



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE
AND TRADE

ESTIMATES

(Supplementary Budget Estimates)

THURSDAY, 2 NOVEMBER 2006

CANBERRA

BY AUTHORITY OF THE SENATE

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SENATE

STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

Thursday, 2 November 2006

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

Senators in attendance: Senator Johnston (*Chair*), Senators Allison, Brandis, Faulkner, Ferguson, Heffernan, Ludwig, Joyce, Nettle, Payne, Robert Ray

Committee met at 9.01 am

FOREIGN AFFAIRS AND TRADE PORTFOLIO

In Attendance

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

Department of Foreign Affairs and Trade

Portfolio overview

Mr David J. Ritchie, Deputy Secretary

Ms Gillian Bird, Deputy Secretary

Ms Penny Williams, First Assistant Secretary, Corporate Management Division

Ms Ann Thorpe, Chief Finance Officer

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

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

1.1.1: North Asia

Mr Peter Baxter, First Assistant Secretary, North Asia Division

1.1.2: South and South-East Asia

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

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

Mr Phillip Stonehouse, Acting/Assistant Secretary, South and West Asia Branch

1.1.3: Americas and Europe

Mr Les Luck, First Assistant Secretary, Americas Division

Mr Jeremy Newman, First Assistant Secretary, Europe Division

Mr Allaster Cox, Assistant Secretary, United States Branch

1.1.4: South Pacific, Middle East and Africa

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

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

Mr Paul Robilliard, 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 Peter Baxter, First Assistant Secretary, North Asia Division
Mr Paul Grigson, First Assistant Secretary, South–East Asia Division
Ms Deborah Stokes, First Assistant Secretary, South and West Asia, Middle East and Africa Division
Mr Les Luck, First Assistant Secretary, Americas Division
Mr Jeremy Newman, First Assistant Secretary, Europe Division
Mr David A. Ritchie, First Assistant Secretary, Pacific Division
Mr Ric Wells, Head, China FTA Task Force
Mr Michael Mugliston, Head, Asia Trade Task Force
Mr Justin Brown, First Assistant Secretary, Trade Development Division
Mr Nic Brown, Assistant Secretary, Trade and Economic Analysis Branch
Mr Tim Yeend, Special Negotiator Agriculture

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

Mr Justin Brown, 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 DeCure, Head, APEC 2007 Task Force

1.1.7: International organisations, legal and environment

Ms Penny Richards, Senior Legal Adviser and Acting/First Assistant Secretary, International Organisations and Legal Division
Ms Katrina Cooper, Assistant Secretary, Domestic Legal Branch
Ms Jan Adams, Ambassador for the Environment
Ms Elizabeth Schick, Assistant Secretary, International Organisations Branch

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 and Non-Proliferation Office
Mr Perry Head, Assistant Secretary, Counter–Terrorism Branch

Output 1.2: Secure government communications and security of overseas missions

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

Output 1.3: Services to other agencies in Australia and overseas (including parliament, state representatives, business and other organisations)

1.3.1: Parliament in Australia

1.3.2: Services to attached agencies

1.3.3: Services to business

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

Ms Penny Williams, First Assistant Secretary, Corporate Management Division
Mr Rod Smith, First Assistant Secretary, Consular, Public Diplomacy and Parliamentary Affairs Division

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

Ms Lyndall McLean, Chief of Protocol

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

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

Mr Robert Nash, Executive Director, Australian Passport Office

Output 3.1: Public information services and public diplomacy**3.1.1: Public information and media services on Australia's foreign and trade policy****3.1.2: Projecting a positive image of Australia internationally****3.1.3: Freedom of information and archival research and clearance**

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

Mr Justin Brown, First Assistant Secretary, Trade Development Division

Mr Richard Andrews, Executive Director, Economic Analytical Unit

Ms Katrina Cooper, Assistant Secretary, Domestic Legal Branch

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

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

Australian Agency for International Development (AusAID)

Mr Peter Versegi, Assistant Director General

Mr Jeremy Guthrie, Director, Asia Bilateral Branch

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

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

Mr Scott Dawson, Deputy Director General Pacific, PNG and International

Mr Murray Proctor, Deputy Director, General Asia

Ms Ruth Pearce, Senior Associate, Corporate Governance and Review

Mr Ian Millar, Acting Assistant Director, PNG

Ms Judith Robinson, Assistant Director, Pacific

Ms Donelle Wheeler, Acting Assistant Director, Indonesia
Mr Neil McFarlane, Acting, Fragile States
Mr Peter Callan, Assistant Director, ARB
Mr Dereck Rooker-Smith, Assistant Director, TF
Mr Alan March, Assistant Director, HCPA
Mr Titon Mitra, Assistant Director, AUSP
Mr Paul Lehmann, Assistant Director, Resources
Ms Jacqui De Lacy, Corporate Reform
Mr Wal Sheehan, Chief Finance Officer
Mr Sam Beever, Director, Budget
Ms Kirsty McNichol, Director, Development Banks.

Australian Trade Commission (Austrade)

Mr Peter Gunning

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
Ms Margaret Ward, General Manager, Export Finance Assistance Program
Mr Tim Harcourt, Chief Economist
Ms Hazel Bennett, Group Manager, Analysis and Planning.

CHAIR (Senator Johnston)—I declare open this meeting of the Senate Standing Committee on Foreign Affairs, Defence and Trade. I welcome Senator Coonan, representing the Minister for Foreign Affairs and the Minister for Trade; Mr David Ritchie, deputy secretary; Ms Bird and Ms Williams and officers of the Department of Foreign Affairs and Trade. Today the committee will examine the topics nominated by senators for the Department of Foreign Affairs and Trade, beginning with the portfolio overview followed by general outputs—that, is non-trade outputs enabling services. We will then move to AusAID from approximately 5 pm to 6.30 pm and then to Austrade from 7.30 pm until approximately 8.30 pm. Foreign Affairs and Trade output 1.1.5, Bilateral, regional and multilateral trade negotiations, and output 1.1.6, Trade development/policy coordination, will be examined this evening from approximately 8.30 pm. When written questions on notice are received the chair will state for the record the name of the senator who submitted the questions. The questions will be forwarded to the department for answer. The committee has resolved that Thursday, 14 December 2006 is the return date of answers to questions taken on notice at these hearings. Under standing order 26 the committee must take all evidence in public session; this includes answers to questions on notice.

Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. The giving of false or misleading evidence to the committee may constitute a contempt of the Senate. The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings and that is: any questions going to the operations of financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purposes of estimates.

The Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. An officer of the department or of the Commonwealth or other states shall not be asked to give opinions on matters of policy. He or she will be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits any questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. If a witness objects to answering a question the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer having regard to the ground on which it is claimed. Any claim that it would be contrary to the public interest to answer a question must be made by the minister and should be accompanied by a statement setting out the basis of the claim. Good morning, Minister, do you have an opening statement?

Senator Coonan—Good morning. I have no opening statement.

CHAIR—Mr Ritchie, do you have an opening statement?

Mr DJ Ritchie—No.

CHAIR—We will move straight to questions on portfolio overview.

Senator ROBERT RAY—Could I first of all raise the matter contained in the letter by Mr Chris Moraitis, senior legal adviser, sent to the committee on 21 June correcting evidence. There are three corrections of evidence contained within that letter. I go to the first one, which dealt with how many occasions DFAT helped in the preparation of statements before the Cole commission. The evidence was six to 12 and the correction is 140. Do we know why that mistake was made? It is a dramatic mistake rather than just one around the fringes.

Ms Bird—Would I be able to have a copy of that?

Senator ROBERT RAY—Yes.

Ms Bird—Thank you for passing me this letter. I think the explanation is actually contained in the letter itself. Mr Moraitis clarifies that the answer he gave referred to statements prepared by ministerial staff. He realised that the question related to statements by departmental staff and that was why the disparity occurred.

Senator ROBERT RAY—I just want to point out that that failure to properly answer the question the first time—I accept mistakes are made—meant we could not do the follow-through questions, which is even more apparent when you look at the third correction. We

will pass over the second one. When you look at the third correction, you were asked whether those legal advices obtained by Mr Kennedy had been passed to the department. What we wanted to do was ask about those legal advices. Of course, when we were told that they were not passed to the department it meant we could not ask questions on it. I have to say we are going to have to return to that issue at a later point in the morning.

Ms Bird—If I could say, we obviously try and answer the questions as accurately and fully as we can. Where we realise that there has been a discrepancy that needs correcting, we do it as quickly as we can.

Senator ROBERT RAY—I acknowledge that but I also hope you acknowledge that when incorrect information is given sometimes it precludes senators from going to the follow-up questions which were the reason for the original question. Thank you. We are just going to deal with a few smaller questions here. Senator Faulkner, in question 25 that was taken on notice at the last round of estimates, asked for details of Australia's trade with Ireland. I am wondering why the figures were given for the value of total service exports and total service imports but not for total merchandise exports and total merchandise imports. I went back and got the figures out. Maybe I understand why, but was that in the original answer and deleted or was it just never included in the original answer?

Mr DJ Ritchie—I would ask Mr Newman to respond to that.

Mr Newman—It has not been deleted. The material you got was what was put in the original draft.

Senator ROBERT RAY—We now know it was not deleted, but do you know why it was not included? You included the services one but not the merchandise?

Mr Newman—No, I cannot give you the reason for that.

Senator ROBERT RAY—Can you give us the merchandise figures now, or would you like to actually place that one on notice?

Mr Newman—With regard to merchandise trade with Ireland, exports to Ireland in 2005-06 were \$157 million and imports from Ireland, \$1,852,000.

Senator ROBERT RAY—Are you sure that was not billion dollars?

Mr Newman—No.

Mr DJ Ritchie—We will just check that figure.

Mr Newman—Yes, it was billion.

Senator ROBERT RAY—You can see why I am a bit suspicious. The deputy said that this was not included. It is such a staggering difference between \$150 million and \$1 billion. Now we have those figures, that is good. In the last round, in question 36 Senator Faulkner asked about Iraq's oil production. You said that accurate statistical reporting on Iraq was limited. I then went and checked that. I find that the Pentagon puts out monthly figures and I think the state department puts out weekly figures. So where is the difficulty in finding these figures? If I can find them, surely DFAT with its sophistication could have done so, too?

Mr Robilliard—In relation to the issue of oil production figures, you quite rightly say that the Pentagon, state department and other organisations put out figures. Those figures are

variable. I think the answer that was given to Senator Faulkner reflected the fact that, given the circumstances in Iraq, it is difficult to arrive at a precise figure in relation to oil production. But I acknowledge that those figures are available from different sources. Figures do vary between sources. It is not possible to say that this is a precise, accurate figure on a—

Senator ROBERT RAY—There was no intended or implied criticism of the Pentagon or the Department of State in your answer?

Mr Robilliard—Not at all.

Senator ROBERT RAY—That is reassuring.

Mr DJ Ritchie—He was trying to be accurate, I think, more than anything else.

Senator ROBERT RAY—Can I ask whether the department has provided Foreign Minister Downer, either at his Canberra office, his Adelaide office or his South Australian residence, with any communications equipment or like-minded materials to enable the minister to do media from those locations?

Mr DJ Ritchie—I will ask Mr Gerovich to answer that.

Mr Gerovich—The minister's Parliament House office has access to the department's SATIN Low and SATIN High systems.

Senator ROBERT RAY—Let me just clarify it. I am talking about equipment installed to do media obligations, not to receive or transmit the more mundane matters of work.

Senator FAULKNER—Or classified material for that matter.

Mr Gerovich—This does actually provide access both to the media and to classified and unclassified information. It is available in his Parliament House office. It is available at the minister's home. It is also available at the minister's office in Mount Barker. So at all three locations there is access to DFAT's unclassified and classified systems.

Senator ROBERT RAY—My question went more to: has any equipment been put into any of those three locations to enable Mr Downer, for instance, to do radio, television or other commitments from those locations paid for by the department?

Mr Gerovich—I cannot answer that question. I would have to take that on notice. We have computer equipment which provides access to the media, but in terms of other equipment I am not able to answer that. I will take it on notice.

Senator ROBERT RAY—It is not whether the minister can access media, it is whether the facilities have been provided to enable him to meet his media commitments at any one of those three locations, and I was seeking the costs. As well as taking it on notice, I would ask you to try to get an answer for me today. There may be follow-up questions.

Mr Gerovich—I will certainly try to do that.

Senator ROBERT RAY—Thank you. I am puzzled about one aspect of the portfolio budget statements. I am sorry I do not have the page reference, but at one stage there we see there is a minus \$12.1 million adjustment to rephase security funding to the out years. I must say I really admire the fact that minuses are put in brackets; it is not a plus or minus thing. It had me fooled for a while. Congratulations on that one.

Mr DJ Ritchie—It was not intended to fool you.

Senator ROBERT RAY—Wasn't it?

Mr DJ Ritchie—No.

Senator ROBERT RAY—Well, it had that effect for a while.

Ms Thorpe—The use of the brackets, I think you will find, is a normal use across all departments, because that is what we are instructed by Finance.

Senator ROBERT RAY—Hold on, I will just note that.

Ms Thorpe—It is actually quite a normal accounting use. That aside, in terms of the question you have asked, what has happened is that when we got the security funding several years ago—we got several tranches of it—we realised that it was harder to do the relocations than we thought at the time we did the costings. It is quite complicated, as you can imagine, in some of the countries we are doing relocations in to find the appropriate locations and everything else. What has happened is that it has ended up slipping slightly to what we originally intended. It does not put the posts or anything at risk because we are putting interim measures in place to make sure that they are still protected, so that minus that you are referring to is rephrasing the funding that we were originally provided.

Senator ROBERT RAY—I think you have answered my subsequent question: were there any risks involved in the slippage? You are saying no because alternative measures have been able to be undertaken.

Ms Thorpe—That is right.

Senator ROBERT RAY—Thank you.

Senator FAULKNER—I ask a general question on the obligations Australia had in relation to the import of goods from Iraq. I am thinking of prior to the invasion in 2003 and whether, in fact, any of these obligations changed after 2003 or during 2003. Can someone just give us a broad indication of that, Mr Ritchie?

Mr DJ Ritchie—Certainly.

Ms Bird—During the period 1996 to 2003 the UN oil for food program was in operation. That did impose certain restrictions on exports and imports. That is a matter that is currently, of course, before the Cole inquiry, so I would not be able to go into more detail on that.

Senator ROBERT RAY—Questions have been asked at the estimates committee and in relation to these matters the Federal Police have given evidence that the matter is not before the Cole inquiry and is, in fact, outside its terms of reference. So let us get that clear from the very start.

Ms Bird—Yes, if you want to ask questions about the referrals, the matter canvassed in the AFP estimates, I will answer those. Senator Faulkner, with respect, was asking me about what applied in terms of restrictions on imports from Iraq. That was the oil for food program.

Senator FAULKNER—Let us make it a question that I think you cannot have any difficulty in answering. I do not want to get into a debate about the nature of my own questioning, but are you able to indicate what particular international obligations—something

that obviously DFAT has a responsibility for monitoring—applied pre-2003, if any? What were the obligations if they changed after 2003?

Ms Bird—As I said, during the period 1996 to 2003 there were a series of international obligations flowing from Security Council resolutions. They were encompassed in the oil for food program. That is a matter that is currently before the Cole inquiry.

Senator FAULKNER—Can you indicate to the committee who had the responsibility for enforcing such obligations? That is not a matter before the Cole inquiry; it is just a process matter—a matter of fact.

Ms Bird—With respect, the operation of the oil for food program is very much a matter that is currently before the Cole inquiry.

Senator FAULKNER—I am interested in understanding what responsibilities the Department of Foreign Affairs and Trade had and what responsibilities other agencies had and that is not a matter being investigated by Mr Cole at all. I am going to rules, regulations and procedures. Those procedures are not in question; they are simply matters of fact, as you are aware. I have made it clear to Minister Coonan and others in the past that we do not accept the rulings that have put certain obligations on witnesses at this and other estimates committees. While we do not accept that, we are not going to waste a great deal of time in canvassing those issues. I am trying to focus on the responsibilities of DFAT and other agencies—that is all.

CHAIR—Those subjects are before the Cole royal commission.

Senator ROBERT RAY—Let me rephrase the question. In relation to the seven referred matters to the AFP that we have heard are not before the Cole commission and are not within their terms of reference, which department had the responsibility for enforcing those?

Ms Bird—Those referrals relate to matters concerning the oil for food program. The answer to my previous question stands. Those are matters currently before the Cole commission.

Senator ROBERT RAY—This is just a subterfuge not to answer questions. It really is on this occasion. They were answered in another committee. They are not answered here. They are not within the terms of reference. These questions are not within the terms of reference of the commission.

Ms Bird—If I can clarify, I will certainly do my best to answer questions within the constraints imposed by the fact that I am not able to answer questions that are currently before the Cole inquiry, nor would it be appropriate to comment on matters that may prejudice an ongoing police investigation. Within those constraints I will answer—

Senator ROBERT RAY—Before you go any further, we do not have a track record of impinging on operational matters, unlike some other people in this parliament. We do not. I am certain the minister will draw it to our attention the moment we do stray into operational matters.

Senator FAULKNER—Aren't Mr Cole's terms of reference relating to companies that are named in the Volcker report? That is my recollection. I have not got the terms of reference

with me. I have looked at them before because of the nature of questioning that needed to be undertaken at this committee, but just remind me of that.

Ms Bird—Yes, they are.

Senator FAULKNER—Now I am asking about the government agencies' responsibilities.

Ms Bird—As I said, the role of government agencies in the oil for food program is a matter that has come up in evidence before the Cole inquiry. It is a matter before Commissioner Cole.

Senator ROBERT RAY—I am going to start again. What were our international obligations?

Ms Bird—That is a matter before the Cole inquiry.

Senator ROBERT RAY—Whose task was it to enforce these obligations?

Ms Bird—That is a matter before the Cole inquiry.

Senator ROBERT RAY—In terms of the ultimate responsibility for enforcing imports into this country, was it DFAT or Customs?

Ms Bird—As I said, questions to do with the oil for food program are currently before Commissioner Cole.

Senator ROBERT RAY—When did DFAT first learn of the possibility that those obligations may have been breached? I put it to you that it was in February this year; is that true?

Ms Bird—I can confirm that a referral was made in February this year.

Senator ROBERT RAY—A referral to whom?

Ms Bird—A referral to the AFP.

Senator ROBERT RAY—How many cases were referred?

Ms Bird—It is a matter of public record, but there were seven.

Senator ROBERT RAY—There were seven cases referred. Were they referred by DFAT?

Ms Bird—The referral was from DFAT.

Senator ROBERT RAY—The referral was from DFAT, not from Customs? You can not comment on what the general tenor of the referral was?

Ms Bird—No, I think that would be inappropriate.

Senator ROBERT RAY—Who made the referral, which individual or position? I do not want to know who the individual was, but which position? Is it the secretary who refers it or the head of—

Ms Bird—It was referred by the secretary.

Senator ROBERT RAY—It was referred by the secretary of the department?

Ms Bird—Yes.

Senator ROBERT RAY—In regard to a related matter, is it correct that the ABC's *7.30 Report* tried to FOI documents pertaining to these broad matters in May this year?

Ms Bird—I saw the *7.30 Report*, yes.

Senator ROBERT RAY—I am not asking whether you saw the *7.30 Report*, because if you totally accept everything that was on there we would have a much longer discussion—maybe not with me but with some of the Liberals here. I am asking: from your departmental knowledge, was an FOI request from the *7.30 Report* received relating to these matters?

Ms Bird—That was an FOI request to Customs, not to the department.

Senator ROBERT RAY—That is what I was trying to establish. So the 15 documents identified by the *7.30 Report* were documents in Customs and not in DFAT?

Ms Bird—I do not know which documents the *7.30 Report* may or may not have had but the FOI request was made of Customs.

Senator ROBERT RAY—I thought they claimed—but I could be wrong here—that there were 15 DFAT documents identified but that it was not in the public interest to disclose these documents.

Ms Bird—It was a Customs FOI request that may have covered material that they had from us, but it was a Customs request.

Senator ROBERT RAY—That is absolutely possible. We can at least establish that DFAT has not on public interest grounds refused an FOI request on these matters.

Ms Bird—We have not had an FOI request on this matter.

Senator FAULKNER—Is it true that BP wrote to the Department of Foreign Affairs and Trade in 2001 to request a retrospective approval for an October 2000 shipment of oil from Iraq?

Ms Bird—With respect, that is a matter that does relate to an ongoing AFP investigation.

Senator FAULKNER—What is the procedure in these cases? Are formal certificates issued by the department? Is it delegated to departmental officials? Are they ministerial level certificates when approvals are granted?

Ms Bird—Sorry, approvals for what?

Senator FAULKNER—When approvals are granted by the Department of Foreign Affairs and Trade for imports they require a certificate of approval; that is right, isn't it?

Ms Bird—You are talking about the particular case that has been in the media—

Senator FAULKNER—No, I am just talking about general procedures.

Ms Bird—I cannot answer on that. I know what happened during the oil for food program but—

Senator FAULKNER—If you want to answer in relation to the oil for food program—

Ms Bird—I cannot answer in relation to that.

Senator FAULKNER—That is why I am asking a general question. Someone would know.

Ms Bird—As far as we are aware, our only role would be if there are sanctions in force. As far as I am aware, this portfolio is not normally involved in matters to deal with imports.

Senator FAULKNER—But if there are sanctions enforced—and it is not only necessarily Iraq in that circumstance, is it? It might be North Korea for example, or whatever. I am not going specifically now to the oil for food program so I can try to get an answer at least to what seems to me to be a straightforward process question. What is the nature of the approval? In other words, is it a certificate of approval? You understand what I am asking, Mr Ritchie?

Ms Bird—As I said, I will see if someone has some more information on this but, in general, if there are sanctions that impose restrictions on either exports or imports, an appropriate scheme will be put in place. That might vary from one sanctions regime to another but, as I said, if there are restrictions imposed by sanctions then there would be a regime in place and if that requires certificates that is what we would do. But, as I said, it might vary from case to case.

Senator FAULKNER—I think from previous evidence, perhaps over the last 10 years or so, to this estimates committee, my understanding was that certificates were issued to permit imports—that that was the general process or regime, if you like. I am just asking if that is the case.

Ms Bird—As I said, where the sanctions involve restrictions on imports there would be a regime in place.

Senator FAULKNER—Are you saying the regime is different depending on circumstances?

Ms Bird—Yes. Each sanctions regime is going to differ, so you would have to put in place an appropriate regime to meet those particular sanctions.

Senator FAULKNER—Understanding that, is the end point of the process the issuing of a certificate to permit imports?

Ms Bird—If that is what is required for that particular sanctions regime.

Senator FAULKNER—If that is what is required for such a sanctions regime, my original question, which I was trying to get an answer to, is whether such certificates are agreed by a minister or a departmental officer, or does that also depend on the nature of the regime?

Ms Bird—Yes, it would depend on the nature of the regime. I do not think I can give a blanket answer.

Senator ROBERT RAY—Have you ever known of such a regime to allow retrospective approval?

Ms Bird—I do not know. I would have to take that on notice.

Senator ROBERT RAY—Could you take it on notice and look for any examples where it may have occurred?

Senator FAULKNER—I asked one question and you said it was subject to operational matters, unlike the other excuse that is provided. As Senator Ray has said, we do not trample into operational matters, and that has consistently been the position of the current opposition.

But we do ask question such as when this matter was referred to the AFP. So let me ask you that. When was this particular matter referred to the AFP?

Ms Bird—That was in February this year.

Senator FAULKNER—Who referred that?

Ms Bird—As I mentioned, the secretary of the department referred it.

Senator FAULKNER—The referral relates to events that occurred in the year 2000. I think we know that, don't we?

Ms Bird—There is one particular case which is on public record which relates to 2000.

Senator FAULKNER—There is one particular case? Given that there is one case that relates to the year 2000 and it is, I think, on the public record of events that took place in 2001, can someone just explain to me why there seems to be quite an extraordinary time delay in the referral in at least one of the cases?

Ms Bird—To go into the circumstances of the referral risks entering into matters to do with an ongoing investigation and it would be inappropriate to do that.

