

Senator CHRIS EVANS—Thank you. So you are not sure yourself?

Ms Bird—I heard it, and I said that I can get you a transcript.

Senator ROBERT RAY—It must have been memorable!

Senator FAULKNER—Or certainly as memorable as his other answers!

Senator CHRIS EVANS—So you are not able to help me with the Wheat Export Authority? You referred to what the chairman of the Wheat Export Authority said—

Ms Bird—Yes.

Senator CHRIS EVANS—Clearly, you have no direct control or involvement with them on a day-to-day basis, do you?

Ms Bird—No—they are not part of our portfolio.

Senator CHRIS EVANS—It is equally true that the chairman is not even full time with the organisation. As we found out, his knowledge is imperfect on these matters. So a request went

out to a range of agencies and we are not sure whether WEA was one of those, but that information was then compiled. You had an iterative process—

Senator Coonan—If I could just interpolate there, I think Ms Bird did say—and the record will show—that contact was made.

Senator CHRIS EVANS—Yes, but what I am not clear on is whether they replied.

Senator FAULKNER—Exactly.

Senator Coonan—I thought that the way you were just paraphrasing what was said meant that we do not know whether or not—

Senator CHRIS EVANS—What I meant to ask, so that the record is clear, is whether or not they responded and whether or not any information was provided to Foreign Affairs.

Senator ROBERT RAY—Relevant to my question, Minister, you would concede that I asked whether there would be any check later on and whether additional information had gone to Cole that did not go to Volcker. There would have to be some explanation. At some stage, that will come out, one way or the other.

Senator Coonan—I think that the officers are responding appropriately. As with all these matters, departments or anyone subject to a subpoena remains under a continual obligation to respond if something else becomes available. I am not saying that has happened here at all; I am just saying it would not be unusual because that is the way subpoenas work.

Senator ROBERT RAY—In fact, what I was saying, regarding the Volcker case—and that is not under a subpoena—

Senator Coonan—That is true.

Senator ROBERT RAY—is that we would expect the proper documents to have been delivered and, if not, the department that you are representing has every right to demand at some stage to know why.

Senator Coonan—They appear to be confident that they have produced what they can.

Senator ROBERT RAY—Yes.

Senator CHRIS EVANS—Just so I am clear, when that process with Volcker was completed and you received a subpoena from the Cole commission, did you repeat that process with the departments and agencies or just apply it to your department?

Ms Bird—The notice to produce was for the holdings that DFAT had. We interpreted that to mean all the papers that we had, which involved those that we had received from other agencies and departments.

Senator CHRIS EVANS—So, effectively, the files that you refer to and which you got from other agencies and departments were made available to Cole?

Ms Bird—Yes, that is correct.

Senator CHRIS EVANS—Just so I am clear—Senator Ray said he had asked the question, but I am not sure that I followed this—you did not then put out a subsequent request to those agencies et cetera to provide any information in relation to the Cole request?

Ms Bird—No. As I said, though, we are aware that the Cole commission has contacted a number of departments and agencies. We are also aware that a number of departments and agencies have provided material to Cole, but that is properly a matter for Cole.

Senator CHRIS EVANS—I am just trying to be clear. So, when you got your subpoena from Cole, you made available all the information that you had gathered and had on file for Volcker—this is no criticism; you made that available because clearly that was in your possession—and you made available other information the Department of Foreign Affairs and Trade had that specifically responded to the Cole subpoena?

Ms Bird—Yes.

Senator CHRIS EVANS—And that did not involve revisiting the other agencies? You did it only on your behalf?

Ms Bird—As I said, though, we are aware that Cole was doing that—

Senator CHRIS EVANS—I know. I just want to be clear. As I said, I got a bit confused by some of the earlier evidence, which I think has confused Volcker with Cole.

Ms Bird—I think you are right. I think there has been some confusion of what was done in the context of Volcker and Cole. In a sense, they overlap a little bit, so it is understandable.

Senator Coonan—Also, it is about documents within the department's possession, not ones that they can go and find.

Senator CHRIS EVANS—That is why I want to be clear. I, like Senator Ray, had got a slightly different impression from other evidence—and I am not saying that anyone misled us. The information that you had gathered from other agencies and departments was directed at the Volcker terms of inquiry and was not updated after the February-March period of 2005?

Ms Bird—That is correct, because the material for Volcker was of course about the oil for food program, which concluded towards the end of 2003.

Senator FAULKNER—We have got the processes that apply in relation to the Volcker inquiry and we have got a separate set of processes that the department has been obligated to involve itself in as a result of the notice from the Cole commission. After the Volcker investigators had completed their work at the Department of Foreign Affairs and Trade and before the department's work in relation to responding to the formal notice from the Cole commission, was there any activity done in the search for or collation of documents relating to these broad matters we have been canvassing?

Ms Bird—As I said, our searches were done in the context of Volcker. The Volcker report came out in October. Our searches were done up and through to that period. The important point is the material we had got from other departments related to the oil for food program, which of course was finished into 2003 in any case.

Senator FAULKNER—I appreciate that. But I am asking about after the conclusion of the work that was generated to assist the Volcker inquiry, which I think concluded with the investigators undertaking their work in the Department of Foreign Affairs and Trade—

Ms Bird—And subsequent contact.

Senator FAULKNER—Okay—and taking away relevant documents. I am interested in understanding whether there had been any bureaucratic activity on the part of the department, between that period and the requirements being placed on the department by Commissioner Cole, in relation to document search or collation or the like.

Senator Coonan—Can I just clarify: what do you mean by any activity? Do you mean that there was some anticipation of a royal commission?

Senator FAULKNER—There may well have been in some agencies.

Senator Coonan—Or do you mean that, just of their own motion, there was some process going on of collecting documents? I am just not sure.

Senator FAULKNER—In terms of some agencies, later in the process, for example, Mr Varghese in the Office of National Assessments on his own initiative undertook a certain search for documents and the like because he felt that that was an appropriate course of action. We know about what happened in relation to Volcker. We know about what has happened in relation to Commissioner Cole. I am asking whether any other broad activity was undertaken between those two periods by the department to search for documents in relation to the sorts of matters Mr Cole is canvassing in his commission.

Senator Coonan—Perhaps this is a matter for the chair but, in my view, your question is framed in a very broad way. You could search for documents relating to all sorts of things. What do you want to pin it to? Do you want to later pin it to the terms of the Cole royal commission? If I were trying to answer that question I would have difficulty understanding precisely what you wanted because you have framed it very broadly, with respect.

Senator ROBERT RAY—Can I reframe it: after the shock of the Volcker report in October 2005, did that spark any further searches in the department—without knowing, of course, by then that a commission was going to be set up? It is a bit of a shock to find you are named like your work. Is that clearer?

Ms Bird—There were only a couple of weeks, with respect, between the release of the Volcker report and the setting-up of the Cole commission.

Senator ROBERT RAY—So the answer is no. That is fine. We will move on.

Ms Bird—It depends on what you mean by ‘search’ but, as I said, there were only a couple of weeks between Volcker coming out and Cole being set up. Once Cole was set up, a whole new process was triggered.

Senator CHRIS EVANS—And that process turned up additional documentation which was added to the Volcker material and provided to the Cole commission?

Ms Bird—The Cole terms of reference are somewhat broader. They are different from Volcker’s. Volcker was looking at all Australian companies. After Volcker had done his work, Cole began looking at the three companies which were named. There have also been additional elements that have come up since.

Senator Coonan—And a very broad time frame from 1995.

Senator CHRIS EVANS—That is what I am trying to get on the record. So when you received the first subpoena from Cole, you did a separate search response to the subpoena, which included the original information to Volcker but was wider and covered further matters.

Ms Bird—We met the terms of the notice to produce that we received from the Cole commission.

Senator CHRIS EVANS—But that included additional material to that provided to Volcker.

Senator Coonan—It was responsive to the notice to produce, so that was clearly different to Volcker.

Senator CHRIS EVANS—It is not a trick question, though. Did it include additional information?

Ms Bird—As I said—and I am not trying to be difficult—we met the precise terms of the notice to produce that we had from Cole. That was different to the request we had from Volcker, so there may be some differences in documentation. I cannot tell you exactly how many documents might have gone to one or the other—

Senator CHRIS EVANS—I did not ask you that. You have a subset of the Volcker documents. I am asking: in terms of the Cole commission, was there additional or different documentation to that you collected for Volcker?

Ms Bird—The time frame was different for a start, so yes, that is probably—

Senator CHRIS EVANS—That is all I wanted to know.

Senator FAULKNER—In other words, the issue is, after the bombshell of the Volcker inquiry but before the Cole royal commission was established, did any search of documents by departmental officers get initiated in the department? That is all—a broad search of documents.

Ms Bird—In those two weeks, I am not aware of that. There obviously would have been work that flowed from the Volcker report, but the next full document search was in the context of Cole.

Proceedings suspended from 12.32 pm to 1.31 pm

ACTING CHAIR (Senator Payne)—We will reconvene.

Senator FAULKNER—Mr Chester, I think this is best directed to you, through the minister. We have heard from officers from the Department of the Prime Minister and Cabinet that from time to time they have had cause to liaise with DFAT officials who are attending the royal commission. Are you able to say how many officials currently have been tasked to cover the duty of, if you like, the servicing requirements of the department at the Cole commission?

Mr Chester—I will ask Ms Bird to answer that.

Ms Bird—Yes, we do have DFAT officers at the hearings. The number has varied. We have sometimes had one, sometimes a couple.

Senator FAULKNER—Could you explain to me what the role of the officers there is?

Ms Bird—Yes. Essentially, there are two roles. We are liaising with our lawyers on matters that might come up before the hearing. We are also monitoring the hearings.

Senator FAULKNER—DFAT of course does have formal legal representation before the commission. That is right, isn't it?

Ms Bird—Yes, we do.

Senator FAULKNER—So they are liaising with the legal representatives from DFAT and doing other tasks as required?

Ms Bird—Yes, and monitoring the hearings.

Senator FAULKNER—Let us go to the monitoring first. What sort of role does the monitoring take?

Ms Bird—Essentially they are listening to the hearings and letting us know if issues relevant to DFAT come up.

Senator FAULKNER—Who is the contact person in the department for the monitors?

Ms Bird—The key contact is the head of the Iraq Task Force.

Senator FAULKNER—Is that Mr Innis-Brown these days?

Ms Bird—Correct.

Mr Innis-Brown—Yes.

Senator FAULKNER—How often do the responsible officers report to you, Mr Innis-Brown?

Mr Innis-Brown—As issues of particular interest to us arise.

Senator FAULKNER—So it is not done on a regular basis, in the sense that when the commission is in session you are not getting, say, a morning report and an afternoon report—just when something of interest might arise?

Mr Innis-Brown—Yes. We get contact in the morning and in the afternoon as well. After the end of the hearing, I generally have a discussion about what was canvassed.

Senator FAULKNER—That is really a little different to what you told us a moment ago, isn't it? Is that regular reporting on a daily basis?

Ms Bird—I think what we are saying is that it does vary. Obviously, if something comes up relevant to DFAT, they will report it to us when it happens. That might be a different time of the day each day.

Senator FAULKNER—Is the department receiving a daily report from those who are tasked to monitor the events at the royal commission hearings? Are you receiving a daily report back?

Mr Innes-Brown—Yes.

Senator FAULKNER—What level officer is tasked to provide that daily report?

Ms Bird—We have had a variety of officers doing this. We do not have the same one or ones down there all the time. I would characterise them typically as mid-level officers.

Senator FAULKNER—And that report is going back to you, Mr Innes-Brown. How formal is the reporting? Is it a telephone conversation? Are you receiving a written brief? Do you just get a text message, an SMS, or an email? What method of communication is used?

Mr Innes-Brown—It is a variety of different methods.

Senator FAULKNER—What are they?

Mr Innes-Brown—They are phone calls, text messages and emails.

Senator FAULKNER—Are you keeping copies of all of them? You cannot keep a copy of a phone call, I appreciate that.

Ms Bird—I should perhaps clarify that these messages are essentially alerting us to material that has come up at the Cole inquiry so that we know in real time what is happening. At the end of each day, in fact, a transcript of the hearings is put on the Cole inquiry website. All we are getting is some advance notice of some of the aspects of the transcript.

Senator FAULKNER—Why do you need that advanced notice?

Ms Bird—The media and others are reporting in real time. It is important for us to know if something is said that is relevant to the department.

Senator FAULKNER—Why is that important to you? I am not saying that it is not, but I just want to understand why the immediacy is so important.

Ms Bird—We might be questioned about it.

Senator FAULKNER—From where?

Ms Bird—From the media or others.

Senator FAULKNER—Who is handling those media questions?

Ms Bird—That is handled through our media liaison section.

Senator FAULKNER—Are you logging the amount of interest you have in the Cole commission at the media liaison section?

Ms Bird—I think we keep a log of these things. I am not in charge of the media area, so I cannot answer that.

Senator FAULKNER—Can we ask whoever might be to let us know what the pattern of interest is.

Ms Bird—We will try to find the relevant officer and come back to you.

Senator FAULKNER—Does the buck stop with you on this, Mr Chester?

Mr Chester—No, it does not. My understanding is that, as a matter of course, the media area of the department keep statistics on all contacts they have with the media. It is a part of the normal annual reporting process that they go through.

Senator ROBERT RAY—Is this the group that put out a statement last week? Issues were raised at the commission and, rather than no public comment or anything else, wasn't an actual statement put out by your department?

Mr Chester—That is correct.

Senator ROBERT RAY—Who put that out?

Mr Chester—That was put out under the department's name, so it is a departmental press release.

Senator ROBERT RAY—Was it put out via this group that you are talking about?

Ms Bird—Yes. It was done through our regular media liaison section. They put it out, yes.

Senator FAULKNER—Can you table a copy of it for us?

Ms Bird—Of the statement?

Senator FAULKNER—Yes.

Ms Bird—I would be happy to do so.

Senator FAULKNER—Thank you. Who authorised that statement being made public?

Ms Bird—That was authorised within the department.

Senator FAULKNER—I am sure that it would not have been done by a very junior officer.

Ms Bird—It was discussed with the secretary and authorised by the department.

Senator FAULKNER—Who ticked off the wording of the media statement? Who was the authorising officer who said, 'That's the wording that will go out'?

Ms Bird—Ultimately that is the secretary's responsibility.

Senator FAULKNER—So the secretary ticked off the wording. Who drafted the statement?

Ms Bird—That was drafted within the department.

Senator FAULKNER—By whom?

Ms Bird—Within the Iraq Task Force.

Senator FAULKNER—Mr Innes-Brown, you are the guru of the Iraq Task Force. Who drafted the statement?

Mr Innes-Brown—I drafted it.

Senator FAULKNER—Did you check the wording with Mr Downer or his office?

Ms Bird—This was a departmental statement. We did discuss with our minister's offices that we were planning to issue this statement but the statement is a departmental one.

Senator FAULKNER—I know that. I appreciate that, Ms Bird. That has been made clear. That was not my question. Thank you for the information. I asked whether the minister or the minister's office was consulted.

Ms Bird—Yes, they were consulted. They had a draft but it was the department's statement. We took responsibility.

Senator FAULKNER—But the statement went to the minister's office, didn't it?

Ms Bird—They had a copy of it. I am not quite sure at what time.

Senator FAULKNER—But the fix was put in at the level of the minister's office?

Ms Bird—No. This was a departmental statement.

Senator FAULKNER—Why did a draft go to the minister's office, then?

Ms Bird—I am not sure whether it was a draft. I may have misspoken. All I am saying is that they did have a copy of the words. I am not sure at what time. I would have to take that on notice.

Senator FAULKNER—It does sound like the minister's office was in the swim with that one.

Ms Bird—Let me take it on notice. I am not sure that it is appropriate to go in detail to our dealings with the minister's office. I can say that there was consultation but this was a departmental statement.

Senator ROBERT RAY—What is the trigger point? We keep hearing lectures about not running parallel inquiries with Cole, not jumping the gun, not running a full-time commentary on it et cetera, and you are putting out press statements. Why?

Ms Bird—I will explain. There was a very serious allegation being made about the department in a witness statement. We felt it was important to correct the record rather than let it stand.

Senator ROBERT RAY—You have legal representation there to make these points for you, haven't you?

Senator Coonan—It does not always work like that, Senator Ray. With the sequence witnesses are called at an inquiry it is not always easy for someone who has representation to stand up and correct the record like we can, for instance.

Senator ROBERT RAY—It just seems to me that it is a bit selective. When the department gets offended by information it can put out its own statement but on other occasions it can be protected from answering questions. It seems a bit strange to me. How much is DFAT's legal representation to the commission likely to cost?

Senator FAULKNER—While the officers are looking for that, were you going to provide the statement, Ms Bird?

Ms Bird—Yes.

Mr Moraitis—It is hard to say at the moment; it is early stages. The ballpark figure, given that we need to engage solicitors and both junior and senior counsel, is something between \$200,000 and \$500,000.

Senator FAULKNER—Who have you briefed?

Mr Moraitis—We have instructed Sparke Helmore, a law firm based in Sydney. They have instructed two counsel: Alan Robertson, senior counsel, and Ian Neil, who is his junior.

Senator ROBERT RAY—These are both Sydney based counsel?

Mr Moraitis—Correct.

Senator ROBERT RAY—I read somewhere that most of the counsel fly up from Melbourne.

Mr Moraitis—That is correct; most of the bar in front of the commission to date are Melbourne based. I think there is a Friday afternoon rush to Sydney airport. It has been noted by the commissioner as an issue for the proceedings.

Senator FAULKNER—What costs have been borne by the department so far for the solicitors and counsel you have engaged?

Mr Moraitis—As yet we have not received any bills from solicitors or counsel. Of course, they have been engaged. I am giving you a ballpark prediction of the sort of bill we are expecting.

Senator ROBERT RAY—Are the solicitors and counsel representing DFAT or representing DFAT as the lead agency of government?

Mr Moraitis—No. To make that clear, our instructions to our solicitors and to our counsel are as follows: they are representing the Department of Foreign Affairs and Trade and its employees.

Senator ROBERT RAY—Are they representing Austrade?

Mr Moraitis—Not that I am aware of. I am not saying that it is not possible at some time in the future but at this stage my understanding is that both solicitors and counsel are acting for the Department of Foreign Affairs and Trade and its employees.

Senator ROBERT RAY—I could be nasty and ask whether that is because they are a statutory authority, but take it as a rhetorical question.

Mr Moraitis—I will take it as rhetorical.

Senator FAULKNER—Mr Tapp, has AusAID engaged any legal representation for the purposes of the Cole royal commission?

Mr Tapp—No.

Senator FAULKNER—Is AusAID monitoring with any staff, as the department is, the developments at the commission?

Mr Tapp—Yes.

Senator FAULKNER—How many staff have you got at the commission?

Mr Tapp—One.

Senator FAULKNER—Who does that staff member report to?

Mr Tapp—That staff member will be reporting to Mr March, who is in charge of the area of our agency which has responsibility for our humanitarian programs.

Senator FAULKNER—What are the reporting arrangements for your staff member?

Mr Tapp—Monitoring any issues which pertain directly to our agency. We have ad hoc reporting coming to us from Sydney.

Senator FAULKNER—What will the nature of this reporting be? Is it as ad hoc as Mr Innes-Brown has described DFAT's monitoring activities?

Mr Tapp—It would be a combination of telephone calls and text messages.

Senator FAULKNER—No emails or written reports?

Mr Tapp—I am not aware of any emails.

Senator FAULKNER—What position does Mr March, who is on the receiving end of these text messages and telephone calls, hold?

Mr Tapp—Mr March is an assistant director-general within AusAID. He is our humanitarian coordinator.

Senator FAULKNER—What does he do once he gets the information? Does he rest easier at night? What happens then?

Mr Tapp—I will ask Mr March to come to the table.

Mr March—I periodically receive text messages and phone calls from the officer who is monitoring the Cole commission. On the basis of the receipt of that information, I either advise relevant officers in AusAID or on occasions circulate email to staff.

Senator ROBERT RAY—When you get the text messages or phone calls do you make a note for file? I am wondering whether the record trail is here.

Mr March—On issues of substance where I generate an email advising staff, that email is filed.

Senator ROBERT RAY—If it is not a matter of substance, there is no email and no paper trail; if it is a matter of substance there is always an email and a paper trail.

Mr March—That is correct.

Senator ROBERT RAY—Paper trail is not the right word, but you know what I mean.

Mr March—That is correct.

Senator FAULKNER—Mr Innes-Brown, with the Iraq Task Force you would be getting your fair share of text messages and phone calls. What do you do when they come in?

Mr Innes-Brown—It depends on the issue and what the information is. If it is significant, I will send it on to relevant officers in the department and to ministerial officers.

Senator FAULKNER—The Minister for Trade and the Minister for Foreign Affairs?

Mr Innes-Brown—Yes.

Senator FAULKNER—You are acting as a point man for the inquiry for the ministers.

Mr Innes-Brown—I would not say that.

Senator FAULKNER—I know; I said that. It sounds like that is what you are doing. There is an operation going where, as I say, you are just a point man for Minister Downer and Minister Vaile at the inquiry. Are you producing any more formal reporting? Do you tell Mr Chester or Ms Bird what is going on? They are senior to you in the department, aren't they?

Mr Innes-Brown—Yes, I tell Ms Bird what is going on.

Senator FAULKNER—Is it just verbal communication or have you written any briefs or anything a bit more formal than just passing something on verbally or by telephone?

Mr Innes-Brown—No, sometimes it is forwarding the information verbally.

Senator FAULKNER—And sometimes it is not—is that right? Have you done any written briefs at all—emails, written briefs, anything more formal?

Mr Innes-Brown—There are emails. Emails are forwarded on.

Senator FAULKNER—Do you compose the emails or are you just the point man for someone else?

Mr Innes-Brown—It varies. Sometimes I am and sometimes if I, for instance, receive the information from a telephone call, I might type an email and send it to people who have an interest in the issue.

Senator FAULKNER—So you just make these judgments depending on what you consider the import of the information that is flowing through from the commission. Is that how it works?

Mr Innes-Brown—That is right, Senator.

Senator FAULKNER—Copies of all this material have been forwarded to the minister's office?

Mr Innes-Brown—Not all material, no.

Senator FAULKNER—You make the judgment on what you sent off to the minister yourself, do you?

Mr Innes-Brown—That is correct.

Senator FAULKNER—How to make that judgment? Is it political sensitivity or—

Mr Innes-Brown—It depends on what the issue is.

Senator FAULKNER—Yes. I am just asking you how you make the assessment.

Mr Innes-Brown—Basically, if something comes up that relates to the portfolio that is of interest to other members of the department or ministerial officers, I will convey it.

Senator FAULKNER—Do you convey it to other members of the task force?

Mr Innes-Brown—That is right, yes.

Senator FAULKNER—You do that as well.

Mr Innes-Brown—The Iraq Task Force in DFAT.

Senator FAULKNER—But the Iraq Task Force in DFAT consists of representatives of other agencies as well, doesn't it?

Mr Innes-Brown—No.

Senator FAULKNER—Not anymore?

Mr Innes-Brown—No. It is just DFAT staff. That is the name of the administrative unit in DFAT.

Senator FAULKNER—I see. What about AusAID? Is that represented on the Iraq Task Force?

Mr Tapp—Not in the administrative unit in DFAT, no. There may be meetings.

Senator FAULKNER—Is there a terminology issue here, Mr Chester, when we talk about the administrative unit? You had better let me in on the secret.

Mr Chester—I think that there is. There is a section within the department called the Iraq Task Force that Mr Innes-Brown heads. It comprises something like six officers of the department. Then there is an interagency body that meets on occasion that is also called the Iraq Task Force.

Senator FAULKNER—I wondered. The interagency body is effectively an IDC, isn't it?

Mr Chester—That is right.

Senator FAULKNER—That Iraq Task Force still exists?

Mr Innes-Brown—That is correct.

Senator FAULKNER—Who chairs that Iraq Task Force?

Mr Innes-Brown—I do.

Senator FAULKNER—It is surprising not to have come up with another name for your internal organisation than 'Iraq Task Force' as well. Has it caused any problems administratively, Mr Chester, that no-one has been creative enough to come up with a slightly different name?

Mr Chester—It causes us no problem.

Senator FAULKNER—I am sure that that will be a relief to everyone, Mr Chester. There are certainly enough problems with the department without having that one. I suppose, Mr Innes-Brown, you would let the media liaison people in DFAT know of developments in the Cole commission too, would you?

Mr Innes-Brown—Not on a regular basis.

Senator FAULKNER—On a need-to-know basis?

Mr Innes-Brown—If something arises that they have an interest in they will be in contact.

Senator FAULKNER—They will be in contact?

Mr Innes-Brown—The members of the media liaison section.

Senator FAULKNER—I misunderstand you. I would have thought that you would proactively try to contact them if there had been a matter of concern raised at the task force. It has been indicated to us earlier that a lot of media inquiries had been generated.

Ms Bird—Typically, if the media liaison section gets a media inquiry about matters to do with the Cole commission they will pass that on to Mr Innes-Brown's area and it will be the responsibility of Mr Innes-Brown to prepare talking points as appropriate, which are passed back to the media liaison section.

Senator FAULKNER—So who made the decision to produce this media release that has now been tabled, DO2 7 February 2006? We know that its content was authorised by the secretary. We know that Minister Downer's office was in the fix somewhere about its composition, but who—

Senator Coonan—We know that the minister's office was informed. We do not know what the role is. I could take that on notice if that is something that you really want to find out about.

Senator FAULKNER—I think that we all know. This is probably best directed through Minister Coonan to Mr Chester, if he would be able to assist us. Who actually decided that an appropriate response in the circumstances was that the department would issue a media release?

Mr Chester—I do not know the answer to that but normal practice for decisions like this would be for a process of consultation within the department between those officials that are involved and have carriage in this issue.

Senator FAULKNER—I am sure that you have tried to be helpful, Mr Chester, but you have not actually shed much light on it, so I wonder whether any of the other officials might help us. Minister, can you establish for us from the officers at the table who was responsible for determining that the issues before the Cole commission on 7 February 2006 warranted a media release being issued from the Department of Foreign Affairs and Trade?

Senator Coonan—My understanding of the evidence was that this was ultimately a decision made by and with the authority of the secretary. If I am wrong about that, I will come back to you, but that is my understanding of the answers that were given.

Senator FAULKNER—My understanding of the evidence is that the secretary ticked off the content of the media release. That was my understanding of what was told to us.

Senator Coonan—There may be a distinction but it is not one that was immediately apparent to me in the way I heard the—

Senator FAULKNER—Was the decision to put out a media release one made by the secretary of the department? Did the secretary take the initiative?

Ms Bird—It was under his authority. The allegation was made. This triggered some discussion within the department about how we could best deal with this serious allegation. It was decided at senior levels under the secretary's authority that a statement would be issued.

Senator FAULKNER—So it was not the secretary; it was at senior levels under his authority?

Ms Bird—He did not draft a statement as such, but he was certainly consulted on this and this was the course of action that it was decided to take.

Senator Coonan—I do not think that there is any doubt that it was authorised by the secretary. That was the point, Senator.

Senator FAULKNER—After consultation with the minister.

Senator Coonan—I do not know that that has been established.

Senator FAULKNER—It actually has been. We have heard evidence to that effect.

Senator Coonan—I think that his office was informed. That is different from consulting the minister.

Senator ROBERT RAY—Not under the Westminster rules.

Senator Coonan—We can probably spend the rest of the day on something like that.

Senator ROBERT RAY—The reason we cannot comment on ministerial staff here is that they are an extension of and represent the minister—

Senator Coonan—I understand what you are saying but what Senator Faulkner was putting was that there had been some specific consultation with Mr Downer. I do not think that that, as a fact, happened. But there is no dispute that his office was informed and no doubt about the principles that you talk about applying. But it is a different factual matter as to whether the minister was actually consulted.

Senator FAULKNER—Let us use your terminology for a moment, inadequate though it is. Was Mr Vaile's office also 'informed'?

Senator Coonan—I will have to ask.

Senator FAULKNER—I bet I know the answer.

Ms Bird—We will need to take that on notice. We cannot recall.

Senator FAULKNER—You cannot recall. Are you saying to me that Mr Innes-Brown, who seems to have perfect recall, in relation to Mr Downer's office, has suddenly lost his memory in relation to Mr Vaile's office?

Ms Bird—We do not have that answer. We will take it on notice.

Senator ROBERT RAY—He could have regarded Vaile as so inconsequential—

Senator FAULKNER—I take that as a given, but I do not think that that is necessarily the reason. You cannot recall, Mr Innes-Brown?

Mr Innes-Brown—No. If I was absolutely certain, I would tell you. I do not want to mislead; that is why I prefer to check.

CHAIR—That is very admirable.

Senator ROBERT RAY—Do not get a job at the Wheat Export Authority, then.

Senator FAULKNER—He could head a department on that basis.

Senator ROBERT RAY—Senator Faulkner has drawn stumps on that issue. Minister, prior to Ambassador Thawley's meeting with Senator Coleman, is it correct that officials from our embassy in Washington met officials of that committee?

Senator Coonan—That comes pretty much within the direction that the government has given in relation to this matter. These are matters before the Cole inquiry.

Senator ROBERT RAY—Mr Thawley's behaviour is before the inquiry?

Senator Coonan—No, issues to do with the subject matter are before the inquiry.

Senator ROBERT RAY—Anyway, I have asked the question of you.

Senator Coonan—The subject matter that you are directing your questions to is before the Cole inquiry.

Senator ROBERT RAY—So you will not confirm that officials from the Australian Embassy met with officials of Senator Coleman's committee to discuss matters before the meeting between Ambassador Thawley and Senator Coleman?

Senator Coonan—The chronology and the subject matter are matters that could be within the purview of the Cole inquiry, so my answer stands.

Senator ROBERT RAY—I am asking you when these meetings took place and who was present at the meetings.

Senator Coonan—My answer stands.

Senator ROBERT RAY—I am asking you what information those officers provided officials of Senator Coleman's committee.

Senator Coonan—I appreciate what you are asking, but it comes within the potential ambit of what is now the Cole inquiry and you know the government's position.

Senator ROBERT RAY—And I am asking you what information US officials of Senator Coleman's committee provided Australian Embassy officials prior to Ambassador Thawley meeting with Senator Coleman.

Senator Coonan—It is the same answer.

Senator ROBERT RAY—On what date did Ambassador Thawley meet with Senator Coleman?

Senator Coonan—It is the same answer.

Senator ROBERT RAY—Were instructions issued from DFAT to Ambassador Thawley as to how to approach the discussion with Senator Coleman?

Senator Coonan—The same answer stands.

Senator ROBERT RAY—Has an apology been issued to Senator Coleman for him being so grossly misled by Ambassador Thawley?

Senator Coonan—The same answer stands, but, as I understand the record, Senator Coleman in fact put out a press release dealing with those matters and certainly no apology was called for.

Senator ROBERT RAY—Do you think Senator Coleman might get called before the Cole royal commission?

CHAIR—How can she answer that?

Senator ROBERT RAY—That is good. She cannot answer that, but all the ones they can answer, they will not answer.

CHAIR—As you well know, that is a question beyond her knowledge. The commission is independent. Which witnesses it chooses to call from time to time is entirely their province and the minister could not possibly begin to understand what is going on in the mind of—

Senator ROBERT RAY—But the minister can presume on a whole range of things that it may be possible to be put before it. It is inconceivable that the meeting between Ambassador Thawley and Senator Coleman is relevant to the Cole royal commission—just as it is

inconceivable that anyone would be so dopey as to suggest Senator Coleman would be called. That is the reason for the question—to show the absolute inane stupidity of ruling out questions on those matters.

CHAIR—I do not agree with you.

Senator ROBERT RAY—Which you have not done. It is coming from the minister.

CHAIR—I do not agree with you. I think the direction is entirely appropriate given a royal commission. The lines of inquiry that this commissioner wishes to pursue need to be left open and available to him without prejudice. I think going down this path is fraught with danger and completely undermines what is sought to be achieved by having an inquiry of this dimension. I think the minister is entirely within her province. To ask her what is in the mind of the commissioner really stretches it beyond the credible.

Senator ROBERT RAY—Your intervention is unnecessary. Nevertheless, in the spirit in which the committee has gone, I do not mind it. But there is a factor in the minister's mind that can determine what matters are likely to come before the commission—undefined at this committee, you have to admit. We are not told where the boundaries are. Of course, as soon as questions that they do not want to answer are asked, they fall within that boundary. Relationships between an ambassador and a US senator are not going to come up at the Cole inquiry—you know it and I know it.

CHAIR—I certainly do not know that. Indeed, you have asked the questions because you think there may be some nexus. Your questions themselves disclose the connection.

Senator ROBERT RAY—I am entitled to ask questions on anything to do with this department. There does not have to be a nexus between that, AWB, trade or anything else. That is a stupid proposition.

CHAIR—I do not think it is—and I think the minister is entirely within her province to give you the answers she has given.

Senator ROBERT RAY—I am not challenging that, so I will get on with asking questions. If the minister does not want to answer them, that is her business, but you have intervened to say that my questions are not relevant.

CHAIR—The question about what is in the mind of the commissioner in terms of what witnesses he is going to call is—

Senator ROBERT RAY—But they are presuming that when they bring down this cabinet decision and direction. It is only under their definition that we are allowed to get answers to questions.

CHAIR—Let us get to some real questions.

Senator ROBERT RAY—Real or not, I am going to ask them. It is the opposition's job to ask questions.

CHAIR—I think it is.

Senator ROBERT RAY—I do not make any other reflection on you other than say that is our job.

Senator Coonan—I will add something to that, because I think it is very important. No one is suggesting that you are not entitled to put your questions. It is just that you know the government's position in relation to the direction.

Senator ROBERT RAY—I think you missed the nuance of the chair's statement, where he was implying I should not be asking questions. I will.

CHAIR—I was not implying that.

Senator Coonan—It is not a point I am taking.

Senator ROBERT RAY—He is a helpful chair; I am not critical of him.

CHAIR—There is the kiss of death!

Senator ROBERT RAY—I have been under a lot worse this week, believe you me. Our friend from Junee is much worse than you.

Senator Coonan—I think there is a clear distinction between being able to put a question and what response you might get. I just do not want it to be said that I am suggesting you should not be asking questions.

Senator ROBERT RAY—I accept that.

Senator FAULKNER—Mr Chester, I assume you do not have much direct responsibility for the Iraq Task Force or the matters before the Cole royal commission. You seem very relaxed at the hearing today, smiling from time to time.

Senator Coonan—Does he not normally smile?

Senator ROBERT RAY—Yes, he does.

Senator FAULKNER—He is often smiling. Is this now in Ms Bird's area of responsibility in the department?

Mr Chester—That is correct.

Senator FAULKNER—Let me ask you—because you are such a happy grey eminence at the committee now—is it fair to say that much of the corporate knowledge of the department rests with you?

Mr Chester—I have had oversight of that area for some time. I cannot vouch for the amount of knowledge.

Senator FAULKNER—How regularly are press releases put out by the department as opposed to by the minister? Is it a pretty regular occurrence? We have this one on 7 February, but does it happen very often?

Mr Chester—I do not know the precise numbers, but if you look at our website I think there are a number of departmental press releases on it.

Senator FAULKNER—Is this the most recent departmental press release—the one of 7 February that has been tabled?

Mr Chester—I think it is. I do not have detailed knowledge of what has been issued and when, other than to say that there have been a number of departmental press releases over the years.

Senator FAULKNER—What was the date of the second most recent departmental press release?

Mr Chester—I will have to take that on notice.

Senator FAULKNER—I would appreciate that. I just thought you might know, with all your experience. We shall see.

Senator ROBERT RAY—Is it usual for DFAT officials to travel with Australian companies on trade missions overseas?

Mr Chester—There will be trade missions, for example when a minister takes a trade mission with him, when it would not be unusual for there to be a Department of Foreign Affairs and Trade official on that mission. It does not happen all the time. I am sure it has happened on occasion.

Senator ROBERT RAY—I am asking: are there circumstances with a trade mission going overseas less a minister that DFAT officials would travel with that trade mission?

Mr Chester—Without a minister?

Senator ROBERT RAY—Yes.

Mr Chester—I think that would be very unlikely. Somebody behind me may be able to think of an instance, but I certainly cannot.

Senator ROBERT RAY—I have a newspaper article that suggests that, but I do not want to go to the details because we are talking in general not specifically, so far. Specifically—and I remind you I do not want you to comment on the specific case—I notice when Mr Lindberg went to Iraq the newspaper reports say he was accompanied by DFAT officials. I think that might be wrong, that it might have just been an official, because it goes on to say that the official was not present when any of the nastier side of stuff might have been done.

Ms Bird—If we could correct that, that is an erroneous media report. DFAT did not accompany Mr Lindberg on that visit to Iraq.

Senator ROBERT RAY—That is a very foolish answer, I may suggest, because you are willing to answer about AWB and those sorts of things when it suits you, not when it does not suit you.

CHAIR—No, that is a correction of the public record.

Senator ROBERT RAY—No, that is an official here answering about matters that may be before the Cole commission allegedly. That is what it is. It just happens to be suitable.

CHAIR—And she is bound to correct it because you have put it to her in such a way that the question is absolutely meaningless unless she spits it back at you.

Senator ROBERT RAY—No, I was just waiting for the minister to intervene and direct her not to answer the question. I appreciate the answer to the question. I am just showing the absolute hypocrisy of this government's position.

Senator Coonan—If she knows it is not correct, surely she can say so.

Senator ROBERT RAY—You are now saying I can run a whole range of things here that may appear before the Cole commission and if it is not correct the officials may answer it—

which implies that every time they do not answer it is correct. What a nonsense position we are in.

Senator Coonan—That was a very simple question, as to whether somebody went or they did not.

Senator ROBERT RAY—Of course it was a simple question.

Senator Coonan—If you are talking about the substance of this whole issue, we know now, for instance, from the evidence that has been before the committee today that the Cole inquiry notice to produce goes back to 1996. That gives you a fair scope of how broad the gathering of at least documents is in relation to this matter.

Senator FAULKNER—With respect, Senator Coonan, I thought the committee was told in 1995.

Senator Coonan—1995.

Senator FAULKNER—Just correct the record. Good idea.

Senator Coonan—1995, 1996—it is a fair sweep.

Senator FAULKNER—It is 1995. I am just correcting your statement, that is all.

Senator Coonan—That is fine. It is an extra year.

Senator FAULKNER—It is. Your statement was wrong and I thought it had better be corrected.

Senator Coonan—It gives us an extra year in which issues go to this inquiry.

Senator ROBERT RAY—When the Canadian mission at the UN raised concerns with the UN over the behaviour of the Australian Wheat Board, did we ask our mission in Ottawa to follow these issues through?

Senator Coonan—That is very clearly a matter that the Cole inquiry has specifically identified as something to look at. Mr Cole has publicly said that he is going to look at that. It is in paragraph 9 of Mr Cole's statement that he made I think on 3 February, in which he said that that allegation that you just referred to was part of the matters that he will be specifically looking at.

Senator ROBERT RAY—I was asking if he had referred it to Ottawa. I am not sure that he is looking at that.

Senator Coonan—No doubt it is part of the substance of what he has specifically identified in his statement of what could be appropriate to look at.

Senator ROBERT RAY—I know it was raised through the UN, but I am wondering whether the Canadian government ever directly took it up with the Australian government.

Senator Coonan—It is a matter that is a subject of the direction, and it is certainly a subject of the inquiry.

Senator ROBERT RAY—But I am asking you, Minister.

Senator Coonan—I am saying that we set up an inquiry—

Senator ROBERT RAY—I am sorry, but there is not a direction to ministers not to answer questions, and that is why they have been doing a running commentary on *Lateline* for the last two weeks. I am asking you.

Senator Coonan—My answer is that the government has set up the commission of inquiry to find out all of the matters that are pertinent to the issues that are before the inquiry. This could be one of them.

Senator ROBERT RAY—Could be?

Senator Coonan—It could be, and it is appropriate that the inquiry pursues its course.

Senator FAULKNER—Mr Chester, in relation to this press release issue, when Mr Trevor Flugge was contracted with AusAID, did the Minister for Foreign Affairs make that announcement in a press release?

Mr Chester—I do not know.

Senator FAULKNER—Does someone else know? That would be the sort of thing that would have been caught up in your document search, wouldn't it?

Mr Tapp—I believe there was an announcement.

Senator FAULKNER—There was an announcement?

Mr Tapp—I believe there was.

Senator FAULKNER—Do you know what the date of that announcement was?

Mr Tapp—No.

Senator FAULKNER—Do you know if it was a joint announcement with Minister Downer and Minister Vaile

Mr Tapp—I cannot recall. I believe there was an announcement, but I do not know the date or exactly what the nature of the announcement was.

Senator FAULKNER—Are AusAID's ministerial reporting responsibilities direct to Minister Downer?

Mr Tapp—Mr Downer is our minister, yes.

Senator FAULKNER—Are there any reporting requirements or courtesies to the Minister for Trade?

Mr Tapp—We report to Mr Downer.

Senator FAULKNER—Are there any courtesies—drop copies of material and so forth—to the Minister for Trade?

Mr Tapp—When the Minister for Trade is acting as the Minister for Foreign Affairs—for example, if the Minister for Foreign Affairs is on leave—then there would be, but he would be acting as the Minister for Foreign Affairs.

Senator FAULKNER—I asked a question earlier about Mr Flugge and his contract. We know the date of the contract. As you would recall, I asked a question which was not answered about when Mr Flugge completed his work. The date of that contract was 28 April

2003. Is it true that Mr Flugge announced his resignation—his completion of that work and his leaving Iraq—on 18 November 2003?

Mr Tapp—I am afraid I do not know. I cannot answer that question.

Senator FAULKNER—Can anyone else help us?

CHAIR—I think that is a no.

Senator FAULKNER—You cannot confirm when the public announcement was made? I have now been able to find a copy of the public announcement. Can you indicate to me what the contractual date was on Mr Flugge's contract?

Senator Coonan—Do you mean commencement date?

Senator FAULKNER—We know what the commencement date is.

Mr Tapp—I have already answered that by saying that matters relating to that contract and the process and implementation of it are considered to be before Cole.

Senator FAULKNER—Hasn't it been publicly stated by an Australian Embassy spokesman that Mr Flugge's contract ended in December 2003? Haven't press releases been issued to that effect?

Mr Tapp—I have answered the question. I am not aware of any announcement relating to the end of Mr Flugge's work in Iraq.

Senator FAULKNER—So you cannot confirm that it was December 2003?

CHAIR—I think he really has clearly enunciated a negative to that question on about three different occasions.

Senator FAULKNER—Sometimes I receive a negative and sometimes—

Senator FERGUSON—We are working our way up to a positive.

CHAIR—I do not think you are going to, given the answer.

Senator FAULKNER—I am surprised that some of these questions receive an answer that perhaps the witness does not know. On other occasions an answer is given to similar or related questions that it is not proper that we answer this because it is a matter that comes within the purview of the minister's earlier directive. There is a massive inconsistency here in the approach that is being taken by the witnesses. It seems to me that the senators at the table have little choice but to try and work through all these matters, and different types of responses seem to be forthcoming to very similar questions. There is a lack of consistency which no doubt, as you are chairing the committee, you are well aware of.

CHAIR—I want you to work through your questions. I am keen for you to work through your questions, but when the witness answers a specific question—undeniably clearly, I think—to follow up with two subsequent questions that are almost identical is stretching it a bit, with great respect.

Senator FAULKNER—What do you mean by 'stretching it a bit'?

CHAIR—I think we are wasting time. But I am happy for the next question. If you want to go back and ask that question again, I think I can anticipate the answer.

Senator FAULKNER—I have asked a couple of questions about the end of Mr Flugge's contract. Sometimes the officers have answered that they do not know, and on a couple of occasions the answer has been that they would prefer not to give an answer. It is pretty inconsistent, as far as I can see.

Senator Coonan—Can I say that my recollection of the various answers is that, if there has been some issue to do with the course of the contract, obviously that comes within the direction. If it is asking for confirmation of some public day or date that is enunciated in some public document, that appears to be in a different category.

Senator FERGUSON—Because they do not know.

Senator Coonan—You would need to put to the witness what it is that you are accusing him of being inconsistent about.

Senator FAULKNER—I am not accusing anybody of anything.

CHAIR—That is a relief.

Senator FAULKNER—This is to you, Senator Coonan, not to any of the witnesses. You are saying that if a date can be established in some public document—and that is your terminology—then it is reasonable for an answer to be given.

Senator Coonan—You can put it to the witness. That is what I am saying. It may be that they can confirm it, it may be that they do not know, it may be that they want to take it on notice—there is a variety of ways in which they can respond. But asking about some factual matter relating to a date that has been out in the public arena, from some credible source like the *Gazette*, is different to asking about someone else's view about when something might have ended or started, or what was in the middle of it. I think the course of the contract is a different matter to a date.

Senator FAULKNER—What was the date when the Canadian government's concerns about AWB were first brought to the attention of Australia and DFAT?

Senator Coonan—According to the document that was issued by the commissioner, it was January 2000.

Senator FAULKNER—Thank you. As a result of those concerns, did the department of foreign affairs seek advice as to the obligations of the Australian government with regard to the broad issue of contractual arrangements under the oil for food program?

Ms Bird—With respect, this falls within the purview of the government directive. These are matters before Cole.

Senator FAULKNER—Do you think these are matters before Cole, Senator Coonan, or do you think—as this committee has received evidence in the past and these are matters on the public record—that an estimates transcript of ministers or witnesses at the table fits the category of material that has previously been acknowledged in the public arena?

Senator Coonan—As I said a little earlier, my view is that the directive has superseded the information that has been adduced in previous inquiries and these witnesses, who are subject to the direction, are therefore not competent to answer these questions.

Senator FAULKNER—All right. So we have a further redefinition of the public record?

Senator Coonan—I do not think so.

Senator FAULKNER—Yes, we have. You just said a moment ago that, if a credible source—and maybe you do not consider departmental evidence at estimates committees—

Senator Coonan—No, a document like the *Gazette* was my example.