Senator ROBERT RAY—I think the appropriateness comes in here, if I may explain. If, in fact, these matters came to the attention of the secretary—not the same secretary, I concede—in 2001 and they were referred to the Federal Police five years later, we are entitled to ask: was the delay that long, or did the interpretation of the events of 2001 only come to light in February 2006 and prompt the referral?

Ms Bird—As I said, to go into the circumstances relating to the referral risks getting into matters to do with the investigation and it would be inappropriate to do that.

Senator ROBERT RAY—We are not going to matters of the investigation. The investigation can only follow the referral. The referral occurred in February this year, so we are going to matters prior to that. But maybe I can assist by asking: how long did the Secretary of the Department of Foreign Affairs and Trade take in considering the matter before it was referred to the AFP?

Ms Bird—We took appropriate action at the appropriate time. To go beyond that, to go into dates, risks getting into matters before the investigation.

Senator ROBERT RAY—No, it does not, I am sorry.

CHAIR—I think it does.

Senator ROBERT RAY—Could you explain how? At least one of these events occurred—

CHAIR—The interpretation of the law and/or the provisions of the particular sanctions are matters which will enhance, benefit or provide detriment to either the prosecution or the defence in the ongoing inquiry.

Senator ROBERT RAY—I am interested in exploring this, not to interfere in the investigation; I think you accept that, Chair. This matter, in a sense, came to the attention of the department in 2001 when BP asked for a retrospective approval. They did so in writing, by the way. If that, at that moment, triggered that there was a breach, I am wondering why it took

five years for a referral. If it did not trigger a sense of a breach, I am wondering why it did not.

CHAIR—I think that matters of adjudication of the understanding of the referring authority—in this instance DFAT—are matters which bear upon the operational inquiry.

Mr DJ Ritchie—I think that is what Ms Bird is trying to say. The AFP investigation includes all the processes that led up to it as well, so they are matters that are under investigation by the AFP.

Senator ROBERT RAY—I think you have gone half way, Mr Ritchie, to giving me the explanation. To be clear on that, the things referred to the AFP may be possible breaches. Is there also a simultaneous or a combined investigation as to whether there have been illegal acts by the department as well? That is what I take is the implication of that.

Ms Bird—At the AFP estimates, Commissioner Keelty clarified that this investigation related to a number of companies. As I said, to go into any more detail about the circumstances that led to that referral risks compromising that investigation.

Senator ROBERT RAY—You see, I accept that if the AFP were investigating DFAT for its failures or its breach of the law I would not proceed with any questions as to whether you acted expeditiously or not. But if it is not looking at that I think I am entitled to ask: did the department on notification of possible breach of the law act expeditiously by referring it or did they hang around and dilly-dally for five years?

Ms Bird—As I said, we acted appropriately at the appropriate time.

Senator ROBERT RAY—This is a judgement you are now putting before me. I want to test that judgement by finding out when you first knew of the potential breach and when you first referred it. You have been kind enough to say when you first referred it; it was February this year. But if, in fact, you found out about these breaches in 2001 any reasonable senator or committee would want to know why you waited five years to act on it.

CHAIR—As would any prosecutor and/or defender and/or judicial officer. Now that is a matter bearing upon this inquiry.

Ms Bird—As I said, I do not accept the premise that there has been a delay, but to go into the circumstances of the referral risks entering into matters that are a subject of an investigation.

Senator ROBERT RAY—We are left in a position of not knowing whether your judgement—not whether your truthfulness, but whether your judgement—on that is right or wrong.

CHAIR—I think that is par for the course. There has been referral—

Senator Coonan—That is what they are investigating.

Senator ROBERT RAY—No, they are not, with due respect.

Senator Coonan—The AFP is looking at the processes, Now, the processes have been—

Senator ROBERT RAY—That is not the evidence.

Senator Coonan—Could I just finish my answer, please? I agree entirely with the Chair's interpretation. The processes whereby something comes to someone's attention and the issues that they might look at before deciding what to do about it are part of legitimate investigation that the AFP have said they are looking at.

Senator ROBERT RAY—I thought it may be more relevant to the court case rather than the investigation. What I was trying to establish is whether the AFP in any way—and I think the answer is no, from the evidence we have heard—

Senator Coonan—Nobody has said they were investigating DFAT. Nobody is making that statement on this side of the table.

Senator ROBERT RAY—No, but I am. I am seeking—

Senator Coonan—A process is different to an investigation as to some impropriety.

Senator ROBERT RAY—Of course. That has been my point all along, and I do not seek in any way to interfere in the investigative process of these companies in any potential breaches. What I need to know is whether the department have behaved appropriately as to when these matters were first drawn to their attention. If it was in February this year, I would understand why they referred it to the Federal Police immediately and I would give them a big elephant stamp for acting. But if they knew, as I believe—or someone must have known—back in 2001, that is a different matter. BP sends a letter asking for retrospective approval. I am wondering why that does not trigger action. Was this put in the same file as the 27 warnings on AWB, or something? I just cannot understand why no action was taken at that stage on a potential breach. I do not say 'a breach', but 'a potential breach'.

Senator Coonan—Isn't that the point, a potential breach? Anyone who receives a complaint about anything is entitled, no doubt, to look at it. We do not know and we are not making any statement about when others might have come to the attention of the particular persons looking at it. In this case it seems to have been the secretary. You need to be able to gather your position before you refer something.

Senator ROBERT RAY—Yes, but we know that this secretary of the department did not know about it in 2001 because he was doing an excellent job as our high commissioner in London. So I am not trying to slot somebody there. But someone in this department knew in 2001 of a potential problem when they got a letter from a multinational company saying, 'We would like you to retrospectively approve an oil shipment into Australia that did not have UN sanctions.' How does it take five years for that to translate to eventually the secretary referring it to the Federal Police? That is what I am referring to.

Senator Coonan—You are asking me, in particular, in this case to speculate. I am not going to.

Senator ROBERT RAY—No, I am not.

Senator Coonan—I do not know what the various rules are in relation to how this is applied. It may be that there is some process whereby you can validate an action. I do not know that. But what I am saying is—and I think this is the position—that this matter is now being investigated as a matter of process and it is not appropriate for us at this stage to be providing detail that is the subject of investigation.

Senator ROBERT RAY—I did not ask you to speculate. You are at the table representing the foreign minister and the department. If I thought for one moment you had full knowledge of everything that happened in the department I would not be here, because I would just be in awe of you because it is just not possible. But someone in the department, not necessarily the secretary or even the officers at the table, must know when one or all of these seven matters first came to the attention of the department. If it came to the full attention of the department in February, then that is the end of my questioning. But if it came much earlier and there was a failure to refer, that is a failure of process and a failure of duty in that by the department and I want to know about it.

CHAIR—But you are not going to know about it if it bears upon a current AFP inquiry. It is as fundamental as that. It obviously does.

Senator ROBERT RAY—If the departmental officials want to make that statement and put their reputation on the line and that later proves to be wrong, so be it. I am not even wanting to do that.

Senator Coonan—They are not saying that; they are just talking about process. They are not saying that there is an investigation as to the propriety of DFAT. As I understand the AFP investigation, they are looking at the processes whereby these matters came to them. They are looking at all of the sweep of the debts.

Senator ROBERT RAY—I am looking at the propriety of DFAT.

Senator Coonan—I know you are.

Senator ROBERT RAY—The police are not; I am.

Ms Bird—With respect, the circumstances surrounding our referral, the matters that you refer to, relate to an ongoing investigation and it would be inappropriate to comment.

Senator ROBERT RAY—But you have at no stage shown me how.

Ms Bird—The matters that you refer to are matters to do with a case which is currently being investigated by the AFP—

Senator ROBERT RAY—But a whole range of things fall under that. We understand the distinction between what is directly operational and what led up to the operational matters. What I am trying to find out is whether DFAT were diligent in carrying out their obligations or there was a five-year hiatus when nothing happened, and that, with all respect to you, does not go to the operational investigation of the police.

Senator FAULKNER—I was grandly told earlier on as I started to ask some questions about the import regime that applied in relation to such matters that these matters were before the Cole commission. Do you recall saying that?

Ms Bird—Yes, the operation of the oil for food scheme is a matter before the Cole commission.

Senator FAULKNER—You have also indicated that in relation to the specific matter—the seven incidents that have been canvassed here—that is a matter that has been referred to the Australian Federal Police. Can you confirm that?

Ms Bird—Yes.

Senator FAULKNER—I was interested in understanding whether there had been any reference to the information provided to the Cole commission on these same matters that may be subject to a Federal Police investigation, but the broad parameters, you grandly told me, were matters before the Cole commission as well. Has the department taken steps to inform Commissioner Cole of any of these or related events? This is just a process question: has the royal commission been informed?

Ms Bird—Questions relating to the relationship between these referrals and the Cole commission were asked and answered in the legal and constitutional affairs estimates process earlier this week—

Senator FAULKNER—I was not there so I am just asking my question. It might come as a shock to you, but I actually do not spend all my nights reading the *Hansard* of the legal and constitutional affairs estimates committee.

Senator ROBERT RAY—Why should we when we have got him—

Senator FAULKNER—Exactly. Disappointing but wise. If you can tell me whether the department has taken any initiative to refer these matters to Cole, I would appreciate it.

Ms Bird—As I said, this was raised and answered in that estimates committee. I can get you the transcript but I have nothing further to add.

Senator ROBERT RAY—You are being asked about your responsibilities—

Senator FAULKNER—I am asking about DFAT.

Senator ROBERT RAY— That is not an acceptable answer. That is not an acceptable answer, Chair.

Senator FAULKNER—It is perfectly proper for me to ask whether the department has taken any action in relation to placing these matters before Mr Cole's royal commission. It is preposterous not to answer such a question. I do not care whether anybody else has asked it or in whatever context they have asked it or in whatever forum they have asked it. I am asking you, as an official of the Department of Foreign Affairs and Trade, and it requires a pretty simple answer. Either it was done or it was not done.

Ms Bird—It is on the public record that these matters were not referred to Cole. This whole issue of the relationship between the two was asked and answered in an estimates process this week by the Minister for Justice and Customs, and Commissioner Keelty and I have nothing further to add.

Senator ROBERT RAY—So the department, having knowledge of these matters, has not referred it to Cole? That is what you are saying.

Ms Bird—As I said, this issue has been asked and answered in another estimates process—

Senator ROBERT RAY—No, you were not there the other day. Your department is now here and you are being asked today about the role your department played. It is not some commentary from another department; it is about you—your department. You are being asked about the role of your department now and you are required, as the chairman admonished you earlier in the day, to answer those questions.

Ms Bird—As I said, it is a matter of public record these were not referred to the Cole inquiry. The detail around that was explored in an estimates process earlier this week.

Senator FAULKNER—I do not care what was explored. The referral came to the AFP from the Secretary of the Department of Foreign Affairs and Trade; that is true, isn't it?

Ms Bird—That is correct.

Senator FAULKNER—The question I want to ask, Mr Ritchie, is: was consideration given by the secretary of the department or senior officers of the Department of Foreign Affairs and Trade to refer these matters or related matters to the Cole royal commission and, if not, why not?

Ms Bird—We took—

Senator FAULKNER—I am sorry, that is to Mr Ritchie, a more senior officer, because the secretary of the department—

Senator FERGUSON—Senator—

Senator FAULKNER—No, let us be clear; the secretary of the department made the referral. That is what I was told.

CHAIR—I take it the secretary may defer to the officer who had responsibility for that.

Senator FAULKNER—I do not take that at all, because we are told that was not the case.

CHAIR—Let us see what he says.

Mr DJ Ritchie—I am not a more senior officer. Ms Bird and I are both deputy secretaries of the department, and on this issue—

Senator FAULKNER—You are much older.

Mr DJ Ritchie—Bless you.

CHAIR—So we have been sold a pup already?

Mr DJ Ritchie—That is partly the effect of a large bomb in 2004. Ms Bird is the relevant deputy secretary. She has been handling this matter and I defer to her on the issue. She represents the secretary on this matter.

Senator FAULKNER—So the secretary refers these matters to the AFP. Now I am asking: was consideration given by the secretary or senior officers of the department to referring these matters to the Cole royal commission? Was that consideration given?

Ms Bird—We considered the matters before us and judged that the appropriate course of action was to refer it to the AFP.

Senator ROBERT RAY—So let me get this clear. You actually make a decision not to refer it to Cole, but when we ask questions about it here today, you use the Cole commission defence not to answer them. That is just peachy.

Ms Bird—I am not confirming the process of what we considered and what we did not. What I am saying is we made the judgement that the appropriate course of action was an AFP referral, in accordance with normal AFP guidelines.

Senator ROBERT RAY—The reason you did not refer it to Cole was that it was outside his terms of reference. That is clear from the evidence the other day. You did not refer it for that reason, and you cannot then use Cole as an excuse not to answer questions here. It is as simple as that.

CHAIR—But Cole is not the only explanation for not answering the question, I do not think. It is to do with operational matters before the AFP.

Senator ROBERT RAY—On the specific line of questioning, that was the sole excuse. For other lines of questioning we had operational and some other vague reasons, I concede that. But you have to concede the original questions were ruled out on the Cole ground.

Senator LUDWIG—Did the department receive any other request for retrospective approval under 4QA from any other entity other than the one that has already been highlighted?

Ms Bird—With respect, that goes to matters dealing with the operation of the oil for food program which is currently before Commissioner Cole.

Senator LUDWIG—How is that? What we are talking about is whether the department has received any request from any entity in relation to an approval system which is said to have been repealed under 4QA.

Ms Bird—If you are talking about any sanctions regime, I would have to take that on notice.

CHAIR—We have already taken that on notice.

Ms Bird—I cannot take on notice, though, matters to do with the Cole commission.

Senator LUDWIG—But have we not determined that that matter falls outside the Cole commission?

Ms Bird—No, the operation of the oil for food program, which relates to this matter—

Senator LUDWIG—You say, generally speaking, all matters relating to the oil for food program fall within the Cole royal commission?

Ms Bird—The operation of the oil for food program certainly does, yes.

Senator LUDWIG—Then how was it that you referred that matter that Senator Faulkner was talking about to the AFP and not to Cole, if it fell outside Cole?

Ms Bird—Sorry, we are talking about two different things. Terms of reference govern what is before the Cole inquiry. The direction that I am operating under is that I am not to answer questions on matters before Cole. That goes to everything, evidence that has come up, things that have been discussed—

Senator LUDWIG—So it is much broader?

Ms Bird—Much broader.

Senator LUDWIG—You have been closed down by the government so that you cannot answer those questions which relate to the oil for food program.

Senator ROBERT RAY—We can move on.

CHAIR—We can move on?

Senator ROBERT RAY—I ask whether DFAT received a copy of the fully classified version of the US National Intelligence Estimate entitled *Trends in Global Terrorism: Implications for the United States* dated April 2006?

Mr DJ Ritchie—I will ask Mr David Stuart to answer.

Mr Stuart—I know this matter has come up before and, off the top of my head, I am not sure of the answer. I will try to get it for you in this session.

Senator ROBERT RAY—If you could take that on notice and whether you provided a briefing to the foreign minister on it. I am not talking about the nature of the briefing at all, but just whether you did so.

Mr Stuart—That is the 2006 National Intelligence Estimate on terrorism?

Senator ROBERT RAY—According to the leak in the *New York Times*, and then a declassified version was issued, it was called *Trends in Global Terrorism: Implications for the United States* and was dated 2006. I asked that because I noticed that the Prime Minister when this appeared in the media was quoted in the paper as saying:

Some of the intelligence agencies that were involved in this assessment were telling us that Iraq in 2003 had weapons of mass destruction.

In other words, that is a bit of a smack for the NIE. I am just wondering whether the department has ever noted the difference between the classified and declassified version of the NIE in 2002 dealing with Iraq. I think it was in October 2002 that a declassified version of that came out and then in July 2003 the classified version came out and we were able to do a comparison between the two. What we found—I do not know whether your department has found it—was that every qualification, every doubt, was removed from the declassified version that was there in the classified version. In other words, the classified version was far more sanguine about WMD and terrorist links in Iraq. Maybe the Prime Minister might be assisted in his analysis of all of that if that is pointed out to him. I do not know whether your department ever did the analysis.

Mr Stuart—That is going into a further area. I will look into that. My division can certainly help answer the first two questions that you had and I will need to talk to colleagues and track back on the third.

Senator ROBERT RAY—I did not expect an immediate response. I do not want to drag you into too much, Minister, but I did ask the same question of Senator Minchin. It was a straightforward question of Senator Minchin in PM&C but I might adapt it to this portfolio. Is there any intention on the part of the foreign minister to make a full statement to the Australian parliament about the current circumstances in Iraq and Australia's assessment of the future of Iraq?

Senator Coonan—I obviously have to take that on notice.

Senator ROBERT RAY—It has been a long time since the parliament has been briefed on these matters. At PM&C people started to jump in and wanted to argue the case one way or the other. I am not intending to proceed along those lines, but it is just that it might be time for a parliamentary debate.

Senator Coonan—Yes. Although I would say about Mr Downer, whom I am representing, that he seems to be constantly making public statements. It is not as though you have not heard a thing from him, but I understand what you are putting to me.

Senator ROBERT RAY—I read the shallow attack on the opposition by Mr Downer over Iraq in yesterday's *Australian*, as you did, but I would like it to be placed in a forum where it can be fully debated—not just cheap shots in a Murdoch publication.

Senator Coonan—I will take it on notice. Something of the character that you are alluding to here may be something that he has in mind, but he speaks daily about the position.

Senator ROBERT RAY—People were speaking daily of Iraq in 2002 and 2003, yet we had some substantial prime ministerial and foreign ministerial statements in the parliament. If it was good enough for that era then I think it is good enough for today. I am not arguing about what the nature of the statements should be. We can argue in the parliament about that. Thank you for taking it on notice.

Senator Coonan—I will. I would like to just add to this. I do not want to cavil the point, but he does not just talk in the press; he answers questions daily in parliament. It is an accountable government. I will take on notice what you have asked me, but I have to say in the minister's defence that he is publicly making statements and clarifying the position, updating the public and the parliament almost on a daily basis.

Senator ROBERT RAY—My only counter point to that is that in 2002-03 Mr Downer made many public statements, answered many questions in parliament and made ministerial—along with the Prime Minister—statements on the matter in parliament as well, which allowed a more formal debate. Question time is not a debate. We turn it into it on occasions, but it is not intended for a debate. We need these issues to be debated, rather than just information conveyed. Thank you for the consideration.

Senator FAULKNER—I would like to ask a question that follows on from that. Given that the department is expert in the evidence that is presented at other estimates committees, you probably will not be surprised that I am going to ask this question, which, first of all, relates to evidence I received in the finance and public administration committee, which was from the Office of National Assessments, represented by Mr Varghese. I raised the issue of Dr John Gee's resignation. You would be aware of this issue. Mr Varghese was able to provide evidence to the finance and public administration committee that an official of the Office of National Assessments was advised by Mr Quinn, who was then the head of the Iraq task force and a senior DFAT official at the time—and I quote from Mr Varghese earlier in the week:

We were advised by DFAT that the letter of resignation was not available to us.

This is Dr Gee's letter of resignation. Can someone at the table confirm for me that the then head of the Iraq task force, Mr Quinn, gave that advice to ONA?

Mr Robilliard—The letter that we are referring to was not a letter of resignation. Dr Gee was employed by the Department of Defence. As is on the public record, the letter which he wrote to Mr Quinn as head of the Iraq task force was a letter concerning the reasons for his resignation. That letter, as I noted, was addressed personally to Mr Quinn and it was marked 'In confidence, Restricted'. Mr Quinn, therefore, considered it appropriate that the letter have limited distribution. He did seek guidance from within the department as to how the letter

should be handled. His recollection is at the time he was asked by the officer in ONA for a copy of the letter. He had not at that stage received a response to his request for guidance on its handling.

Senator ROBERT RAY—Who did he seek guidance from?

Mr Robilliard—He sought guidance from within the department.

Senator ROBERT RAY—A more senior officer?

Mr Robilliard—Yes.

Senator ROBERT RAY—What level? Was it a secretary?

Mr Robilliard—Mr Quinn's recollection is that he sought that guidance from the relevant deputy secretary.

Senator ROBERT RAY—Who was the deputy secretary at the time that had the responsibility for the Iraq task force?

Mr Robilliard—As has been given in evidence before this committee previously, it was Mr Murray McLean.

Senator ROBERT RAY—You say that it was not his letter of resignation. There are effectively two documents here. I have to base this on my understanding—and I have always described it as such—because I can only go on published reports, but they are published in Dr Gee's name so it does leave a level of credibility to it. There was a letter of resignation and appended to a letter of resignation was a report, if you like, of some six pages. Is that not a fair description of what we are talking about?

Mr Robilliard—The letter received by Mr Quinn was not a letter of resignation. It would not have been appropriate for Dr Gee to write a letter of resignation to Mr Quinn. As I said, he was employed by the Department of Defence. The letter that Mr Quinn received was a letter from Dr Gee which went into some of the reasons for his decision to resign.

Senator ROBERT RAY—It was about his resignation as opposed to a letter of resignation?

Senator FAULKNER—The letter about the circumstances that led to his resignation.

Mr Robilliard—Yes.

Senator FAULKNER—We will use that terminology. You said it was classified.

Mr Robilliard—It was marked by Dr Gee, 'Restricted. In confidence'.

Senator FAULKNER—Can you explain that classification to me because it is a comparatively low level classification and it has been a long time since I have had ministerial responsibilities that dealt with classifications. My recollection is that is a fairly low level national security classification, is it not?

Mr Robilliard—It is a national security classification.

Senator FAULKNER—What sort of clearance does such a classification require?

Mr Robilliard—I would have to seek advice on that.

Senator FAULKNER—You would know that, wouldn't you, in your role, or Mr Ritchie or Mr Stuart would?

Mr Stuart—They are two different classifications. Restricted is a national security classification. Material which if released would damage the national interest would be restricted. An in-confidence classification is what would be understood to be in the general vernacular that the author wishes to keep that communication in confidence. The level of access to see a national classification document up to restricted would be to have a secret level access.

Senator FAULKNER—It is a low level national security classification, as I said. Mr Quinn, the then head of the Iraq task force goes to his superiors and when a request is made by an ONA official for the letter—is it best described as a letter or a report? What are we talking about here—a letter?

Mr Robilliard—It is a letter.

Senator FAULKNER—A request is made for the letter to be passed on. Is that right?

Mr Robilliard—He sought guidance on the future handling of the letter.

Senator FAULKNER—What guidance did he receive?

Mr Robilliard—His recollection is that the question of the further handling of the letter was overtaken at the time. From evidence that has come before the committee yesterday, both Mr Smith and Mr Pezzulo indicated that the reasons for Dr Gee's resignation were no secret within the relevant areas of the Public Service without actually having obtained a copy of the letter. As is on the record, Dr Gee discussed his concerns with a range of officials following his return to Australia and that included officials in DFAT, Defence and ONA.

Senator FAULKNER—That is helpful. I appreciate that assistance to the committee, but I am not entirely sure that it was an answer to the question that I asked, which was: what response was received to Mr Quinn's inquiry?

Mr Robilliard—Mr Quinn's recollection is that the inquiry was overtaken by events with Dr Gee's return and that he does not actually recall any advice being received. He does not recall receiving, nor do we have any record of any instructions that the letter was not to be distributed.

Senator FAULKNER—Can you confirm that there was a request from Defence for this particular letter?

Mr Robilliard—We do not have any records on our files of a formal request from Defence. Mr Quinn's recollection is that he thinks a copy of the letter went to Defence, but he does acknowledge that is a recollection based on events that were 2½ years ago.

Senator FAULKNER—It seems that DFAT is now following estimates committees very closely. You would have heard the evidence provided by Defence yesterday at this committee on this issue. Would you have heard that or been made aware of it?

Mr Robilliard—I heard and I am aware of it.

Senator FAULKNER—You know of the request from Defence. Is there any record of such requests? Have you been able to check your own records in DFAT as to what action was taken upon receiving the request from Defence?

Mr Robilliard—Can you just clarify the time of the request that you are referring to?

Senator FAULKNER—I cannot be absolutely precise because we await further and better information from Mr Pezzulo in answer to questions that were taken on notice. You and I both know of the broad picture that was established in relation to contact between Defence officials and some DFAT officials in relation to this particular letter. I am happy to hear from DFAT's perspective what records you have and what you have been able to ascertain. Perhaps it is just easier and quicker if you do that for us.

Mr Robilliard—Yes. If we are referring to the time that Mr Quinn received the letter, the letter was dated 2 March 2004. As I indicated in my earlier answer, Mr Quinn thinks that a copy of the letter went to the Department of Defence but he does acknowledge that that is based on memory from 2½ years ago. To the best of my knowledge, we have no record on our files of a request from Defence for the letter at that time. My understanding was that in evidence that Mr Pezzulo gave yesterday, he referred to a possible request from Defence in February 2005. We have no record of any such request, nor does the then head of the Iraq task force, Mr Blazey, have any recollection of such a request.

Senator FAULKNER—We have got this contact that is established between Mr Quinn and ONA. I assume that is accepted?

Mr Robilliard—Yes.

Senator FAULKNER—We have the information that you have been able to provide, albeit qualified. I hear the qualifications that you have provided in relation to two possible contacts with Defence. Were there any other agencies outside DFAT that Mr Quinn or DFAT had contact with about the Gee letter, apart from ONA or Defence?

Mr Robilliard—I am not aware of any other similar discussions.

Senator FAULKNER—It is limited to ONA and Defence, as far as you know. What about within DFAT? What does Mr Quinn do in terms of receiving this information himself? We know it has a low level national security classification. We now know it is in letter form. I do not think any of this is news. Let us put aside ONA. Let us put aside Defence. Let us just talk about what Mr Quinn does in terms of his reporting up the line or elsewhere in DFAT. Can you let the committee know of that?

Mr Robilliard—As has been advised to the committee in past hearings, he referred the letter to the deputy secretary, Mr McLean.

Senator FAULKNER—What does Mr McLean do?

Mr Robilliard—I am not aware of any action. As I said, the issue of the letter itself was overtaken at the time of Dr Gee's return. Dr Gee met with a large number of officials of various agencies in which he discussed his concerns relating to his resignation.

Senator FAULKNER—That did not stop Mr Downer making certain statements at a joint press conference with Mr Duelfer, the head of the Iraq Survey Group, on 6 April 2004. It did

not seem to have much impact on that. You say that it has been overtaken by events. No-one wanted to know, did they?

Mr Robilliard—As you would be aware from our previous hearings of this committee, a copy of that letter was passed to Mr Downer in advance of a meeting which he requested to have with Dr Gee. My recollection is that meeting was on 16 March. He then, as you noted, had a subsequent meeting with Mr Duelfer. Mr Downer is on the public record as noting at that meeting with Mr Duelfer that he took up with Mr Duelfer some of the concerns that Dr Gee had raised.

Senator FAULKNER—This is a second copy of the letter that Dr Gee provided personally to Mr Downer; is that right?

Mr Robilliard—No. As has been advised to the committee in previous hearings, the copy went from the department to Mr Downer in advance of his meeting with Dr Gee in order to inform him of the issues.

Senator FAULKNER—It is passed up the line to the minister. Was that accompanied by a ministerial brief, or is it just a copy of the letter that goes through to Mr Downer? Are we able to establish that?

Mr Robilliard—I cannot recall whether there was a brief provided with the letter. If you will allow me, I will check on that.

Senator FAULKNER—I would appreciate that and I would appreciate understanding what level of the department the brief came from; whether it was the secretary or deputy secretary; who the other addressees on the brief might have been; the date of the brief; when the brief was acknowledged or noted by Mr Downer and whether there had been any annotations to the brief by Mr Downer. Beyond Dr Gee's letter being provided to Mr Downer, are you aware of it being forwarded elsewhere?

Mr Robilliard—In response to your first question: as I said, I will endeavour to determine whether and if a brief was provided to Mr Downer and look at what we can provide if that was the case.

Senator FAULKNER—I would assume you would not just shove Dr Gee's letter under his nose?

Mr Robilliard—As I said, I was not involved at the time and I would have to check our records to establish what happened in those circumstances.

Senator FAULKNER—What did Mr Downer do with this letter after he received it?

Mr Robilliard—I would have to check.

Senator FAULKNER—You have been able to say that he did not give or provide any instructions about the letter, did he?

Mr Robilliard—That is correct. Mr Downer is on the public record as saying that he provided no instructions to the department.

Senator FAULKNER—I know he has said that.

Mr Robilliard—There is no record of them.

Senator FAULKNER—You told me that there is no record of any instructions. I would be interested in understanding whether this was accompanied by a brief. You can perhaps quickly establish that and let the committee know whether that brief on return was annotated in any way, as well as other addressees for the brief. We will come back to it later in the day.

Mr Robilliard—Yes.

Senator ROBERT RAY—I would like to move on to a matter that I have raised on two or three occasions. I assume that you will be prepared. That was the case of a public servant under suspension. Is it possible for you to table the notice of termination of employment of Mr Smith?

Ms Richards—Would you mind repeating the question, please?

Senator ROBERT RAY—I was asking whether you could table for the committee's benefit the notice of termination of employment of Mr Trent Smith dated 12 July 2006.

Ms Richards—I would have to seek advice from colleagues on that. My first reaction is that is probably a personal matter to Mr Smith and we may be in breach of privacy obligations if we do that.

Senator ROBERT RAY—All right. You can confirm that Mr Smith was dismissed by the secretary's delegate, Mr Dale Boucher, on 12 July 2006?

Ms Richards—I can confirm that independent sanctioning decision maker, Mr Boucher, determined on 12 July 2006 that Mr Smith was to have his employment terminated and that termination decision took effect from 27 July.

Senator ROBERT RAY—I have pursued this before and I am trying to do a costing of this overall exercise. You may have some figures to assist me. Could I ask what the total legal costs of the department have been in this matter?

Ms Richards—The figures I have here show that the total legal costs, exclusive of GST, were \$641,634.

Senator ROBERT RAY—Have you got the costing of the Kennedy inquiry? I want to do an overall bill.

Ms Richards—That is the overall bill. That includes a number of figures. For example, legal advice provided to Mr Kennedy—

Senator ROBERT RAY—We can assume that the \$641,000 covers all legal advices to the department, Mr Kennedy and maybe even Mr Boucher. Let us make that a working assumption. But you also paid Mr Kennedy to do the job, did you not?

Ms Richards—Yes, we did.

Senator ROBERT RAY—How much was the overall cost of his inquiry, including his own remuneration?

Ms Richards—Mr Kennedy's costs, again exclusive of GST, were \$106,370.

Senator FAULKNER—Is that included in the earlier \$641,000 figure?

Ms Richards—It is included in the earlier figure.

Senator ROBERT RAY—It is included?

Ms Richards—Yes.

Senator ROBERT RAY—So the \$641,000 was not just for legal costs.

Senator FAULKNER—If you would not mind, Ms Richards, could you just disaggregate the \$641,000 for us?

Ms Richards—Yes, I can. Legal advice provided to DFAT, \$152,467; legal advice provided to Mr Kennedy, \$208,216; legal advice provided to Mr Boucher, \$53,591; costs for Mr Kennedy, \$106,370; and costs for Mr Boucher, \$83,454.

Senator ROBERT RAY—Have you been able to do any imputed costs for the amount of staff time in DFAT that has applied to this particular matter, as opposed to legal costs?

Ms Richards—No, we have not.

Senator ROBERT RAY—Do you have even the roughest idea?

Ms Richards—That kind of figure is very difficult to compute accurately because of the intensity of the work that there is over time, and officers might be working on a number of matters at any one time.

Senator ROBERT RAY—It would be unfair if I put a \$200,000 figure on it.

Ms Richards—There is no way that I could confirm that figure.

Senator ROBERT RAY—You continued to pay Mr Smith for 3½ years. What is the total tally of salary and on-costs for a suspended officer not doing any work?

Ms Richards—Mr Smith was suspended with pay from 20 February 2003 until 13 July 2006. The salary costs for that period were \$229,875.

Senator ROBERT RAY—Do you know of any other costs that I have not covered here, other than the imputed staff time that you have not done a calculation on?

Ms Richards—There is another figure. Upon his termination, accrued leave was paid to him in an amount representing—

Senator ROBERT RAY—That would be applicable for whenever he leaves, and I do not think that we can attribute it back to this particular case.

Ms Richards—That is true.

Senator ROBERT RAY—We will leave that one aside.

Ms Richards—If I could just return to your earlier question about whether we could table the termination notice, it has been confirmed to me that that would be a breach of the Privacy Act.

Senator ROBERT RAY—That is fine; I respect that. In this matter, as I understand it, Mr Kennedy recommended Mr Boucher deal with three matters. The third matter was subject to a fine of \$500. Is that right?

Ms Richards—No. In relation to the third matter, a reprimand was considered the appropriate sanction.

Senator ROBERT RAY—So Mr Smith was reprimanded on one matter, and he has been dismissed on two grounds?

Ms Richards—That is correct.

Senator ROBERT RAY—I will summarise the two grounds, but you may put those grounds and express those grounds for the sake of debate here, whichever you like. He is dismissed for an email to Mr Rudd's staffer and he is dismissed on the basis of evidence given by another DFAT officer to do with the Veitsman matter, is it?

Ms Richards—I would not like to paraphrase and summarise the decisions of the arms-length decision makers. It was a very complex matter and they considered many things. What I can say is that the conclusion was that Mr Smith failed to uphold the apolitical APS value and failed to uphold the integrity of the APS.

Senator ROBERT RAY—In the findings of Mr Kennedy there were three matters. One was subject to reprimand, as we understand it, but the other two were clearly identified as the reasons, weren't they? They were clearly identified as the factors that brought the matter to a conclusion. They are clearly identified in Mr Kennedy's report as the two matters. That is true, isn't it?

Ms Richards—I am sorry, what is your question?

Senator ROBERT RAY—Mr Kennedy made, and then Mr Boucher later endorses, findings against Mr Smith on two basic grounds. One is the email: that is, the private email, one of several thousand seized from Mr Smith—only one. The second matter related to evidence—unsubstantiated evidence, incidentally—given by another DFAT officer. It is these two matters that were the crux to Kennedy's decision and Boucher's endorsement.

Ms Richards—I would not feel qualified to characterise a very complex decision by the independent decision maker.

Senator ROBERT RAY—I am going to ask about it. I do not know who we have got here that is qualified. I have asked about it previously, too.

Senator FAULKNER—As have I.

Senator ROBERT RAY—I am going to go to those two matters. I really want to go to this email matter that is central but not dominant. It is one of the two factors. As I understand it, the contents of the email do not uphold the independent values of the Public Service as regards political activity. It is an email sent by Mr Smith to Mr Wells in response to a query from Mr Wells. Chair, do you want me to read it for the committee's sake? Is that going to help?

CHAIR—Just a bit.

Senator ROBERT RAY—Basically Mr Smith's response was:

More thoughts on the white paper. The list of individuals consulted could form the basis of an estimates question (it may have already been asked—see ... Hansard)

Regardless, the release of the white paper gives us an excuse to consult with everyone, NGOs, academics, etc. Bit of outreach.

Cheers, Trent.

That is the email. That is right, isn't it?

Ms Richards—I do not have that report before me. I am sorry, I cannot confirm that.

Senator ROBERT RAY—Who has been dealing with these matters in the department? These are matters dealt with by the department even before they go to Mr Kennedy.

Mr DJ Ritchie—As I understand it, and I have not been the person dealing with it directly—

Senator ROBERT RAY—I understand that.

Mr DJ Ritchie—Ms Williams, who is head of our corporate management division, Mr Chester, who is not here today, and Ms Richards have been handling it in terms of the legal things, but the briefing I have in front of me says in relation to two of the three incidents—that is, the white paper and the Veitsman breach—

Senator ROBERT RAY—Veitsman, was it?

Mr DJ Ritchie—Yes, Veitsman—the appropriate sanction was termination, but in relation to the third matter there was a reprimand.

Senator ROBERT RAY—What you have done in a helpful way is summarise what the three basic items are. The one with the reprimand we will let go through to the keeper, if you do not mind, because I do not understand what it is about and I do not think it is central to the issue. But I want to come back to this email because I have raised at this committee before, only in passing, that I would have thought such an email was covered by parliamentary privilege. We have a fair bit of experience sitting at this table in dealing with these matters—the current chair and the past chair, Senator Johnston and, before, Senator Payne. Therefore, I was interested to read the views of the Clerk of the Senate who recently the President of the Senate, when the Clerk gave him advice on the Tasmanian matter, described as an internationally world renowned expert—so certainly he has got a big endorsement from the President. Mr Evans responded to a request from Mr Smith on this matter well after I have raised it here. I am happy to go through the entire letter but, in part, on page 4 Mr Evans, the international expert on parliamentary privilege, says the following—and it is not absolutely definitive but it is reasonably substantive:

My conclusion is that it is at least persuasively arguable that, by informing a member of the Parliament that a particular Senate procedure was available to obtain some information, you were engaged in an act for the purposes of and incidental to proceedings in Senate Committees, and that the sending of the email was protected by parliamentary privilege.

What I want to know, following my inquiries and this view by the Clerk, is: has the department sought and obtained legal advice as to whether the email sent by Mr Smith to Mr Wells was in fact subject to parliamentary privilege or could have been subject to parliamentary privilege? I point out that if it is subject to parliamentary privilege you cannot adduce it in any legal or quasi-legal proceedings.

Ms Richards—I understand that both the independent decision makers were aware of this issue of whether parliamentary privilege applied or not, and they both sought their own legal advice on that matter and factored that into their eventual decisions.

Senator ROBERT RAY—I would like to know who they sought their legal advice from and whether it is possible to be tabled here. We now know from a correction to evidence that at least the legal advices sent to Mr Kennedy were sent on to your section and to your predecessor.

Ms Richards—That may be difficult to do. First of all, there is a longstanding practice by both this government and previous governments that legal advice is not provided to committees. The other difficulty in venturing too far down this track is that there is a related matter currently before the Australian Industrial Relations Commission and, as such, we would not want to prejudice any of the proceedings in that commission.

Senator ROBERT RAY—I do not want to have to remind you of procedure. We are quite aware at this committee of sub judice laws as they apply to criminal proceedings. Our restrictions do not go to civil proceedings. We would always keep that in mind, of course. Nothing that is said here, because of the law of privilege, can be adduced in those proceedings. You understand that? It is the very same point as I am making that, if this email was covered by parliamentary privilege, the department is in breach of parliamentary privilege, let alone Mr Kennedy and let alone Mr Boucher. In fact they have a much higher protection on this matter than your department has. I am wondering why your department, with me having raised it especially with a forewarning shot—I cannot give you the reference or the date, but I can remember doing it—has not sought legal advice on this matter. It is a very serious thing to be in breach of parliamentary privilege.

Ms Richards—It is a serious thing. My understanding is that this is the very reason why both Mr Kennedy and Mr Boucher took their own legal advice on that.

Senator FERGUSON—The Clerk is not a lawyer, so they are not likely to get legal advice from the Clerk.

Senator ROBERT RAY—We have put all of this in context, but of course your own President sought the Clerk's advice to interfere in a domestic, political matter in Tasmania and lorded him to the skies. I am entitled to say that Mr Kennedy and Mr Boucher can look after themselves, but it is the original proceedings against Mr Smith and the determinations that were made on this email by the department before they referred it to Mr Kennedy and then on to Mr Boucher. It is that part of the department's behaviour that we have to examine here. Someone is subsequently getting legal advice, not that we will ever find out what it is. It would be interesting. I am really looking to why the department did not get legal advice in the initial instance?

Ms Richards—I am sorry, I am not aware of the particular circumstances at that time of the matter.

Senator ROBERT RAY—I find that a satisfactory answer from you, but I do not find it a satisfactory answer to my question to a department.

Ms Richards—What I can say is that, being acutely aware that it is a complex and sensitive matter, the department was at pains at every step of the process to make sure that proper procedures were followed and full procedural fairness was extended to Mr Smith.

Senator ROBERT RAY—We had court cases to enforce that, so we will not go over that ground again. You lost a court case on that one when you were shown not to be particularly procedurally fair. The courts intervened to enforce that. I am going back to an officer whose career is now in ruins—absolutely ruined. His reputation and his career are in ruins. It is based on two legs, basically, one of which he probably was not entitled to. I hope you understand that this is not an email sent on a departmental computer, this is his own private account when he is on leave. He sends this one email which is open to all sorts of interpretations. I agree, you can make an adverse finding on it, too. It is probably covered by parliamentary privilege. It is seized by the department when they are investigating another matter so it comes not as a result of a deliberate fishing expedition but incidental and he has now lost his career over it. One of the mistakes he made—I will put this on the record—is that he should have told his superior about the contact. I hope you do not want me to write out a list of public servants that I have had conversations with over the years that did not report it to their superiors. It is a long list.

CHAIR—He may not have lost his career because if it is before the industrial relations authority—

Senator ROBERT RAY—It is before the Industrial Relations Commission.

CHAIR—I am sure reinstatement is one of the remedies that is available in the process.

Senator ROBERT RAY—At the moment he has lost his career.

CHAIR—Yes.

Senator ROBERT RAY—He is on suspension for 3½ years. He has been convicted on two legs. You can take my word for it. I do not think Mr Ritchie has really disputed it. One of the legs could be doubtful, because he was convicted on the basis of a document that probably—not certainly, and you and I and others may have to judge this one day—is covered by parliamentary privilege. What I want to know is why this department did not have that aspect clarified before it went to Mr Kennedy and Mr Boucher. I accept in good faith that Mr Boucher and Mr Kennedy sought legal advice on it. Incidentally, we have a lot of experience in seeking legal advice on parliamentary privilege and we find very few counsel have the capability of providing it. I would be interested to know which counsel they went to, because that may well influence my decision as to whether it was valid advice. You will not table the advice. We will never see the advice.

CHAIR—That question is on the table. I hope that Ms Richards will have a response to it.

Proceedings suspended from 10.35 am to 10.52 am

CHAIR—I call the committee to order. We will recommence with Senator Ray and the subject matter he was discussing prior to the adjournment.

Senator ROBERT RAY—I am pressing the point for you to take on notice as to whether we can have tabled at the committee the legal advice as to privilege matters given either to Mr Kennedy or Mr Boucher. Whilst it is true that it is not necessarily the practice to table legal advice to committees, it has been done before. This is to do with privilege of parliament and those types of issues rather than commercial-in-confidence or indeed matters that can be canvassed directly in the courts. I would like you to take that part on notice.

Ms Richards—I should say that it is not the practice of this or previous governments to table legal advice provided to the government.

Senator ROBERT RAY—Yes, but it has been done. There are precedents for it being done. It is a general prohibition that sometimes is not honoured in the breach. Therefore, it is not up to you to make that decision. It is for you to put that request through to the appropriate channels and they can make the decision.

Ms Richards—I will take that question on notice.

Senator ROBERT RAY—I was just confirming that you were. I thought you had, but I wanted to confirm that you would. We have dealt with the first matter, which was to do with the email. The second matter I think we have summarised as the Veitsman matter. Having gone to Mr Kennedy's judgement on this, acted upon by Mr Boucher, most of this case depends on the evidence of a DFAT officer. Is that right?

Ms Richards—That was the matter handled by the independent decision maker.

Senator ROBERT RAY—No, I am sorry. It was handled by the department before it was sent either to Mr Kennedy or Mr Boucher. This was what constituted the thought and the decision making in sending it to them. Is that the case? You did not just guess that there might be problems with Mr Smith. You actually had grounds and this is one of the grounds that you and others, including Ms Williams, probably made decisions on.

Ms Richards—These matters were considered in very lengthy reports by independent decision makers, and I do not think I can add any further to their conclusions.

Senator ROBERT RAY—It is true that a DFAT officer gave evidence to the department and then to Mr Kennedy on these matters. I do not want to name the person yet, although it has been canvassed here before. But that is true.

Ms Richards—As this matter is now before the Australian Industrial Relations Commission, it would be difficult for me to go into any further details about it.

Senator ROBERT RAY—It might be difficult, but I am going to persist. In my view, I am dealing with the actions of the department, and I want to know whether the department has acted appropriately. We cannot be restricted because someone takes a legal case. Certainly the rules of sub judice apply in criminal proceedings. I respect that. I do not want to trespass too far even on a civil case. I want to establish whether this department has referred the matter to Mr Kennedy and then on to Mr Boucher on the basis of proper consideration or spite. We know what the previous secretary to the department said about leaking and how he was going to move heaven and earth and catch the leakers. They have still not caught the leaker in the Lackey matter and you have given up on it.

Ms Richards—I do not accept the suggestion that spite was involved in this. The department was at pains to make sure every process was followed very carefully and very punctiliously and that is one of the reasons why the process took a long time. We were conscious that it was a very sensitive matter. Therefore, we were at pains to ensure procedural fairness was extended to Mr Smith.

Ms Richards—I should add that Mr Smith's application to the Australian Industrial Relations Commission claims unfair dismissal and unlawful termination. Presumably the

Industrial Relations Commission will be considering all of these aspects, including precisely those aspects. We really feel that we cannot comment on that while it is before the commission.

Senator ROBERT RAY—Nothing that is used here can be used in that case because of parliamentary privilege. Therefore, I am going to persist with some questions on it. We will end up hearing, ‘This is an operational matter before the police.’ ‘There is a direction before Cole.’ ‘This is before the Industrial Relations Commission.’ We will not be able to ask a question on anything if we are not careful. I have asked the question directly and I do expect an answer as to whether on the Veitsman matter the department—and just the department for the moment, before it referred the matter to Mr Kennedy—relied highly on the evidence of another DFAT officer. Is that not true?

Ms Richards—My understanding was that Mr Kennedy was very thorough in his assessment of the evidence before him. He tested it quite thoroughly and came to the conclusions that were mentioned earlier.

Senator ROBERT RAY—I am dealing with actions before it was referred to Mr Kennedy. As it turns out, there were three reasons that you referred it to Mr Kennedy. One was reprimand, and we let that matter lie. The second matter may have been subject to parliamentary privilege. We may have to pursue that in other avenues. The third matter—the Veitsman matter—relied on evidence given by an officer of DFAT. I am asking whether that is true or not. This is before you referred it to Mr Kennedy. I know Mr Kennedy also examined the same matters.

Ms Richards—The decisions by those decision makers were that, in relation two incidents, Mr Smith had failed to uphold the apolitical APS value and failed to uphold the integrity of the APS. On that basis his employment was terminated.

Senator ROBERT RAY—Can you confirm that the witness who gave evidence about Mr Smith’s integrity was found guilty of breaching the APS Code of Conduct by engaging in misconduct in preparing a report for the asset risk management that included information obtained from the Australian Embassy in Bangkok otherwise and in the course of his duties? Can you confirm that he engaged in misconduct by engaging in outside employment without permission in that he entered into, while on recreation leave from DFAT and without permission, employment with ARN? Can you confirm that he was engaged in improper conduct by knowingly making a false representation to a DFAT officer concerning the start date of his employment with ARN? Can you confirm that he is now bankrupt after litigation by that employer? Can you confirm that the New South Wales Court of Appeal ordered this particular individual to repay his former employer missing funds of the order of \$46 million, which disappeared from personal accounts, and that the court found that he had breached his fiduciary duty to his employer, that he has not repaid the money and filed for bankruptcy? Can you confirm that this witness has a history of making unsubstantiated allegations? There are at least seven such incidents recorded in DFAT files. Do you want to confirm that he sent an email to DSB, DFAT, making improper demands in relation to getting his security clearance restored, which Mr Kennedy in his report stated could have breached the code of conduct? Are we really suggesting that, if the first two legs fail, this person is going to be convicted on the evidence of someone with a long history in the National Party? I

acknowledge Mr Smith has been sympathetic to the Labor Party, so there is political friction between the two of them. That is well known. Are we really supposed to accept the evidence of this person and where has this person been rewarded with a posting? That is what I want to know.

CHAIR—Before we get an answer, do we not have a problem here in our being the judge and jury of this matter? You have just rattled off an inordinately large number of very material aspects, which I would have thought a judicial officer would take note of. I would have thought we are totally unprepared and unsuitable to adjudicate, even through a question of this witness, on these matters on that very basis. I think your line of questioning has in fact proved the point that we should not be entering into these matters.

Senator ROBERT RAY—Mr Chair, I accept your guidance in general. Can you see it coming from my perspective?