Senator FAULKNER—All right. Do you consider the evidence in the *Hansard* record of this particular legislation committee to be a credible source?

Senator Coonan—Of course it is a credible source. What I said was that the direction has now superseded the ability of these witnesses to give responsive answers if it comes within the direction.

Senator FAULKNER—I am asking whether, as a result of the Canadian concerns, DFAT sought any advice in relation to the Australian government's obligations in relation to the contractual arrangements of the oil for food program.

Ms Bird—With respect, that is a matter covered by the directive.

Senator FAULKNER—Minister, is DFAT aware whether ministers' offices were involved in the seeking of any such advice?

Senator Coonan—The knowledge of the Commonwealth is clearly a matter that comes within the Cole inquiry, and I do not propose to make any further comment.

Senator FAULKNER—Is the minister aware as to whether any other agencies of the Commonwealth were involved in seeking any such advice?

Senator Coonan—The knowledge of the Commonwealth is relevant to the matters before the Cole inquiry and I will not be making any further comment.

Senator FAULKNER—Is the minister aware as to whether any public moneys were expended in relation to such advices?

Senator Coonan—Assuming there were such advices—and I am not giving you any answer in respect of that, but there is an assumption in your question—my previous answer stands for this question.

Senator FAULKNER—Is the minister able to explain to the committee what the nature of the Canadian government's concerns were at that time?

Senator Coonan—It is the same answer.

Senator FAULKNER—Is the minister able to outline the way the Australian government became aware of the concerns of the Canadian government?

Senator Coonan—The same answer.

Senator FAULKNER—On being alerted to the Canadian concerns by the United Nations, did the Department of Foreign Affairs and Trade have contact with the Canadian government about these concerns?

Senator Coonan—It is the same answer.

Senator FAULKNER—Is the Department of Foreign Affairs and Trade aware of whether the Australian mission at the UN or any other agency of the government had contact with the Canadians about these concerns?

Senator Coonan—That is clearly within the purview of the inquiry.

Senator FAULKNER—Some of those questions in very similar form have been answered by officials at this table in this committee in a previous estimates round. What do you understand, Minister, to be the case? Doesn't that fit the bill of the sort of credible evidence or record that you were referring to before?

Senator Coonan—No, I was referring to a date in the *Gazette*.

Senator FAULKNER—So, as far as you are concerned, any question about a matter that has been published in the *Gazette* is, in your understanding of the directive you have given to the committee, appropriate to canvass at this committee? Is that what you are saying to us?

Senator Coonan—No, I am not. I said a little earlier that the witness was able to deal with something put from a public document. That has been dealt with.

Senator FAULKNER—So could you explain to me the distinction? So I can understand—

Senator Coonan—We will go through it right from the beginning if you would like.

Senator FAULKNER—No.

Senator Coonan—All right—we will do it your way.

Senator FAULKNER—I think I can help, if you would listen for a moment.

Senator Coonan—I was not aware I needed help, but I am grateful to take help from any source, Senator Faulkner.

Senator FAULKNER—If you can define 'public record' for us—which is the terminology you have used—I will see if I can ensure that my questioning at times takes account of that.

Senator Coonan—You can ask your questions and we will answer them if we can. If we cannot, we will not.

Senator FAULKNER—You have said that it is appropriate to ask questions—

Senator Coonan—I did not say 'it was'; I said 'it may be'.

Senator FAULKNER—You said that it may be appropriate to answer questions, depending on the status of the public record. You have used as an example the government *Gazette*.

Senator Coonan—And we have dealt with the questions relating to the government *Gazette*. I have also said—just to try to shorten this a little bit, because we will be here probably until 3 o'clock in the morning, if everyone will stay and entertain us—that I do not dispute that some of those matters may have been canvassed elsewhere and that there may be a *Hansard* record with something resembling some of the questions that you are pursuing today. What I am saying is that cabinet has taken a decision and issued a directive so that these questions will not be dealt with today in those terms. The reason is that, since that time, the royal commission has been set up to deal with those issues in a public way, in a transparent way, that enables all those matters to be properly canvassed. The government has

taken the view that it should run its course at an appropriate time. No doubt you will be able to resume getting the responses to the questions.

Senator FAULKNER—You have caveated your statement by saying that certain questions—which, in your words, depend on a public record—are acceptable to be asked. You have used the example of the government *Gazette*. I am just asking about what other public records—

Senator Coonan—I cannot think of any.

Senator FAULKNER—So it is just the government *Gazette*?

Senator Coonan—You asked a question about the government *Gazette* and you got a response. If it deals with the subject matter that is the subject of the direction, the officers have very clear instructions and a directive. From the ministerial perspective, I of course have referred to the decision by the cabinet.

Senator FAULKNER—So you cannot think of any other—

Senator Coonan—I am not going to play this game, and I cannot think of any off the top of my head. If I sit here and think about it, I might be able to think of one for you.

Senator FAULKNER—I am interested in, for example, the annual report of the department. What is the status of that with regard to these matters?

Senator Coonan—The report is an annual report. If you want to ask some questions about it, start. You have several hours.

Senator FAULKNER—I do not want to take them unless we have to. So is the annual report of AusAID the annual report of the department? Is that the sort of document that meets the definitional test that the *Gazette* meets?

Senator Coonan—I would not know unless you ask a question.

Senator FAULKNER—You do not know?

Senator Coonan—If you ask a question I will try to respond to it appropriately, but I am not going to guess that the whole of a departmental report has some status that you are contending for.

Senator FAULKNER—Isn't questioning on the annual report core business for this estimates hearing?

Senator Coonan—Go ahead and ask your questions and we will see if they come within the direction or not.

Senator FAULKNER—So you do not know?

Senator Coonan—It depends on what your question is. It depends on the substance of your question.

Senator ROBERT RAY—On a related matter—so be suspicious—

Senator Coonan—Always.

Senator ROBERT RAY—That is good. Did our Australian ambassador in Amman receive a briefing from Mr Dominic Hogan and Mr Michael Long regarding their meeting on 25 June in Baghdad in 2002?

Ms Bird—With respect, that falls within the purview of the government directive.

Senator ROBERT RAY—I asked the minister.

Senator Coonan—There is an inquiry set up to deal with these matters.

Senator ROBERT RAY—Nevertheless, I have questions on this.

Senator Coonan—Yes, of course. I understand that. Nobody is disputing your right to ask them.

Senator ROBERT RAY—Thank you for that. You are just disputing my right to answers. We have been through that.

Senator Coonan—Maybe when we come back in May.

Senator ROBERT RAY—I am willing to bet not. There will be some new weasel words or excuse found to avoid accountability.

Senator Coonan—You should not be so cynical.

Senator ROBERT RAY—You have made me so. You are masters of cynical exploitation and the lowest common denominator.

CHAIR—Could we have our questions and let us keep trying to move on? That is the way to go.

Senator ROBERT RAY—I would like to know what information was provided to the ambassador at that meeting.

Senator Coonan—The answer stands, Senator.

Senator ROBERT RAY—What report back did the ambassador from Oman make to the department and was what he reported passed on to the minister?

Ms Bird—It is the same answer, Senator.

Senator FAULKNER—Was that report in the form of cable?

Ms Bird—It is the same answer.

Senator ROBERT RAY—Is Mr Long's claim that some mention was made in that report of Alia, the Jordanian trucking company, correct?

Senator Coonan—That is the subject of inquiry.

Senator ROBERT RAY—Did DFAT officials attend a meeting in Brisbane in late June or early July between Minister Downer, Brendan Stewart, Daryl Hockey and Michael Long? I think that was the same year—2002.

Senator Coonan—It is the same answer.

Senator ROBERT RAY—If they did, what DFAT officials were present?

Senator Coonan—At the meeting? Same answer.

Senator ROBERT RAY—Were notes of that meeting taken for file?

Senator FAULKNER—Who were the DFAT officials who attended?

Senator Coonan—Senator Ray has just asked that.

Senator FAULKNER—He asked whether officials attended. I am asking who they were.

Senator Coonan—Senator Faulkner, will you repeat that because I missed it?

Senator FAULKNER—Senator Ray asked whether DFAT officials attended the meeting. He has also asked about the recording of details of the meeting. Who were the DFAT representatives at the meeting?

Senator Coonan—It is the same answer.

Senator FAULKNER—Who determined that those particular officials attend that meeting on behalf of DFAT?

Senator Coonan—It is the same answer.

Senator FAULKNER—Did those officials report the outcome of those discussions to the secretary of the department in writing?

Senator Coonan—Same answer.

Senator FAULKNER—Is it true that a drop copy of that brief went to the minister?

Senator Coonan—Same answer.

Senator ROBERT RAY—Can you confirm that there was a meeting on 22 August 2002? I thought we would start with an easy one.

Senator Coonan—The easy answer is that it is the same answer.

Senator ROBERT RAY—That will not come up before Cole? Are you sure?

Senator Coonan—It will come up before Cole.

Senator ROBERT RAY—Okay; that is good. We know about this meeting because Mr Downer, I think, referred to the impending meeting during question time that day. Unless something else occurred that day or the *Canberra Times* got it wrong when they reported that it did occur, I will assume for the purposes of my question that the meeting did occur. Were department officials present at the 22 August meeting between the Prime Minister, Minister Downer and AWB officials?

Senator Coonan—It is the same answer.

Senator ROBERT RAY—And if they were present, who were they?

Senator Coonan—Same answer.

Senator ROBERT RAY—Was anyone else at the meeting, excluding the ones I have mentioned so far?

Senator Coonan—Same answer.

Senator ROBERT RAY—Did the departmental officials, if they were present, take minutes of the meeting?

Senator Coonan—Notes or minutes; same answer.

Senator ROBERT RAY—What was discussed at the meeting?

Senator Coonan—Same answer.

Senator ROBERT RAY—Were the recent meetings between the Australian Wheat Board officials and the Iraqi government discussed at that meeting?

Senator Coonan—Same answer.

Senator ROBERT RAY—In particular, were contractual arrangements discussed or did the Australian Wheat Board, yet again, fail to disclose such—

Senator Coonan—That is within the purview of inquiry.

Senator ROBERT RAY—Is it? Minister, did the issue of the Jordanian trucking company come up at that meeting?

Senator Coonan—That is a subject of the inquiry.

Senator ROBERT RAY—Finally, are we aware of any agreed joint action or conclusions that came out of that particular meeting?

Senator Coonan—These matters are the subject of the inquiry, as we have said. It is not that we are refusing to answer questions; we are not. We are simply saying that there is another place, another process, a royal commission set up to deal with these matters in an appropriate and transparent way. There can be proper findings and then it is a matter for what proper responses should be made. I want to repeat that for the record because it is important. The government has taken this course not in any way to deny this committee its core job. It is simply a matter of timing to allow the inquiry to run its course. The statement itself says that it might be appropriate for us to make responsive answers to all these questions once the inquiry has reported.

Senator ROBERT RAY—Minister, I am sure you are sincere on that.

Senator Coonan—I am.

Senator ROBERT RAY—I doubt the government's sincerity. They ambushed us on Monday morning. They had a full six or seven days to inform the opposition that answers would not be allowed. But no, cynically, they ambushed us on Monday morning knowing that we would have put the work in on these particular issues. If you do not mind, I have to remain a little cynical about it. I also note that, in spite of all the precedents claimed, you cannot find one instance where witnesses were directed not to answer questions because there was a parallel inquiry on. You people in opposition did it consistently.

Senator Coonan—That was canvassed up hill and down dale on Monday and I do not think we need to go over it all again. We know your position and you know the government's position. We do think that there are parallels, particularly with the Coronation Hill one, but I do not think this committee needs to be troubled with us canvassing that again. We have different views.

Senator ROBERT RAY—You raised it again. I have responded. I will not take it any further. When did DFAT first receive or learn of the contents of the 13 June memo of the UN

Office of Legal Affairs which warned that it would be impermissible to deal with Alia without the consent of the 661 sanctions committee?

Senator Coonan—That is so clearly within the purview of the inquiry that it is not something I am going to make any comment about.

Senator FAULKNER—How was this information communicated to the department?

Senator Coonan—It is the same answer.

Senator ROBERT RAY—If it was communicated to the department, what action did the department take to ensure that Australian companies were not using Alia, the Jordan trucking company?

Senator Coonan—It is the same answer.

Senator FAULKNER—What was the name of the departmental official or officials to whom this information was provided?

Senator Coonan—It is the same answer.

Senator ROBERT RAY—Was there any written correspondence in addition to the correspondence of 30 October and 2 November between DFAT and AWB? We know of two instances. Was there further correspondence surrounding this issue?

Senator Coonan—It is the same answer. While I have said throughout this committee hearing that you have every right to put questions, I cannot imagine why you really wish to do so. Why do you not wait for the next estimates when it is likely that the commission will have reported and we will be in a position to deal with these matters?

Senator ROBERT RAY—It is the Saint Augustine gambit: ‘Make me chaste, Lord, but not yet.’ We understand.

Senator Coonan—I am very chaste.

Senator ROBERT RAY—I was not implying anything in that regard other than the concept. I think that covers that particular issue.

Senator FAULKNER—Senator Coonan, following on from Senator Ray’s earlier questions about the correspondence of October and November 2000, can you confirm for the committee’s benefit that there was a significant amount of contact—a number of conversations both before and after that correspondence—between officials of the department of foreign affairs and AWB? Was that the case?

Senator Coonan—That is within the purview of the inquiry.

Senator FAULKNER—Can you say to the committee when that contact between DFAT officials and AWB employees took place?

Senator Coonan—That is within the purview of the inquiry.

Senator FAULKNER—Can you say to this committee which Department of Foreign Affairs and Trade officials were involved in those discussions?

Senator Coonan—That is within the purview of the inquiry.

Senator FAULKNER—Can you say to this committee whether the DFAT officers who were involved in the discussions noted the names of the AWB employees whom they had contact with?

Senator Coonan—That is within the purview of the inquiry.

Senator FAULKNER—Are there any records of that contact?

Senator Coonan—My answer remains that that is within the purview of the inquiry.

Senator FAULKNER—Can you indicate to this committee what form any such records are in?

Senator Coonan—My answer stands.

Senator FAULKNER—Can you indicate to this committee what information was provided by the AWB to the Department of Foreign Affairs and Trade at that time?

Senator Coonan—That comes within the purview of the inquiry.

Senator FAULKNER—On the other hand, can you indicate to this committee what information was provided by departmental officials to AWB employees about these matters?

Senator Coonan—I repeat my answer.

Senator FAULKNER—Can you confirm for the benefit of the committee that Alia was raised in those discussions?

Senator Coonan—I repeat my answer.

Senator FAULKNER—And the role of Alia?

Senator Coonan—My answer stands.

Senator FAULKNER—Are you able to confirm that reporting of these discussions was formalised to more senior departmental officers?

Senator Coonan—I repeat my answer.

Senator FAULKNER—Can you confirm whether the content of such discussions and briefs on these discussions were provided to the minister?

Senator Coonan—I repeat my answer.

Senator FAULKNER—Isn't it normal that these sorts of exchanges are reported through to ministers? You can confirm that for us at least, can't you?

Senator Coonan—I have not been the specific minister, so I do not know. You can ask the department or I will take it on notice as to what the normal practice is.

Senator FAULKNER—I know. I am directing my question to you. You are representing the minister at the table.

Senator Coonan—I will take it on notice as to what their normal practice is.

Senator FAULKNER—Isn't there anyone at the table who can help us in that regard?

Senator Coonan—I was about to ask them when you put it to me.

Senator FAULKNER—I think it is proper that I direct my questions to you.

Senator Coonan—I am not disagreeing. I am just saying I would either take it on notice as to what the practice is or, if there is someone here who can help us—

Senator FAULKNER—That would be good.

Ms Bird—Could you repeat the question?

Senator FAULKNER—I was asking Senator Coonan, given that she took a question on notice that I was surprised about, about the normal reporting mechanisms when departmental officers are involved in discussions. In this case, it was with AWB officials, but it could be if we are talking about normal practice—

Senator Coonan—That is what I thought; something generic.

Senator FAULKNER—It is normal practice if the department is engaged in discussions of some sort with representatives of outside organisations, major companies or the like. What is the normal departmental record-keeping process and reporting process?

Ms Bird—It very much depends on the meeting, on the subject matter and on its relevance to other issues of the day. Sometimes records would go to ministers' offices; sometimes they would not. Sometimes a cable might be generated; sometimes not. Sometimes there would be a file note. We have so many different meetings with so many different interlocutors there is no one standard pattern.

Senator FAULKNER—There is no one standard pattern, but there is nevertheless an expectation on the part of the senior officers in the department that proper recording and reporting takes place. It is fair to say that, at least, isn't it? It may take different forms, but you want to make sure that important discussions are properly recorded and noted.

Ms Bird—Correct. We take record keeping very seriously.

Senator FAULKNER—Let us hope record keeping has been taken very seriously in some of these instances.

Senator ROBERT RAY—When did Ambassador Richardson take up his post in Washington?

Mr Chester—Just bear with us; someone will come in with the answer.

Senator ROBERT RAY—Yes, sure.

Ms Williams—I think I have it with me, but bear with me for one moment.

Senator ROBERT RAY—I am just trying to get the rough date when he took up his post. I want to ask some questions about what sort of training and acclimatisation is done before ambassadors take up their post. The date is not crucial.

Ms Williams—I do have it; it is somewhere in here.

Senator ROBERT RAY—I am probably going to get into a debarred area here sooner or later, but that will not surprise you. I am interested in what sort of training and preparation the ambassador got before being posted to what is a fairly crucial posting.

Senator FERGUSON—Obviously you are looking for a post!

Senator ROBERT RAY—No. I have had my 13 weeks in New York. I notice that Senator Hill is going to get 208, so your side can now shut up about it.

Ms Williams—I now have the date. It was 28 June. There is a range of training that heads of mission undertake before they take up their postings, some of which is compulsory. They also undertake calls and consultations relevant to their posting before their departure.

Senator ROBERT RAY—So it is not unusual that Mr Richardson had a meeting with the AWB before he went overseas?

Mr Chester—Ambassadors will have meetings with various companies as part of their consultations prior to taking up an assignment.

Senator ROBERT RAY—I notice that he made a public statement about AWB on the Nine morning news on 8 February. He said:

They gave me an assurance that they had not been engaged in any wrong-doing. That's as recently as six months ago and I had no reason not to accept that assurance.

I am getting a sense of *deja vu* here. I have heard that statement made by a few people over the time, but I suppose that is before the Cole royal commission.

Senator Coonan—In fact, paragraph 8 says 'what AWB told the Commonwealth and in particular DFAT relating to Iraqi wheat contracts' et cetera.

Senator ROBERT RAY—I see. So you are declining to answer that?

Senator Coonan—Yes, I think it comes within the potential subject matter of the inquiry.

Senator FAULKNER—One of the documents about the AWB that has received quite a deal of publicity was about the fact that the Minister for Trade, Mr Vaile, wrote to the then AWB chair, Mr Flugge, urging that AWB maintain a close dialogue with Mr Vaile's office and with Department of Foreign Affairs and Trade officials. This has been reported quite extensively, as you would know, in the media. Because this is a letter tended to the Cole inquiry and I think it is on the website, I suppose you can confirm that Mr Vaile did write in such terms to Mr Flugge. That meets your test of credible public documents, doesn't it?

Senator Coonan—What are you asking me—if he wrote the letter?

Senator FAULKNER—Yes. Are you confirming that?

Senator Coonan—There does not appear to be any dispute about that.

Senator FAULKNER—So you are confirming that. Did the minister receive any communications or approaches from AWB or other interested parties prior to him writing the letter?

Senator Coonan—That clearly comes within the inquiry.

Senator FAULKNER—Did the minister's office receive any communication or approaches from AWB prior to Minister Vaile writing that letter?

Senator Coonan—My answer is repeated.

Senator FAULKNER—Could officials at the table indicate whether the Department of Foreign Affairs and Trade received any communications or approaches from AWB or other interested parties prior to the writing of that letter?

Ms Bird—That falls within the purview of the government directive.

Senator FAULKNER—Could I ask Austrade, which of course is a statutory authority—

Senator Coonan—But subject to the direction.

Senator FAULKNER—whether Austrade had received any communications or approaches from AWB or other interested parties prior to the writing of Mr Vaile's letter?

Mr McCormick—That is an issue covered by the directive.

Senator FAULKNER—Mr McCormick, have you established yet whether Minister Vaile has written to Austrade under the terms of section 10 of the Australian Trade Commission Act, communicating the directive that Senator Coonan read out this morning?

Mr McCormick—As I said this morning, I think that goes to an issue of legal interpretation.

Senator FAULKNER—My question is: has he written?

Senator ROBERT RAY—That is a fair question. The answer is either yes or no.

Senator FAULKNER—Either he has written to you or he has not written to you. And if he has not written to you, you should answer this question.

Mr McCormick—All I can do is say what I said this morning.

Senator Coonan—It has been communicated.

Senator FAULKNER—How has it been communicated?

Senator Coonan—It has been communicated. I am not going to engage in any further—

Senator FAULKNER—I am sorry, you cannot—

Senator Coonan—It has been communicated; the officers know about it; they have said they have received a communication about it. We are not going to answer any more questions about how.

Senator FAULKNER—We know the provisions of the act. Go to section 10—

Senator Coonan—I know the section.

Senator FAULKNER—If you know the section—and you should, because I read it into the *Hansard* record this morning—you would know that a minister is required to make any directive to Austrade in writing.

Senator Coonan—My previous answers stand also. We do not want to go over that again.

Senator ROBERT RAY—It may well be that your previous answers stand and are valid, but it is still a valid question for us to ask whether a directive has been put in writing.

Senator Coonan—As I said, you can ask any questions you like and we will answer them as we see appropriate.

Senator ROBERT RAY—The question is repeated. The question of whether a written directive had occurred was asked in the Rural and Regional Affairs and Transport Legislation Committee. The initial answer was no, until they searched the record and then corrected it,

quite properly, and the answer was yes. So how is that not a valid question to get a valid answer at this committee?

Senator Coonan—Different committees, obviously, are constituted differently and different departments run differently.

Senator ROBERT RAY—That is true. But why don't we get an answer to a direct question: was the direction in writing?

Senator Coonan—Because it has been communicated and we know at least one form of communication that contained the direction and we are not going to interpret or construe the section.

Senator ROBERT RAY—I am not asking you to. You may have been asked to, but I am not asking you to do it. I am asking whether there was a directive in writing, full stop. I have to assume there has not been and there is a cover-up, because you will not answer the question.

Senator Coonan—There is no cover-up. It is just that the—

Senator ROBERT RAY—Is it embarrassing to answer?

Senator Coonan—No, it is not embarrassing. The plain fact is that the direction has been communicated, and I am not going to enter into any further discussion about it.

Senator ROBERT RAY—You are not, because you will not answer it. But you do not have valid reason not to answer it so we contest that.

Senator Coonan—Of course you can.

Senator ROBERT RAY—So I assume you are covering up.

Senator Coonan—No, I am not covering up.

Senator ROBERT RAY—What are you doing?

Senator Coonan—I have given you the answer.

Senator ROBERT RAY—No, you have not. It is a very easy answer to give: yes or no, was there a written direction?

Senator Coonan—There has been a communication.

Senator FAULKNER—What is the communication, and what form did it take?

Senator Coonan—I am not going to answer any further questions about it. It has clearly been communicated. We are here to deal with the questions.

Senator FAULKNER—It is not clear. That is just misleading the committee.

Senator Coonan—It is not misleading the committee.

Senator FAULKNER—There has not been a written communication in accordance with section 10 of the act; I established this earlier this morning.

Senator Coonan—That is your legal interpretation.

Senator FAULKNER—It is not a legal interpretation—

Senator Coonan—It is. You are construing the section.

Senator FAULKNER—it is a fact. Has there been a written communication?

Senator Coonan—You are saying ‘in accordance with the section’.

Senator FAULKNER—The witness from Austrade at the table cannot say, and does not say, that there has been a written communication from the minister. There has not been.

Senator Coonan—The way you put the question was ‘there has not been a written communication in accordance with section 10 of the act’—

Senator FAULKNER—That is right; that is what is required.

Senator Coonan—And I have said ‘that is your interpretation’.

Senator FAULKNER—Has there been a—

Senator Coonan—We are not going to construe the legal requirement under the act. We should not have to, and I am not going to.

Senator FAULKNER—The question is: has there been a written direction under the terms of section 10 of the Australian Trade Commission Act?

Senator Coonan—I am not going to answer that.

Senator FAULKNER—Has there, in relation to the directive that you gave or in similar terms to the directive you gave this morning?

Senator Coonan—I have said there has been a communication. I have said that there is a communication in writing. I am not going to enter into a discussion with you on construing whether it complies or does not comply with the section.

Senator FAULKNER—How do you know there has been a communication in writing? Have you seen it?

Senator Coonan—I have seen a communication in writing.

Senator FAULKNER—To Austrade?

Senator Coonan—I have seen a communication in writing.

Senator FAULKNER—But not to Mickey Mouse; I am talking about to Austrade.

Senator Coonan—The direction is contained in a document and the officers know about it. They gave evidence this morning about how they came to know about it.

Senator FAULKNER—The point of this is that a direction in writing must be given to the Australian Trade Commission, not to Uncle Tom Cobbley up the back of the room.

Senator Coonan—Nobody suggested that Austrade has not got a communication.

Senator FAULKNER—Have you seen a copy of the minister’s directive under section 10 of the act to Austrade, or not?

Senator Coonan—I am not going to talk about any communication that you would construe as complying with the section. I am just not going to do that.

Senator FAULKNER—Because there has not been one.

Senator Coonan—I am not going to provide legal advice about what would comply with the act, and I should not have to.

Senator FAULKNER—It has got absolutely nothing to do with legal advice. There has been no communication. If there had been, the witness from Austrade and you, Senator Coonan, would confirm that to this committee. There has been no directive from the minister in writing, as is required. The witness from Austrade should front up and answer all questions directed to him, because there has been no such direction—just like the other statutory authority, the Wheat Export Authority, was required to answer all questions before an estimates committee in this building two days ago.

Senator Coonan—Have you finished your speech, Senator Faulkner? I have said that I am not going to give any further information in relation to how the communication was made. You can draw your own conclusions; you can say what you like about whether in your view it complies with the act. I am not going to give you some construction about whether it does or whether it does not. The witnesses are here; they have said how they are here. There is a communication in writing, and as far as I am concerned that is the end of the matter.

CHAIR—Senator Ray, do you want to make the point or do you want Senator Faulkner to make the point?

Senator ROBERT RAY—I want to make one point in answer to the minister. There are certain sections—if you go back and read—of both the Parliamentary Privileges Act and the Senate standing orders that put requirements on witnesses. The great myth in these estimates committees is that all questions go through ministers. They do not at all in the standing orders. But as part of convention—

Senator Coonan—It is a convention. There are lots of conventions.

Senator ROBERT RAY—It is a convention that has only emerged in the last few years, but it is a convention that we go on. The difficulty here might be that if a senator insists on asking a witness a question they are bound to respond unless lawfully directed. That is the nub of this problem.

Senator Coonan—I have said that this morning.

Senator ROBERT RAY—Yes, but if there is doubt about whether a statutory authority has been lawfully directed to do something—it can be communicated to them, but if it is required in writing—it is something that I think should be fixed up sometime today. That is all. You are leaving witnesses in a very vulnerable position.

CHAIR—With respect, senators, I think the minister's position is very clear. I think we need to move on. The minister is not going to be drawn as to whether any communication complies with section 10 of the act. I think we need to move on with that.

Senator ROBERT RAY—I think that is a very unfortunate characterisation, because a separate question was asked—not related to that—about whether there had been a communication in writing. It is not quite as simple as you put it, Chair, in terms of questions and answers.

Senator Coonan—Anyway, I understand what you have said.

Senator ROBERT RAY—I noticed that on page 64 of the *Department of Foreign Affairs and Trade Annual Report 1999-2000* it said:

We coordinated the implementation of trade sanctions against Iraq and helped streamline the administration of the food-for-oil program to the benefit of Australian companies.

Quite often these sorts of statements are repeated year in and year out in annual reports. I am wondering why this one was dropped.

Ms Bird—Which annual report were you reading from?

Senator ROBERT RAY—I was reading from your annual report of 1999-2000. For your benefit, I will repeat it. It is on page 64. This is Foreign Affairs:

We coordinated the implementation of trade sanctions against Iraq and helped streamline the administration of the food-for-oil program to the benefit of Australian companies.

I am wondering why that drifted out of future reports, because quite often these statements are repeated year in and year out. Do you have any idea why that happened?

Mr Chester—I do not think it is fair to make that assumption about the department's annual reports. We have a policy of trying to ensure that each year's annual report is a reasonably fresh document.

Senator ROBERT RAY—I see. I know it is the cynic in me that thinks that, after the Canadians complained, you thought: 'That is not a good line to run. We'll give it the boot.' But obviously it was changed for freshness. Thanks.

Senator FAULKNER—As you would recall, Chair, I was asking some questions about a letter that Mr Vaile wrote to Mr Trevor Flugge which urged the AWB to maintain a close dialogue with Mr Vaile's office and with DFAT officials. Did Minister Vaile meet with AWB staff prior to the preparation of that letter?

Senator Coonan—That appears to go to the substance of matters that are subject to the inquiry.

Senator FAULKNER—Could you indicate to me, if such a meeting took place, what was the purpose of that meeting?

Senator Coonan—My previous answer is repeated.

Senator FAULKNER—Could you indicate to me when that meeting took place?

Senator Coonan—It is the same answer, Senator.

Senator FAULKNER—Could you indicate to me where it took place?

Senator Coonan—Still the same answer, assuming that it did.

Senator FAULKNER—Would you indicate to me who was present at any such meeting?

Senator Coonan—Same answer.

Senator FAULKNER—Would you indicate to me if, amongst those present at the meeting, there were Department of Foreign Affairs and Trade officials?

Senator Coonan—Same answer.

Senator FAULKNER—Can I ask whether the department provided a brief to Minister Vaile before that letter was sent to Mr Flugge?

Senator Coonan—It is the same answer.

Senator FAULKNER—Can I ask whether AusAID prepared a brief for the minister before that letter was sent to Mr Flugge?

Senator Coonan—Same answer.

Senator FAULKNER—Can I ask Austrade if they provided a brief to Minister Vaile before that letter was sent?

Senator Coonan—I repeat my answer.

Senator FAULKNER—You are now answering on behalf of Austrade, are you?

Senator Coonan—You said AusAID.

Senator FAULKNER—I did say AusAID and now I am asking about Austrade.

Senator Coonan—I thought you said AusAID.

Senator FAULKNER—I thought I said Austrade.

CHAIR—I am sure that Mr Tapp can answer. I think he will give a predictable answer.

Senator FAULKNER—Let's see.

Mr Tapp—AusAID spoke to the matter. It falls under the purview of the inquiry.

Senator FAULKNER—Thank you for that. Actually, I had appreciated that Senator Coonan had answered in response to AusAID. My final question was in relation to Austrade, which was why I interrupted the minister and asked whether the official would answer in relation to Austrade.

Mr McCormick—Sorry, I thought the minister was speaking on the same basis as the other—

Senator FAULKNER—And I have asked the minister whether she is now speaking for you as a representative of a statutory authority before the committee.

Senator Coonan—First of all, Austrade is subject to a lawful direction so far as the government is concerned—

Senator ROBERT RAY—In writing.

Senator FAULKNER—Has one been provided?

Senator Coonan—I can answer and my answer is that my previous reply stands.

Senator FAULKNER—Is that lawful direction in relation to witnesses at this committee a lawful direction in accordance with section 10 of the Australian Trade Commission Act—

Senator Coonan—I am not going to—

Senator FAULKNER—in writing from the minister?

Senator Coonan—Senator Faulkner, don't yell at me. I said to you that I am not going to play this game of construing section 10.

Senator FAULKNER—That is because it has not been complied with and it does not suit you.

Senator Coonan—That is your view, Senator.

Senator FAULKNER—If it has been complied with, tell us.

CHAIR—Senator, I do not think that this is helpful. I do not think that it leads anywhere. Let us leave section 10 alone for a while and move on to something else.

Senator FAULKNER—If you want to leave section 10 alone, feel free. I will raise section 10 of the Australian Trade Commission Act as I see fit, and probably not much beyond today's hearing.

CHAIR—But don't ask witnesses to adjudicate upon it.

Senator FAULKNER—I am not. I am merely asking, as you would have heard—and clearly you just do not understand—whether a written instruction has been given. I ask DFAT whether it holds any records of contact between the minister or his office and Mr Flugge in the lead-up to the preparation of that letter that he sent urging AWB to maintain a close dialogue with his office.

Ms Bird—That is a matter within the purview of the government directive.

Senator FAULKNER—Are you able to tell me, Minister, what prompted Mr Vaile to write to Trevor Flugge in November 2000?

Senator Coonan—That appears to go to the substance of matters that are being inquired into by the commission.

Senator FAULKNER—Do we know why the minister actually said that it was necessary for AWB to maintain a close dialogue with DFAT officials in November 2000 and the months that followed that?

Senator Coonan—I repeat my answer.

Senator FAULKNER—You are not willing to say?

Senator Coonan—I repeat my answer.

Senator FAULKNER—What was your answer?

Senator Coonan—My answer was that these are substantive matters that could come within the purview of the Cole inquiry—and I think they very squarely do.

Senator FAULKNER—Are we able to say whether, prior to the minister's letter, departmental officials were in fact maintaining close contact with AWB? Can you assist me with that?

Senator Coonan—That is a matter within the purview of the inquiry.

Senator FAULKNER—Were AusAID officials maintaining close contact with AWB?

Senator Coonan—I repeat the answer, and also for the same question about Austrade.

Senator FAULKNER—I would like to hear from the Austrade officer, because no written directive under section 10 of the act has been provided.

Senator Coonan—I dispute that.

Senator FAULKNER—Provide us with a copy of the directive, then.

Senator Coonan—I am not going to be providing you with a copy of anything. We have a disagreement about the effect of the direction. I just do not want you to assume it in your question.

Senator ROBERT RAY—I would like to direct a question about legal representation at the Cole royal commission. It is my understanding that at least one former officer of the Department of Foreign Affairs and Trade who has gone on to another successful career may be called to explain her role in certain events of the year 2000. Does the department provide legal aid for that person and represent them because any liability or action was done under the auspices of DFAT rather than as an individual?

Mr Moraitis—The legal services direction available to public servants applies to former public servants as well, so, in principle, yes.

Senator ROBERT RAY—When you say ‘in principle’, you think there would have to be extraordinary reasons not to cover that person’s—

Mr Moraitis—Correct. But, with respect, I would not like to go to the details because it relates to the Cole royal commission.

Senator ROBERT RAY—I am only asking a process question here.

Mr Moraitis—I am just explaining to you the context. Your analysis is correct.

Senator HUTCHINS—What is the name of the firm of solicitors representing DFAT?

Mr Moraitis—Sparke Helmore.

Senator FAULKNER—It should be ‘more hell’ not ‘Helmore’!

Mr Moraitis—A lot of sparks flying!

Senator HUTCHINS—Are they a Sydney firm of solicitors.

Mr Moraitis—They are Sydney based.

Senator Coonan—They originated in Newcastle. They are a very old firm. They opened in Sydney about 20 years ago. They used to be Sparke, Helmore and Lithicombe.

Senator FAULKNER—That is the first bit of information you have given to the committee all day, and I congratulate you for it—you are improving.

Senator Coonan—You might be surprised what I can—

Senator FAULKNER—You actually managed to answer a question that you were not even asked.

Senator Coonan—That is right, and I can provide more information about Sparke, Helmore and Lithicombe—

Senator FAULKNER—Please do not—I have the white flag up.

Senator HUTCHINS—You never worked for them?

Senator Coonan—No.

Senator HUTCHINS—Has this firm of solicitors represented DFAT before?

Mr Moraitis—Not in my time that I can recall, but I would need to take on notice whether they have done so in the past.

Senator HUTCHINS—And what is the name of the counsel?

Mr Moraitis—There is a senior counsel, and his name is Alan Robertson.

Senator HUTCHINS—And who is the junior?

Mr Moraitis—Ian Neil. Both are from the Sydney bar, rather than the Melbourne bar.

Senator HUTCHINS—Are they representing Austrade and AusAID as well?

Mr Moraitis—No. As of today, both counsel and solicitors are acting on behalf of DFAT only.

Senator HUTCHINS—Is anyone representing AusAID or Austrade?

Mr Tapp—No. As I said this morning, we have no legal representation at the moment.

Senator HUTCHINS—Do you intend to seek representation?

Mr Tapp—That is a hypothetical question. I have no idea as to whether we will or we will not. We do not have legal representation at the moment.

Senator ROBERT RAY—Is there any contradiction or contrast between Australian domestic law, which may well be covered by the directive from cabinet to officials, and our obligations under international law? As I understand it, Mr Cole is not looking at international law, yet there may be some interrelationship between international law and events that have occurred. Can I have that clarified?

Mr Moraitis—In fact, if you read the transcripts of the inquiry, the commissioner has actually sought legal advice on the issue of the interaction between international law and domestic law, so it is well within the purview of the Cole inquiry.

Senator ROBERT RAY—You said ‘if I read the transcript’. I do have a life.

Mr Moraitis—I do not at the moment.

Senator FAULKNER—Senator Hutchins was asking about Sparke Helmore. How were they chosen?

Mr Moraitis—They were chosen on the basis of consultation. We consulted with our solicitors. As you know, we have a panel of solicitors that we employ. In the normal course of events we would employ them. In this context, because of the nature of the inquiry going on and the number of parties involved, we consulted with our normal lawyers, who suggested that Sparke Helmore have a lot of experience in administrative law and other matters that would be of direct relevance to this sort of inquiry.

Senator FAULKNER—But they are not on your usual panel?

Mr Moraitis—Correct. Our usual panel is basically AGS, Mallesons and Minter Ellison.

Senator FAULKNER—I think we have gone through that before, about the panel, in evidence at this committee.

Mr Moraitis—I am not familiar with that.

Senator FAULKNER—I think so; it certainly feels like it. So this particular firm was appointed on the recommendation of other members of the panel?

Mr Moraitis—Yes, through consultation with contacts from our normal panel.

Senator ROBERT RAY—Chair, I indicated to you that we wanted to pursue these questions but we would not make a farce out of it by going to 11 o'clock tonight, so we will call it stumps there. I am not going to preach or say anything other than that we will see you on 31 May and hopefully the officials will be well prepared in some of the areas we have raised today. Thank you.

Senator Coonan—Thank you, Senator.

Proceedings suspended from 3.27 pm to 3.46 pm

AusAID

ACTING CHAIR (Senator Payne)—Let us reconvene. Senator Siewert.

Senator SIEWERT—I would specifically like to ask some questions about the process. If you could take me through that, that would be good. I am interested to know what the process is when you are deciding on the allocation of resources or money to a particular project. As I understand it, there is a formal process and there is also a process of financial accountability that you need to run through. Could you tell me what process you use when you are going through the decision making on the allocation of money for a particular project?

Mr Tapp—It depends very broadly in relationship to the type of the project, the size of the project and the location of the project. If you were a little bit more specific then we might be able to answer.

Senator SIEWERT—I am happy to be more specific.

Ms O'Keeffe—I would just like to say that we are prepared to answer this question, so we are happy to run through it with you.

Senator SIEWERT—Thanks. I have a limited understanding, so bear with me. I will use my understanding and please tell me where I am wrong or whatever. My understanding is that you need to prepare a project plan when you are looking at which projects you will be funding. Is that correct?

Ms O'Keeffe—I will ask my colleague, Mr Proctor, to go into some detail about how we do that.

Mr Proctor—I will go upstream a little from where you are starting your question. The activities that AusAID undertakes are by and large government to government programs and therefore, in essence, the particular activity you might do is asked for by the government of the particular country concerned. Once that request is in, there is a process of assessing whether that is an activity or an intervention that fits within broad government aid program policies and then we go to the strategy that we have agreed with that particular country. Assuming all those things, individual proposals are examined through a peer review process in AusAID, in terms of how you might address the development issue that has been raised. Normally then private contractors are engaged to develop a design for the project: what would you do, how would you pursue it?

At that point, it is normally appraised, which means that AusAID advisers and others would separately look at this proposal, the proposed intervention, in terms of its manageability, technical feasibility, the institutional arrangements that are needed to make it happen, the effect obviously on poverty, and the overall financial and economic feasibility. Normally, if it is a major activity, after that there is a second peer review process in AusAID just to check that everyone is comfortable, from lessons of other countries that we have dealt with, that this would be a good project. Following all that, there is a proposal to the delegate or the minister, in the case of a large project, to fund it. Then the whole process of tender follows.

Senator SIEWERT—Where does the development of the project plan fit in?

Mr Proctor—The project plan would be done by the contractors developing the overall project design.

Senator SIEWERT—At what stage does that fit in?

Mr Proctor—Once it has been determined that it is worth going ahead to develop a proposal but prior to it getting ministerial approval for funding.

Senator SIEWERT—That goes before ministerial approval?

Mr Proctor—Correct.

Senator SIEWERT—Do you do a detailed risk assessment?

Mr Proctor—Every major activity has to have a risk assessment. Once it is undertaken, it has to have a risk plan.

Senator SIEWERT—Who does that?

Mr Proctor—The contractor in each case; either the designer or the firm that is finally selected to undertake the project.

Senator SIEWERT—You were talking earlier on about the contractor that is engaged that does the technical, institutional and financial feasibility assessment. Is that done at that time?

Mr Proctor—That certainly should be one of the many aspects looked at in the planning process. It would be considered in the appraisal, whether it is under that terminology or more generally, of course.

Senator SIEWERT—Are there different levels of risk assessment, depending on which regions or countries aid is being considered for?

Mr Proctor—Yes, certainly. This would be very much case by case. As you will appreciate, in some countries there are physical security issues that are not present in others. In some countries it may be more difficult to ensure that you will get, say, the allocation of the government's public servants and ongoing financial commitment to the project, just to pick two examples. Both of those are different types of risk.

Senator SIEWERT—Who decides at what level that kicks in or what those different types of risk assessments are?

Mr Proctor—There are guidelines about needing risk assessments, but in the end the risks are assessed and, hopefully, the project or the activity is designed to cope with the risk. From

memory, we also put any significant risks in front of the delegate when they are asked to approve funding for the activity.

Senator SIEWERT—Is the delegate required under the Financial Management Act?

Mr Proctor—Correct.

Senator SIEWERT—Who is that?

Mr Proctor—It depends on the size of the activity. It can be the branch head, the division head, the head of the agency or the minister.

Senator SIEWERT—When you talk about size, what is the value of the projects that kicks in for the different levels?

Mr Proctor—I might get the head of the resources branch to answer that in detail. As you can imagine, it is an increasing level of commitment by each level in the agency.

Senator SIEWERT—Yes.

Mr Lehmann—Delegations vary, depending on whether it is an administered or departmental activity. For our administered activities, delegation at the branch head level is \$1 million and I think it is \$5 million—but I would have to check that; I will take that on notice—for division heads.

Senator SIEWERT—So it is \$1 million for branch heads?

Mr Lehmann—That is right.

Senator SIEWERT—And you think it is \$5 million for division heads.

Mr Lehmann—If I may, I will take that on notice and provide you with the exact details.

Mr Tapp—There are some other variations relating to the delegations regarding different multilateral agencies as well. If we take that on notice, we can provide the full delegation break-up for you.

Senator SIEWERT—At what stage does it then go up to the minister?

Mr Proctor—Once all that project design and appraisal is completed and there is a general agreement that this is an appropriate project to fund within the agency, it would go to the minister for recommendation to be funded.

Senator SIEWERT—Do all projects eventually end up going to the minister?

Mr Proctor—No, only the larger ones, normally.

Senator SIEWERT—What is classed as a ‘larger one’?

Mr Proctor—Partly, it is guided by the delegations I have mentioned and, frankly, any project of significance.

Senator SIEWERT—Who makes the decision on significance?

Mr Proctor—Primarily it is at the division head level.

Senator SIEWERT—Is there a level where they automatically go to the minister?

Ms O’Keefe—Clearly there are areas within the aid program that, because of the broader significance of what we are doing—for example, in Papua New Guinea and other parts of the

Pacific; Indonesia is another prime example—the minister likes to keep very much involved and advised as to what the developments are. Each program is guided by an overall strategy—and that strategy, of course, has the approval of the minister initially. So he can be confident that, when decisions are being made about the program and specific activities, they will fulfil the objectives and goals of the strategy. However, as Mr Proctor has mentioned, there are activities which, because of the dollar value and/or the broader significance of the activity, it is felt that the minister should approve them. It is not just the minister but also, on occasion, the parliamentary secretary. They are the types of activities that will then be put to the minister for his consideration.

Senator SIEWERT—So, if a program were, say, over \$10 million, or something like that, would that be considered a large project?

Ms O’Keeffe—Yes, it would.

Senator SIEWERT—You would consider anything over \$1 million a large project, is that—

Ms O’Keeffe—Not over \$1 million. While over \$10 million is a significant amount, it is not necessarily a largish amount. That is something that could be approved within the agency. So we would probably be looking for something that is larger than \$10 million and/or one of greater significance than simply the activity as it stands by itself.

Senator SIEWERT—So it would need the combination of both of them?

Ms O’Keeffe—Yes. It is a matter of judgment, obviously, from time to time. We have very clear guidelines in terms of the FMA, and we certainly follow those to the letter. However, there are times when it is not required that the delegate, as described under FMA, give approval to that activity. It could actually be done at a lower level. But, because of the broader issues or significance, we may decide that it needs to go higher. That is also within the agency as well as taking it to the minister or parliamentary secretary.

Senator SIEWERT—Are those guidelines available?

Ms O’Keeffe—Absolutely.

Senator SIEWERT—Are they available somewhere I can access them as a member of the public?

Ms O’Keeffe—Yes, they are.

Senator SIEWERT—Where is that?

Ms O’Keeffe—We will get you a copy.

Senator SIEWERT—That would be good, if you could.

Ms O’Keeffe—Yes.

Senator SIEWERT—Okay, thanks. Are there circumstances under which urgent aid is required and those procedures are not used?