CHAIR—I actually can see it coming from your perspective.

Senator ROBERT RAY—Can you see the fact that we can fund Saddam Hussein for \$290 million, ignore correspondence, ignore telexes and there is no investigation and all the rest? Can you see why, when a top secret AUSTEO code-worded document goes to the Foreign Minister's office and lands in Andrew Bolt's column two days later, I get infuriated with spending a million dollars chasing this particular individual on the basis of a dubious email that you can interpret any way and on the evidence of someone that has a pretty bad track record? I want to know whether that person has been rewarded for his treachery by a posting somewhere in DFAT. I am at least able to ask what happened to him; ignore the rest.

CHAIR—I think you can ask that. But I do not think we should get into adjudicating these other matters.

Senator ROBERT RAY—Someone has to defend these individuals. They do not get defended. We have gone through this for estimates after estimates. There has been well over \$1 million spent chasing down one individual. Where is the justice when other people get away with it? They do not even have their careers questioned.

CHAIR—The problem is that the question marks are still on the table. Once the answers are given to those question marks, you are in a much stronger position to draw the inferences that you seek to want to draw. At the moment all of these matters are still subject to determination.

Senator Coonan—I can understand from your perspective your frustration in this matter, but I want to put on the record that your shorthand way of summarising the basis on which you are frustrated is certainly not evidence that we are capable of dealing with in terms of a question-by-question basis. I do also concur with the chair's view that there are still some judicial processes going on here and if, as you say, there is some basis to be very concerned about the foundation evidence for this, then the appropriate place obviously is for the court to review it. That is what I understand is currently in play.

Senator ROBERT RAY—We acknowledge the role of courts in these matters. Don't get me wrong, I am not an overall critic of the department of foreign affairs. I think it is quite an excellent organisation and one of the better ones that we deal with. I just think in this matter it

has gone off the rails. I think it was driven from the top out of frustration from the Lackey leak, and I do not endorse that. But he was not found guilty of that. Then his private emails were trawled through and one out of 8,000 was pulled out. Minister, I ask you at some stage to read it. You can interpret it in any one of three ways. Someone's career was ended by that. The other witness against him, with all these misdemeanours in the department, has survived. I am asking whether he survived, basically.

Senator Coonan—His credibility may be in issue.

Senator ROBERT RAY—You are not going to answer the question on his credibility so I have moved on.

CHAIR—Your question is: where is he at now?

Senator Coonan—Where is he at?

Senator FAULKNER—The question is: where is Mr Hinze now?

Ms Williams—I think in fact you asked this question at the last estimates hearing.

Senator FAULKNER—It has been asked again. I am asking it now. Where is Mr Hinze now?

Ms Williams—He is currently on an overseas posting in Colombo.

Senator ROBERT RAY—In Sri Lanka?

Ms Williams—Yes.

Senator ROBERT RAY—I had hoped this would be the last time that I raised this issue, but I guess it will be alive until February next year.

CHAIR—I suspect it might be.

Senator ROBERT RAY—I hope all legal aspects are covered. Can I put you on notice for February? That is a fair thing to do.

CHAIR—I am not sure Mr Ritchie needs much notice.

Mr DJ Ritchie—We have a fair idea.

Senator ROBERT RAY—We would like you really to crunch the costs, including the failed court case, because we are not sure whether that is in these figures.

Mr DJ Ritchie—I understand that.

Senator ROBERT RAY—We would like you to crunch the figures. We would like you to look at the question of parliamentary privilege. If you do not mind some fortuitous advice, even though you have not formally as a department got advice on this, I advise you to get it, irrespective of what Mr Kennedy and Mr Boucher did, because it may be useful for future cases, if not in this case. By the way, we are fully conscious at this table—Senator Johnston, Senator Faulkner and I—that we will not be tolerating false use of parliamentary privilege and people using it as an excuse. We can detect between the two. We will not be setting precedents here.

Ms Richards—I will return to the breakdown of costs, which Senator Faulkner previously asked me about. I am afraid I might have presented that in a rather confusing way. With your indulgence I would like to go through that again?

Senator ROBERT RAY—Yes.

Ms Richards—The question was: what were the total legal costs?

Senator FAULKNER—‘Total costs’ is a better way of putting it, because some of them are legal costs and some are not.

Ms Richards—The information that I have here has a description, first of all, of total legal costs, which was the \$641,634 figure. My presentations became confusing because I had amalgamated some subcomponents into another figure. I hope this will add up. The components of the \$641,634 are: legal advice to Mr Kennedy, \$152,467; legal advice to Mr Boucher, \$208,216. I am sorry, I will have to start again.

Senator FAULKNER—Before you do and just so that I am clear: on the sorts of advices that we have just been speaking of, you have given evidence that both Mr Kennedy and Mr Boucher had received legal advices on the issue of parliamentary privilege. I do not want to go back onto that issue but just to say that that would be contained within those two figures that have just been provided, as opposed to in other payments to Mr Boucher and Mr Kennedy. Is that understanding correct?

Ms Richards—That is correct.

Senator FAULKNER—The \$152,000 originally was a legal advice to DFAT and the \$208,000 figure was originally not to Mr Boucher but to Mr Kennedy.

Ms Richards—Yes. Let me start that again. I will try to get it much clearer.

Senator ROBERT RAY—The best out of three.

Ms Richards—Perseverance. Legal advice to DFAT, \$152,467; legal advice to Mr Kennedy, \$208,216; legal advice to Mr Boucher, \$53,591; and then, as a result of consent orders in the Federal Court case, the department agreed to pay legal counsel for Mr Smith and court costs for Mr Smith. This is the figure that I did not read out before.

Senator FAULKNER—That is why I raised it. Just so we are clear, Chair, I raised informally with Mr Ritchie, Ms Richards and the minister prior to the break the fact that the consent orders and the costs around the previous case did not appear to be in the figures.

Ms Richards—I apologise for skipping that before. That figure relating to the Federal Court costs was \$37,536. We then had the costs for Mr Kennedy himself, \$106,370, and the costs for Mr Boucher, \$83,454. I am desperately hoping that all adds up to \$641,634.

Senator ROBERT RAY—Give it to Senator Hogg and we will find out in a minute.

Senator FAULKNER—There was another figure given for Mr Kennedy’s costs of \$229,875, which I wrote down. I do not know what that relates to.

Ms Richards—That is the salary for Mr Smith while he was on suspension with pay.

Senator FAULKNER—That is Mr Smith’s salary while suspended?

Senator ROBERT RAY—That is just salary. Were there any other on-costs to his employment?

Ms Richards—That is the salary costs.

Senator ROBERT RAY—There are no other on-costs involved here?

Ms Richards—I do not think so.

Senator FAULKNER—The figures that you have given us—the salary cost to Mr Smith, plus the \$641,634—represent the total moneys expended by DFAT on this matter without—as we have understood—any attempt to try to establish the actual staff costs on the matter?

Mr DJ Ritchie—Yes.

Ms Richards—Yes; in-house staff costs are not included in those costs.

Senator FAULKNER—In-house staff costs are not included. You told Senator Ray previously that you do not have any information on in-house staff costs?

Ms Richards—That is correct.

Senator FAULKNER—I do not normally like asking ‘make work’ questions, as you know, but on this occasion it is reasonable to ask that the department provide as accurate an estimate as possible. I am using the word ‘estimate’ deliberately, because I am trying to get the broad picture. I would like as accurate an estimate as possible of the in-house staff costs that pertained within DFAT to this matter—on notice.

Mr DJ Ritchie—We will try very hard to do that. As Ms Richards said, it is very difficult. We do not have a quantification of who did what on which day, but we will do our best.

Senator FAULKNER—I know that. I understand that qualification. My question on notice is itself deliberately qualified.

Mr DJ Ritchie—I understand that.

Senator ROBERT RAY—You take \$1 million and take all of these other costs off and that is the amount. I can always claim that you spent \$1 million.

Mr DJ Ritchie—We will try to be helpful.

Senator Coonan—Maybe we should just deem it \$1 million and save all of the effort.

Senator FAULKNER—It is a bit different to Mr Hyndes, the 46 million-dollar man, who has not repaid the employer the missing funds from the New South Wales Court of Appeal case. But he is okay; he is over in Colombo.

Senator Coonan—I am sorry, I was just being sarcastic.

Senator FAULKNER—You should not have been sarcastic, because I would not have been sarcastic in response. I would not have described Mr Hyndes as the 46 million-dollar man if you had not been sarcastic. Because you were, I did describe Mr Hyndes as the 46 million-dollar man.

Senator NETTLE—Has the department done any assessment of the impact of climate change on Australia’s foreign relations?

Mr DJ Ritchie—I will ask the ambassador for the environment, Jan Adams, to respond on that issue.

Ms Adams—Could I ask you to repeat the question?

Senator NETTLE—Has the department done any assessment of the impact of climate change on Australia's foreign relations?

Ms Adams—The strict answer is that we have not done a report as such on the impact on our foreign relations, but more generally I would say that climate change is a very broad-ranging issue with lots of aspects that we give consideration to in many ways. There is no specific report that the department has undertaken on that specific aspect.

Senator NETTLE—Could you give me an idea of the aspects of climate change that you are giving consideration to?

Ms Adams—The Department of Foreign Affairs and Trade, and through the position of ambassador for the environment, leads the international negotiations on climate change. That includes the UN convention work as well as other partnerships, such as the Asia-Pacific Partnership on Clean Development and Climate. Starting from the UN negotiation, there is a multitude of working groups and issues that we address. I would not know where to begin. It is everything from technology transfer issues to carbon accounting, through to more economic issues and the energy policy issues. It is very broad.

Senator NETTLE—Has the department done any work to investigate whether Australian companies will move overseas if we impose a price on carbon?

Ms Adams—Those economic and competitiveness issues are always part of the climate change policy understanding that many departments, not just Foreign Affairs and Trade, would have looked at over the years.

Senator NETTLE—Has the Department of Foreign Affairs done any work on that?

Ms Adams—It is one of the issues that we consider. There is not a report as such that I could point you to, but it is one of the aspects that we think about.

Senator NETTLE—Can you explain how you think about it?

Ms Adams—Part of understanding where the national interests lie is understanding the economics and investment and trade issues implicit in any other international or domestic policy response. Whenever international or domestic policies are considered those aspects will be considered.

Senator NETTLE—Has DFAT done any work on whether companies are moving into Australia because we do not have a price on carbon?

Ms Adams—No.

Senator NETTLE—Has Australia been approached or requested by any Pacific island country to make arrangements for their populations to come to Australia because of climate change, sea levels rising and making their islands uninhabitable?

Ms Adams—No.

Senator NETTLE—There were reports in 2001 that the government of Tuvalu had approached the Australian government on this issue. Are they not correct?

Ms Adams—My understanding is that, while those issues have been discussed in general at fora such as the Pacific Islands Forum, there has been no formal government-to-government request to the Australian government of the kind you mentioned.

Senator NETTLE—I understand last week the government of Kiribati raised the issue at the Pacific Islands Forum; is that correct? The President of Kiribati is reported as having raised that issue at the Pacific Islands Forum last week.

Mr DJ Ritchie—My understanding is that the issue of climate change came up at the Pacific Islands Forum last week. I do not know who raised it. The other David Ritchie, just to confuse you, was there. It is a perennial issue at forum meetings. The communique of the forum contains agreed language on climate change.

Mr DA Ritchie—That is correct. The forum communique contained the language that was agreed between leaders.

Senator NETTLE—Was there any formal request from Kiribati to Australia in relation to that matter?

Mr DA Ritchie—No.

Senator NETTLE—Can I ask what the Australian government's response to that raising of the issues in the Pacific Islands Forum was?

Mr DA Ritchie—We agreed with the communique language.

Senator NETTLE—Has the department been involved in any way in preparing for the Prime Minister's announcement two days ago that he will lead Australia into a new Kyoto?

Ms Adams—Preparing for that announcement?

Senator NETTLE—Yes.

Ms Adams—Not as such. It is very consistent with our longstanding policy that Australia supports international negotiations aimed to bring major emitters into an agreed framework. So in that sense it is very much based on existing policy. There was not a specific departmental effort to prepare for that announcement.

Senator NETTLE—Can I do a couple of other general ones while we are in this section? I wanted to ask about the Australian men in Yemen at the moment and whether DFAT can confirm that they have been held for two weeks. That is what I understand from the report.

Mr R Smith—Just let me check my notes and I will confirm the date for you. We were advised by Yemeni authorities on 17 October that they had arrested three Australians.

Senator NETTLE—Has there been a consular visit?

Mr R Smith—We have attempted on two occasions to visit the individuals. Unfortunately, at this stage, access has not been granted. There has been a problem, we think, just with the security authorities at the prison getting access, despite the support we have had from the Yemeni Foreign Ministry. That is an issue that is being resolved. We do not think it is a serious problem, but we will continue to press.

Senator NETTLE—You said there had been two occasions when there have been attempts to visit. Do you have the dates for those?

Mr R Smith—That is right—31 October and 1 November.

Mr DJ Ritchie—The last two days.

Senator NETTLE—I think you said you understand those issues will be resolved?

Mr R Smith—Yes, I do not think it is a serious issue. I think it relates simply to establishing the identity of the Australian consular officials. The problem is that we do not have a resident embassy in Sanaa, the capital of Yemen. We have accreditation from our embassy in Riyadh. The consular officials have flown from Riyadh to Sanaa. Our understanding is that it is just an issue of the Yemeni security authorities confirming the identity of the Australian consular officials. We have another visit scheduled for 4 November. That is on the other side of the Yemeni weekend, which is Thursday and Friday. In other words, it is the next working day. We will certainly do everything we can to ensure that those issues are resolved before then so that that visit can go ahead.

Senator NETTLE—Do you know anything about the conditions in which they are being held?

Mr R Smith—We are advised that the individuals are in good health. The three are among a group of eight, including some other foreign nationals, who were detained. We are in contact, obviously, with the British and German embassies in Sanaa, who also have nationals amongst that group. They have been able to visit their nationals, and we do not understand from those discussions that there are any particular concerns about the health or the welfare of the detainees.

Senator NETTLE—Have any other authorities had access to the Australian men? You talked about the officials from other countries.

Mr R Smith—No. The Yemenis are only allowing the representatives from their own government to visit them.

Senator NETTLE—Is it a Yemeni government-run prison?

Mr R Smith—That is correct.

Senator NETTLE—Do you know if they have had access to a lawyer?

Mr R Smith—At this stage we do not believe so, but that is one of the issues we will take up with the Yemeni authorities once we have had access. The other issue we will push on, of course, is the question of the legal basis for the detention. We do not have at this stage any formal advice from Yemeni authorities.

Senator NETTLE—I understand there have been reports that they may be removed to Guantanamo Bay. Do you have any information on that?

Mr R Smith—No, we do not know what that media speculation is based on.

Senator NETTLE—Thank you. I will leave my questions on that issue there and I will go to a broad issue. It relates to some comments that the justice minister made the other week about sleep deprivation being appropriate, and it was in relation to counterterrorism

operations. I was just wondering whether he could have been referring to sections under the control of the Department of Foreign Affairs and Trade, such as ASIS.

Mr DJ Ritchie—We do not answer anything in regard to intelligence matters or ASIS. ASIS has separate reporting procedures, so I cannot answer on its behalf. We can answer general questions about the issue of sleep deprivation. I am a bit mystified. I certainly think it would be wrong of me to try to interpret Senator Ellison's comments.

Senator NETTLE—Could I ask some general questions now in relation to sleep deprivation and whether the department has provided any advice or policy regarding sleep deprivation.

Ms Richards—I do not believe the department has provided any advice on sleep deprivation.

Senator NETTLE—The Prime Minister, the Attorney-General and the justice minister have all made comments about the legal interpretation around sleep deprivation. I was wondering whether it was based on any advice, but you do not believe the Department of Foreign Affairs and Trade has provided any advice on that issue?

Ms Richards—Provided advice to whom?

Senator NETTLE—The government ministers that have spoken on this issue in recent weeks have been the Prime Minister, the Attorney-General and the justice minister. I wondered whether their statements were based on advice they had received from the department, and I thought I would ask the Department of Foreign Affairs and Trade whether they had provided such advice.

Ms Richards—I can only assume they were working on the advice of their own officials.

Senator NETTLE—In fact, I think Minister Coonan may also have made some comments recently in relation to sleep deprivation; am I right?

Senator Coonan—No, I have not.

Senator NETTLE—I will leave it there. I want to ask about negotiations for a security treaty with Indonesia and where they are up to.

Mr Grigson—The negotiations are continuing and we are making some progress.

Senator NETTLE—I understand from previous public comments that it was due to be signed in December; is that still the time frame that is being worked to?

Mr Grigson—Decisions on signing and finalisation of the agreement are for ministers, so I could not comment on that.

Senator NETTLE—Can you comment on the time frame for finalisation of negotiations?

Mr Grigson—No. As I said, the negotiations are underway. We are making some progress. But really the end point is for ministers to decide.

Senator NETTLE—There has been comment in the past about a clause designed to allay Indonesian concerns in relation to West Papua, recognising the territorial integrity of Indonesia. Is that still part of the process of discussion around the security treaty?

Mr Grigson—That is part of the discussion.

Senator NETTLE—I will leave those comments there. I want to ask about the situation in Fiji. With respect to the police commissioner of Fiji, how is his employment organised? How long has he been there? Is he employed through Australia, Fiji or AusAID money? How does that work?

Mr DA Ritchie—The police commissioner is Andrew Hughes, who is an Australian from the AFP. The AFP is probably better placed to give you details about his conditions of employment, how he is paid and so on. Alternatively, the question might be directed to AusAID, but I do not have those details with me.

Senator NETTLE—Is there any plan to suspend any cooperation with Fiji in light of the current situation?

Mr DA Ritchie—I would really prefer not to go into any details of any planning we might have underway in regard to action we might take, if there is military action in Fiji, if you do not mind.

Mr DJ Ritchie—Our position remains that we—and the Prime Minister and others have made this clear—do not support military action in Fiji. We want the Fiji military to respect the government, as is normally the case in democracies, and we hope that they will see sense and that no further action will be taken. It would only be if further action was taken by the military that we would consider how we might respond to that. We are doing some contingency work on that, but we would have to respond in a serious way.

Senator Coonan—As Mr Ritchie says, the government strongly supports the elected government. We are working closely with other countries such as New Zealand, we are monitoring the situation and, should steps need to be taken to evacuate Australian citizens, obviously that will be put in place.

Senator NETTLE—While I have Mr Ritchie at the table, I can probably ask a question about the Solomons. Can I ask what the situation is with regard to the High Commissioner to the Solomons?

Mr DA Ritchie—The high commissioner, as you know, was declared persona non grata and left the Solomon Islands. We have not yet appointed a new high commissioner.

Senator NETTLE—And that is the next stage in the process. It is not about seeking to return; it is about appointing a new high commissioner?

Mr DA Ritchie—Yes.

Senator NETTLE—Do you have an anticipated time frame for that?

Mr DA Ritchie—No, I do not.

Senator NETTLE—Turning to Thailand, I have some questions about the military coup in Thailand and what impact that has had on Australia's relationship with Thailand.

Mr Grigson—In respect of the coup in Thailand, we responded very quickly to that on the 20th. Mr Downer made some public comments making our position clear and put out a statement later in the day. We followed that up with representations in Canberra and in Bangkok. Thailand is an important country to us. We have looked at the links that we have with it that are in our interests and we are considering those on a case-by-case basis.

Senator NETTLE—Are you able to indicate any changes that have occurred to date or are there none to date?

Mr Grigson—It is early days yet. As I said, we are looking at things as they occur on a case-by-case basis. We have trade and investment interests there and security interests. We are looking at those links that are important to us and how we might continue with those.

Senator NETTLE—Have there been no diplomatic representations or sanctions in response to the suspension of democracy to date?

Mr Grigson—There have been no sanctions. But, as I said, we were very quick out of the box on representations, and we know that that has been registered by the coup leaders in Bangkok.

Senator NETTLE—What ongoing pressure is being exerted by the Australian government in relation to calling for a return to democracy at this stage?

Mr Grigson—That is a first-order priority for us in Bangkok. It is part of just about every discussion we have with the Thais. There is no doubt in either the mind of the military or the interim government that it is important to Australia that they return to democracy as soon as possible.

Senator NETTLE—Can I ask you questions on Burma as well?

Mr Grigson—You can.

Senator NETTLE—You would be aware of reports that the Burmese military government regime has sought to increase counterterrorism security cooperation with Australia. Are you able to comment on that?

Mr Grigson—We have provided some counterterrorism training to a number of countries in the region. One of those is Burma. They have received a limited amount of training in line with what we have provided to other ASEAN countries.

Senator NETTLE—Is that training through the AFP or is there additional training separate to that?

Mr Grigson—It has been provided through the AFP and through JCLEC, the organisation that operates in Indonesia.

Senator NETTLE—Has there been any request from the Burmese government to increase the security cooperation with Australia?

Mr Grigson—On counterterrorism?

Senator NETTLE—Yes.

Mr Grigson—Certainly not in recent times.

Senator NETTLE—Has there been any request to increase other forms of cooperation with Australia—in recent times, again?

Mr Grigson—No. We have some ongoing contact, as you know, through the AFP on issues such as counter-narcotics. That is ongoing. But I do not recall the Burmese having approached us or a particular spike in that activity in recent times.

Senator NETTLE—I have one other general question to ask. It is about the film *Road to Guantanamo Bay* that is coming to Australia. I asked some questions earlier this week of the department of immigration. It is a film about former British detainees at Guantanamo Bay coming to Australia. One of the former detainees from Guantanamo has been doing a world tour with the film and has gone to Germany, France, Ireland, Iceland, Turkey, Spain, Holland and a number of other European countries, and he has been denied a visa to travel to Australia. I just wondered whether there has been any communication with DFAT and any other overseas governments regarding his trip to Australia.

CHAIR—I am sorry we are jumping around so much.

Mr Newman—I am sorry, do you mind repeating the question?

Senator NETTLE—The film is called *Road to Guantanamo*. It is about three former British detainees of Guantanamo Bay. They have been doing a world tour with their film. It is due to be released soon in Australia. Ruhel Ahmed was to come to Australia for the launch of the film here. He was denied a visa by the Australian High Commission in London. I just wondered whether there had been any communication with DFAT and any overseas government regarding the screening of the film here, his visit or his application to come here as a part of the screening of the film.

Mr Newman—No, there has not been.

Senator NETTLE—That is all I wanted to ask.

Senator TROOD—Chair, Senator Nettle was on her 'Road' before I could ask my questions of Mr Grigson. I have a couple of questions for him, if I may.

CHAIR—Can I go to Senator Allison for the moment and we can come back to Mr Grigson. Senator Allison has been waiting most of the morning. We will just stick with the format, if we can.

Senator ALLISON—I want to ask some questions about Lebanon. The Lebanese government has been calling for a couple of things with regard to cluster bombs used during the conflict. One of them is that maps be provided of the sites of the cluster bombs that were used by Israel. I am just wondering whether the Australian government has a view on this, whether it considers it necessary to make a representation to Israel in order to facilitate the clean-up of unexploded bomblets. Can you advise us on the government position?

Ms Stokes—We have not made representations to Israel. With respect to Australia's policy on cluster munitions, these are not illegal under any arms control or international humanitarian law instrument. The humanitarian problem posed by them of course is twofold—the use in civilian areas, and also they become regarded as explosive remnants of war. In recognition of the problem, we have directed \$500,000 of our humanitarian assistance to post-conflict Lebanon towards clearing rural and residential areas of so-called explosive remnants of war.

Senator ALLISON—Is that part of the overall \$24 million? The minister's release does not identify this as being part of the \$24 million. Is it additional to that? How will it be spent?

Ms Stokes—Yes, it is part of. It is being provided to the United Nations Mine Action Service.

Senator ALLISON—Does that mean it goes through the World Health Organisation \$2.5 million or was it part of the \$9 million that was given to agencies in July and August? I am just going from the minister's press release.

Ms Stokes—No, I think it is directly to the United Nations Mine Action Service. Of course, this assistance is administered by AusAID.