Ms O’Keeffe—They are always used.

Senator SIEWERT—Even in emergency situations?

Ms O’Keeffe—Absolutely.

Senator SIEWERT—So they are always used. There are no shortcuts taken, even in an emergency situation?

Ms O’Keeffe—As I said, we always follow the requirements of the FMA Act.

Senator SIEWERT—Sorry. Let me make it clear: are there provisions in the FMA Act for emergency situations?

Ms O’Keeffe—I would have to ask if there are specific requirements or provisions. If those provisions are within that particular act, we would abide by them, if that is possible. However, I will ask my colleague, Mr March.

Mr March—As Ms O’Keeffe has said, we always follow the provisions of the act. But, within that act, there is the ability to make early and immediate payments—and, from time to time, we do that. An example of that might be our response to the recent Pakistan earthquakes or the tsunami, where we had, under the FMA Act and previous tender and arrangement periods, put people and arrangements in place. We then drew down and made allocation decisions for those quick responses. But on each occasion the appropriate delegate does have to sign off on those funds.

Senator SIEWERT—So it would be fair to say that you might not carry out the risk assessment processes and all those other project planning things we have just been talking about before that decision is made?

Mr March—Not quite, if I may clarify. We realise that from time to time, regrettably, we are going to have to act quickly and in a crisis situation. So what we do is we pre-approve and go through quality assurance assessments and audit trails and checking the bona fides of Australian NGOs, international NGOs, UN partners and indeed some contractors. We have them sitting as a set of stand-by mechanisms where the due diligence has been done in advance so that I can from time to time, as the delegate, act on perhaps a one- or two-page concept note, knowing that the due diligence has been done previously and this particular agency or group of individuals can provide the services funded by the Commonwealth in an appropriate manner.

Senator SIEWERT—In environments where you know it is going to be difficult to deal with some of the local groups, or where there has been corruption in the past or you know you are in a conflict situation, are there specific procedures that you adopt for dealing with people in those regions?

Mr March—Yes, there are. You are raising a couple of issues there, Senator. In terms of the conflict challenges, we do ensure that our staff that go on deployment in emergency situations, our contractors and NGOs are appropriately briefed, trained and prepared for that. So that is on the conflict dimension. In terms of the dimension of operating in difficult environments where some financial regulations are not necessarily always followed, again we have quite clear policies on fraud and we have quite clear policies on how the agency’s programs will operate in these difficult environments. We do not entertain the corruption dimension.

Senator SIEWERT—Okay. Are those guidelines available?

Mr March—Absolutely.

Senator SIEWERT—Could I have a copy of those as well?

Ms O’Keeffe—Certainly.

Senator SIEWERT—One last question: as a delegate, whoever the delegate might be on whatever occasion, before signing anything I presume they are required to ensure that they have taken all steps to ensure due diligence has been done. Is that correct?

Ms O’Keeffe—With each submission for funding approval, there is a paragraph which refers to that and which assures the delegate that every effort has been made to ensure that the funds of the Commonwealth are being spent in the best possible way.

Senator SIEWERT—Okay, but do they review each of the projects or are they satisfied that the department has carried out all necessary requirements?

Ms O’Keeffe—It is our responsibility, as those putting together the submission for approval, to undertake all those requirements and then to assure the delegate that those requirements have been fulfilled. For the delegate to do this by him- or herself would be an extremely time-consuming operation, as I am sure you would appreciate, Senator. In any case, it is the responsibility of those putting the proposal together to undertake each of those steps.

Senator SIEWERT—I presume, though, that the delegate has a basic understanding of the key elements of each of the projects that he or she is signing off on.

Ms O’Keeffe—That is right. There are details attached to each submission—whether it is approved internally, through the minister or through the parliamentary secretary—which set out very clearly what the aspects of the activity are.

Senator SIEWERT—Thank you. I would very much appreciate it if you could get me the documents that we discussed.

ACTING CHAIR—I have one or two questions for AusAID. Are there any other questions for AusAID?

Senator HUTCHINS—Yes, we have some later.

Senator HOGG—Yes, we have some.

ACTING CHAIR—I am just not sure about whether later is a good time to do that, so we need to talk about the timetable.

Senator HOGG—We do need to talk about the timetable. I was trying to find out if there is an imperative for any Austrade people to get back to Sydney.

ACTING CHAIR—Mr Chester is shaking his head, I think.

Mr Chester—I am not speaking on behalf of Austrade.

ACTING CHAIR—That is a shame.

Senator HOGG—That is a changed position.

ACTING CHAIR—We were hoping to deliver corporate responsibility to you, Mr Chester.

Senator HUTCHINS—You should talk to the minister about that.

Senator Coonan—I am keen to get back to Sydney.

Senator HOGG—You may well be, Minister, but you may well be captive here for some time.

ACTING CHAIR—Perhaps you could come to spill-over for legal and cons with me tomorrow, Senator Coonan.

Senator FERGUSON—Anyway, Ms O’Keeffe is going to find out.

ACTING CHAIR—Perhaps I will ask some questions while we are waiting to get the answer to that.

Senator HOGG—You ask your questions on AusAID, but I will just flag for the benefit of witnesses that we have some questions for, I think, both DFAT and Austrade on the US free trade agreement. We also have some questions, in a general sense, that we want to put to DFAT on the Van Nguyen case and possible consequences in other areas. We also want to talk to Austrade about trade in, as well as visits by ministers and trade delegations to, the Middle East. We also have a general question in respect of appointments to the UN. Those are the general areas. If I have skipped any, I apologise.

ACTING CHAIR—That covers what you alerted me to, Senator Hogg.

Senator HOGG—The questions for AusAID that I have basically arise out of previous questions that I have asked. I am seeking follow-up answers. Or they might be an extension as a result of things that have transpired in that time. So we are not looking at far-reaching or wide-ranging additions.

ACTING CHAIR—While we wait for the response in relation to Austrade, I will explore a couple of AusAID issues, broadly speaking. It is good to see you Ms O’Keeffe. We have not seen you at estimates, at least since I have been here, for a while. Concerning the Asia Pacific Leadership Forum, could you update us on its activities, particularly since the appointment of the regional manager in Bangkok.

Ms O’Keeffe—Thank you. The Asia Pacific Leadership Forum, I think it is fair to say, went through a period that was not as energetic as we would have wanted. Following representations from AusAID, along with UNAIDS, which is the host organisation for the Asia Pacific Leadership Forum, there has been a significant upgrading of staffing and approaches. The last meeting was held in Jaipur in India in November. Steering committee members were able to hear about developments that APLF have been successful in achieving, including setting up a state-level advisory group in the Indian state of Maharashtra and a parliamentary forum on HIV being formed in Bangladesh.

I think the fact that we had the APLF meeting in India was excellent because, as you are aware, India has, numerically, the second-largest number of people infected with HIV after South Africa; it is now over five million people. The purpose of having the APLF meeting was not only to have a meeting that was going to achieve objectives in its own right but also to emphasise very clearly, particularly to the national government of India, the very significant problem that India is facing. It was a similar approach to the one we took with the previous Asia Pacific Leadership Forum, which was held in Port Moresby in February last

year. At this stage, we are hoping that the next Asia Pacific Leadership Forum will be held in either Indonesia or Cambodia later this year.

ACTING CHAIR—Has any thought been given to updating the information that is on the AusAID website in relation to the APLF and its current activities?

Ms O’Keeffe—Yes.

ACTING CHAIR—Is there anything happening as a result of that?

Ms O’Keeffe—We are certainly working on it. Perhaps you do not appreciate that, because at the moment it has not happened. But the HIV task force has been very involved, since the APLF meeting, on quite a significant initiative, which is about to be announced next week. We hope we will be able to work through and with the Asia Pacific Leadership Forum. That initiative is the launching of the Asia Pacific Business Coalition on HIV/AIDS.

Senator PAYNE—I am aware of that. So you expect to see a little more website activity in relation to that sort of information after that process?

Ms O’Keeffe—That is right.

Senator PAYNE—In relation to the commitments made on HIV through the ASEAN structure which have some undertakings by members of ASEAN as to their domestic approaches on HIV—whether it is education, treatment, prevention or whatever—are we aware of any follow-up mechanisms or implementation review mechanisms which exist in the ASEAN structure to mark progress in that regard?

Ms O’Keeffe—I will pass over to my colleague, Mr Proctor, in a moment in terms of how the ASEAN structure works more broadly. From the HIV task force perspective, we have not received any feedback from individual countries or indeed the secretariat itself in terms of follow-up on those initiatives which have been committed to under the framework of ASEAN.

Senator PAYNE—Before we go to Mr Proctor, that strikes me as a very serious issue in this region—not having follow-up and review that is regularly communicated between participants in the region on those issues. Is that a reasonable observation?

Ms O’Keeffe—That is a reasonable observation. One of the objectives of what we are trying to do through the task force is to build the awareness and response of countries in Asia-Pacific, including obviously ASEAN. One of the mechanisms that we did that with was through the South-West Pacific Dialogue. In December 2004, when the last South-West Pacific Dialogue met, Minister Downer got agreement from his colleagues in PNG, Indonesia and East Timor for a major subregional research initiative to be undertaken to track the epidemiological, social and economic impact of HIV in those three countries. We are very pleased to say that we have now completed that study—it is a sizeable study—and, more importantly, we have had significant and very comprehensive cooperation from those three countries and their officials in actually compiling this report. That, as you can see, is part of the way in which we are trying to encourage those countries to focus much more than has been done to date on the issue of HIV.

Senator PAYNE—The ‘we’ in that context is whom?

Ms O’Keeffe—‘We’ being Australia and in particular Minister Downer.

Senator PAYNE—I want to hear what Mr Proctor has to say and then I have one other question about what the role of the APLF might be in that regard.

Mr Proctor—A focus on HIV-AIDS is not a major part of our relationship with ASEAN. We have a major development cooperation program, but it is focused in particular on economic integration, research to assist the secretariat and specific projects of a variety of types. We have some projects with them that are focused on a number of communicable diseases, but I would have to take on notice any specific activities related to HIV-AIDS. As you know, we have a lot of activities but they are primarily bilateral or subregional rather than through the ASEAN cooperation mechanism.

Senator PAYNE—I seem to recall a fairly significant declaration from ASEAN a few years ago—not that long ago, though—on HIV which we welcomed, if nothing else. It followed the UNGAS in 2001, from memory, on HIV issues. Given the pivotal role of the member nations of ASEAN in assisting in the limitation of the spread of HIV in the region, it seems to me to be a perfectly sensible link for Australia to have at a more developed level than apparently is currently the case, and perhaps that is a role that the APLF could take up in relation to particularly implementation, accountability and review.

Ms O’Keeffe—That is something that we can certainly take up with the APLF. I would like to add that beyond ASEAN we have, as Mr Proctor has pointed out, some significant bilateral and regional activities with the countries in the ASEAN grouping. We have noticed, particularly in the last two to three years, at least in some of those countries, a significant improvement in the recognition of and response to the issue of HIV.

Senator PAYNE—Is there any engagement of the APLF with the private sector in the region in terms of the role they could mutually play?

Ms O’Keeffe—This has been a subject for the last two meetings of the APLF. In fact, that is why we are looking at how the Asia-Pacific business coalition, which of course is going to be Australia based, will comprise membership of those companies that have significant corporate footprints in Asia-Pacific and will work very closely with APLF so that we can maximise the reach that APLF has but also the influence and resources that the future members of the Asia-Pacific business coalition will also have. That is very much on the agenda. We are also looking to see how we can make business the theme of the next Asia-Pacific ministerial meeting, for which of course the APLF is the secretariat.

Senator PAYNE—Is it premature of me to ask more about the business coalition?

Ms O’Keeffe—It is probably a little premature since it is only going to be launched next Wednesday.

Senator PAYNE—We always like to be first in the Senate. Your last statement was about the engagement of business. How do you envisage that working? For example, I know that the Thailand Business Coalition on AIDS has a very strong focus on removing discrimination and destigmatising, if you like, the circumstances around people with HIV so that they feel they are able to participate in the workforce from the perspective of both employers and their employee colleagues. That is a focus of theirs. What is the business engagement that you are talking about focused on?

Ms O’Keeffe—Principally three objectives. I think the fact that the Thai business coalition are working within a homogenous culture makes it probably more appropriate for them to be focusing on the stigma and discrimination within a particular country. For the Asia-Pacific business coalition the objective will be to look at ways in which individual companies with these large footprints in Asia-Pacific can start to implement appropriate workplace policies which look to improve prevention and treatment regimes for their own staff. That is the first approach. The second approach is to look at the actual product of those companies and use them in a way that will expand the message of prevention beyond their own companies. The third objective is, again, being conscious of the resources that these companies have access to, using their resources to raise funds for HIV specific organisations.

Senator PAYNE—I have seen some very interesting examples in relation to the second objective in Zimbabwe in particular, where companies have made significant prevention efforts amongst their own staff and had some very good records out of it, so I hope it works.

Ms O’Keeffe—Thank you very much.

CHAIR—I want to briefly ask Mr Proctor a question. I have been privy to what has been going on with respect to fishermen on the north-west coast of Australia from Roti, West Timor and surrounding islands. What projects do we have operating there? These men are out 300 and 400 nautical miles in five-metre boats. I want to put the commercial fishing side of the argument to one side. What I am concerned about is that an awful lot of these fishermen must not ever get home. I am wondering whether we have any capability development projects on these islands that give them an alternative to fishing. I suspect there is a whole lot of scurrilous commercial interest driving them to chase these big dollars in this very high-risk situation. What are we doing over there?

Mr Proctor—We are involved in Roti and Kupang in West Timor, looking at developing alternative income generation and livelihoods for traditional fisher people. As you were saying, they are dependent on fishing and the fisheries are declining, both in their own waters and in Australia. There are a few things happening. One small thing is an education campaign to make them aware of the dangers of fishing—particularly coming to Australian waters. More substantially, there is an area focused development program called Antara which is going to spend something like \$30 million over five years to do a number of things, one of which is to support improved rural income generation in those islands. There are a number of other things under way through the new Australia-Indonesia partnerships billion-dollar program that was announced by the Prime Minister last year. There is a small agribusiness initiative as well, which hopefully will increase rural sector productivity and growth in four provinces, including this one.

So the answer is yes, there are a number of things under way which hopefully, over time, will improve their income. That will involve the ACER, the World Bank’s International Finance Corporation and some other World Bank programs as well.

CHAIR—How many officers do we have on the ground in, say, Roti?

Mr Proctor—We would not have any AusAID officers. We will have a project team in Kupang. I am sorry but I would have to take on notice how many will be in the project team.

CHAIR—And they work out of Kupang and into the surrounding islands?

Mr Proctor—Correct.

CHAIR—Could you also take on notice what we are spending in that part of the world? I suspect that this or projects like this may well be the long-term solution to our illegal fishing problem up there.

Mr Proctor—We will take that on notice.

CHAIR—Thank you.

Senator HOGG—My question goes to an issue that I have now raised at a couple of estimates, and that is the role of Australian contractors in the aid program. I put a question on notice at the last estimates, question No. 31, which was:

(a) Of the approximately 2000 current AusAID contracts, how many are going to Australian companies or consultants?

(b) Of the \$3.4 billion worth of current AusAID contracts, how much is going or will go to Australian companies or consultants?

I thought the questions were fairly straightforward, so I was surprised at the answer which came back which said:

AusAID's current activity management system does not have a standard reporting tool that allows us to answer these questions. The inputs involved in gathering the information (by manually checking each contract) would involve a significant diversion of resources.

I must say that, when I ask questions, I never expect a significant diversion of resources. What surprised me, though, was that AusAID did not have the facility to at least give me a ballpark answer to the questions that I put forward. Then, of course, if I needed to pursue those answers at the next round of estimates, such as this round, I would have been able to do so. Can someone advise me why I could not get a more detailed answer? I accept that there are limitations on the resources, but that seems quite unreal.

Mr Rooker-Smith—The issue really is the second part of your question—the \$3.4 billion worth of contracts. To actually break that down into how much is going to Australian firms and how much is going to local firms or international firms is very difficult. With respect to the first part of your question regarding the 2,000 current contracts, from an overview position of our contracts I would say that a large number, if not the vast majority, of those are going to Australian contractors.

Senator HOGG—When you say 'the large majority', do you mean 80 per cent, 90 per cent or 95 per cent?

Mr Rooker-Smith—I am talking about 80 per cent or 90 per cent plus.

Senator HOGG—90 per cent plus?

Mr Rooker-Smith—There would be a large number of very small contracts that would be let from our various posts in the field which may be for local consultancies or local contracts. That might make up the numbers.

Senator HOGG—So there are two arguments in this. The first is the actual number of contracts and the second is the argument in terms of dollars.

Mr Rooker-Smith—Yes.

Senator HOGG—So you are saying that in terms of numbers the vast majority would come back to Australian companies—

Mr Rooker-Smith—Or would be consultants or Australian and New Zealander individuals that are contracted.

Senator HOGG—Right, and a small number of those, at the minor end of the scale in terms of quantum of dollars, would be going to local Indigenous programs.

Mr Rooker-Smith—That is right, yes. The issue with the dollar value, though, is that, with some of our bigger contracts, the major contractor then subcontracts a large amount of the value of the contract locally. So, for example, we might have a road regravelling and resealing project in Papua New Guinea where the main contract is with an Australian contractor. It might be valued at \$50 million. The Australian contractor's job then is to run the local procurement, and a large amount of the total amount of the contract value is actually subcontracted locally in Papua New Guinea. So that would have a very large value for local contracting but the local contracting would be managed by the Australian managing contractor who we contract. So, under our system and in our database, that would appear as one contract with an Australian contractor but in fact a large amount of the value of the contract is actually being sublet through processes run by the—

Senator HOGG—By the contractor.

Mr Rooker-Smith—contractor or through the tender boards in Papua New Guinea that deal with the road regravelling. Some of these contracts are very small—for trucks providing gravel, for communities providing labour—and that is what makes actually breaking down the whole \$3.4 billion extraordinarily difficult. Our system at the moment does not capture the subcontracting element that our major contractors are doing.

Senator HOGG—I thank you for the answer and I accept what you are saying but it seems to me—and I have expressed this view now over a number of estimates—that that is an issue that is of particular importance to people. It has got to be seen that not only are the contracts assisting in the delivery of overseas aid but the money is not just boomeranging back into the Australian economy. This creates the perception that that is the precise thing that is happening, because you cannot distil those figures. Are you taking any actions within the department or within the agency to be able to identify the quantum that is being spent in-country and in Australia?

Mr Rooker-Smith—We are making bigger demands of our contractors to report back to us on exactly that sort of subcontracting element. I think we did a study about a year or two years ago in the PNG context about local contracting that was run by our contractors.

Senator HOGG—So you have done a study on this. What were the outcomes of that study? Are you able to make that—

Mr Rooker-Smith—Off the top of my head, I cannot remember the figures involved but we could certainly find those for you in terms of the PNG case—the sorts of things I was talking about, such as the subcontracting and road regravelling and sealing and the dollar figures for that. But that study in itself was quite an effort on our part to try to really identify how much of that money was going to local firms. With our new database and management

system, which has only recently become effective, and also our requests to the managing contractors to make a better effort in capturing some of that detail, I do hope that we will be able to answer those sorts of questions better.

Senator HOGG—When do you anticipate that this committee will see a better dissection of the way in which our aid is spent overseas?

Mr Tapp—I might answer in relation to the issue of the new activity management system which we are putting in place within AusAID, which is a major project and undertaking. The first phase of this new system was introduced in December.

Senator HOGG—What is the system called?

Mr Tapp—It is called Aidworks. The first phase of this system was introduced in December of last year. The second phase will be introduced and go live in the middle of this year.

Senator HOGG—When did you say? The middle of June?

Mr Tapp—We are looking to have it in place by July this year. At the moment, we have been putting in place a system that is providing all the key information-reporting requirements. We are going through further work on developing the specification for the second phase of Aidworks and the sort of reporting that is going to be needed. There are myriad different reports that are required, and we have to work within the boundaries of the capital budget that we have been allowed in relation to this.

Senator HOGG—What is the allowed budget?

Mr Tapp—I forget. I do not have the exact figure, but I can give that to you.

Senator HOGG—Just a ballpark figure?

Mr Tapp—I honestly cannot. But let me take that on notice and—

Senator HOGG—Take that on notice.

Mr Tapp—I will give it to you. I forget in which year's budget it was, but you would have seen in one of the recent budgets the capital funding that was provided. We have been operating within budget and on time in delivering this particular system. For the second phase, we are in the process at the moment of determining what the specifications are for various aspects of reporting. From July we will also be looking to do regular updates and improvements of this system. I am unable to say to you immediately when the system may be able to deliver further drilling down and breakdown of this information. We are very much aware of the fact that you have been asking this question, and we will be looking at it, but we have not yet determined the specifications for phase 2.

Senator HOGG—When will they be determined?

Mr Tapp—Fairly shortly. We hope to have that done by the end of March.

Senator HOGG—With possible work in phase 2 by July?

Mr Tapp—By July.

Senator HOGG—Completed by?

Mr Tapp—No, we will be putting in phase 2 in July 2006, and after that we will be doing regular updates. Most of those updates will be providing greater reporting functionality within the system to be able to meet the numerous reporting requirements that we need for the appropriate management of Commonwealth resources.

Senator HOGG—I would have thought that that would have been a better response to the question I posed than the response that I got, because it leaves the fairly bland sort of answer that I received and it leaves a lot of questions yet to be answered. Can I just say that I read that there was an Audit Office report on AusAID contract management which found:

Australian firms and individuals under contract to AusAID play a major role in delivering Australia's aid program. During 2000–2001, AusAID managed more than 1600 commercial contracts with a total contract value of approximately \$2.3 billion.

The next part is the interesting part:

AusAID estimates that the aid delivered through these contracts represents annually around 90% of Australia's bilateral aid program, which accounts for some 60% of the overseas aid program.

How did you make that judgment for the ANAO report when you could not apply a similar judgment to the questions that I asked?

Mr Tapp—I think the ANAO report, from what you were reading out, was talking about the number and total value of all of our contracts with private suppliers.

Senator HOGG—I think that is what my question—

Mr Tapp—But your question was relating to the breakdown of those contracts going to Australian companies as opposed to non-Australian companies.

Senator HOGG—So you can do it on a totality basis, but you cannot—

Mr Tapp—We can do it on a totality basis. The difficulty we have is the breakdown between Australian companies and non-Australian companies. As Mr Rooken-Smith has explained, some would be through subcontracts supplied to, for example, Papua New Guinean companies involved in infrastructure work in Papua New Guinea. Or, in some cases, we may have the contracts directly with non-Australian companies. We may have contracts with New Zealand companies and we may have contracts with companies or individuals of other nationalities. So we can provide the totality, but we are unable to answer the question you asked in the last estimates relating to the breakdown between Australian and non-Australian.

Senator HOGG—From my perspective, that is a serious weakness in your ability to achieve accountability to this committee, because it makes it difficult for us to get the necessary breakdowns. I understand the program that you are now putting in place may—if I correctly interpret what you said—deliver a better drilling down of the figures but with no guarantee at this stage, because the specifications have not been determined. Is that a fair assessment?