Senator ALLISON—Yes, I understand that. I am a bit more interested, for the purposes of your department, in the question of the maps. You say that Australia has not made representation to Israel. Has it taken any action whatsoever to encourage that these maps be provided? I would have thought that for recovery of these bomblets it would be essential? Why has the Australian government not said anything about that, if it has not?

Ms Stokes—We are not a party to the conflict. It is also worth noting that a human rights organisation called Human Rights Watch has reported that cluster munitions were also used by Hezbollah.

Senator ALLISON—And that is a reason why we should not ask for maps for the cluster bombs?

Ms Stokes—No, it is not a reason.

Senator ALLISON—What is your understanding of the current knowledge? As I understood it, about 1,700 cluster bombs were dropped and the locations are known for about 600. Is that the advice that you have, too?

Ms Stokes—No, I do not have information on that.

Mr DJ Ritchie—We are not one of the central parties to this exercise. We actually do not have that information. It really is something that will need to be sorted out between particularly the expanded UNIFIL, the United Nations, Israel and the Lebanese government directly. From a DFAT perspective, we do not have any information on where these cluster bombs might be and so forth.

Senator ALLISON—But we are concerned about it enough to have contributed half a million dollars to cleaning up these bombs?

Mr DJ Ritchie—We have a long experience under the aid program and under the defence cooperation program—and it would need to be asked to these people—of assisting in clearing up remnants of war. We have done it in the Solomons; we have done mines in Mozambique, Cambodia and elsewhere. We do have a broad interest in that area.

Senator ALLISON—When we clean up those mines we also take steps to establish their location?

Mr DJ Ritchie—We work with others, particularly with UN agencies, to do that.

Senator ALLISON—How many civilians have been killed so far since the conflict ended through these unexploded ordnances?

Mr DJ Ritchie—I do not think we do not have any information on that.

Ms Stokes—We do not have information on that.

Senator ALLISON—Is there any likelihood that Australian explosives experts will be sent to be part of the UN team that is doing the de-mining at present?

Ms Stokes—We are not aware of that.

Mr DJ Ritchie—I would suggest that that might be something that you might wish to ask AusAID when you talk to them later today. We are not party to how the expenditure will be implemented. It may well be that it is just a grant to the United Nations Mine Action Service and they employ others to do it. I am not sure.

Senator Coonan—I have some information. Australia contributes 15 ADF personnel to the UN Truce Supervision Organisation, and of course the United Nations Mine Action Service is the group that is coordinating the removal of unexploded ordnance, if that assists you.

Mr DJ Ritchie—But whether those ADF personnel are actively working on the mine removal is something that the defence department would need to answer.

Senator ALLISON—All right. Ms Stokes, you were quick to point out that Hezbollah dropped cluster bombs. What were the numbers of bombs that Hezbollah dropped?

Ms Stokes—I mentioned there was an NGO report to that effect.

Senator ALLISON—But you do not have any more information than that?

Ms Stokes—No, I am sorry.

Senator ALLISON—Could I ask about UN resolution 1701, I think it is, on Lebanon, which is to do with a range of issues, including the handing back of Shebaa Farms, which was once under Syrian occupation and is now under Israeli occupation. Does Australia support that resolution?

Ms Stokes—Yes.

Senator ALLISON—Has Australia taken any steps to encourage Israel to take notice of it, to implement the steps that were called for?

Ms Stokes—We have encouraged, would welcome, the implementation of that resolution by all sides.

Senator ALLISON—I do not see a press release on the subject on your website. Was there a statement of some sort from the minister?

Mr DJ Ritchie—I am not aware if there was a specific statement, but we certainly support the implementation of Security Council resolution 1701 and we would certainly encourage—well, it is a Security Council resolution—all parties to implement it as actively as they possibly can.

Senator ALLISON—What is your take, if you like, on the chances of it being implemented? What is the advice that you have with regard to Israel's acceptance or otherwise?

Mr DJ Ritchie—In regard not specifically to Israel but to all parties, I think it is a very complex resolution. The whole ceasefire in Lebanon is going to be very difficult to implement. It requires a number of things, not just of Israel; it requires things of the Lebanese government, of Hezbollah, including disarmament. These are all very difficult issues that have

to be worked through. So far at least, the deployment of forces, the UNIFIL part of that, has worked all right. We have not had any major incidents. So far so good. We remain concerned about complexities in the resolution. Some of the issues it addresses of course, particularly between Lebanon, Hezbollah and Israel, are very longstanding and difficult issues. It is going to take a lot of effort on all sides, including on the part of the Lebanese government, and Hezbollah, which we regard as a terrorist organisation, to implement that resolution.

Senator ALLISON—Has the department of foreign affairs provided any insights into or any advice to Attorney-General's about Hezbollah and its terrorist status in Australia?

Mr DJ Ritchie—I will defer to the experts on this, but Hezbollah is listed as a terrorist organisation in Australia.

Senator ALLISON—Precisely. But, given the current difficulties with resolution 1701, has there been any review or any work done by your department on the subject, or does the department still hold the view that the 'terrorist' title, if you like, for Hezbollah is still appropriate?

Mr DJ Ritchie—As I said, I will defer to the experts, but certainly that is the case—we continue to regard Hezbollah as a terrorist organisation.

Ms Stokes—That is true, and we have done no work on that issue.

Senator ALLISON—At what point would you reconsider the situation? Is it under review all the time or are they now a terrorist organisation for all time?

Mr DJ Ritchie—They are listed under the United Nations as a terrorist organisation. We are simply implementing a United Nations decision. It is always open to the United Nations to consider revisions to that, but there is no sign of that at this point.

Senator ALLISON—Can I turn to Palestine now? Again, I had a quick look at the website and saw no statements or press releases from the minister since August last year on this subject. What is your assessment of the current situation in Gaza? It is my understanding that there has been an escalation of the number of Palestinians who have been killed in Gaza. Some say that up to a million people are facing starvation there. Has there been work done on this issue and, if so, can you advise the committee what that is?

Ms Stokes—The situation in Gaza is obviously difficult. We monitor the situation there.

Senator ALLISON—Yes? That is all the department has done? Is that all you have to say about the issue?

Mr Foley—Obviously, as Deborah said, the situation in the occupied territories is difficult. Australia monitors the situation closely. We obviously hope that the parties to the conflict can have the Middle East peace process restarted and, moreover, the situation in the Palestinian territories is of ongoing humanitarian concern, and Australia does provide assistance to the territories to help meet those concerns. Our colleagues in AusAID could give you more details on that. I think overall for the current financial year Australia's commitment to the territories is \$16.2 million.

Senator ALLISON—Do you agree with the statement that this year has been the worst in all of Israel's occupation since 1967 with regard to the civilian death toll?

CHAIR—That is probably not appropriate.

Senator ALLISON—I am sorry?

CHAIR—I think you are asking for an opinion from the officer, which is probably not appropriate.

Senator ALLISON—Let me put it another way. How do the number of deaths of civilians, including children in the last year, compare with previous years, since you are monitoring the situation? Is it worse this year, in the last 12 months, than it has been at any time since 1967?

Mr Foley—We do not have any information on that.

Senator ALLISON—What do you monitor?

Mr Foley—We follow the Israel-Palestine conflict as closely as we can. We support efforts to facilitate a process. As I indicated, we make efforts to ensure that the humanitarian situation in the territories is addressed.

Senator ALLISON—I will ask you again: what do you monitor?

Ms Stokes—The political process.

Senator ALLISON—What have you discovered about the political process with regard to Gaza? I am just focusing on Gaza.

Ms Stokes—As we said before, the situation is very difficult.

Mr Foley—The political situation in the territories is a complex one between Fatah and Hamas, and their negotiations on how they go forward are ongoing. I think they apply both to Gaza and to the West Bank more generally.

Ms Stokes—Just in terms of the humanitarian assistance—

Senator ALLISON—Sorry, Ms Stokes, that is not what I asked. If we can just focus on this question for the moment. It is my information that 92 children have been killed in Gaza alone in the past four months. Does that surprise you? Does that accord with the information that you have in your monitoring?

Senator Coonan—I think you are asking the officers for reactions to what is clearly a very sad situation. No-one wants to see civilians killed and any loss of life is very regrettable. But the kind of monitoring that is done to support the international efforts—we are not a party, of course—to facilitate the peace process is not a day-by-day monitoring of every issue. It is something that requires us—as part of our aid effort and general concern for the international effort—to be aware of how the peace process, or the lack of it, is proceeding and to very much support it getting back on track. We obviously support a two-state solution.

Senator ALLISON—I am just having a quick look through the press releases the minister puts out. It is not uncommon for the minister to name the number of people killed in a particular conflict, whether in Darfur or somewhere else.

Senator Coonan—It is very regrettable. It is not something that anybody wants to see.

Mr Foley—Certainly not.

Senator ALLISON—It is not a question of whether it is regrettable, sad or something else.

Senator Coonan—What precisely are you expecting us to do about it?

Senator ALLISON—The question is about monitoring.

Senator Coonan—Perhaps you could put your question in such a way as to how we have failed or not failed or what other action you suggest this government should be taking. I am telling you that this government takes this situation very seriously. We support a two-state solution. We support international efforts. We are providing aid and we carefully monitor the political process.

Senator ALLISON—That is the line of questioning. What is the monitoring telling us? I am not getting much advice about that. But we will move on. If it is possible, can you confirm that figure of 92 children just in the past four months—and I understand about 200 adult civilians? If that can be checked it would be useful. What is the situation with water, food and electricity in Gaza Strip—that, as I said earlier, has given rise to high levels of malnutrition? I understand 80 per cent of the population of Gaza is in this situation. Is it possible to advise on that?

Ms Stokes—I am not able to confirm that figure, but I do know that we are concerned about the humanitarian situation there. That is why we have in fact been generous in our humanitarian assistance. In addition to the \$16.2 million that Mr Foley mentioned, in response to the recent conflict and the ongoing needs, Australia has provided an extra \$1 million to UNICEF for emergency assistance in the health sector.

Senator ALLISON—Are we concerned enough about this issue to make representations to Israel on the subject? Have we done that?

Mr DJ Ritchie—I think the answer is that, whenever we see any of the parties involved, we urge them to return to the peace process.

Senator ALLISON—What about this issue? I am specifically asking about Gaza and the—

Mr DJ Ritchie—Including Gaza. Gaza cannot be seen as separate from the peace process as a whole. We certainly very carefully say to all of the parties involved that we urge them to re-engage, because of exactly the concerns you mention. We are very worried about the situation there and elsewhere in the region.

Senator ALLISON—So no specific advice or pleas have been made to Israel about the Gaza Strip; is that right?

Mr DJ Ritchie—As the minister said, we make our general support known all the time to the parties when we speak to them. That is a longstanding position of Australia.

Senator ALLISON—Can you advise us about the blockade, the current EU, United States and Israeli blockade on Gaza, and Australia's position on that?

Mr DJ Ritchie—I am sorry, I am not aware of any blockade on Gaza.

Senator ALLISON—You are not aware of any?

Mr DJ Ritchie—No.

Senator ALLISON—So there is a free flow of goods in and out of Gaza, is there?

Mr DJ Ritchie—I am simply not aware of it. But I stand to be corrected.

Senator ALLISON—If you could take that on notice. It is my understanding that there is a blockade and that this is part of the problem.

Mr DJ Ritchie—I am certain that states that are involved are looking very closely at shipments of arms, ammunition and other things, other weapons and so forth. But I am not aware of any blockade. I am not sure whether my colleagues are.

Senator ALLISON—My advice is that the World Bank has said that this blockade has caused an unprecedented economic depression.

Mr DJ Ritchie—I am not aware of that, but if I am wrong we will of course correct that. There is a maritime monitoring operation off Lebanon as a result of the United Nations resolution 1701.

Senator ALLISON—Can you update us on the two-state solution process? In what way does Australia engage with Israel and with the Palestinians on this matter? We have quite a close relationship with the United States and with Israel. Do we engage with talks with the United States on this issue?

Mr Foley—Obviously we speak to both the Israeli government and the Palestinian presidency all the time. The Middle East peace process is obviously an issue for discussion in many international fora, so it is part of a standard dialogue.

Senator ALLISON—Has Australia asked Israel about the release of the 33 members of the Palestinian Legislative Council who were arrested and are in detention? Has this been part of your discussions?

Mr Foley—The discussion is in terms of our overall support for a two-state solution. There are many moving parts to this conflict. There are a lot of issues involved in moving forward, and we urge both sides to do so.

Senator ALLISON—Did Australia take a specific position on the capture of these democratically elected members of parliament?

Ms Stokes—No.

Senator ALLISON—Why was that?

Mr Foley—It is hard to isolate one particular facet from an overall very complex issue.

Senator ALLISON—What is complex about members of parliament being captured and imprisoned?

Mr DJ Ritchie—One of the complexities is that one of the parties, that is, Hamas, does not recognise the state of Israel.

Senator ALLISON—That is not true.

Mr DJ Ritchie—Hamas is opposed to the state of Israel.

Senator ALLISON—What evidence do you have of that?

Mr DJ Ritchie—That is what they say.

Senator ALLISON—Are we talking about the Palestinian parliamentarians here or their military wing?

Mr DJ Ritchie— Hamas, which is currently the government in the Palestinian Authority.

Senator ALLISON—You do not recognise that there is a difference between the parliamentary wing and the militia?

CHAIR—The government.

Mr DJ Ritchie—The Hamas government has been saying precisely those things. That is one of the many reasons why we are not prepared, along with most other parts of the international community, to provide assistance through the Palestinian Authority while it has a government like Hamas. We provide assistance for Palestinians in other ways.

Senator ALLISON—It is my understanding that at least the most recent statements from Hamas are that they are willing to do so. In fact, I understood that they signed a general Arab agreement in the region that they recognise the Palestinian states side by side with Israel. Is that not the case?

Mr DJ Ritchie—That is not my understanding of Hamas's position.

Senator ALLISON—Perhaps you could check that? Does that justify putting elected representatives in prison?

Mr DJ Ritchie—We are not a direct party to this. Other more serious and significant players such as the United States and others are more heavily involved in this issue. Our main effort has been to try to urge all of the parties to return and not to take actions that would undermine that. We say that to the Israelis as much as we say it to the Palestinians and to other parties that are engaged in it. That is our standing in the process. We also try to assist with humanitarian assistance where we can.

Senator ALLISON—To your knowledge, have any trials been conducted of those that were put in prison?

Mr DJ Ritchie—I do not know the answer to that. We can find out for you.

Senator ALLISON—We have not expressed a view about whether they should be charged and tried or not?

Mr DJ Ritchie—No.

Senator ALLISON—It is my understanding that the Minister for Labour, who had been imprisoned and who I understand is not part of Hamas, was interrogated and tied up for hours in a painful position known as shabah, and that other government officials were subject to the same treatment. Do you have any knowledge about this and did Australia express its concern about that treatment?

Mr Foley—We are not aware of this.

Senator ALLISON—You are not aware of it?

Mr Foley—No.

Senator ALLISON—Could you take that on notice? It might have been reported fairly widely so I am surprised that you are not aware of it. Just coming back to Hamas for a

moment, it is my understanding that Hamas has kept an 18-month truce whereas Israel has not. Would you agree with that? Is that your understanding?

Ms Stokes—No. That would not be our understanding.

Mr DJ Ritchie—That is not our understanding.

Senator ALLISON—Could you correct that perception if it is not right?

Mr Foley—At various stages of the process between the Palestinian authorities and the Israeli government there have been pauses associated with disengagement, but when Hamas came to power when it won the national assembly elections earlier in the year the level of violence did increase. There have been issues such as rocket firings into Israel and things like that.

Mr DJ Ritchie—There is violence, including amongst the Palestinians, for example, between Fatah and Hamas, as well as between Hamas and Israel and Israel and Hamas. There has been violence on all parts. We want that violence to stop. We have always urged that it stop. But to say that one party is innocent and another party is not would be silly. I do not think that is right.

Senator ALLISON—To what extent do you think this violence has been exacerbated by the capture of these members of parliament?

Mr DJ Ritchie—The violence is ongoing. It has been going on for decades and continues.

Senator ALLISON—Has any member of parliament from Israel been captured by Palestinians?

Mr DJ Ritchie—I am not aware of any.

Senator ALLISON—I will just go to trade restrictions. As I understand it, there was an agreement made between Israel and the Palestinians in November 2005 to normalise trade relations and to guarantee free movement of people with neighbours and partners, and to establish autonomous Palestinian trade borders to create a viable, independent Palestinian economy. What is your understanding of the status of that agreement?

Mr Foley—It is fair to say that, with the election of Hamas earlier this year, a lot of the progress that had been seen between the Palestinian Authority and Israel came to a halt. This included things such as the border crossing and the level of violence that Mr Ritchie has mentioned. So I think that is one of the casualties of the current situation there.

Senator ALLISON—Is it part of the punishment for the Palestinians democratically electing Hamas to the parliament?

Mr DJ Ritchie—Not at all.

Senator Coonan—Senator, with respect, that is not an appropriate comment that you could expect the officers then to respond to.

Senator ALLISON—Has there been any work by the Australian government in assisting the economy apart from the handout approach by AusAID, that assistance? I am sure it is welcome, but what other steps have been made with regard to trade in Palestine?

Mr Foley—Trade is essentially a private sector issue. If the business communities on both sides see opportunities for trade then they can be pursued. Australia has helped in some other ways. There was a secondment of an ADF officer to the Security Sector Working Group last year, which was something run by the Quartet partners. You would need to ask the department of defence about that in detail, but part of that was that officers worked on security arrangements for facilitating border crossings for the purposes of trade and, obviously, humanitarian goods.

Mr DJ Ritchie—The answer is that if Australian companies wish to trade in Gaza, subject to our normal consular and other warnings, they are perfectly open to do so.

Senator ALLISON—There is no prohibition. Your department has not advised against trade with Palestine?

Mr DJ Ritchie—Not that I am aware of.

Senator ALLISON—Is there trade at present?

Mr DJ Ritchie—We can certainly find out for you. We will have the figures recorded.

Senator ALLISON—Does Australia still have 12 personnel involved in UNSTO's Operation Paladin? That is the one that was established a long time ago.

Mr Foley—It is actually more than that. That is essentially a matter for the Department of Defence.

Mr DJ Ritchie—The current ADF commitment is about 13 personnel, but again that is a matter for the defence department.

Senator ALLISON—I turn to the settlements in West Bank. It is my understanding that recently building licences were issued for another 690 housing units in West Bank in disputed territories, which as I understood it was contrary to an agreement that there would not be any extra housing units built in that part; and that that was stipulated in the year 2000 roadmap peace agreement, which Australia supported at the time. Is that correct?

Mr DJ Ritchie—Yes.

Senator ALLISON—Have we made any representations about this apparent breach of that agreement?

Mr Foley—The point is that everybody supports the roadmap as the way forward. There have been other developments, such as the initiatives of former Prime Minister Sharon of Israel on disengagement. As I indicated before, a lot of those initiatives are now largely on hold because of the emergence of Hamas in the Palestinian Authority.

Mr DJ Ritchie—We have had a very longstanding position of opposing settlements in the occupied territories. We have made that view known from the Prime Minister down in his contacts with the Israelis and others.

Senator ALLISON—Have we made it known in the last six months or so?

Mr DJ Ritchie—I would have to take that on notice. That has always been our position, because it complicates matters.

Senator ALLISON—Yes, indeed. I will go to the wall construction in Palestine. Correct me if I am wrong, but as I understood it the Australian government voted against the advisory opinion of the International Court of Justice to bring down the wall. Is that correct? What is Australia's position? I understand walls are being constructed throughout Palestine at present. Has Australia expressed a view about this?

Ms Stokes—Australia supports Israel's right to defend itself from terrorism, including through the construction of the security barrier. We have also urged Israel to move the barrier closer to the 1967 line and avoid unnecessary hardship for the Palestinian people.

Senator ALLISON—What is our view about the 1967 armistice line? It is my understanding that it was Australia's position to contain the wall in that way. Is that not right? Have we changed our position since then?

Ms Stokes—No. Our position is as I just mentioned.

Senator ALLISON—I am asking about the armistice line.

Ms Stokes—Yes. We would like it to move closer to the 1967 line.

Senator ALLISON—What have we done to urge Israel to uphold that line?

Mr Foley—Our position is well known to Israel and is part of the ongoing dialogue that we have with them.

Senator ALLISON—As I understand it, walls are now being constructed everywhere. What representations have we made to Israel about this?

Mr Foley—I do not think I can add anything to my previous answer.

Senator FERGUSON—That is in relation to the wall. Senator Allison said 'walls everywhere'. It is a wall that will eventually be a continuous barrier, but it currently has not been connected in the middle.

Mr Foley—That is right.

Senator FERGUSON—It is not a succession of walls; it is just one wall that has not been connected.

Senator ALLISON—In terms of the advice on the use of walls in the West Bank around quite small Palestinian villages and groups of houses, with security zones in between those walled areas, can you tell us what knowledge you have of this?

Mr Foley—I am not sure that I understand your question. Obviously, our position on the wall is known, as Ms Stokes has indicated. As Mr Ritchie said, we are not a party principal to this conflict. Our interest is in having both of the parties move to resolve it. Obviously, the wall and the territories will be an important part of that.

Senator ALLISON—The reason I am asking about this is that a number of parliamentarians were briefed by Professor Reinhardt about two weeks ago on the subject. A map was displayed and handed out about where other walls were being constructed in Israel. You do not have any knowledge of the wall construction? She describes it as small villages being put in 'open air prisons'.

Mr Foley—The Israeli-Palestinian conflict is controversial.

Senator ALLISON—We all agree with that.

Mr Foley—There is strong language on both sides.

Senator ALLISON—I am trying not to use strong language here but to express what is happening in Palestine. It is my understanding that walls are being constructed by Israel around Palestinian settlements in West Bank and that this is described by some as open air prisons. But you have no knowledge of this action being taken?

Mr Foley—I have no knowledge of these particular walls that you are speaking of, although obviously the actions being undertaken on both sides to provide security are on the public record.

Senator FERGUSON—Having been there only three or four months ago, there were no walls being built around villages; there were only walls either dividing villages or going alongside villages, separating people from one side to the other. There were no walls anywhere that I saw encircling a village. It was a very tall structure and a high wall, but it was used as a division and not to encircle villages. That is totally wrong.

Mr DJ Ritchie—As Mr Foley said, we are not aware of that particular suggestion. It is important about what Mr Foley said about strong language. There is a lot of misinformation in this area. We are not a party principal and a lot of strong language is used on all sides.

Senator ALLISON—I am not using strong language. I am trying to keep to the facts here.

Mr Foley—I am simply noting that we will always be briefed by advocates of one side or another using information that may or may not be factual. I have no idea in this case.

Senator ALLISON—That is why I am asking you. We are being briefed and it would be useful to know what the government knows about the subject and what their position is.

Mr DJ Ritchie—We have indicated that we are not aware of it at this point. We also indicated that, as Mr Foley and Ms Stokes have said, we acknowledge Israel's right to protect itself against attacks.

Senator ALLISON—I will turn to the weapons that we used in Lebanon and in parts of Palestine. Amnesty International identified evidence of the use of phosphorous bombs. What knowledge does the Australian government have about that? Has it condemned the use of phosphorous bombs? Does it think that is okay in Lebanon? What is our position?

Mr Foley—We are aware of the media reports that indicate that Israel said that it may have used phosphorous shells. Obviously, we are not a party to that conflict, but we are aware of the reports.

Senator ALLISON—They are rather more than reports. As I understand it, this was spoken about in the Israeli parliament only a couple of weeks ago and it was confirmed. I do not know that it is just reports. Have we acted on that advice? What is our position on phosphorous bombs?

Mr Stuart—We are aware of media reports indicating Israel has confirmed that it used white phosphorous shells in attacks, but it was specified they were attacks against military targets in open ground in Lebanon. Australia's position is that we do not accept the use of white phosphorous against civilian populations. White phosphorous is prohibited by protocol

3 of the convention on chemical weapons when it is used as an incendiary weapon against civilian populations or in air attacks against enemy forces in civilian areas. The issue goes to the fact that you can use this weapon as, for example, an indicator. It is obviously highly visible. But it is true that its incendiary effects, if used in places where people are packed, are toxic and this is regarded as an inhumane use of a weapon. In this case Israel confirmed that it had used white phosphorous shells but against military targets in open ground.

Senator ALLISON—You do not have any information to the contrary?

CHAIR—I will go to Senator Trood now. We have to move through some of these questions. Everybody has to have a fair go.

Senator TROOD—You have been monitoring the situation, as I understand it, between Israel and the Palestinian Authority; is that right?

Mr Foley—That is correct. Obviously, what happens in Israel and the Palestinian territories is followed in the department but it is also a matter of reporting by our embassy in Tel Aviv and our office in Ramallah.

Senator TROOD—Would your monitoring tell you that Gaza, which of course was once part of Israel, has been returned to the Palestinian Authority earlier this year?

Mr Foley—The Israelis disengaged from Gaza earlier this year.

Senator TROOD—Did they withdraw on any conditions?

Mr Foley—I would have to check the record at that time, but I understand it was a unilateral withdrawal. It was part of then Prime Minister Sharon's strategy.

Senator TROOD—Perhaps I can help you. My understanding of the situation is that they withdrew unconditionally—as you said, unilaterally. They gave the Gaza to the Palestinian Authority for administration; is that right?

Mr Foley—I understand so, yes.

Senator TROOD—Would you agree that one of the consequences of that being returned to the Palestinian Authority was that there was a measure of, shall we say, division amongst some of the forces in Gaza, between Hamas and Fatah. Is that right?

Mr Foley—It is well known that the Palestinian polity is quite split.

Senator TROOD—Am I right in saying that became extremely violent at times?

Mr Foley—There was fighting between the factions, yes.

Senator TROOD—Would it be your conclusion that one of the consequences of that was that it made the whole security situation in Gaza very tenuous?

Mr Foley—Yes.

Senator TROOD—It has continued to be tenuous?

Mr Foley—Yes.

Senator TROOD—In part because of that situation?

Mr Foley—Yes.

Senator TROOD—That affects all manner of service provision. Is that right?

Mr Foley—Absolutely.

Senator TROOD—In June an Israeli soldier was kidnapped in Gaza. Is that right?

Mr Foley—An Israeli soldier was kidnapped into Gaza, yes.

Senator TROOD—How was he kidnapped?

Mr Foley—I am not aware of those details. I was not here at the time but I think he was snatched from a patrol or a guard post.

Senator TROOD—Can you help us with this, Ms Stokes?

Senator Coonan—My understanding is that there was a tunnelling into Israeli territory.

Senator TROOD—My understanding, Minister, is exactly that. In fact, there was a tunnel dug from Gaza under the division barrier into Israel and that, during a night-time raid, this Israeli soldier who was on patrol in Israel was kidnapped and taken into Gaza. Is that right?

Senator Coonan—Yes, Corporal Shalit.

Mr DJ Ritchie—That is correct.

Senator TROOD—Would you agree, Ms Stokes and Mr Foley? Is that the sequence of events?

Mr Foley—As the minister has said, that is right.

Senator TROOD—As I understand it, this was an unprovoked attack; is that right?

Mr Foley—Yes.

Senator TROOD—Has the soldier been returned?

Senator Coonan—Sadly, no.

Mr DJ Ritchie—No.

Senator TROOD—Can you also confirm for us that the Israeli government has been trying since 22 June to negotiate the return of the soldier?

Mr DJ Ritchie—You are absolutely right.

Senator TROOD—Has Hamas, in whose care apparently the soldier has been placed, been unwilling to yield up the soldier?

Mr DJ Ritchie—That is correct.

Senator TROOD—All efforts to try to solve this situation have been unsuccessful?

Mr DJ Ritchie—That is correct.

Mr Foley—That is correct.

Senator TROOD—Can you tell us what prospects there might be for this matter to be resolved in the short term?

Mr Foley—That will largely depend on negotiations within the Palestinian factions between President Abbas and Hamas. Obviously, Australia would wish the soldier returned as quickly as possible.

Mr DJ Ritchie—In answer to your question, there has not been much progress.

Senator TROOD—Senator Allison alluded to events on Israel's northern border in relation to Lebanon. She was asking questions about that. Can you tell us what precipitated that particular event?

Mr DJ Ritchie—Not only the kidnapping of the Israeli soldier but also rocket attacks into Israeli territory from southern Lebanon.

Senator TROOD—That was happening on a regular basis; is that true?

Mr DJ Ritchie—A very regular basis.

Senator TROOD—All efforts on the part of the Israelis to prevent those rocket attacks were unavailing?

Mr DJ Ritchie—Absolutely.

Senator TROOD—Is it also true that in relation to Gaza there were regular daily and numerous unprovoked rocket attacks from Gaza into Israel?

Mr DJ Ritchie—That is correct. In addition there were a series of suicide bomb attacks coming from the various territories around there.

Senator TROOD—I am glad you have alluded to that matter because I was going to ask about that. My understanding—correct me if I am wrong—is that one of the reasons why the wall or the fence is going up is because Israel has found that the only way in which it can provide some measure of security for its people from suicide attacks emanating from Palestine is by putting up some kind of security barrier which provides some measure of security against those attacks. Is that right?

Mr DJ Ritchie—That is correct.

Senator TROOD—Is that your understanding?

Mr DJ Ritchie—Absolutely. As Ms Stokes said before, our position on the security barrier relates to the fact that Israel has the right to protect itself from such attacks and from such violence.

Senator TROOD—All states have that right under the United Nations charter, do they not?

Mr DJ Ritchie—Indeed. We strongly support Israel's right to self-defence.

Senator TROOD—Is it also true—and you have been monitoring the situation—that it would seem there has been a decline in the number of these suicide bomber attacks since the wall went up?

Mr DJ Ritchie—That is correct. There has been quite a lull in them since the wall went up.

Senator TROOD—This has been a relatively successful means of providing a measure of security for Israeli people.

Mr DJ Ritchie—That, in association with a number of other measures, which the Israelis could elaborate on. Yes, it has been successful.

Senator TROOD—My understanding also is that Israel has come to a position where it accepts that there is a need for a two-state solution to the situation in relation to this relationship with Palestine. Is that right?

Mr DJ Ritchie—That is right.

Senator TROOD—It would very much like to negotiate that kind of solution?

Mr DJ Ritchie—Indeed, yes.

Senator TROOD—Can you inform the committee of how successful it has been in relation to the progress of those negotiations?

Mr DJ Ritchie—It is fair to say that the negotiations have had their moments when they have been successful. At other times they have been terribly unsuccessful. It has gone up and down, but we have not made a lot of progress towards achieving two states in the area. It is not looking likely in the near future, particularly, as I mentioned earlier to Senator Allison, with parties such as Hamas in power in the Palestinian Assembly, which does not recognise the right of Israel to exist.

Senator TROOD—I understand that is the view of the Kadima Party?

Mr DJ Ritchie—That is.

Senator TROOD—That is the government of Israel. Is that right?

Mr DJ Ritchie—That is correct.

Senator TROOD—Can you confirm that Israel is a democracy?

Mr DJ Ritchie—Indeed. It is a very robust democracy.

Senator TROOD—You would describe it as a robust democracy.

Senator Coonan—Golda Meir once said that there were 3,000 prime ministers in Israel.

Mr DJ Ritchie—Very robust.

Senator TROOD—We are very fortunate that we only have one. Can you confirm that Syria is a democracy?

Mr DJ Ritchie—No.

Senator TROOD—Would you describe Lebanon as an effectively functioning, robust democracy?

Mr DJ Ritchie—The conditions you put on that would probably lead me to say no. But Lebanon is a democracy with a democratically elected government.

Senator TROOD—We could go through all the states of the Middle East but could we perhaps reach a view on whether there are many democracies that surround Israel in the Middle East?

Mr DJ Ritchie—Not many, no.

Senator TROOD—Israel stands there in the Middle East as a democracy trying to defend itself against forces that surround it and that are refusing for the most part to negotiate any kind of peace arrangement with it; is that the situation?

Mr DJ Ritchie—That is correct.

Senator TROOD—Those forces persistently challenge Israel's security as a state and the security of Israeli citizens; is that also true?

Mr DJ Ritchie—That is true, and in many cases do not even accept its right to exist.

Senator TROOD—Amongst those parties that threaten Israel and its people are Hamas, the Palestinian Authority and the Hezbollah, which of course has been camped for a long time in the southern part of Lebanon; is that right?

Mr DJ Ritchie—Certainly, Hamas and Hezbollah are amongst those parties.

CHAIR—We will break for lunch and reconvene at 1.30 pm.

Proceedings suspended from 12.30 pm to 1.31 pm

Senator ROBERT RAY—In relation to the evaluation you might be doing post the evacuation of Australians from Lebanon during the recent crisis, I suppose if I heard criticism of it, it was in the initial stages about the level of communication and people's access to it. I know you have done some sort of review. Can we have a lessons learnt—and this is not a criticism of the evacuation per se.

Mr DJ Ritchie—I think it is just about one of the biggest things we have ever done and we certainly learnt a lot of lessons from it, but I will ask Rod to respond.

Mr R Smith—As Mr Ritchie said, this was an enormously complex operation logistically. On the whole we think it proceeded well but, like any major operation of this kind, we did encounter some problems and setbacks. As we do after all major consular operations, we did a comprehensive review of what went well and what did not go so well. We have learnt a lot of very useful lessons from that.

One criticism that you have pointed to was on our communications strategy. I think it was clear during the evacuation—and certainly in the feedback we had afterwards—that parts of the Lebanese community here and the Australian community in Lebanon felt that they did not get enough information, particularly early on, about what we were doing. The importance of getting that communication right early on has been a very important lesson for us and one that we are factoring into our ongoing refinement of our contingency plans.

There were other lessons that we drew from the experience. We learnt a lot about the kinds of resources that are needed to manage an evacuation of that size. As Mr Ritchie said, this was the largest civilian evacuation we have ever done. We learnt a lot about the systems we need to put in place for moving large numbers of people through what is in effect a pipeline. One thing about this evacuation that was so difficult was that it was not just a question of getting people out of Lebanon, which we had to do without access to aircraft, but a question of moving those people from a number of different staging points back to Australia. There were really two elements to the logistics exercise. Managing people through that pipeline was enormously complex, and a lot of what we did we improvised.

We have learnt a lot about the kinds of systems that we need and the kinds of support services we need to provide to the people involved, to the evacuees. We learnt things about the reception arrangements we need to put in place in Australia—although, for the most part, I

think that went very well. We learnt things about the coordination arrangements that we need to have between the various agencies involved in what is obviously a whole of government activity. Again, we think on the whole those coordination arrangements worked well but, like any other major event, there are things that we can learn from it and we can do better.

Senator ROBERT RAY—Having learnt, as we all do, lessons from practical experience, are you going to have a war-gaming situation where you try out the lessons? I know it is impossible to replicate reality, but war games are often done to test the systems and scenarios.

Mr R Smith—We do that from time to time, yes.

Senator PAYNE—Mr Smith, your staff are placed in very difficult circumstances in such an environment at short notice, from different parts of the region, I assume. How do you go about supporting them and dealing with follow-up in the event that the extremity of the circumstances has an effect on their wellbeing and their health?

Mr R Smith—I will ask Penny Williams to answer that. Fundamentally, it is a role for our staff counsellor.

Ms Williams—As you probably know, we have a staff counselling office, headed by our senior staff counsellor and supported by two counsellors. We ask all staff to be debriefed and we also provide support in the field for the staff who are working on those operations.

Senator PAYNE—Thank you.

Senator ROBERT RAY—While we are on questions Middle East, is there a view that our staff at embassies in the Middle East are so stretched doing consular matters that they do not have enough time to report on and analyse the events that are occurring in the Middle East? Has anyone looked at this of late?

Mr DJ Ritchie—Yes. We look very closely at our staffing levels. One of the key tricks when a big consular issue like this happens is to be able to mobilise people and supplement people very quickly, which we did on this occasion. As a person who sees quite a lot of the reporting that comes from the Middle East, I do not get the sense that it has dropped off in any way.

Senator ROBERT RAY—My question related not to this crisis but to the general pressures on embassies in the Middle East.

Mr DJ Ritchie—I understand. I do not sense that. In fact, the level of our reporting from our posts in the Middle East is good. The feedback we get from the business community about how they are being looked after is good. We keep individual staffing levels very much under review the whole time.

Senator ROBERT RAY—I notice that one issue that got a bit of publicity—I did not follow it closely—was the accusation that Israel deliberately bombed a Red Cross ambulance. This was noted by the foreign minister when he addressed the National Newspaper Publishers Conference on the Gold Coast in late August. He criticised the media for sloppy reporting and a failure to check facts. I am just wondering whether the department was able to correct the minister on this, or is it as reported—that the correction came from some blog site somewhere?

Ms Stokes—Would you mind repeating the core of your question?

Senator ROBERT RAY—In an address to the National Newspaper Publishers Conference on the Gold Coast, the foreign minister—and I am not in any way being critical of him—criticised the media for sloppy reporting. He evinced as an example the reports of a supposedly deliberate bombing of a Red Cross ambulance by the Israelis and went on to give a refutation of that. I am just asking whether that refutation was based on advice from this department or, as it may appear, from some right-wing blog site.

Ms Stokes—It is not usual practice to comment on how agencies have provided advice to ministers.

Senator ROBERT RAY—In relation to the chair of the Council for Australian-Arab Relations, did the previous chair resign or did the term come to an end?

Mr Foley—The previous chair resigned.

Senator ROBERT RAY—I see. What happens then? Does the department send up a short list to the minister or does the minister just send you down an anointed name?

Mr Foley—No. The Council for Australian-Arab Relations was established in early 2003 for a three-year term, so the terms of members were coming up anyway. We sent to our ministers' offices a list of potential members, including those who were interested in being reappointed, and ministers made their views known to us.

Senator ROBERT RAY—Their attention was never brought to the fact that the person you appointed as chair was running in an internal Liberal Party preselection in which Lebanese votes were crucial?

Mr DJ Ritchie—No. I think it is fair to say that Ms Goward was already a member.

Senator ROBERT RAY—I know. I am talking about promotion to the chair. We are talking about the Cherrybrook branch. I think this is all a bit too lowbrow for you, officials at the table, so we will move on.

Senator FAULKNER—Mr Ritchie, I ask about a case that I have had drawn to my attention. It is my longstanding practice to not speak about individual cases at estimates. I think you would be aware of that. I will give the broad parameters of this case and ask one or two questions about process. In broad terms, this is a very tragic case in which an Australian veteran died in a ferry accident in the Philippines the best part of 20 years ago. Many thousands of people were killed in the incident; only a handful survived. But, in the very sad case of this veteran, a wife and five kids were left behind. The difficulty, as I understand it, that this family has faced—and where I want to go now is not to the specifics but to the broad process—is in access to entitlements because of the amount of time that has elapsed and the fact that there is not a death certificate. No death certificate has been issued in this case. That is what I want to go to. Could you indicate to the committee, so that I can understand, what the process is in relation to obtaining a death certificate if an Australian citizen dies overseas. Could someone please assist me to understand that.

Mr DJ Ritchie—I am sure we can.

Mr R Smith—I can answer in very broad terms. Generally, it is the responsibility of the authorities of the country in which the death takes place to issue a death certificate. If there are problems with that—for example, if there are difficulties recovering or identifying remains—the matter can be brought before the coronial authorities in the relevant state, presumably the state of residency, in Australia to make a determination. I think that there are some statutory periods that need to be met but, broadly, it is up to coronial authorities to make a judgement in those circumstances.

Senator FAULKNER—The coronial authorities in the country where the accident occurred?

Mr R Smith—No. Initially a death certificate would be issued by the relevant authorities in the country in which the death occurs, but if problems arise for the kinds of reasons I have mentioned, an application can be made by next of kin in Australia to the coronial authorities in the Australian state in which they reside for a determination to be made about the death.

Senator FAULKNER—In the case that I have been made aware of we are talking about a ferry accident that took place in 1987—a long, long time ago. I do not know whether any official at the table would have been working in DFAT at that time—I will not mention you again, Mr Ritchie, and I am sure you were not, Mr Smith. DFAT was in communication with this family at that time, a very long time ago. DFAT wrote to this family on 20 January 1988 advising that this Australian veteran was believed to have perished in the ferry accident. The department had spoken to the local mayor in the Philippines, to the shipping company and to the local media in relation to the case. The formal DFAT advice was, ‘Take this matter to the Queensland police.’ The Queensland police said to the family, ‘Go to the AFP.’ The AFP said, ‘Go to DFAT.’ DFAT said, ‘Go to the Queensland police.’ And so it went, on and on.

This is a situation where, as I said, a wife and five children were left behind. It is now 19 years on. What happens in circumstances like this because, without a death certificate, a family cannot access entitlements? This is a serious human story and I would like to be able to provide some advice on it if I could, not necessarily specific to this instance. Broad advice in this situation might be helpful.

Mr R Smith—My understanding is that, if the family is from Queensland, they should apply to the Queensland coroner.

Senator FAULKNER—I have been informed that DFAT destroys files after a period of time. Is that right, Mr Ritchie?

Mr DJ Ritchie—That is correct, Senator.

Senator FAULKNER—Is it a seven-year period?

Mr DJ Ritchie—I am not entirely sure.

Mr R Smith—It differs depending on the nature of the file.

Senator FAULKNER—In this case, if the family were advised that a file had been destroyed after seven years it has the ring of truth about it. Would that be right, do you think?

Mr R Smith—If it is a consular file, that probably is correct, yes.

Senator FAULKNER—And you say, ‘Go to the Queensland authorities,’ but this requires a level of cooperation between authorities which it seems to me has not happened for a very long period. The problem has been, if you like, buck-passing. I am not criticising or laying blame here, but I do think there is a need for us to try, after this period has elapsed—nearly 20 years—to get a solution. Sending someone off to yet another authority is, I do not think, going to work. It has not worked in the past. Can we get any better or further advice?

Mr R Smith—Senator, I will look into the details of the case. I am not familiar with it. There are limits to what we can do in these circumstances. We have no authority to issue death certificates. We can assist the family and the coronial authorities with whatever information they might need from Philippines authorities, for example.

Senator FAULKNER—You must have other cases where there are no remains when someone is lost at sea, as in this instance. It would not be the first case like this that has come to the attention of your department, would it?

Mr R Smith—No, it is not, Senator, and what we do in those circumstances is exactly what I have just described.

Senator FAULKNER—Is it not true, though, that you cannot apply to a coroner unless there are remains?

Mr R Smith—No, my understanding is that coronial authorities can make a determination about death even in the absence of remains.

Senator FAULKNER—I do not want to go into individual details; I do not do that. Committee members do not do that. I will supply the information I have; I do not have a great deal of information but I have some. I would want to make sure that the family would be comfortable with that information being provided, given what I understand of the difficulties they have had. I would ask for a very urgent response from the department. This has gone on far, far too long, and if I can get some assistance from the department on this I would be very pleased. More importantly, we might be able to assist a family who have been struggling on an issue for the best part of two decades. If you could assist me with that, Mr Ritchie, it would be very helpful.

Mr DJ Ritchie—We would be very happy to, Senator. If you give us the details we are more than happy to pursue it and see what we can do.

Senator FAULKNER—Thank you.

Senator ROBERT RAY—Now that Ms Bird is back, could I ask you this question: in answer to a question in question time on 10 May 2006, Prime Minister Howard said that an email exchange between the Australian ambassador in Washington, Mr Michael Thawley, and the head of the Iraq task force in DFAT, Mr Bassim Blazey, was dated February 2005. Can you confirm that that email was dated February 2005?

Ms Bird—Yes, Senator, that is a matter of public record.

Senator ROBERT RAY—I am not wanting to confirm that Mr Howard said it. Can you confirm that that is the date on the email? It is a slightly separate question, you will understand; I am asking you to confirm it.

Ms Bird—I am not suggesting that is not the date. This email exchange is a matter that is in evidence before the Cole inquiry; but, as it is on the public record, I can confirm it was February 2005.

Senator ROBERT RAY—Yes, but can you confirm for any other reason than that it is your knowledge that it is February?

Ms Bird—It is February 2005.

Senator ROBERT RAY—Thank you. DFAT has a program, has it not, where it either funds or part funds overseas visitors—sometimes journalists—to Australia. Is that correct?

Mr DJ Ritchie—That is correct.

Senator ROBERT RAY—Could you tell me what the purpose of that program is?

Mr DJ Ritchie—I will ask our expert to talk about it, but under the overseas media visitors program we do part fund journalists who come over.

Mr R Smith—Yes, we have a program called the International Media Visits program, which is designed to fund visits to Australia by influential foreign media commentators to familiarise themselves with Australia. It is part of our broad public diplomacy program.

Senator ROBERT RAY—You said that it is to familiarise themselves with conditions in Australia?

Mr R Smith—It is broadly so that they can develop some knowledge of Australia. It is part of our broad process of encouraging a more sophisticated and better understanding on the part of people in communities overseas about what Australia is, what Australia stands for and so on.

Senator ROBERT RAY—Do you know how many have been sponsored to Australia in this calendar year? When I say ‘this calendar year’, use a convenient date. Obviously you may not have it quite in that form.

Mr R Smith—I can give you financial year 2005-06. We had 63 media representatives visit as part of 16 separate visits.

Senator ROBERT RAY—Have you got a costing for that part of the program that involved 63 journalists in 16 visits?

Mr R Smith—I do not have that with me, I am sorry. But I could get it quite quickly.

Senator ROBERT RAY—I think you said ‘part fund’. What is involved here?

Mr R Smith—In the case of some of the visits, we will be one of two or sometimes three co-sponsors, if you like, of the visit, so other organisations will also contribute to the costs of those visits.

Senator ROBERT RAY—I see. That is fine. How are these people chosen? Do you have a mechanism in your department that chooses these people?

Mr R Smith—Yes. They are generally done on the basis of nominations from our overseas posts. In some cases, the relevant officers of my division—that is, in the Images of Australia Branch—will consult with their colleagues in the geographic divisions of the department about who might be suitable candidates, and a decision is made on that basis.

Senator ROBERT RAY—So it can be an iterative process between your division and overseas posts, or simply overseas posts sending in nominations?

Mr R Smith—That is correct.

Senator ROBERT RAY—Is that a fair characterisation?

Mr R Smith—That is correct.

Senator ROBERT RAY—I see. Are there any particular conditions put on the visiting media representatives? Do they have to acquit their travel?

Mr R Smith—I am not sure of the precise accounting mechanism. I would not describe them as conditions, but we will fund reasonable costs: airfares, accommodation, transport—those sorts of things.

Senator ROBERT RAY—That is the acquittal side. What about their commitment to fulfil their obligations? They are obviously not just coming out here for a quick gander. Do they have to put in an itinerary?

Mr R Smith—We would normally organise a program for them in consultation with them. We talk to them about their interests. Some of the visits, for example, are tied to particular programs. We might, for example, bring to Australia a group of senior Chinese media representatives to talk about our discussions with China on a free trade agreement, for example, or other aspects of foreign and trade policies. We do not impose any obligations on them as such. What we hope they will get out of the visit are insights into Australia and Australia's role in a region of the world that will lead to positive reporting and media coverage by them in the country from which they come.

Senator ROBERT RAY—I see. Can you tell me who nominated Mr Mark Steyn to visit under this program?

Mr R Smith—I am not sure that I can tell you that specifically.

Senator FAULKNER—You can say that Mr Mark Steyn visited under this program?

Mr R Smith—I think it is a matter of public record that Mr Mark Steyn visited under this program.

Senator FAULKNER—Is it a matter of public record? It is a matter of media speculation.

Mr R Smith—I can confirm that Mr Steyn visited under this program.

Senator FAULKNER—Thank you.

Senator ROBERT RAY—But you cannot at this stage tell us about the process of nomination, whether it was overseas or your department?

Mr R Smith—I think it was a nomination, if you like, that came out of discussion between officers within the department.

Senator Coonan—In response to the earlier question, the information I have is that the visit was co-sponsored by DFAT's International Media Visits program, the Centre for Independent Studies and the Institute of Public Affairs.

Senator ROBERT RAY—I know the other two suspects. I already know that, but—

Senator Coonan—It is important that it be answered.

Senator ROBERT RAY—I knew it was a co-sponsored tour, but I am trying to find out who actually picked him to come. I can be assured it was not the foreign minister who picked him to come.