Mr Tapp—What I said was that we are very much aware of the issue you have raised. As we are going through the specification for phase 2 and looking at the various reporting demands and requirements on the agency, we are aware of that. I am unable here to give you a guarantee that we will necessarily have that information available through the second phase, because I do not know yet exactly what the specification will be for the second phase.

Senator HOGG—All right. I will take it, though, that by the time we get to the budget estimates in May you should be well positioned to be able to address this issue better.

Mr Tapp—In May we will be able to talk to you about the scope of the second phase of Aidworks in terms of the reporting requirements and functionality that will be introduced under the second phase.

Senator HOGG—When you put the specifications together, I think you may well appreciate from the questions I have posed over a period of time that this is one of the key central issues that preoccupies the minds of a large number of people in Australia—being able to determine where the Australian aid actually goes. We want to know whether it just boomerangs back to Australian companies, consultants and so on or whether it does get pushed into the countries we are servicing with our aid so they benefit from the aid directly. That seems to occupy a fair bit of attention in the psyche of a number of Australians.

Mr Tapp—I fully take that on board. I think the use of the word ‘boomerang’ may be deemed to be slightly pejorative. Even if one is using Australian contractors, a very large proportion of expenditure may well be occurring within the developing countries—employing local people and purchasing local goods and supplies. So saying it boomerangs back into Australia is, I would suggest, not a fair reflection of the way that the aid program would operate through Australian companies.

CHAIR—We need the data and the benchmarks; we need to be able to see that what you are telling us is correct. We do not doubt you; we just want to see them.

Mr Tapp—Absolutely. As I said, we have heard very clearly and we are working on developing the specifications for the second phase.

Senator HOGG—Really, as I say, it is a question of being transparent in the processes. What you are saying to me is that you are going to make the accountability of the processes and the aid contracts greater in the near future. Is that a fair assessment?

Mr Tapp—The processes that we have in place are extremely accountable. What we are looking at in this information management system is the ability to provide more information and a greater breadth of information against various data sets under the aid program. The processes that we have already in place are extremely clear and very robust. But I have absolutely heard your views and perspectives on providing more information and what may actually be happening.

Senator HOGG—All right. Question on notice 42 asked:

How many contracts have been given to companies or individuals in developing countries since the change on 14 December 2004? Please separate for companies from Papua New Guinea and other than Papua New Guinea companies.

In the answer it says:

Since the 14 December 2004 policy change AusAID has commenced 17 major tenders and awarded six contracts. None of those contracts have been awarded to companies from the recipient country.

Is that correct?

Mr Rooken-Smith—I can provide an update on that. As you know, that policy came into effect in 2004. It refers only to the major contracts let out of the central contracting area of

AusAID Canberra, so it is about the major implementation contracts. Since then, we have signed contracts with two Indonesian firms. The first was a firm called PT Triadi, and the value of the contract is \$3.8 million. It refers to the Australia-Bali Memorial Eye Centre. The second contract was to a firm called PT FABS, and the value of that contract is \$20.8 million. It was signed on 15 January 2006, and that is for Aceh rehabilitation infrastructure. Those, as far as I know, are the only contracts that we have directly let through an open tender process here in Canberra for non-Australian/New Zealand firms. This does not capture what we were talking about before—the subcontracting done in-country.

Senator HOGG—I accept that, but none of the other 17 major tenders that you described went to firms in the recipient countries. Is that correct?

Mr Rooker-Smith—That is correct, with the exception of this update that I have just provided to you. I should add to that that we are not getting that much in the way of tenders from firms in the recipient countries. Part of that might be because of the only recent change in the policy. So, in the Indonesian case, we have sent contracts officers to Jakarta and to other parts of Indonesia—I think they went to Surabaya—and put on presentations about how we do business, how we advertise and how we tender. We have discussed with Indonesian firms and business associations the opportunities that are available under particularly the AIPRD reconstruction effort in Indonesia. We are getting tenders now from Indonesian firms, and those two have obviously won in competition against Australian/New Zealand firms.

Senator HOGG—When did the officers of the department go there, roughly?

Mr Rooker-Smith—It must have been the middle of last year sometime.

Senator HOGG—So it may well be that what you are seeing emerging with those last two contracts is a direct consequence of that visit. Do you have an intention to send officers of the department back for further visits?

Mr Rooker-Smith—We now have in situ in Jakarta a small team including some contracts officers who more regularly now provide information and assistance to inquiring firms as to our demands and requirements under a tender process.

Senator HOGG—Are these additional staff or existing staff?

Mr Rooker-Smith—They are staff who were seconded from my area in AusAID Canberra to our office in Jakarta.

Senator HOGG—So they are additional to the Jakarta mission?

Mr Rooker-Smith—They are part of what is called the AIPRD team in Jakarta. Part of their job is industry liaison in Jakarta.

Senator HOGG—Thanks very much for that. I will now move on. In terms of ensuring the aid budget is transparent and accountable to the parliament, in the most recent questions on notice last year, I asked for a breakdown of the aid budget into its program components and then into individual contract components. That was question 40. I asked:

In the July 2005 Senate Estimates responses, AusAID usefully broke down the funding for ‘Other Government Departments’ in 2004-05 and 2005-06 into its individual program components (see page 86-88 of the answers). So the Parliament can get a better idea of where Australia’s aid money is going, please provide this sort of breakdown across the full aid budget, and then break it down further.

And the response was:

See answer to Question 39 above. AusAID's activity information management system does not allow for this information to be provided.

Is that going to be overcome as a result of the system that you were talking about, Mr Tapp?

Mr Tapp—Your question was in relation to the expenditure of other government departments.

Senator HOGG—Yes.

Mr Tapp—Much of the expenditure of the other government departments within the broader aid budget does not fall under the control and management of AusAID. For example, for Department of Health and Ageing contributions to the WHO we are just provided with a number in terms of the annual contribution that they would be making. We impute that into the information we provide over the broad aid program.

Senator HOGG—But that figure is reflected in your budget.

Mr Tapp—That is reflected.

Senator HOGG—The problem there is that needs to be disaggregated. If I recall the exchange we had on this last time, while it is another department—and I have conceded that—surely your systems must be able to disaggregate that so we can see the direct AusAID contribution that is involved in any particular program. That is what I am leading to.

Mr Tapp—We can provide you with the funding AusAID is responsible and accountable for—the appropriation that comes to us. We can break that down into some detail. For the money that we are not accountable for, which is that which is spent by other government departments, we are not in a position to be able to do that. We get the information at budget time, which we put into the budget process.

Senator HOGG—But you put it into the table in the PBS.

Mr Tapp—Yes, under total flows.

Senator HOGG—I accept that you are not accountable for it, but the figure you present in that table is different to the figure you as an agency are actually spending in that area. I understand that you can disaggregate the figure. I am not asking you to be accountable for the other agency's money; I am just asking for a more realistic presentation in that table—if I am recalling the correct table—so that we can interpret it better.

Mr Tapp—So is the further breakdown you are looking for in relation to other government departments—

Senator HOGG—That is correct.

Mr Tapp—or in relation to AusAID expenditure?

Senator HOGG—You must know what those figures are so you can incorporate them in your own figures.

Ms O'Keefe—When we go out to other government departments to determine what it is that they are spending which is ODA eligible we do receive a breakdown but it is in the broadest of terms, because, as Mr Tapp has pointed out, these amounts are amounts that

AusAID is not accountable for. What we are looking for is the total dollar figure from those departments so we can put together the final bottom line figure in terms of the estimates and expenditure of other government departments. For us to get a further breakdown from those departments would be extremely difficult because it is their principal responsibility to account for that money.

Mr Tapp—We do not have information about individual contracts, for example, of other government departments.

Senator HOGG—There are two issues here: one is the way in which the table is presented, and the second is the capacity to drill down into that. While it is not something that is necessarily highlighted in the PBSs or the PAESs of the other departments, it is something that becomes visible in your PBS. However, it is not something that becomes visible until sometimes after the other agencies and departments have already been through the estimates process and it is too late. I am not asking you to be accountable for it, but it seems to me that if it comes out in your PBS it enables people such as me to know where to go in terms of other departments to drill into them to find out what has actually been spent. That is not unreasonable.

Mr Tapp—What you are really asking for is that there be a more detailed breakdown of other government department expenditure in the AusAID PBS.

Senator HOGG—Basically, yes.

Ms O'Keefe—We can do that inasmuch as the information we receive allows us to do that.

Senator HOGG—I accept that. This is not questioning your bona fides. I am trying to get some transparency into what is spent by AusAID out of the AusAID budget on overseas aid. It is not a criticism or a negative reflection on what you are doing. But what you are doing and how the aid budget is being funded is masked to a certain extent by the fact that you have included these components that come from the other agencies and departments and incorporated them in your table. If I am wrong about that, please correct me. This is about trying to get more transparency and accountability from you on this side of the table. It is nothing more or less than that. I was surprised again by the answer. I understand the answer. I thought I needed to revisit it because of the issue at hand. Can you take that away and look at it again. Obviously, it is too late for this year's PBS, but it may well be that you can bring a supplementary document to estimates such that if the question is asked you can table the information.

Mr Tapp—We take it that you are asking us to bring a more detailed table of other government department expenditure to the May estimates hearing?

Senator HOGG—Yes. And, if that cannot be included in the PBS, it would be nice if it could be included in the aid statement not just for me but for other senators as well who might want to pursue something that is happening in Attorney-General's, Health or one of the other departments and it is not transparent in their PBS. That is all it is.

Mr Tapp—We take note of your request.

Senator HOGG—Good. My next question goes to the funding by AusAID of NGOs. Last time I raised the issue of the withdrawal of funding from an East Timorese human rights

NGO—Forum Tau Matan, I think, is its name. Have any other NGOs had their funding withdrawn since then?

Mr Proctor—There are no others where funding has been withdrawn. There have been two cases where proposals were made but the decision was made not to fund them.

Senator HOGG—Were these renewals of funding or was there existing funding that ceased?

Mr Proctor—This would have been for new activities. These are not organisations that are funded ever year on some sort of rolling program. Individual activities have proposals put forward and they are either funded or not funded.

Senator HOGG—What were those proposals?

Mr Proctor—There was LABEH—I do not know what it stands for.

Senator HOGG—Neither do I, so that makes two of us!

Mr Proctor—And the Haburas Foundation.

Senator HOGG—Where are those organisations based?

Mr Proctor—They would both be based in Dili.

Senator HOGG—Have they received previous funding?

Mr Proctor—I am not aware of that. I would have to check that for you.

Senator HOGG—Could you take on notice whether they received previous funding and, if so, how much and when. You are saying they made an application for funding. What did they make an application for funding for? Let's take the first one: LABEH.

Mr Proctor—I would have to get you those details. It is not one I have not dealt with directly. With regard to this East Timor Community Assistance Scheme, you have a large number of possible things to fund from applications. As always, only a few of those are funded. It depends on a range of things, including the quality of the proposal and whether it aids the country strategy agreed between the two countries involved. I do not have that level of detail here. We will find out for you.

Senator HOGG—If I understand this correctly, these organisations were not organisations that had funding withdrawn but were organisations that had funding applications in but the funding applications were rejected.

Mr Proctor—That is correct.

Senator HOGG—The question I raised initially was: are there any NGOs that have had funding withdrawn since I last raised this issue at estimates?

Mr Proctor—No, there were no others beyond Forum Tau Matan.

Senator HOGG—I turn now to the report of the government's core group of experts. That report was put on AusAID's website on 23 December.

Mr Tapp—That is correct.

Senator HOGG—I am just glad it was not 1 April. Who would read it on 23 December and who would be aware that it went on the website? Was there any publicity around it being posted on 23 December?

Mr Tapp—We had always said to people during the consultations that when the core group report had been received by the minister it would be made public. As soon as we were able to do so we put it up on the website. We have also printed copies of the core group report and copies of the accompanying analytical reports, which I have here. It has been read with a great deal of interest by many people.

Senator HOGG—I think people have now read it with interest. It is just the timing. What time of the day on 23 December did it go up on the website?

Mr Tapp—I could not answer that.

Senator HOGG—The reason I ask is that it was the Friday before Christmas. I do not think too many people's minds, no matter what walk of life they are in—

Mr Tapp—In the desire to get this report out to the public as quickly as we could we took a view that we would get it out before Christmas rather than wait until after Christmas.

Senator HOGG—You were playing Santa Claus.

Mr Tapp—I never play Santa Claus. We were interested in making this publicly available as soon as we could. That is what we did.

Senator HOGG—I just find it a bit odd. I acknowledge that it was good that it was posted as quickly as possible, and that is helpful. I just find it odd that it was posted the day before Christmas week and a major break. However, arising out of that is the issue I have been discussing and that is the perception of the lack of transparency in some areas. I note that your own core group of experts recommended at 6.4 on page 9 of the report:

... develop a policy that would increase public disclosure levels relating to the aid program.

Is that statement in itself a reflection that there was a problem with respect to transparency?

Mr Tapp—This core group report was prepared by three individuals led by Professor Duncan. There were two others: Dr Williams and Dr Howse. I am not competent to talk on their behalf.

Senator HOGG—I am not expecting you to. How did your agency respond to that? It is in bold print and it says:

... develop a policy that would increase public disclosure levels relating to the aid program.

What is the response of the agency to that? Do you take that in the way that some people might take it that disclosure is not as good or as open as it should be or do you take it as being a statement made by these people in the process of putting their report together?

Mr Tapp—We take all recommendations coming from the report very seriously. How we will formally be dealing with that specific recommendation is a subject of consideration in the finalisation of the white paper. I cannot prejudge what the white paper, when it goes through the formal approval process and everything else, will say in relation to this. I can say that this recommendation was part of a suite of recommendations about strengthening the performance orientation of the program. A number of those recommendations are extremely interesting and

there are things that we in the agency have read with a great deal of interest. There are some very interesting and quite exciting recommendations there. I cannot go into the specifics on this one because we are in the process of developing the white paper, which has to go through the government approval process. Then it will be tabled and made public in the not too distant future, we hope. We are of the view that this core group report was a very good report and the analytical work was excellent. There were some very good and very interesting recommendations. We are working on the white paper based around a lot of the recommendations in the core group report.

Senator HOGG—I will come to some of the other recommendations in a moment. Obviously I will not ask what is in the white paper but—

Mr Tapp—It does not exist yet.

Senator HOGG—when will your recommendations go to cabinet? What sort of timetable is there?

Mr Tapp—The current timetable will see the white paper—assuming it goes through the various approval processes, and that is an issue for government—publicly released in the latter part of April. At the moment that is the time frame.

Senator HOGG—Are you saying that it will be released to the public in April?

Mr Tapp—That is the current timetable we are working on. That may change. It would need to go through the appropriate approval processes before that time.

Senator HOGG—After going through the appropriate approval processes it will go to cabinet some time before April with a view to having it released publicly around April.

Mr Tapp—Yes.

Senator HOGG—The other recommendation was on Pacific labour mobility. On page vi under the heading ‘Pacific and PNG’ in the third paragraph it says:

... migration and remittances have served the Tongan and Samoan economies well. We recommend an expansion of migration opportunities, especially for the Melanesian countries.

What is the response of the agency to that comment?

Mr Tapp—The core group report welcomes the government’s recent announcement, made by the Prime Minister at the Pacific Island Forum in Papua New Guinea in October, to help establish a regional technical training facility to provide greater opportunities for skilled migration. The core group report made a specific recommendation in relation to skilled migration. Again, I cannot comment in relation to the response to this because we are working on a white paper. The government’s policy in relation to migration has been made very clear.

Senator HOGG—I am aware of the time and I want to see if we can wrap this up not too much further down the track. I take you to a comment on page 52, in the left-hand column at the bottom of the page:

While both the central evaluation unit and the various operational branches have an evaluation mandate, in practice many projects are not evaluated at all, except perhaps by the implementing contractor, who obviously has a strong vested interest.

Those people certainly did not talk to me, but they have reflected some of the views that I have expressed previously. How does the agency responded that?

Mr Tapp—All projects have strong monitoring processes in place. As to whether formal evaluations are conducted on all projects, given the number of projects and the varying size and scale of projects, it is factually correct to state that evaluation may not occur on every single project that we have. What the core group report was getting at, as it would appear, relates to the whole question of looking to develop a greater performance framework for the aid program. That is something that we and the core group had extensive consultations on last year. We had very good discussions with the likes of the World Bank and many other bilateral donors to look at how others are going about the issues of monitoring and evaluation and to try to get an assessment of the effectiveness of the application of funds in the aid programs. That is certainly something that we are extremely committed to from our part. The core group had some very interesting recommendations which could go quite a long way in looking at the very difficult issue of the effectiveness of aid.

Senator HOGG—It also comes back to the issue of accountability and transparency. That is the context in which I have raised the issue previously. You have the companies looking at themselves, so how do we know that in all instances they will report honestly if the project in effect fails? It is a self-reporting system.

Mr Tapp—As I said, we have our own monitoring systems in place to deal with this. All the projects that we have will be monitored by our own staff during their implementation. The concept that there is no accountability in relationship to that is not the case. There is a difference here between monitoring and the concept of formal evaluation. Mr Proctor might want to talk a little bit further on this issue. He has more detail in answer to your question.

Senator HOGG—Before Mr Proctor starts, I am not saying that there is no accountability. I can refer you to another section of the report, at page 49, which reads:

... narrow the disconnect that seems to have emerged between own-ratings and more objective ratings, and to more pro-actively manage 'problem projects' to take them out of that status.

It is the general situation of transparency and accountability.

Mr Proctor—My point was not to debate accountability per se. I just want to point out that about three years ago we added a few extra layers, partly to address the issue of contractors doing a lot of the reporting on themselves. More significant programs now have independent completion reports, as implied, by an expert independent of the contractor. That is obviously done at the end of a project, so we have another view of the outcome of the project. We also require branches to run a number of individual evaluations each year, not just have them all done by the central evaluation branch of AusAID. That all predates the comments that you are seeing here, of course. The other aspect, as was mentioned before, is that whilst contractors report regularly through the course of a project, our people—locally engaged or based overseas in the particular country—do their own assessment of those reports before they get fed through to Canberra and eventually into our reporting annually.

Senator HOGG—The second last thing I wish to refer to in this report is again another quote at page 23, on the right-hand side of the page, where they say:

Nevertheless, the body of high quality and rigorous evaluation work on Australia's aid program is not as strong as it could be, both internally and from external parties. As more experimentation takes place, and as Australia's aid budget is set to increase, it is important that more attention be given to aid effectiveness and to learning the lessons of experience.

How do you respond to that? I heard your comments previously, just briefly.

Mr Tapp—In relation to the need to build further and trying to look at issues of aid effectiveness, absolutely. The Prime Minister could not have been clearer when he announced in New York the doubling of ODA. He talked about the importance of the effectiveness of the application of those funds. The issue of aid effectiveness is something that we take extremely seriously and we are always looking to try to improve the ways that we can assess and measure that, and to lead to further improvements in what it is that we are doing. That is very much what we are striving to do, Senator.

Senator HOGG—The last question goes to the suggestion in the section up the front of the core group's report, on page iv, where they propose an office of development effectiveness, primarily for AusAID, they say, but also as 'a resource for other government departments providing development assistance'. Are you able to enlighten me as to what their intent there was? Have they explained it to you?

Mr Tapp—If you go into the main body of the report, Senator, there is quite a lot of discussion on that.

Senator HUTCHINS—What page is that, please, Mr Tapp?

Mr Tapp—I am just looking for it. On pages 52 and 53 there is a lot more discussion of the members of the core group's views on an office of development effectiveness, which is one of their recommendations.

Senator HOGG—So what is the response of the agency?

Mr Tapp—We are waiting, I am afraid. This is something we are looking at in the context of the white paper, so I cannot prejudge what the government policy would be—

Senator HOGG—No, I accept that you cannot prejudge policy.

Mr Tapp—as contained in the white paper. I have said that I think, on this whole issue of development effectiveness, the core group have provided a number of very interesting recommendations, and very serious recommendations, which of course we are looking at.

Senator HOGG—Is the proposed independent office of development effectiveness, as espoused in this report, modelled on any other similar office elsewhere?

Mr Tapp—No.

Senator HOGG—Not necessarily in Australia.

Mr Tapp—What I think the core group were proposing would certainly be very much at the forefront amongst bilateral donors. We had discussed at some length with multilateral institutions such as the World Bank, the Asian Development Bank and the United Nations, as well as some of the bilateral donors and the chair of the Development Assistance Committee of the OECD, some of the important issues around development effectiveness. We and the core group are very interested in what others are doing in other parts of the world in relation

to this issue. With regard to what they are proposing for bilateral donors, I can comment upon a conversation that I had with them and the chair of the Development Assistance Committee of the OECD, Mr Richard Manning. Mr Manning was commenting on the fact that he thought their ideas were very interesting and he said, ‘Well, absolutely; that would be put right out at the forefront of global best practice of bilateral donors and many others would be very interested in this sort of idea.’

Senator HOGG—So this is not a model that we are seeking to take off another country, or something such as that? I am trying to get a feel for where it is coming from.

Mr Tapp—Not in terms of a direct model. The core group report is clearly—

Senator HOGG—It is not a reflection, say, of anything that might operate in the United States, the UK or Canada?

Mr Tapp—The core group have looked at various elements in relation to how other models work and operate. They have looked to take some of those ideas and principles and, I think, to put something within the context of what would make most sense to them, in their view, in the Australian aid program. But this is not a direct juxtaposition of some other model in the world.

Senator HOGG—Is it designed to improve the openness and the transparency that relates to contracts, reporting and strategies in countries and so on?

Mr Tapp—As they describe it, they are looking to find ways to make further improvements in the effectiveness of the Australian aid program. It can be through greater emphasis on issues of evaluation and other things. There is a mention they make in relation to greater transparency. It is a package of issues which the core group have proposed to the government. The aim of this, as I understand it from conversations that I have had with the core group, is that they are there absolutely looking to try and find further improvements in the effectiveness of the aid program, particularly in the context of the potential increases in the global aid budget.

Senator HOGG—In terms of our own aid budget, I understand there is a commitment to increase the aid budget in the future. Is that correct?

Mr Tapp—The Prime Minister made an announcement in New York of a commitment by the government to a doubling of ODA to around \$4 billion a year by 2010. In that announcement, he talked about the importance of governance and he talked about the issues of effectiveness. He also talked about the importance of dealing with corruption.

Senator HOGG—We will have to wait until the budget to see what comes out of that from the Prime Minister’s comments. Can someone give me a brief overview of AusAID’s activities in Africa?

Mr Tapp—What would you like to know about our activities in Africa?

Senator HOGG—Which countries we are focused on.

Mr Tapp—I have some information here. The countries we are focused on in Africa probably fall into a couple of categories. The first one would be in relation to humanitarian activities. That tends to be where humanitarian emergencies are occurring. For example, we

put better funding into Sudan. We recently provided some funding up into the Horn of Africa because of the drought occurring there. Then, for example, we provide funding to the Addis Ababa Fistula Hospital in Ethiopia. We also provide funding through the Africa Governance Fund and funding through the Australian partnerships with African communities working through some NGOs. The broader focus is in southern Africa and, to a lesser extent, in east Africa, but I can take that question on notice.