Mr R Smith—On the formal decision: the delegation in the department is actually held by the Assistant Secretary of the Images of Australia Branch.

Senator ROBERT RAY—What I am really trying to do—let us not dance around too far—is to find out whether there was any initiative from outside the department or outside overseas that suggested this name to you, to your section.

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

Senator FAULKNER—Is the Assistant Secretary, Images of Australia Branch, with us?

Mr R Smith—He is not here today, no.

Mr DJ Ritchie—He is not with us.

Mr R Smith—He is not in the room.

Senator ROBERT RAY—Can you tell us what the cost of Mr Steyn's taxpayer subsidy was?

Mr R Smith—I do not have that information with me, but I can get that quite quickly and let the committee know.

Senator ROBERT RAY—I have seen a figure in the press of over \$12,000, but I have no way of verifying that. I understand he was co-sponsored by a couple of associated entities, but I wouldn't mind knowing how much the taxpayer paid. I assume Mr Steyn was chosen post his newspaper article when he wrote that:

Alexander Downer was my favourite foreign minister.

I assume it was after that that he was chosen to come out here?

Senator Coonan—What was the date of that statement?

Senator ROBERT RAY—I am actually quoting from him in a speech where you were present.

Senator Coonan—Yes, I know. I am just wondering what the date was.

Senator ROBERT RAY—The date of his address was 16 August.

Senator Coonan—He must have been chosen before it then if he was present and we were all present at this function.

Senator ROBERT RAY—No, I am saying he made the statement about writing about that last year on 16 August, so he would have written about it in 2005.

Senator FAULKNER—Prior to 16 August.

Senator Coonan—I am just wondering when he was alleged to have written it.

Senator ROBERT RAY—I do not know. I am quoting him. I assume he is a truthful person. I really find it strange that taxpayers' money is paid out to bring a cheer squad member out here. That is what I find strange.

Senator Coonan—Senator Ray, Mr Steyn has well-known credentials. The fact that he might admire our foreign minister might not make him Robinson Crusoe. It does not disqualify him as an appropriate person to be brought to Australia.

Senator ROBERT RAY—We will get to that. I am just establishing that he was chosen after he had described Mr Alexander Downer as his 'favourite foreign minister'. He goes on to add that he is surprised that he is still there, because anyone he endorses usually gets sacked. That is his view. What I am trying to establish, Minister, is whether Mr Steyn is out here to learn about Australia or has been brought out as a proselytiser, because what I read is all these opinionated speeches given by Mr Steyn praising the Prime Minister, praising the Treasurer, praising the foreign minister and bagging the opposition.

CHAIR—Everybody does that, don't they?

Senator ROBERT RAY—I am wondering why we are paying out taxpayers' money not for someone to come out and learn but to proselytise.

Senator Coonan—If that were precisely what he did and all he did, you might have a point, but clearly he is a syndicated US columnist who undertook—

Senator ROBERT RAY—US or UK?

Senator Coonan—a program of meetings more broadly based when he was here.

Senator ROBERT RAY—It is hardly adequate to say that the two other organisations, which are very closely associated with your political party, are broadly based. But leaving that aside—

Senator Coonan—But it does not disqualify him as an appropriate person under this program.

Senator FAULKNER—The jury is out on that.

Senator Coonan—Even if everything you contend is factually correct—and that is not accepted—that would not necessarily disqualify him, because the man has an international reputation. He is a syndicated columnist. Why shouldn't he, along with many others—and I have groups of visits from all sorts of people—be one of the 16 groups who attended Australia in the last period we have referred to?

Senator ROBERT RAY—What I am trying to establish, Minister, is whether he came out here to learn or came out here to deliver a whole series of provocative speeches praising up Liberal ministers—no National ones, I noticed, but Liberal ministers—

CHAIR—They would always be provocative on your assessment, wouldn't they?

Senator Coonan—Would it be fair to say that he came out here to have an exchange of views? People come out also to learn. We also learn from foreign visitors, as I am sure you would appreciate, Senator Ray. I am sure when you were a minister you had very good contact with international journalists. We have exchanges. To characterise it as simply some proselytising exercise I think is entirely unfair.

Senator ROBERT RAY—Let us go to one of them, will we?

Senator Coonan—You will find things that you think are examples, but they will not be the only thing this man did in Australia, and it will not prove that he is disqualified from qualifying to come under this particular program.

Senator ROBERT RAY—Let us go to one of these.

Senator Coonan—If we must, of course we will.

Senator ROBERT RAY—I must. We will go to the *Conservative* dinner at Old Parliament House on 16 August 2006. This was, was it not, a fundraiser?

Senator Coonan—No, it was a not-for-profit dinner.

Senator ROBERT RAY—No, the magazine is not-for-profit. Are you telling me the dinner was not-for-profit?

Senator Coonan—We paid—those who attended.

Senator ROBERT RAY—Yes, but I am asking whether it was a fundraiser for the *Conservative* magazine.

Senator Coonan—You said it was a fundraiser.

Senator ROBERT RAY—I am asking whether it was a fundraiser.

Senator Coonan—I do not believe it was. I certainly paid for my ticket, I know that. I think everyone who went did.

Senator FAULKNER—That is not inconsistent.

Senator ROBERT RAY—Why would I say you did not pay for your ticket?

Senator Coonan—You said it was a fundraiser. I do not think it was; I think it was at cost and we paid for our dinners.

Senator ROBERT RAY—I am asking that. I am asking: did this raise money for the *Conservative* magazine of which Senator Santoro is editor and Senator Nick Minchin is patron? Why don't we just run through, for Senator Payne's enlightenment, who went to the dinner. Talk about a who's who!

Senator FAULKNER—Senator Trood is quite interested too.

Senator ROBERT RAY—There was Mr Alexander Downer, Mr Nick Minchin, Senator Helen Coonan, Mr Kevin Andrews, Mr Eric Abetz, Mr Peter Dutton, Mr Andrew Robb, Mr Malcolm Turnbull—John Anderson is an exception; I will push him aside—Senator Concetta Fierravanti-Wells, Mr Barry Wakelin, Mr Michael Ferguson, Mr Michael Johnson, Senator Cory Bernardi and Senator Stephen Parry. I detect a pattern here, but could you at the other end of the table assist me where the pattern is?

CHAIR—No.

Senator ROBERT RAY—You were excluded. It was a right-wing faction meeting of the Liberal Party with Mr Steyn addressing them—for heaven's sake! I do not mind that, but why should the taxpayers pay for him to do so?

Senator FAULKNER—On a point of order, Chair, Senator Ray has misled the committee by not including the fact that the Hon. David Clarke MLC from the New South Wales Legislative Council—

Senator ROBERT RAY—I will not sink that low.

Senator FAULKNER—Then it is not a mislead, but he was there too.

CHAIR—What is the question?

Senator ROBERT RAY—My question is: how does this fit the pattern? Coming out here to learn about Australia? You would have to be pretty naive if you did not think he was brought out to address these dinners and these institutes.

Senator Coonan—Before you keep going on with making a speech about it, let's just for the sake of having a discussion about this assume that everything you contend for this dinner is correct. That still would not disqualify the fact that this man's primary purpose was for the objectives of the program under which he came that he certainly addressed a number of meetings and attended a program of meetings in Australia. If he had one function of the kind that you contend for, would that necessarily disqualify him? I do not think it would, and I also, of course, do not accept that that was a fundraiser—not in the common sense of the understanding

Senator ROBERT RAY—I did not allege it was a fundraiser.

Senator Coonan—I thought you did.

Senator ROBERT RAY—I asked you whether it was a fundraiser for the *Conservative* magazine.

Senator Coonan—I could take it on notice, but it certainly was not a dinner where anybody paid a fundraising type of amount for the function, as you would understand it.

Senator ROBERT RAY—Well, you should have sent me an invitation—I would have paid not to go.

Senator Coonan—I am sure it is not too late to have a retrospective contribution, Senator Ray.

Senator ROBERT RAY—What a fun night!

Senator FAULKNER—Why have a retrospective contribution from Senator Ray when the taxpayers are paying for it? He might help out; the taxpayers are paying for it.

Senator Coonan—Senator Ray offered and I said I did not think it was too late if he really wished to make a contribution for a dinner that he did not eat.

Senator ROBERT RAY—Did you enjoy the speech? Did you enjoy it when he said: 'What I love about the foreign minister of Australia is he is as near as one can get in diplomacy to being openly rude about it'? What a top performer this bloke is.

Senator Coonan—I assume that is rhetorical.

Senator FAULKNER—There would not have been much engagement of views at that dinner.

Senator ROBERT RAY—There was a good question and answer session.

CHAIR—Do you want to ask some questions about this matter?

Senator FAULKNER—What a mutual admiration society!

Senator ROBERT RAY—I would understand more about this right-wing cabal faction meeting, Chair, if I knew who actually was responsible for getting Mr Steyn out here, and I do not have an answer for that.

CHAIR—Ask your questions. That is what we are here for—just ask the questions rather than go on about your perspectives.

Senator ROBERT RAY—Has your attention been brought to some of the other speeches Mr Steyn made here? There was one to the Institute of Public Affairs—

Senator Coonan—I would not claim to know, because you would appreciate that the nuances of every aspect of this portfolio are not entirely before my attention. I have not troubled to look at every speech that Mr Steyn made while he was here. I read his column, and that, I think, entitles me to say that he is certainly a significant commentator, journalist and syndicated columnist. So obviously a lot of people other than me find his comments worthwhile.

Senator ROBERT RAY—Just to recap: we do not know how much we paid for him? Have we got that yet?

Mr R Smith—I do not have that yet, no.

Senator ROBERT RAY—We do not know who nominated him to come out, do we? We do not know that. You think, but you are not positive—I do not want to put words in your mouth, Minister—that it was not a fundraiser for the *Conservative* magazine—

Senator Coonan—So far as I know it was not. The information I have in my notes is that it was a not-for-profit dinner function organised by an Australian journal and hosted by the minister. That is the information I have.

CHAIR—Which seems perfectly normal.

Senator ROBERT RAY—That is if it is true.

CHAIR—Why would you believe the opposite of what the minister has told you at estimates? Why would you want to go for the glass being half empty?

Senator ROBERT RAY—Because some of the implications in the newspaper article surrounding this allege—and I only say ‘allege’—that it was a fundraiser for the *Conservative* magazine.

CHAIR—I know we trade in allegations here, but let us try and see—

Senator ROBERT RAY—No, we test them.

Senator FAULKNER—We ask questions.

CHAIR—Let us do that.

Senator ROBERT RAY—Bringing out a cheer squad member is beyond a joke, Chair. It really is.

CHAIR—You see, you have not even got answers to these sorts of things but you have already categorised them, because you have a preconceived notion. You have not asked any proper questions that you have got any answers for, but you simply want to fill the glass up with the stuff that you want to.

Senator ROBERT RAY—That is your view. You have got to run interference; I accept that.

CHAIR—I want you to ask some questions to elicit any factual material that will substantiate your proposition.

Senator FAULKNER—Chair, could I ask if Mr Smith could check with the Assistant Secretary of the Images of Australia Branch in DFAT regarding the costings in relation to that part of Mr Steyn's visit to Australia that was funded by DFAT. That ought to be able to be done ASAP. I think that, as Mr Smith checks with the Assistant Secretary of the Images of Australia Branch, he can also check where the initiative came from for Mr Steyn's visit. We can ask some further questions when that information is provided. Whether the minister will be able to provide answers to some of the other questions that have been taken on notice to her directly, and in what time she will be able to do that, who knows? But those answers to those questions can be established very quickly with just a phone call back to DFAT—who will, no doubt, send a cheerio to everyone down there, who will no doubt be listening.

CHAIR—You may well be right, Senator—

Senator FAULKNER—Thank you.

CHAIR—but can I make the point that the reason the answers are not here now is because when we asked you to nominate the topics for investigation at estimates, we got a broad range of everything categorised. Nothing was specified. So here we have the department unable to provide you with the answers because of your own making. So do not criticise them.

Senator ROBERT RAY—Thanks for the editorial—

CHAIR—That is right. It is an editorial.

Senator ROBERT RAY—We will take it under advisement.

CHAIR—I am sure you will. I am sure that he will find the information, but given that you have not specified it, I would not expect him to try too hard.

Senator FAULKNER—If we are going to write out every question we are going to ask the department, there is no point having any hearings at all. That would suit you and Senator Coonan and the government down to the ground. That is exactly what you want: let's not have the hearings at all. Let's just put everything in writing.

Senator Coonan—Mr Chair, just so that we are all clear about this, I regard the question as having been answered; that is, he spoke at a not-for-profit dinner function. I do not see any reason to go behind it.

Senator ROBERT RAY—How much were the tickets?

Senator Coonan—I will have to check that for you.

Senator ROBERT RAY—You do not mind taking that on notice?

Senator Coonan—No, I do not mind. I will go and have a look at my chequebook.

Senator ROBERT RAY—No, Minister, you will not.

Senator Coonan—I will.

Senator ROBERT RAY—I am not asking you personally, because I cannot. I am asking you, as representing the foreign minister, how much it was.

Senator Coonan—All right. That is a different question.

Senator ROBERT RAY—You have interpreted it in a different way. I am not going to ask you personally about your behaviour, and you are not representing that here today. Can I ask for the dates of Mr Steyn's taxpayer-funded visit?

Mr R Smith—The only detail I have is August 2006. But I can get the details.

Senator FAULKNER—Could you check that also.

Mr R Smith—Certainly.

Senator FAULKNER—If you are able to disaggregate the costs of the visit borne by DFAT, I would appreciate it. By the way, did the Department of Foreign Affairs and Trade pay for Mr Steyn's ticket to the dinner?

Mr R Smith—I would have to check that, Senator.

Senator FAULKNER—Thank you. I would appreciate it. You can let us know that too.

Senator ROBERT RAY—That probably concludes general questions. Can we move to passports?

CHAIR—Certainly.

Senator FAULKNER—Before we do that, I would like to follow up a matter I raised earlier which I would appreciate the cooperation of Mr Ritchie and the department on. It is the issue of a veteran who was drowned in an accident in the Philippines in 1987. The situation we have here is that I have requested opposition officers to provide some material in writing. I am seeking guidance here as to whether, given the nature of this, it is appropriate to table this material before the committee. I do not have any problem with doing that; I think that might be the best course of action in the circumstances. I am not aware of any privacy concerns.

Senator HOGG—No. Then it becomes a public document.

Senator FAULKNER—I know that. That is why I am raising the issue. I am not aware of any privacy concerns here.

Senator Coonan—We would know the name of the family.

Senator FAULKNER—But, because I think this is effectively business of the committee, that is the spirit in which I intend to provide these four pages, which I thank opposition officers for cobbling together, so I can hopefully get some preliminary advice—perhaps even before the end of this evening's hearing. The rest can be taken on advisement by the department. I intend to provide that to witnesses at the table.

CHAIR—Very good.

Senator FAULKNER—To sum up, so it is clear what this relates to, it relates to a consular case where a veteran was seen boarding a particular boat in the Philippines in 1987. It was rammed by another boat and 4,000 people were killed. Only 25 survived. This particular RAAF veteran has never been seen since. He has left five kids and a wife. He has never touched accounts et cetera, obviously, but there has been a lack of capacity for the family to get a death certificate. As I said, for 19 years they have been shuffled from pillar to post. Defence have actually stopped paying this pension because, although they reckon the veteran is dead, they cannot have the family access the entitlements because they do not have a death certificate. The DFAT file is no longer in existence. It was destroyed in accordance with DFAT procedures, despite the fact that this is officially an open case. And the story goes on and on. If we can assist on this, it would obviously be very helpful, and it is in that spirit that I am tabling the four pages.

Mr DJ Ritchie—Thank you. Senators earlier asked a couple of questions under general issues which we could answer now.

CHAIR—We would be most obliged.

Mr Gerovich—Senator Ray asked about the equipment provided to Mr Downer's office to enable the minister to meet media related commitments.

Senator ROBERT RAY—Office and home.

Mr Gerovich—The advice that I have been given is that he has been provided with an earpiece, which is used for interviews to camera without the need of a headset; a transcription kit, including a digital voice recorder, memory card and telephone pickup, which can also be used by media staff; and Foxtel, which has been installed at his residence in Adelaide and his electorate office, which provides access to Sky News, the BBC, CNN et cetera.

Senator ROBERT RAY—Could I have a costing for the earpiece for camera and the transcription kit.

Mr Gerovich—I do not have the cost, but I should be able to get that pretty quickly.

Senator ROBERT RAY—You say that Minister Downer has had Foxtel placed into his—

Mr Gerovich—Residence in Adelaide and electorate office.

Senator FAULKNER—Does Minister Downer have a ministerial office in Adelaide?

Mr Gerovich—He has an office in Mount Barker, from my recollection.

Senator ROBERT RAY—That sounds like an electorate office.

Mr Gerovich—Sorry, it is an electorate office.

Senator FAULKNER—I am just questioning your terminology of 'electorate office'. I asked whether he has a ministerial office, and you said he has an electorate office. He may have these facilities co-located. When I was a minister, I did not have a ministerial office; I just used my electorate office—at a great saving to the Commonwealth, I might say. It might be the same situation with Mr Downer.

Mr Gerovich—I think it probably is. My understanding is that he has a single office in Mount Barker.

Senator FAULKNER—Mr Downer and I have at least one thing in common—and it has taken nearly 11 years to establish that.

Senator ROBERT RAY—The Foxtel subscription applies to his electorate office and to his residence, is that right?

Mr Gerovich—That is correct.

Senator ROBERT RAY—Can you tell us what package was taken for both? He did explain that, quite properly, he needs access to BBC World, CNN and Fox News. I assume it never goes off Fox News.

Senator FAULKNER—It does not include the adult movie channel!

Senator ROBERT RAY—No. What package did the department pay for him?

Mr Gerovich—I will have to take that on notice. I do not know what package he has been provided with. I have just been advised that he has had Foxtel installed at the residence and at the electorate office, and that it gives access to—

Senator ROBERT RAY—We know what it gives access to; those who pay for Foxtel know what it gives access to. But you can take a variety of packages. You can take the basic package, you can add the movie package and I think you can add a multi-language package. I want to know what package the taxpayers pay for in both the electorate office and the residence.

Mr Gerovich—I wish to make a further clarification. When I answered your question initially, assuming that it related to the cable system, I said that Mr Downer had access to it at his residence. In fact, he only has a stand-alone PC at his residence. He has access to a SATIN High terminal and a SATIN Low terminal at the Parliament House office and access to a SATIN Low terminal at his Mount Barker electorate office.

Senator FAULKNER—You had better check the issue about the electorate office and the ministerial office. They may well be co-located; it might be the same building.

Mr DJ Ritchie—Senator Ray, there is also a clarification on a question you asked Mr Stuart about the US terrorism assessment.

Mr Stuart—There is one other small matter I should correct for the record. When I was talking about phosphorus weapons, I referred to protocol 3 of the Convention on Certain Conventional Weapons. I think I may have said ‘chemical’ by mistake; I misspoke. Also, the answer to your first question this morning—which was: ‘Has the department received the US national intelligence assessment from early this year on trends in global terrorism?’—is yes.

Senator ROBERT RAY—Mr Nash, can you confirm a media report from earlier this year that two passports with the wrong photographs were issued?

Mr Nash—Yes, I can.

Senator ROBERT RAY—Can we be assured that these are just isolated incidents, or has it occurred on other occasions?

Mr Nash—It has occurred on other occasions, but not for a very long time. This particular case was the first example of that problem we have experienced in three years.

Senator ROBERT RAY—Let us nominate a scapegoat: was it your department or was it Australia Post?

Mr Nash—The problem you are referring to occurred at Australia Post.

Senator ROBERT RAY—Have you had subsequent discussions with Australia Post?

Mr Nash—I can assure you that we have had serious discussions.

Senator ROBERT RAY—Have they admitted culpability?

Mr Nash—Yes, they have, and they have undertaken training of the particular people concerned.

Senator ROBERT RAY—Can we have an update on the issue of the new Australian passports containing biometrical material?

Mr Nash—Certainly. We have now issued over 1.2 million biometric or microchip enabled passports. We are very pleased with the results of that development. There are a number of other countries that now have electronic passports. We were one of the first six countries to introduce them. We did this from 24 October last year. We did it with a ministerial launch which took place at our office in Adelaide. We extended as much information as possible to the public, and the initiative has been broadly well accepted within the community in Australia and certainly well accepted internationally. Perhaps I could add that the most important aspect and the most successful aspect of the biometric passports program has been the corresponding use of facial recognition technology to verify identity.

Senator ROBERT RAY—Has the department's attention been drawn to an article in the *Age* of 15 August, where a Mr Lukas Grunwald, consultant with DN-Systems, claimed that he could clone data encoded on the radiofrequency identification chip of a European Union German passport and place it on another chip?

Mr Nash—Yes, it has.

Senator ROBERT RAY—And what is your considered response to that claim?

Mr Nash—I do not think it has ever been suggested that the information could not be removed from the chip and placed on another chip. The issue that is important to note here is the fact that that information has a public key infrastructure, or PKI, coverage which guarantees its authenticity. In this particular case, that gentleman was not able to replicate the PKI. In other words, there is no authentication on that duplication of microdata. That means that there is no guarantee that that information was put there by an authorised entity or that that has not been changed since.

Senator ROBERT RAY—So, when Mr Grunwald goes on to say that Australia's e-passport system is even more vulnerable to fraud because the government plans to use an automated entry with them, that does not concern you?

Mr Nash—It does not concern us. We have conducted extensive testing. We have consulted extensively with other countries—the United States and the United Kingdom being principal among those, but there are others, including Japan and quite a few in this region—all of whom have adopted this technology. We have consulted extensively within the International Civil Aviation Organisation. In all respects it has been confirmed and once

again, in consultation with all of those various entities as a result of the appearance of this article quite extensively internationally, all the countries that we have spoken to about this have no concerns about the viability of the technology or the accuracy of it.

Senator ROBERT RAY—As I understand it, under the Australian Passports Act, the minister has a very broad power to cancel Australian passports. Can I ask how many passports the minister has cancelled over the last year and, very broadly, on what grounds?

Mr Nash—I do not have the exact figure with me but it is in the area of 60. The vast majority of those relate to serious offences committed by Australian citizens overseas. A small percentage of that particular number relate to people who are considered to be a threat to Australian national security or the national security of other nations.

Senator ROBERT RAY—Separate to the legislation, are there guidelines for a minister as to how he should exercise these powers or is it left entirely to the minister's discretion?

Mr Nash—The minister forms an opinion based on an assessment that is made by an intelligence agency in relation to matters of national security or by law enforcement agencies in relation to criminal activity. That extends to our heads of mission overseas in relation to people who have committed offences outside Australian jurisdiction.

Senator ROBERT RAY—Do you know how many of these decisions to cancel passports have been challenged in the Administrative Appeals Tribunal or the Federal Court?

Mr Nash—I do not know the exact number, but it certainly has happened—probably around four or five times in the last 12 months. None of those decisions have been overturned to the best of my knowledge.

Senator ROBERT RAY—That was going to be my next question: were any of those appeals successful? But not to your knowledge.

Senator FAULKNER—I was concerned recently to read of a circumstance where three Australian passports were found—believe it or not—in a tree in the suburb of Surry Hills in Sydney. Are you aware of this incident, Mr Nash?

Mr Nash—I have never been able to confirm that that incident actually took place. What I do know about it is the fact that that article did appear in the newspaper. But we have not been able to verify that. We investigated that situation at the time, and we could not substantiate the claim.

Senator FAULKNER—I am surprised to hear that you would not have been able to establish whether or not three passports were returned to the DFAT passport office in Broadway in Sydney.

Mr Nash—Passports are continually being returned to the office in Sydney, and every other office—sometimes as many as 50 per week. Every one of those that is returned is registered, and the details of the person who has returned it are taken and, of course, appropriate follow-up action is taken when required.

Senator FAULKNER—So what you have done here, I suppose, is to check your register? After this newspaper story was printed, you have thoroughly checked the register—you can confirm that to us?

Mr Nash—We have, and there is no record of these three passports having ever been returned to the Sydney passport office.

Senator FAULKNER—The report is that: ‘The Department of Foreign Affairs and Trade passport office on Lee Street in Broadway was also befuddled, and reluctantly took the documents after debate between supervisors, counter staff and managers, but was not interested in where, when or how they were found.’ But you can assure me that all your inquiries have led you to find no evidence in support of that having taken place?