Senator HOGG—Please take that on notice.

Mr Tapp—Essentially, I think you are looking at around nine or 10 focus countries in southern Africa. I think the governance fund has been doing some activity in Kenya as well. I am afraid I do not have all the specifics, but would be happy to take it on notice.

Senator HOGG—I have another, more general question. How many staff from overseas agencies are working in AusAID at the moment?

Mr Tapp—What do you mean by ‘staff from overseas’?

Senator HOGG—How many staff have you got working for AusAID overseas at the moment?

Mr Tapp—The number of staff that we have working—

Senator HOGG—External to the country.

Mr Tapp—In overseas posts?

Senator HOGG—Yes.

Mr Tapp—I do not have that.

Senator HOGG—I did not expect you to.

Ms O’Keeffe—We will have to take that on notice.

Senator HOGG—I expected that you would—and also the most senior level of the people who would be working in those offices.

Mr Tapp—The most senior level, we can tell you, would be the assistant director general level. That is the most senior level that we have.

Senator HUTCHINS—And where they are as well.

Mr Tapp—At the assistant director general level, I can tell you now: the Solomon Islands, Papua New Guinea and Indonesia.

Senator HUTCHINS—They are the three countries?

Mr Tapp—They are the three places where we have overseas staff at the assistant director general level. But, for all the others, we will take that on notice and give you that information.

I can give you a little bit more information, which has just been passed to me: there are nine selected partner countries in Africa under the Africa framework. They are South Africa, Lesotho, Mozambique, Zambia, Swaziland, Malawi, Kenya, Uganda and Tanzania. The tenth partner under our framework for Africa—Zimbabwe—is currently eligible only for humanitarian aid.

Senator HOGG—I just want to ask about something that came out of the DAC peer review last year. This is at page 76 of the review. It says:

The numbers, role, composition and competencies of Australian civil servants will have to be carefully examined in order to avoid substitution, which is a major risk in this strategy particularly if capacity-building experience in weak institutional environments is lacking.

Do you have a response to that?

Ms O'Keefe—Could you just repeat the beginning of that, please?

Senator HOGG—I will read back a little bit—

Mr Tapp—Senator, it is all right. I am aware of this bit of the DAC peer review. It relates to—

Senator HOGG—I am just trying to get a handle on where it fits.

Mr Tapp—I think this is in relation to the use of public servants in the context of RAMSI—

Senator HOGG—A more hands-on approach.

Mr Tapp—and ECP. That perspective is very interesting. I had quite a few conversations with the DAC. You may be interested to know that, because of its great success and, now, the international interest in what Australia has been doing in the Solomon Islands and Papua New Guinea, under the DAC—the Development Assistance Committee of the OECD—Australia is now co-chairing a major collaborative work stream, working with other donors and partner countries in the DAC on whole-of-government engagement in fragile states. This is partly due to the recognition of some of the work that has been done in the Solomon Islands and Papua New Guinea.

The issue in terms of substitution that I think the DAC was looking to refer to is that they were concerned that one needed to be careful that, if one is placing people in public service positions overseas, one is not forcing local people out of a role and out of a job. In the context of the Solomon Islands and Papua New Guinea, there was a clear request for provision of public services. The problem that is faced there is the absolutely chronic lack of capacity, particularly in some of the key echelons of the public service. Both in RAMSI and under ECP we are looking to develop the capacity of the key institutions of government.

The role that is therefore being provided by Australian public servants in the Solomon Islands case can best be described firstly as a triage function, then as working more in working with the counterparts in the various departments and their ministers in looking to work on developing a program for how that capacity is going to be built. What we are being asked by our counterparts is: 'Please, do not engage with us on a very short short-term basis. This needs to be a long-term commitment, because it is going to take a long time to build up this capacity.' But the issue of substitution is one that we absolutely took into consideration right from the very beginning, in both the Solomon Islands and Papua New Guinea.

Senator HOGG—I may leave it there.

Mr Tapp—We are happy to take questions on notice.

Senator HOGG—I know. I think that is it. If there are any further questions, I will put them on notice.

[5.27 pm]

Austrade

Senator HOGG—Can we get an update on what trade missions have been into the Middle East?

Ms Bennett—Certainly. I am not sure what level of detail you are looking for, but I can tell you in broad terms.

Senator HOGG—Broad terms to start with, and if we need to go further we will.

Ms Bennett—In broad terms, in the Middle East we have a focus on a variety of industries, but particularly manufactured goods, professional services, education and building and construction—and under the umbrella of consumer goods we are finding some attractive markets in some niche categories, such as fashion and children's products. I think you would characterise it as quite a consumer society.

Senator HOGG—Fashion? Senator Faulkner reminds of the sort of clothes that he wears. Are you going to give us what you have done by category?

Ms Bennett—That is what I am saying. I cannot give you specific events. Those are the types of industry sectors that we are supporting in particular.

Senator HOGG—But you have not taken any specific trade missions into places in the Middle East to promote Australian products?

Ms Bennett—I would be confident that we have, but I would have to take that on notice to be able to give you the details.

Senator HOGG—Take that on notice. Just give us an overview of what you can here.

Ms Bennett—As an overview: in the Middle East we have nine points of presence, with approximately 36 marketing staff focused in that area. We have seen a significant increase in the number of Australian businesses who are achieving export deals. For example, between the financial years of 2004-05 and 2005-06 to date we have seen approximately a 35 per cent increase in the number of Australian exporters achieving export success. So it certainly is a growing area.

Senator HOGG—That 35 per cent is in terms of raw numbers, not in terms of dollars?

Ms Bennett—No. That is the raw numbers.

Senator HOGG—Do you have what that converts to in dollars?

Ms Bennett—Not with me. I could take it on notice.

Senator HOGG—All right, could you take that on notice as well, please.

Ms Bennett—That is as much detailed information as I am able to give you at this point.

Senator HUTCHINS—What about wheat or live sheep? Is Austrade involved in putting forward Australia in the region with those products? I cannot recall that from when you detailed the goods or services that we were seeking to expand there.

Ms Bennett—Certainly there is food and beverage as a potential expansion market. My understanding—and I am certainly willing to take it on notice again and check—is that it is more the type of food we would move into the supermarkets, more the consumer product type focus.

Senator HUTCHINS—So it is not the live sheep trade or wheat. Is that done by another group?

Ms Bennett—I would prefer to check my answer.

Senator FAULKNER—One of the categories wouldn't be agricultural goods, for example? Like Senator Hutchins, I was surprised, in listening to your answer, that that broad category of 'agricultural goods'—there might be a better definition, but I think that is what we are speaking about—

Ms Bennett—I understand. Again, from the information I have in front of me, agriculture has not been listed by the region as one of the primary industries that they are focusing on in this current year.

Senator HUTCHINS—Would Austrade then be involved in assistance in the development of markets for agricultural products elsewhere in the world, or is it something that is exclusive?

Ms Bennett—No. We certainly are. We would respond to the needs of the Australian exporters. For example, within the US—as I am sure Senator Hogg will recall from our last Senate estimates—there is an agriculture team as part of the support to the Australia-US FTA. So in certain markets we certainly would be involved and supporting the Australian agricultural industry.

Senator HUTCHINS—Is it unusual for Austrade not be involved in the agricultural industry in this region?

Ms Bennett—No, it is not unusual. We do quite in-depth market demand trying to determine where the best opportunities for the Australian exporters lie. It certainly is not unusual for particular markets not to have agriculture if there are better and quicker and more opportune opportunities for Australian exporters.

Senator HUTCHINS—Or is it that someone else handles the development of that market?

Ms Bennett—Within the scope of work we do, we support the Australian businesses going to markets, so, as I said, we would characterise it on what opportunities there are in that market.

Senator HOGG—Are you involved in any way with the promotion of trade with Iraq? I am not heading down the path that some people might; this is a broad question.

Mr McCormick—Yes, we are. Just as we have said before, we basically will support exporters wherever we are asked for assistance and we support people in different ways, depending on what sort of assistance they want from us. So it is really demand driven in a lot of ways. We do have a particular focus on the SME side of the agency, so we focus on agribusiness in a number of markets and we look at each individual market and we say we think these are the priority sorts of areas where we can get outcomes. So we try and focus on

building and promoting and finding opportunities and bringing them to Australian exporters. We do that in a way which in particular has a focus on SMEs but, if we are asked, then we are happy to look at assisting other companies as we go along.

Senator HOGG—But there must be particular problems in dealing with some of those Middle East countries because of security considerations and so on.

Mr McCormick—There are.

Senator HOGG—So how do you operate in that environment?

Mr McCormick—If I can give you an example, you asked about Iraq. In the middle of 2004, we appointed a trade commissioner to Baghdad. That person had to be withdrawn about a year later because of security developments there. They are now based in Jordan. We have to try to find ways to help companies develop their interests there but we had some major concerns. In Jordan there is a major Iraq reconstruction type seminar. This year it will be in May 2006. We try to use those sorts of events as an example of how to manage security concerns there. It tries to bring in Iraqi importers and match them up with Australian exporters, so that is an international type focus so we use that sort of environment. We tend not to highlight individual companies operating in Iraq in the public because of security concerns there unless they particularly want to be identified. So we have to balance those sorts of interests there. We try to find ways to assist them while taking into account the security concerns on the ground.

Senator HOGG—So you are not embedding your officer back in the Baghdad office at this stage.

Mr McCormick—Not at this stage because of the security situation there and because a lot of the Iraqi reconstruction opportunities are being taken out of there because there is a broad based concern about the security situation there.

Senator HOGG—So that means your concentration would be more in places like Saudi Arabia. Is that a reasonable presumption?

Ms Bennett—Yes.

Mr Harcourt—And the United Arab Emirates.

Senator HOGG—Do you have dedicated offices in those places?

Ms Bennett—Yes, we do.

Senator HOGG—With what level of staffing?

Mr McCormick—All around the Middle East?

Senator HOGG—No. Just in UAE or Saudi or—

Ms Bennett—We have offices, for example, in Dubai, Riyadh and Jeddah in Saudi Arabia and UAE. So in that cluster of offices we would have in the order of 19 market facing staff. They operate quite flexibly, as you can imagine, between the three, according to demand.

Senator HOGG—A based or a mixture of local engaged?

Ms Bennett—There would be a mixture. They are predominantly overseas engaged but there would be some A based.

Senator HOGG—In respect of wheat sales to Iraq, we missed out on some wheat sales the other day. Is that the sort of issue that you people become involved in?

Mr McCormick—Generally no. We had a discussion last time. It is really about whether the companies have a large and very extensive longstanding relationships in markets. They do not really want anything or much of anything from Austrade in those markets.

Senator HOGG—So you do not get asked, in that instance, for example, by the likes of AWB to intervene in the marketplace? Do you assist AWB or the Wheat Export Authority or whoever it might be in situations where major contracts like that are no longer available?

Mr McCormick—This seems to be going to an issue that is related to the discussion we had this morning.

Senator HOGG—Sorry, I am not trying to go to that. I am just trying to find—

Mr McCormick—All I can say, really, is that it depends on the circumstances. It depends on where the points of pressure might be, which organisations are where and on the type of thing that the exporter might be interested in. So it depends.

Ms Bennett—If I may, without referring to any particular entity, we find in general our assistance to some of the major corporations is more aligned to when they are trying to get into new markets where our network and our understanding of the way in which the market works can be of greatest use to them. While they would have, as you would imagine, the absolute capability within their own domain to plan their strategy et cetera, us being on the ground already ahead of them is often the greatest value we can give to some of the major corporates.

Senator HOGG—That was the example that came readily to mind—that is why I cited it. But the other example that comes to mind is what happened with the live sheep. Following on from Senator Hutchins's interest in agriculture and so on, what is the involvement there for you when a market runs into difficulties? Do you get approached to intervene in the processes? What capacity do you have to intervene in the process?

Mr McCormick—It depends on the circumstances, basically, and it also depends on what the issue is. For example, if the issue is a quarantine restriction, then that would be something that we would probably—unless there were no other organisations around in whatever area it was—not be so involved with because there are other agencies that specialise in that sort of area. There might be times when we are asked to assist, but we are the trade facilitation organisation and so we are really focused at a company level and looking at whether there are opportunities and trying to match them up with the exporter's interest.

Senator HOGG—If I can go back to what happened with the wheat the other day, for example, would AWB come and sit down with you and ask you to make representations on their behalf or ask you to give them some sort of assessment and analysis? I am trying to understand the function and the role that you might perform.

Senator Coonan—You mean AWB generically.

Senator HOGG—Yes, I am talking in a generic sense.

Mr McCormick—Again, it really depends on the market. It depends on whether it is a new market or whether they have been there for a long time. That is the same for all companies, basically. If they are long established there, they may want nothing at all from us. They may want some general relationship with us. They might want very small things from us. It really depends on the circumstances in particular markets.

Ms Bennett—It is the Australian business who does the contract and the transaction. Our role is to facilitate that. We try and identify new customers and new opportunities but the deal is done between the Australian business and the international buyer. Our role, as my colleague has tried to characterise, is much earlier in terms of trying to bring about new opportunities, new networks and new meetings, rather than to be involved in a particular transaction once done.

Senator HUTCHINS—For manufactured goods, say, do you facilitate things with the company here in Australia? You said it was more SMEs than anything else.

Mr McCormick—We do. If a company comes to us and says, ‘What can you do for us?’—

Senator HUTCHINS—Do you advise them about quarantine issues, port facilities, customs—

Ms Bennett—We would certainly be able to advise them where to go for that information.

Senator HUTCHINS—Do you direct them at all?

Mr McCormick—If they say, ‘We want to find out the answers to these questions,’ we might help them to identify where to get the answers from if we could not give the answers to them. Again, it depends very much—

Senator HUTCHINS—But you would not tell them which shipping line or a transport company to use.

Mr McCormick—Again, it depends very much on the company and how they operate and things. We would not necessarily as a matter of course do that sort of activity.

Senator HUTCHINS—What sorts of goods are we trying to expand into Iraq with? Is it condensed milk? Is it baked beans? Is it security?

Mr McCormick—No. We see a number of opportunities to expand the scope of our trade there, so we are getting into things like automotive products, engineering, multimedia, professional services—particularly where they relate to energy or resources—aviation and industrial tools and equipment. These are the sorts of areas where we are trying to find opportunities that are coming out of the reconstruction. That is more of the focus. In general, smaller companies more than larger companies are the ones who tend to need the sorts of services that we provide.

Senator HOGG—Are you focusing on the domestic market, if I can call it that, in Iraq—that is, the local users—rather than the major corporations that are supporting the coalition of the willing? I am trying to see where your target is. Are you focusing more on local industry in Iraq—I am not necessarily aware of how vibrant local industry might be—as opposed to

the service industries that may be supplying services to the coalition of the willing? Or are you looking at both markets?

Mr McCormick—We would do both. We would look for opportunities. There are opportunities because there are, for example, Middle Eastern funded projects there. We would ask whether there are opportunities available for Australian suppliers, so we would look at those sorts of opportunities.

Senator HOGG—I will leave that now and move on. Are you able to tell us about ministerial travel to the Middle East? Is that a question for you or for the department?

Mr McCormick—It is not really a question that we can answer.

Senator HOGG—I would ask DFAT about the minister for foreign affairs, of course, but I am wondering about the trade minister.

Mr McCormick—I think DFAT would be—

Senator HOGG—DFAT would be the right people to ask that question of.

Senator Coonan—Do you mean past visits or forthcoming?

Senator HOGG—Both. I am interested in what visits have been made in recent times and also what visits there might be in the future. That might be leading delegations; it may well be as an individual. I cannot see any further reasons to keep the officers. The US free trade agreement is really a question for the DFAT people, isn't it?

Mr McCormick—We can tell you a little bit about the companies that we have been assisting in the US, if you would like.

Senator HOGG—No. This more goes to the process of the agreement. I think that is it.

CHAIR—Thank you. Senator Fierravanti-Wells has a few questions.

Senator FIERRAVANTI-WELLS—Thank you. I would like to subsequently shift the focus, if I may, to Europe. Firstly, though, can you explain to me the correlation between encouraging trade and investment, the correlation between Austrade and Invest Australia and the work that they may do together?

Mr McCormick—Yes. How much detail would you like?

Senator FIERRAVANTI-WELLS—I am happy if you could give me general information and then, if you would, provide me with a bit more information.

Mr McCormick—I will make a few comments and then my colleague might want to add a little bit. Obviously, we are separate organisations and we have separate focuses. Our focus is on exports, and we also have some responsibilities for overseas outwards investment; whereas, Invest Australia has inwards investment. Having said that, we work quite closely together because there are correlations between trade and investment. We do try to work closely together. There are some places where we deliver some services on their behalf or they are co-located in our Austrade missions, so we have quite a constructive relationship. But their focus is really on attracting foreign investment into Australia, whereas our focus is on facilitating Australian exports and related outwards investment issues as well.

Senator FIERRAVANTI-WELLS—But you do work together?

Mr McCormick—Yes.

Senator FIERRAVANTI-WELLS—In terms of Europe, what priorities are there as far as our representation and are we looking to expand in any other markets in the European sector?

Mr McCormick—I do not have a lot of detail with me.

Senator FIERRAVANTI-WELLS—I am happy for you to take it on notice.

Senator HOGG—This question was prompted by the chair, which I thank him for. I stand to be corrected, but I think there was mention at an estimates hearing last year that the Minister for Trade announced that there was going to be a project to double the number of exporters. How is that project going? Has it doubled at this stage?

Mr Harcourt—It is about half time.

Senator HOGG—That is football matches.

Mr Harcourt—That is right. We have had three years of data generally in the economy and the figure is about 30,788. Ms Bennett might also add some of the numbers in terms of the exporters that Austrade is helping, but it is also part of the project.

Senator HOGG—Is that net?

Mr Harcourt—Yes.

Senator HOGG—So that means those who have come on and dropped off.

Mr Harcourt—That is right. There is a bit of churn.

Ms Bennett—From Austrade's perspective, we have more than doubled the number of exporters that we have assisted.

Senator HOGG—That is assisted.

Ms Bennett—Assisted to achieve export success—so, if you like, before the start of doubling our approximate number of exporters assisted, we have now more than doubled that, as Mr Harcourt said, in the first three years.

CHAIR—I thank the Austrade officers for their attendance.

[5.53 pm]

Department of Foreign Affairs and Trade

Senator HUTCHINS—It has been some time since the Americans have replaced the previous US ambassador. Particularly for a loyal ally like Australia, it seems a bit of an affront that they have taken so much time. Has the government or the department made any representation to the US about this lack of an ambassador here?

Mr Chester—I am not aware of any formal representations on this issue. I think the minister has made some public comments on the issue, some quite recently, saying that the government would like someone to be appointed as soon as possible.

Senator HUTCHINS—Do you know where it is up to America? Has there been someone nominated by their President?

Mr Chester—I am not aware of where it is up to in the United States. Ultimately, this is a matter for the United States.

Senator HUTCHINS—How long is it now since we have not had an American ambassador?

Mr Chester—I believe it is a few days short of a year since the previous ambassador departed Australia.

Senator HUTCHINS—That length of time is a little unusual to not have an official representative here.

Mr Chester—There has been a charge d'affaires here for that period. My understanding is that this is not something that is exclusive to Australia. There have been other instances where the United States has taken some time to make an appointment of an ambassador.

Senator HUTCHINS—That may be, but I do not think it goes down very well with Australian citizens in particular. We have been a very loyal ally of the United States over many decades, and for them not to appoint someone here seems to be an affront to us—not just to us in parliament but to the ordinary Australian citizen.

Senator Coonan—I am speaking for the minister here. I am sure we do not see it as an affront, but clearly it would be desirable. You are quite right in making the point that it would be desirable to have somebody appointed very shortly.

Senator HUTCHINS—Thank you, Minister. Mr Chester, for appointments to diplomatic posts overseas of ambassador or high commissioner, is there a selection committee within the department that meets and makes recommendations to government about who should be the ambassador to the Netherlands or Tonga, or who should be the high commissioner to New Zealand?

Mr Chester—No, there is not something I would call a selection committee.

Senator HUTCHINS—Would you be able to share with us how someone may be chosen to represent Australia in an ambassadorial or a high commissioner role?

Mr Chester—In a general sense I think I can. There are obviously some exceptions to a general way of doing it.

Senator HOGG—We understand the exceptions.

Senator HUTCHINS—What are they?

Mr Chester—In that case, I will not go into the exceptions. Normally, expressions of interest are sought from departmental staff in various head of mission appointments. Those expressions of interest are considered ultimately by the secretary of the department. He will provide recommendations to the minister, and the minister will make recommendations to the Prime Minister. That is the general way of doing it.

Senator HUTCHINS—Is it always thus that the secretary makes a recommendation?

Mr Chester—No.

Senator HUTCHINS—You said there are exceptions. Is that for senior appointments, like the US, the UK and the UN?

Mr Chester—No, they are not necessarily the exceptions.

Senator HUTCHINS—Are there any particular posts that are exceptions?

Mr Chester—No.

Senator HUTCHINS—I wonder if you could tell me what the exceptions are.

Mr Chester—I thought Senator Hogg might tell you.

Senator HOGG—I am not here to answer the questions, Mr Chester, you are.

Mr Chester—Exceptions are where the department may be advised by the minister that the government has someone in mind to fill a position. This way of making head of mission appointments has been the case for years and years under successive governments. Ultimately they are decisions of the government, not decisions of the department.

Senator HUTCHINS—In relation to the vacant United Nations post, has there been any advice given to you on that appointment?

Mr Chester—I think it is a generally accepted convention that we do not comment on pending head of mission appointments, for a number of reasons.

Senator HOGG—Could I ask a question related to that. As I understand it, the position is being filled currently on a temporary basis. Is that correct?

Mr Chester—That is correct, yes. We have a senior officer—

Senator HOGG—Who is the senior officer, for the sake of the record?

Mr Chester—Caroline Millar is in New York at present.

Senator HOGG—When did the appointment commence?

Ms Williams—She arrived in New York on 10 February.

Senator HOGG—How long is the appointment for?

Ms Williams—Until a permanent replacement is in place.

Senator HOGG—There was no definite period of time that the appointment was for?

Ms Williams—No.

Senator HOGG—All right. What are the costs associated with the temporary appointment—for example, travel?

Mr Chester—I will have to take that on notice. Obviously there are some costs—

Senator HOGG—Obviously there would be costs.

Mr Chester—I should make the point that I would suspect they would be fairly minimal additional costs, compared to if we had a permanent head of mission in New York.

Senator HOGG—If there had been a person ready to take the position up then that person would have travelled, and I accept that. I am not quibbling with that at all, but it seems to me that in this instance we are going to have someone who will travel over and back, and then we will still have to fly whoever is appointed permanently to the position over there.

Mr Chester—Not necessarily; that is an assumption that you make—that the person will travel over and back.

Senator HOGG—Of course, that person could be appointed permanently to that position, which would be a shock to everyone around this place and might be a shock to her as well. If we can come back to the real world for a moment, could you give us a projection of what the cost might be?

Mr Chester—I am in the real world, and you should not assume that there is necessarily a cost to going over there and coming back. I am not saying that lightly.

Senator HOGG—All right. Can you take on notice that if the circumstances change you will provide a detail of what the additional costs were.

Mr Chester—Yes.

Senator HOGG—I think that is fair. I do not want to come back to the next estimates, ask you the same question and mess around doing the same thing. I just want to know if there are additional costs associated. I suspect they are. If the candidate that we all think has the position does not get the nomination, I think there will be—

Senator HUTCHINS—A party room revolt.

Senator HOGG—I think that all the hell will break loose, but anyway that is something for another day and another time. I want to go on to the situation surrounding the Van Nguyen case. We have a couple of other trade questions, and I have already flagged that I want to ask something about the itinerary of the ministers in their travel to the Middle East and so on.

Mr Chester—We will try to help you with all of that.

Senator HOGG—Mr Smith, there were calls for the Van Nguyen case to go to the International Court of Justice. Could you fill us in on the background there? What happened? Why did it not proceed to the International Court of Justice? Just let me flag that I am doing this partly to find out what happened then but also to look prospectively at what might happen, given that we have just had two further people receive the death penalty in shores close to us.

Mr Smith—The circumstances of the government's decision not to take this matter to the ICJ were canvassed extensively at the time. What I can say, by way of recapping—

Senator HOGG—Could I just ask you to tell us what you mean when you say 'canvassed extensively'?

Mr Smith—I mean that there was quite extensive public debate and a number of extensive statements by ministers at the time. This was in the period shortly before Van Nguyen's execution.

Senator HUTCHINS—Was the issue also canvassed in the department?

Mr Smith—The issue was considered by the government, and that process of consideration involved consultation within DFAT and, particularly, the Attorney-General's Department. At the time, the government gave very careful consideration to the issue. It explored all the legal options available to it. The advice provided by senior government

lawyers at that time, and confirmed by an independent international law expert, Professor James Crawford—

Senator HOGG—Senior government lawyers—what is that code for?

Mr Smith—That is a reference to government lawyers employed in the Attorney-General's Department and the Australian Government Solicitor's office.

Senator HOGG—So that is not advice external to government but advice from within government—I am not trying to be smart; I am just trying to pin it down—is that correct?

Mr Smith—My understanding is that AGS provides legal advice to the government.

Senator HUTCHINS—The reason for that question, Mr Smith, is that earlier this afternoon we were asking questions about the legal representation in the Cole inquiry. We were told that there were three firms of solicitors involved: Minter Ellison; Mallesons, I think; and AGS. That is the background to Senator Hogg's question, and it goes to whether any of those outside bodies were involved in advising the department.

Mr Smith—I am not in a position to comment further. My understanding is that the advice was provided by the agencies that I have just referred to. This particular question was not in fact coordinated by my division; it was coordinated by the International Organisations and Legal Division of the department. That is my understanding. If that is not the case we will come back and correct the record.

Senator HOGG—All right. You were saying that there were senior government lawyers.

Mr Smith—The advice that we received at that time from senior government lawyers—advice that was confirmed by Professor James Crawford, who is a renowned, independent international law expert—was that there was no basis to take the case to the International Court of Justice. The point was that Singapore has not recognised the compulsory jurisdiction of the ICJ, except under a very limited number of treaties. None of those treaties were relevant in this case and neither was there a generally accepted rule of customary international law prohibiting capital punishment. They were the grounds for the decision that there was no basis to take the matter to the ICJ.

CHAIR—Have we recognised the compulsory jurisdiction of the International Court of Justice?

Mr Smith—I would have to refer that question to the legal adviser of the department.

Senator HOGG—I think I know the answer to that, but can you take that on notice?

Senator Coonan—I am almost sure we have, but we had better check.

Senator HOGG—You say that the advice you got from the senior government lawyers—that is, from the Attorney-General and AGS—and confirmed by Professor Crawford, said that there was no basis for taking the matter to the ICJ. Did DFAT seek its own or other independent advice to corroborate the view that had been expressed to them?

Mr Smith—I think the best way of answering that question is to say that DFAT was part of a number of agencies of government that were providing advice to ministers, who ultimately had to take that decision.

Senator HOGG—Let me get this straight. You are saying you are part of a group of agencies providing advice to ministers. Would that include the Prime Minister, or did the Prime Minister seek separate advice to that of DFAT?

Mr Smith—I think that is a question you would have to direct to the Prime Minister's department. I do not know whether the Prime Minister or the Prime Minister's office separately sought legal advice on the question.

Senator HOGG—Thanks very much. That is helpful. I was just trying to work out whether the Prime Minister was getting different legal advice to that which may have been sought by the relevant minister—in this case, the Minister for Foreign Affairs. You cannot apprise me of that fact?

Mr Smith—That is correct.

Senator HOGG—Which agencies or departments sought that advice from the senior government lawyers?

Mr Smith—As I said, the Department of Foreign Affairs and Trade was one of a number of agencies of government. The other was the Attorney-General's Department, with advice from the Australian Government Solicitor, and that advice was pulled together by those agencies and provided to government.

Senator HOGG—Apart from A-G's, AGS and DFAT, were there any other agencies involved in this process?

Mr Smith—Not to my knowledge. I was not personally involved in this process.

Senator HOGG—This is not a trick question.

Mr Smith—I understand that, and I am trying to give you as full an answer as I can. If that is not the case, we will obviously come back to you and correct the record.

Senator HUTCHINS—Was an interdepartmental committee group within Foreign Affairs, A-G's or AGS set up to deal with the response?

Mr Smith—I think you could say yes. I do not know if it was configured as a formal interdepartmental committee, but lawyers from DFAT, Attorney-General's and AGS did get together to discuss the issues.

Senator HUTCHINS—To your knowledge, were any other departments involved?

Mr Smith—Not to my knowledge.

Senator HOGG—I now turn to the representations that might have been made. Is this a question for you, Mr Smith, or is it for someone else?

Mr Smith—No, that is for me.

Senator HOGG—What formal representations were made and who made those formal representations on the issue of the death penalty?

Mr Smith—There were very extensive representations. Over 30 were made on the case going back to the period just days after Van Nguyen was arrested. There were representations made right up to the highest levels of government. The Minister for Foreign Affairs, I believe, issued a press statement or an attachment to a press statement which outlined those

representations. I do not have that full list with me, but I can run through some of them. As I said there were a large number of them, and I can run through those that I have listed here, if that is of interest to you.

Senator HOGG—How long is the list? I do not want to unnecessarily prolong things.

Mr Smith—As I said, the full list I think is on the public record in the form of a press statement from the minister.

Senator HOGG—I am not doubting that representations were made.

Mr Smith—I have a dozen or so here. I can run through those.

Senator HOGG—Is that a list of representations made by the Prime Minister?

Mr Smith—In some cases, yes, and other senior ministers—

Senator HOGG—The Minister for Foreign Affairs?

Mr Smith—Yes.

Senator HOGG—The Attorney-General?

Mr Smith—Yes.

Senator HOGG—And officers of some or all of those departments? Is that correct?

Mr Smith—In most cases the representations would have been made by ministers and, in some cases, by our High Commissioner to Singapore. The Governor-General also made representations.

Senator HOGG—So there was a range of people involved in those representations, and those representations—just in broad terms—were made to whom?

Mr Smith—They were made to the Singapore President, they were made to the Singapore Prime Minister and they were made to a number of Singaporean ministers, including Senior Minister Goh, Minister for Foreign Affairs Yeo, the Minister for Home Affairs and a number of others. That is only general.

Senator HOGG—So the representations were made to a range of different personnel in the Singapore government or representing the Singapore government. Was there any coordination of the visits, and who coordinated the visits such that obviously the people who were making the representations did not fall over each other? Was there a coordinated strategy?

Mr Smith—I think there was a general strategy on the part of the government to raise the matter with the Singaporean government at every opportunity. So, when visits were made by ministers or meetings were held with Singaporean ministers, the matter was taken up and this was monitored and coordinated very closely by the departments most closely concerned—principally DFAT, obviously, and the Attorney-General's Department.

Senator HOGG—Were there any instances where representations were made by people other than ministers, our high commissioner or the Governor-General?

Mr Smith—Yes, there were. I recall that, on at least one occasion, a parliamentary delegation made representations to the Singapore government, and there may have been others. I do not have the details with me.

Senator HOGG—I now switch to the area that is of concern now—that is, that fact that two people have received the death penalty sentence for crimes in Indonesia. You said—and please correct me if I am wrong here—that Singapore had not recognised the ICJ, had not signed up to the relevant treaties and so on. Is that the same sort of basis on which we would be dealing with Indonesia or is the Indonesian situation different?

Mr Smith—At this stage the cases are not directly comparable. The representations that I referred to earlier were made by the government in respect of Van Nguyen at a point after all appeal options had been exhausted. We have not reached that point in the case of the Australians sentenced in Indonesia, and they are obviously options that we will look at if the need arises at the point that all of the appeal options have been exhausted.

Senator HOGG—I accept that. My question was: Singapore did not recognise the ICJ, as I understand from your statement, and had not signed treaties that were relevant in this area. Is that the same situation with Indonesia?

Mr Smith—I do not know that offhand; I will have to take that on notice.

Senator HOGG—Can you take that on notice. Obviously, then, that seems to me to become very much a threshold issue. I am not a lawyer in this sort of area and I do not pretend to be. What is the department doing in respect of the Bali nine and, in particular, those who have received the death penalty?

Mr Smith—The sentences that have just been handed down in relation to the nine Australians in Bali are still subject to appeal. Some of those individuals have indicated their intention to appeal. The option is also there for the prosecution to appeal against those sentences. We do not know if that is going to happen yet. But we will continue to monitor the progress of those appeal processes very carefully.

Senator HOGG—How are you doing that?

Mr Smith—We have a consulate-general in Bali, and they monitor the cases on a daily basis.

Senator HOGG—Are they attending the court process?

Mr Smith—Yes, they attend all of the trials. It is a matter of public record, of course, that ministers have made representations to the Indonesian government broadly about the application of the death penalty in the case of these individuals.

Senator HOGG—What other fora are there for Australia to present its objection to the death penalty in relation to certain crimes that might be committed in other places away from these shores?

Mr Smith—Do you mean in general terms or in relation to the two Australians that have just been sentenced?

Senator HOGG—In general terms.

Mr Smith—On representations on death penalty matters, I might refer to my colleague, Lydia Morton, the head of the International Organisations and Legal Division.

Ms Morton—In answer to your question about other fora: Australia is one of only 56 parties to the second optional protocol to the International Covenant on Civil and Political

Rights. This optional protocol requires state parties to abolish the death penalty within their jurisdiction. We are strongly committed to the principles that this optional protocol espouses and we encourage its universal ratification. We support international action to abolish the death penalty or, as an interim measure, to establish a moratorium on execution. We have traditionally co-sponsored an annual resolution to this effect at the UN's Commission on Human Rights. We have also co-sponsored related resolutions in the Third Committee of the General Assembly of the United Nations.

Senator HOGG—Thank you. I understand the United Nations being a forum in which we can raise these issues. What about other fora such as ASEAN and the like?

Ms Morton—I can tell you that we do raise death penalty as an issue in our human rights dialogues. We have human rights dialogues with China and with Vietnam. We also raise it in bilateral contexts with a range of other states which have death penalties.

Senator HOGG—Which currently have the death penalty?

Ms Morton—That is right.

Senator HOGG—What sort of response do we receive when it is raised?

Ms Morton—In bilateral contexts?

Senator HOGG—Yes.

Ms Morton—I am sorry; I do not have any details of particular cases.

Senator HOGG—If you are not able to particularise, are you able to generalise?

Ms Morton—I think in general those countries take note of our representations and in some cases—for example, in the case of China—they say, 'We wish to abolish the death penalty eventually but right now we are not in a position to do so.'

Senator HUTCHINS—Ms Morton, are you aware of how many Australians are on death row at the moment?

Ms Morton—I will put that back to my colleague, Mr Smith.

Mr Smith—There are currently four Australians that have received death sentences from foreign courts. There are the two that we know of in Indonesia, and we have another two in Vietnam. There is also an Australian in China who has received what is called a suspended death sentence. That means that the death sentence will be commuted to a life sentence after a period of time, upon the good behaviour of that individual in prison.

Senator HUTCHINS—Thank you.

Senator HOGG—Could I raise one other issue that arises in this area, and I do not know if it is a DFAT issue. That is the issue of prisoner exchange programs.

Mr Smith—Prisoner transfer programs are administered by the Attorney-General's portfolio.

Senator HOGG—So you do not necessarily get involved in those at all. They are a direct negotiation by A-G's with the relevant authority, say in Indonesia or wherever it might be?

Mr Smith—That is correct.

Senator HOGG—Thank you very much for the information on that. I have got no further questions on that. I have questions about ministerial travel to the Middle East by Minister Downer and also Minister Vaile. Let us start with Minister Downer.

Mr Chester—Are you asking for visits that have taken place?

Senator HOGG—Visits that have taken place and then proposed visits. I want to get some sort of perspective, let us say in the last 12 months.

Mr Ritchie—The visits that have taken place over the last 12 months are Mr Downer to UAE and Iraq in December, and Mr Vaile in April to UAE, in conjunction with travel further on, I think. From memory it was to Turkey and the OECD, but certainly to the UAE in April.

Senator HOGG—In respect of Mr Downer's travel, and Mr Vaile's, who did they meet? I want just a broad description at this stage.

Mr Ritchie—They both met the minister for trade of the UAE, Sheikha Lubna, in pursuit of the FTA negotiations that are under way with the UAE. I understand they also met the Crown Prince of Abu Dhabi, Sheikh Mohammad. In April, Mr Vaile also met the central bank governor and the chairman of Emirates airlines.

Senator HOGG—Did they travel individually or did they have delegations with them?

Mr Ritchie—They travelled not with a delegation but with a senior departmental officer.

Senator HOGG—Yes, I accept that they would have had senior departmental officers, but they did not have anything beyond that, basically.

Mr Ritchie—No.

Senator HOGG—What plans are there for travel to the Middle East by either Mr Downer or Mr Vaile at this stage?

Mr Ritchie—The Prime Minister has announced travel by Mr Vaile to Iraq. Beyond that we are not certain. It depends very much on ministerial schedules and decisions. There are various events coming up which we will try to schedule, such as the joint ministerial council with Saudi Arabia in Riyadh. But dates for that are not tied down yet.

Senator HOGG—I am not going to hold you to this, but could you just give us a possible itinerary list of where the ministers will travel—for example, to Riyadh?

Mr Ritchie—I do not think I could. That has not been decided by ministers.

Senator HOGG—All right. You speculated that there was a ministerial conference?

Mr Ritchie—There is a joint ministerial council which we will try to organise with Saudi Arabia.

Senator HOGG—And that is sometime in the first half of this year or the latter part?

Mr Ritchie—It very much depends on availability.

Senator HUTCHINS—I have some questions on the Australia-United States free trade agreement. I notice that in 2005 Australia's trade deficit with the United States increased. Can you tell me what the exact magnitude of the change was?

Ms Schick—Australia's balance of trade in goods and services was in deficit by \$A14.1 billion in 2005, an increase of 8.6 per cent over 2004.

Senator HUTCHINS—Was this just the result of exports decreasing or was it also imports increasing?

Ms Schick—There is a range of things. For example, the Australian goods and services exports to the US fell by 0.8 per cent in 2005 compared to 2004. But, when you take the volatile items such as crude oil and passenger motor vehicles out of the 2005 figures, total exports to the US actually rose by 1.9 per cent in 2005. So a range of things have come into this. Merchandise exports, for example, have been falling since 2001. They fell by three per cent in 2005 compared with 2004. Australian rural exports to the US fell by 2.8 per cent but then Australian exports of manufacture to the US grew by 1.5 per cent in 2005.

Senator HUTCHINS—So how would you answer my question? Is it the result of exports decreasing or imports increasing?

Ms Schick—Part of it is because we have been hit by a stronger Australian dollar and, of course, recently a diversion of crude oil to the east Asian market. So a drop-off—

Senator HUTCHINS—But our dollar has not changed since before we signed the free trade agreement or after we signed it. It is still 74c or 75c.

Mr Deady—I think that in fact when looking at the average Australian dollar over 2005 compared to 2004, there was an appreciation of the Australian dollar against the US dollar in that period. So one of the factors I think certainly has been a stronger Australian dollar in that period.

Senator HUTCHINS—Would that account for an 8.6 per cent increase?

Mr Deady—If you look at the export numbers in US dollar terms, again there has been an increase in Australian exports in US dollar terms in 2005. That actually suggests that the volumes of exports have held up reasonably strongly in 2005. I think the exchange rate does account for a part of that but, as Ms Schick has said, it seems to me that the two biggest factors contributing to the slight fall in exports were a significant decline in beef exports and a decline in passenger motor vehicle exports. In the case of beef there is very strong demand from north Asia for Australian beef and higher prices in those markets, so you are certainly getting a pull effect into north Asia. In the case of automobiles, the Magna was no longer being exported to the United States in 2005, so that accounts for the drop in those export numbers.

Ms Schick mentioned the growth in elaborately transformed manufactures of four per cent—sorry, the growth in manufactures is 1.5 per cent overall, and that was a four per cent increase in so-called elaborately transformed manufactures which offset a big fall in simply transformed manufactures. I think that four per cent growth is reasonably encouraging, given automobiles were a large part of those ETM exports and they actually fell. So again you are seeing some positive signs there.

Senator HUTCHINS—Ms Schick, the figures and the commodities you were reading out then—would you be able to make them available to the committee, where they went up and down?

Ms Schick—Certainly.

Senator HUTCHINS—What do you expect might be the impact of the FTA this year? Did you anticipate, say, that beef exports would be down and car exports would be down?

Mr Deady—There would be nothing in the free trade agreement that would account for those two movements. As I say, particular significant external effects led to those.

Senator HUTCHINS—But did you anticipate that the beef exporters would find Asian markets more attractive, because they can get more money? I do not know if you had the crystal ball with you last year!

Mr Deady—The biggest issue with the beef trade, I think it is fair to say, in recent years has been the BSE scare and certainly the fact that the Japanese market was closed to the United States. There was some speculation right through 2005 as to when that market would open again for the United States. In any event, it did not open through 2005 and Australian beef has seen very strong growth in exports to that market. The point I would make is that it is very difficult to really isolate any single factor, to look at that crystal ball, as you say, and see where these trends might be.

Senator HUTCHINS—Are there any trends for this year that you could advise us of?

Mr Deady—For 2006?

Senator HUTCHINS—Yes. Do you think we will have another increase in the deficit?

Mr Deady—We do not make forecasts in DFAT, so no, I cannot speculate on that. Traditionally, we run a trade deficit with the United States. As for the question you asked, this year, yes, there was a very slight fall in exports and some continued growth in imports. But it is interesting that, even if you look at those import figures, there appear to have been some special factors there. For example, there was a very large increase in a particular category of pharmaceutical products. We are just starting to see some of this data and analyse it as best we can. I think, from my quick look at these figures, almost 40 per cent—almost half—of the overall increase in imports from the United States was in this category of drugs and that had a zero tariff. That was a product which again the US FTA had no impact on; the tariff was zero before we started and it was zero at the conclusion of the negotiations. So there are other factors out there. There are demand pressures and supply pressures that bear on commercial flows.

Senator FORSHAW—You said that about 40 per cent of the increase was in pharmaceuticals.

Mr Deady—It was in a particular tariff line, which we have looked at. It is a particular tariff line which is a range of pharmaceutical products. There was a zero tariff on those products.

Senator FORSHAW—Can you be a bit more specific: which ones?

Mr Deady—I will do the best I can. They are heterocyclic compounds.

Senator FORSHAW—Unfortunately, the health estimates have just adjourned for dinner, so I cannot go and ask them what that means! I think I have an idea what they are.

Mr Deady—All we have is a very broad classification, so we do not know what particular drugs we are talking about. My point is that that particular tariff line was already free coming into Australia and so the US FTA is not the reason there has been an increase in imports of those products in 2005.

Senator FORSHAW—I want to ask a question about the PBS and the FTA, but I do not want to interrupt Senator Hutchins.

Senator HUTCHINS—When the department supplies that information sheet, what I want to know will be obvious, won't it?

Ms Schick—That is right.

Senator HUTCHINS—I do not have any more questions.

Senator FORSHAW—I understand there is a review of the operation of the FTA in March this year, isn't there? Can you explain what is going to happen there.

Ms Schick—Yes. Annually, under the terms of the free trade agreement between Australia and the US, a joint committee is held which is co-chaired by the Australian Minister for Trade, obviously Mr Vaile, and the US TR, Mr Portman. No date has been announced yet, but we are expecting it to take place in March. As part of that, it will be reviewing generally the operation of the agreement and trying to identify further ways to enhance economic integration between the two countries.

Senator FORSHAW—I am aware that in January this year—this was in the public domain, in newspaper reports—officials of the Department of Health and Ageing were in Washington having meetings, led by the secretary of the department, Ms Halton. Those discussions clearly included the operation of the PBS system in Australia. I think I am reporting her fairly because I was just in the other estimates a little while ago. It was interesting to hear that the people involved on the American side had a number of their misconceptions clarified. I would have thought that all of that would have been done before the FTA was finalised. There had been misunderstandings about how the PBS operates in this country. Were any DFAT officials, including consular officials or embassy officials, involved in those discussions as well or was it purely officials from Health and Ageing?

Mr Langman—A DFAT official was part of the Australian delegation attending that meeting in January in Washington.

Senator FORSHAW—Who was that?

Mr Langman—It was an officer from my division.

Senator FORSHAW—From here?

Mr Langman—Yes.

Senator FORSHAW—Is there a problem in naming the official?

Mr Langman—No. The official was—

Senator FORSHAW—I am not seeking to embarrass anyone. I know Ms Halton was there. What was the officer's position?

Mr Langman—I am certainly happy to give you the name, if you like, but it was the officer who is the director of a section that is responsible for issues relating to a number of our free trade agreements.

Senator FORSHAW—And presumably they had some specific knowledge of and involvement in the PBS health related aspects of the FTA?

Mr Langman—The officer certainly has knowledge of the free trade agreement with the United States.

Senator FORSHAW—Are you able to say whether or not the issues of generic drugs and the evergreening provisions in the FTA were on the agenda at that meeting? Has the US sought to identify those issues as ones for discussion in the coming review?

Mr Langman—My understanding is that, in the exchange that we had with the United States during the meeting on our respective approaches to pharmaceuticals, the United States raised this issue. I do not believe there will be implications as a result for the joint ministerial commission meeting in Washington.

Senator FORSHAW—So the US are still raising that concern? What is our position? Are we holding the line on maintaining the provisions that were put into the FTA when the legislation was finalised through the parliament?

Mr Langman—Of course, we listen to the United States when it raises an issue with us, but at this point the government has not indicated that it would be considering any change.

Senator FORSHAW—Thank you.

CHAIR—Just before we close, Senator Payne reminds me, Mr Deady, that you were the beneficiary of an Australia Public Service medal in the Australian honours. On behalf of the committee, I congratulate you on your outstanding service. Mr Chester, I thank you and all your officers for being so persistent today and sitting through all the questions, through the thick and thin of it. Also I thank the committee secretariat and officers for all their hard work in trying to make things run smoothly.

Committee adjourned at 6.45 pm