Mr Nash—That is correct.

Senator FAULKNER—And I had thought that when passports were returned there was clear guidance, clear procedures, of what the responsibilities were that had to be fulfilled by staff in the passports office. Is that true, or not?

Mr Nash—Most definitely. Those passports need to be cancelled in the system immediately, and physically destroyed.

Senator FAULKNER—But proper records kept, in each and every instance?

Mr Nash—That is correct.

Senator FAULKNER—All right. So in this circumstance, given that you have chased this through in the way that you have—and that seems to me to be appropriate, given that this received quite some prominence in the media, as you know—did you check back with the journalist who was responsible for writing the story, to try and get any further or better information about this incident?

Mr Nash—No, we did not.

Senator FAULKNER—And was there a reason for that?

Mr Nash—We did not think that was necessary, having conducted an exhaustive investigation within our own office and having spoken to people in Canberra in our fraud section and others, including in the operations area, about their possible knowledge of these events.

Senator FAULKNER—I just wonder whether, when you have got this quite alarming story printed in a high-circulation daily newspaper, that sort of follow-through is not appropriate. And—if you believe the information that was reported was inaccurate—did the thought of the possibility of actually trying to correct the record not cross anybody’s mind, either?

Mr Nash—Yes, it did. The entire story seemed a little odd, I have to say: three passports found in a tree.

Senator FAULKNER—I thought so; that is why I thought I would ask you about it.

Mr Nash—But we did follow it up—we followed it up exhaustively—and we came to the conclusion that it simply had not happened.

Senator ROBERT RAY—Which newspaper did this appear in?

Mr Nash—The *Telegraph*, I believe.

Senator ROBERT RAY—The defence rests!

Senator FAULKNER—But you did not follow it up with the journalists, and there was no formal response to the newspaper? If you are absolutely confident that the story is not right, my view, for what it is worth, is that in these sorts of instances you write a letter to the newspaper. But, given that someone has written such a story, it might even have been worth a phone call to them to try and chase it down, just in case there is a problem with procedures. Anyway, I will leave those thoughts for you and Mr Ritchie and others to give some consideration to.

What has occurred here, apart from some questions being asked at a Senate estimates committee, is no response and no corrective action if the information in the public arena is wrong. I have to suggest to you that maybe that is not the way to go. Anyway, that is a personal view and I will not detain you any longer with it.

Senator ROBERT RAY—Chair, do you want us to bat on with consular services in this general area?

CHAIR—I want you to bat on with what you want to bat on with.

Senator FAULKNER—Can we get an update on consular visits to Mr Hicks, please, since the last estimates round.

Mr R Smith—Since the last estimates hearing there have been two consular visits to Mr Hicks.

Senator FAULKNER—When were they, please?

Mr R Smith—They were on 8 June and 27 September.

Senator FAULKNER—Who undertook the visits?

Mr R Smith—The consul general from the Australian Embassy in Washington.

Senator FAULKNER—Who is that? I think I know.

Mr R Smith—His name is Mr Derek Tucker. I am sorry; that is not his name. His name is Mr John McAnulty.

Senator FAULKNER—So we do not know who he is.

Mr R Smith—I referred to his predecessor.

Senator FAULKNER—I am glad we cleared that up. So will he be, I am sure. Was Mr McAnulty accompanied on the visits?

Mr R Smith—No.

Senator FAULKNER—Did Mr McAnulty do the usual reporting on the visits?

Mr R Smith—Yes, he did.

Senator FAULKNER—Are you able to indicate the broad thrust of that reporting in relation to the outcomes of the visits on both 8 June and 27 September?

Mr R Smith—As to the visit on 8 June, the consul general reported that he spoke with Mr Hicks for 90 minutes and during that time Mr Hicks stated that he was fit and well. On the visit on 27 September, Mr Hicks declined to see the consul general.

Senator FAULKNER—So Mr Hicks did not see the consul general on 27 September?

Mr R Smith—Mr Hicks declined to see him.

Senator FAULKNER—He declined to see him. He did not see him. I do not know whether that even counts as a consular visit. Do we know why Mr Hicks refused to see the consul general on 27 September?

Mr R Smith—No. He did not give a reason. He just said that he did not wish to see him and asked that he speak to his lawyers.

Senator FAULKNER—Was this view communicated to the consul general when the consul general was actually at the Guantanamo Bay facility? I am just trying to establish whether the consul general actually undertook a visit to the facility.

Mr R Smith—Yes, that is correct.

Senator FAULKNER—He went to the facility and was not aware of the response from Mr Hicks till he heard of it at the facility.

Mr R Smith—That is correct. The consul general was there at the prison and he was told that Mr Hicks had advised the guards that he did not wish to meet with the consul general.

Senator FAULKNER—Did the consul general undertake any efforts to try and establish Mr Hicks's wellbeing or situation on the visit of 27 September, appreciating the fact that Mr Hicks refused to see him?

Mr R Smith—Yes, he spoke to the prison authorities. He did try to persuade Mr Hicks to proceed with the consular visit. He explained that he was there to check on his welfare and follow up any concerns that Mr Hicks might have, but Mr Hicks declined to proceed with it.

Senator FAULKNER—How did he try to encourage Mr Hicks to meet him?

Mr R Smith—He tried to reassure Mr Hicks, through the guards, that the purpose of his visit was to talk to Mr Hicks about his welfare. He remained available during the course of the day. He remained at the prison during the day in case Mr Hicks changed his mind, but he did not do so.

Senator FAULKNER—So we have a situation where there has been no Australian consular contact with Mr Hicks since 8 June this year.

Mr R Smith—In a sense, that is true, because there was no discussion, although I think Mr McAnulty did see, in a physical sense, Mr Hicks; but there was no dialogue as such.

Senator FAULKNER—What were the prison authorities able to report about Mr Hicks's condition and situation on the occasion of the unsuccessful consular visit of 27 September?

Mr R Smith—They did not report any particular problems or concerns.

Senator FAULKNER—Are you able to say to the committee what the current situation is in relation to Mr Hicks's detention? Can you indicate to us what the arrangements for his imprisonment are—his cell and so forth?

Mr R Smith—Yes, I can give you some details on that. Mr Hicks is in a single occupancy cell, which contains a bunk, a sink and a toilet. It has access to natural light. He has access to exercise and outdoor facilities in group areas. He has access to two hours of recreation each day in that outside facility. He can access exercise equipment but he does not always choose

to take up that option. He has access to hot showers, and necessities like toiletries, soap and shampoo are supplied. He has access to a prison library and study area. I think the only point of information is that his cell, in addition to having access to natural light, is climate controlled—in other words, it is air conditioned.

Senator FAULKNER—What is the date that that information was provided to you?

Mr R Smith—That advice was provided to us after the June visit, when the consul general saw Mr Hicks in this location for the first time.

Senator FAULKNER—Are you saying that we do not have any further or better information in relation to the nature of his incarceration since 8 June? Or has it not changed?

Mr R Smith—The situation has not changed since that time.

Senator FAULKNER—How are we certain that that is the case?

Mr R Smith—He is in the same facility.

Senator FAULKNER—It depends how you define ‘facility’. He is in the same cell?

Mr R Smith—As far as I know, he is in the same cell.

Senator FAULKNER—He either is or he is not.

Mr R Smith—My understanding is that all the cells in that facility are the same in any case.

Senator FAULKNER—So we do not know whether he is in the same cell or not. You are saying we do not know whether he is in the same cell, but if he is in another cell you expect the conditions to be similar or the same.

Mr R Smith—That is correct. I have no information to suggest that he is not in the same cell he was in on the 8 June visit.

Senator FAULKNER—Could you please outline to the committee what other access visits or arrangements in relation to Mr Hicks the Department of Foreign Affairs and Trade is aware of.

Mr R Smith—He was visited by representatives of the ICRC—that is, the International Committee of the Red Cross—in the period from 25 September to 13 October.

Senator FAULKNER—How many visits were there? Or does that mean there was a visit in that period?

Mr R Smith—Yes. The ICRC visited Guantanamo Bay during that period. I do not know the precise date that they had contact with Mr Hicks.

Senator FAULKNER—But they did have direct contact with Mr Hicks, unlike the consul general?

Mr R Smith—Yes.

Senator FAULKNER—Was there any other access or contact visit that you are aware of that you can report to this committee?

Mr R Smith—Not that I am aware of. It is possible that he may have spoken to or had access to his lawyer during that time, but we would not necessarily have that information.

Senator FAULKNER—Is that information not provided?

Mr R Smith—I have no information on that specifically.

Senator FAULKNER—How are you aware of the ICRC contact?

Mr R Smith—That has been reported to us by the embassy in Washington.

Senator FAULKNER—Where did they hear that from? Was it from prison authorities?

Mr R Smith—Possibly. They remain in contact with Mr Hicks's lawyer as well, but I am not sure precisely of the source of that information. They may have learnt that directly from the ICRC.

Senator FAULKNER—Given that since this estimates committee last convened there has been one consular visit on 8 June and an attempted consular visit on 27 September, which, by Mr Hick's decision, did not lead to contact between Mr Hicks and the consul general, what is the intention in the circumstance of the unsuccessful visit of 27 September? What, if any, changed arrangements are there to the schedule of future consular visits?

Mr R Smith—We will try and arrange for another consular visit on broadly the same frequency, so, probably in early 2007.

Senator FAULKNER—So the fact that Mr Hicks refused to see the consul general on 27 September does not impact on the number or nature of consular visits to Mr Hicks?

Mr R Smith—We will proceed with another visit in the hope that Mr Hicks may choose to speak to the consul general then.

Senator FAULKNER—Is there any clearer information in relation to likely court proceedings involving Mr Hicks?

Ms Richards—President Bush signed into law the new Military Commissions Act 2006 on 17 October. The previous charges against Mr Hicks will have lapsed and new charges will need to be laid under the new procedures.

Senator FAULKNER—Is there any pending action? What is the situation? You have reported what has lapsed. What happens now?

Ms Richards—Now that the act is in force there are some further procedures that the United States side will need to take. They will need to promulgate some regulations, to appoint new judges and members of the commission and to lay charges.

Senator FAULKNER—How long is all this expected to take?

Ms Richards—That is not very clear to us, although I can tell you that the government has urged the United States to lay charges as expeditiously as possible.

Senator FAULKNER—The Australian government have had a huge impact so far, obviously! So we do not have a clue how long this is going to take?

Ms Richards—We cannot put a precise date on it, no.

Senator FAULKNER—Is there a broader time frame that you have knowledge of?

Ms Richards—The regulations need to be in place within 90 days. I think that brings it to a date in January. But how long it might take the United States to appoint new members of the commission, I cannot say.

Senator FAULKNER—In this circumstance where we now know that Mr Hicks has refused to participate in the recent consular visit, have there been any changed procedures or processes in the department as a result, or is it just business as usual and the consul general will front up in the hope of seeing Mr Hicks some time early next year? Have there been no changes to procedures?

Mr R Smith—In terms of the provision of consular support, no. That is what we will continue to do. If Mr Hicks again declines to see the consul general, that is obviously regrettable but it is his own decision.

Senator FAULKNER—I ask you, Senator Coonan, as the minister at the table: given the circumstance that has been reported to this committee that Mr Hicks has not received a consular visit since 8 June—and let us be clear on this: he has refused a consular visit on 27 September and I think it is fair to say, I interpolate here, that we do not know the reasons for that, do we, Mr Smith?

Mr R Smith—He did not provide any reasons.

Senator FAULKNER—We do not know what the reasons are?

Mr R Smith—We do not know the reasons, no.

Senator FAULKNER—Given this circumstance, Senator Coonan, can you indicate to me whether it is a matter of concern to the Australian government that this Australian citizen has not received any consular services since 8 June, and is government examining or considering any other action in this circumstance?

Senator Coonan—It was certainly the government's intention and the government's preference that Mr Hicks would receive more than the visit in June. That is why there was an attempt to provide those services in September. As Mr Smith has indicated, efforts will continue to be made to see if they can be provided.

Senator FAULKNER—I want to understand: how is the government assuring itself that there are appropriate standards being met in relation to Mr Hicks's incarceration? How is the government assuring itself of that?

Senator Coonan—Not only Mr Downer but also Mr Ruddock has held several discussions with his counterpart in the United States. Information has been provided as to the conditions—that is, the physical conditions—under which Mr Hicks is being held, and there has been the visit that has been talked about. It is not established for the purposes of our current discussion why the attempted consular visit did not actually result in Mr Hicks being seen. We understand that that was unilateral on Mr Hicks's part, but we continue to do what we can to press that the matter be resolved in the way that has been talked about. We know now that we have some procedures in place for the new law that has been signed—the regulations coming into effect, the appointment of judges—and we certainly want this to come to a conclusion through a proper process.

Mr R Smith—I make the point in relation to his welfare that we continue to monitor it. We stay in touch with United States authorities. We are happy to listen at any time to concerns expressed by his lawyers, and any concerns that are brought to our attention we will follow up assiduously with American authorities.

Senator FAULKNER—For a very long period of time at this committee I have asked about Mr Hicks's welfare. Now, of course, we have a situation in which there are, at best, consular visits effectively every quarter. They certainly have not taken place since 8 June. There is going to be at least seven or eight months between consular visits—that is, if the next one goes ahead. It is a very worrying and serious situation. I do not understand how the government or authorities can satisfy themselves about Mr Hicks's welfare, because I certainly cannot satisfy myself, having heard the answers to the questions I have asked in this committee today.

Senator HOGG—Following on, if I heard correctly, Mr Hicks is now being held without charge—is that correct?

Ms Richards—The previous charges have lapsed and new charges have not been laid.

Senator HOGG—So the previous charges have lapsed and no new charges have been instituted. Is it therefore reasonable to assume that Mr Hicks is being held without charge?

Senator Coonan—I think it would be fair to say in those circumstances that he is being held pending charges being laid under this process that has just been described.

Senator ROBERT RAY—What about the period before the bill was signed in? He was then being held without any pending charges.

Senator Coonan—That is one way to look at it, but he is clearly being held to be charged under a valid process. That is why there have now been the new provisions that have now been signed by the President and the process is under way.

Senator ROBERT RAY—Does that mean that, under the new process, he will be charged with the same charges that he was previously charged with or will they be completely new charges—do we know?

Senator Coonan—I certainly do not know that. I do not know whether any officer does.

Ms Richards—That will be a matter for the US authorities.

Senator FAULKNER—In these circumstances, Senator Coonan, how are an Australian senator, a member of parliament and this committee able to satisfy themselves as to the welfare of this Australian citizen, Mr Hicks, in Guantanamo Bay?

Senator Coonan—The consul general has previously confirmed the conditions under which Mr Hicks is being held. I think that has been put on the record. I know I have answered a question about it. I can go through it again—

Senator FAULKNER—No, that was on 8 June, the last—

Senator Coonan—if that would be helpful.

Senator FAULKNER—No, it is not helpful, because we know that the last consular visit was on 8 June.

Senator Coonan—Just a minute. Then there was an attempt on 27 September—I think that was the date. From my understanding, without making any adverse comment about anyone in relation to that process, the fact that it did not actually result in physical contact on that occasion—seeing Mr Hicks—was not due to anything the government did or that the consul general did.

Senator ROBERT RAY—Yes, but isn't the warrant—

Senator Coonan—All we can do is to continue to try to have consular visits and, in the meantime, make appropriate inquiries, which we continue to do and which, my understanding is, all ministers with a portfolio interest continue to do.

Senator FAULKNER—I asked how this committee could satisfy itself. I can only assume from the answer you have provided that it cannot.

Senator Coonan—I do not think that is correct.

Senator FAULKNER—It cannot satisfy itself as to Mr Hicks's welfare.

Senator Coonan—That would have to assume that the information that we are given is entirely false. I do not accept that. We have ongoing contact with the officials in America. We have assurances about Mr Hicks's welfare. Unless you totally assume that is wrong, you can accept that Mr Hicks's welfare is constantly monitored.

Senator FAULKNER—What ongoing contact do you have with the officials in America?

Senator Coonan—It has just been said.

Senator FAULKNER—I have not heard of any ongoing contact with officials in America. I have heard of Australian consular visits.

Senator Coonan—The post there has contact with their equivalents about Mr Hicks's welfare. That was how the original assurances about his welfare were given and where we initially got the information we had about his physical condition and where he was held, and my understanding is that that was then confirmed with a visit.

Senator ROBERT RAY—In terms of the Red Cross visit, have we had actual feedback? You see, Minister, the worrying thing is not that the Australian government does not have the intention of providing consular services. The visit of 27 September indicates that. But there are a number of reasons—

Senator Coonan—I am sorry, what was that you said, Senator Ray—that there was not an intention to provide consular services?

Senator ROBERT RAY—There was. There was an intention for the Australian government to provide consular services—

Senator Coonan—I thought you said there was not.

Senator ROBERT RAY—on 27 September. What we have to postulate is that the refusal could be for a number of reasons. He could have the stitch with you; that is possible. But he may also have a degree of mental and other pressures that we do not know about that caused him to make that decision and therefore we are concerned about his welfare. I was just about to ask whether we have had a direct report back from the Red Cross informing us of Mr

Hicks's physical and mental wellbeing. We might be able to then make a judgement as to why he refused Australian consular services.

Senator Coonan—The officer may be able to answer that.

Mr R Smith—The answer to that is no. The reason for that is that the ICRC practice is not to provide information directly to the government of the national concerned but to take up any concerns that Mr Hicks, in this case, raises directly with the detaining authorities.

Senator HOGG—Could I go back to the fact that there are no charges currently laid. One might say that charges may be pending. How long will this process go on before charges can be laid or will be laid?

Ms Richards—That is not a question which I can answer. What I can say, though, is that the government does remain very concerned about ongoing delay and has made numerous representations to the US about these concerns. Most recently, I believe the Attorney-General in his meetings in Washington on 29 September again emphasised our desire to see Mr Hicks's case dealt with as expeditiously as possible.

Senator HOGG—But I think in response to a question from one of my colleagues you mentioned the likelihood that regulations would probably be necessary and so on. I think that was correct.

Ms Richards—That is right.

Senator HOGG—If that is the case then do we have any idea of the time it normally takes for these processes to go through the American system? In other words, are we looking at three months, six months or even another 12 months before Mr Hicks may well find himself even charged again? Or could it be longer?

Ms Richards—I am not able to put a date on it. I will just reiterate that we will continue to let the US know that we want this to happen as soon as possible.

Senator HOGG—All right. I hear what you say and I understand the position you are in, but would you take it on notice to see if you can get some sort of idea of the time line or the time frame that will be involved for the promulgation of new regulations and some indication from the American authorities as to when further charges will be laid? Otherwise, Mr Hicks is just held in limbo.

Ms Richards—I can tell you most definitely that the regulations must be proclaimed within 90 days, and the date of that will be 15 January 2007. Unfortunately, I am not in a position to answer the second part of your question.

Senator HOGG—Will you take that on notice?

Ms Richards—I do not know that we will ever be in a position to answer that question.

Senator HOGG—It is not very reassuring for Mr Hicks—to be incarcerated and to have no prospect of when he might be charged under this new regime. Surely the American authorities can be pressed to give some indication as to when charges might be laid and then, of course, under the new regime I presume Mr Hicks will be starting from scratch in his defence case.

Ms Richards—I will take that question on notice.

Senator PAYNE—I have a question about the processes affecting Mr Hicks. I ask Ms Richards whether, in relation to the drafting of the rules and then the production of the regulations, we are making any representations about the content of those rules and our view of the way the Military Commissions Act is going to deal with questions of procedure and rules of evidence.

Ms Richards—I do not believe we have made any such representations.

Senator PAYNE—As I understand the drafting of the Military Commissions Act and particularly the way it deals with production of evidence and the use of hearsay evidence and the ability for the government of the United States not to bring witnesses before the trial but rather to rely on things like interrogator notes and so on, are we making any representations in respect of those matters to ensure that, given he is an Australian citizen appearing before the tribunals, the procedures which govern those and therefore govern his trial observe the fundamental principles of the basic standards of a fair trial and due process?

Ms Richards—I have two things to say in relation to that. There are a number of procedural safeguards for defendants, which are incorporated in the new arrangements. I will mention some of those.

Senator PAYNE—Actually, Ms Richards, my question was: are we making any representations?

Ms Richards—In relation to the previous process, we sought certain assurances for Mr Hicks.

Senator PAYNE—Do you mean the process that was knocked out by the Hamdan case?

Ms Richards—That is right. They included things such as: he would not be subject to the death penalty and, should he be sentenced to a custodial sentence, that sentence would be able to be served in Australia.

Senator PAYNE—Do those assurances remain, notwithstanding the change in status of those provisions and the enactment of the new Military Commissions Act 2006?

Ms Richards—We are seeking to reconfirm those assurances.

Senator PAYNE—When do we expect reconfirmation of that?

Ms Richards—I am not sure.

Senator PAYNE—Could you take that on notice and come back to the committee with any information that becomes available?

Senator Coonan—I might be able to help with something on that. Mr Ruddock held several discussions with Mr Gonzales, the US Attorney-General, in late September concerning Australia's strong representations and expectation that the previously negotiated safeguards such as the death penalty would apply to any new trial. I understand that those assurances were given, but I am not sure what the status of it is.

Senator PAYNE—Such as the exclusion of the death penalty, you mean, don't you? Ms Richards, could you take the question on notice and come back to the committee as soon as you have information for us on that matter?

Ms Richards—Yes.

Senator PAYNE—Are we making any representations on matters like the treatment of hearsay evidence? As I understand it, the rules are being drafted almost as we speak for submission to Secretary Rumsfeld to consider, because the act gives him the right to basically build the structure for the process of the tribunals. If we have any concerns about how that process is to go forward, about how evidence is used, about what access the accused has to evidence against them so as to provide themselves with an adequate defence and about what access the accused has to seeing exculpatory evidence if it is, for example, deemed classified—because, as I understand it, not even their lawyers are allowed to see it under the new rules—are we making any representations about how we think, to ensure fair process, that these should be dealt with?

Ms Richards—In terms of the evidence to be led against an accused, there is now a right to see all of the evidence against them.

Senator PAYNE—I understand that is not the case, and I understand the UN Special Rapporteur on Human Rights and Counterterrorism has expressly said that that is not the case, particularly in relation to exculpatory evidence which may be deemed classified information.

Ms Richards—I think there is a very narrow exception for certain kinds of classified information, but there has been a significant improvement in that compared with the previous processes. I would be happy to check the exact details of that for you.

Senator PAYNE—Could you come back to us on notice about that, because I think there are some concerns about how that can provide a fair trial if that is the case. That would be helpful. I am not sure that you answered my question in relation to representation, which I now ask for the third time: are we making representations on these matters of process?

Ms Richards—At this stage, we have not, except for the discussions which Senator Coonan referred to between the Attorney-General and his counterpart reconfirming those particular assurances we had that relate to David Hicks only.

Senator PAYNE—But they are in relation to previously agreed matters largely pertaining to outcome—that is, if convicted, the death penalty will not apply, and if convicted and incarcerated, the incarceration will occur in Australia. What I am concerned about is the process of the military trial. We are not making representations in relation to the processes—the drafting of the rules and therefore the formulation of the regulations? We have no input into that?

Ms Richards—The two points about the assurances which the Attorney-General was reconfirming, I think, are the key points. I believe there are some other details, which I would be able to check for you.

Senator PAYNE—I understand those. I am asking a completely separate question from the matters that the Attorney-General is confirming with Attorney-General Alberto Gonzales—completely separate. I am asking about the trial process.

Senator ROBERT RAY—Maybe the minister wants to tackle this, though. On the odd occasion the foreign minister or the Prime Minister has exhorted us to take a little more leadership from the Blair government in matters Iraq. Given that in the Blair government the

Attorney-General and the foreign secretary have both called for the closing of Guantanamo Bay, are we going to make any such representation? I ask that not as an enemy of the United States but as a friend. It is the one thing that is poisoning their reputation around the globe.

Senator Coonan—You will appreciate that I am not in a position to give you some sort of definitive answer other than to say that I do not think that this government has ever said that these processes are satisfactory. What we do say is that we would like them to get on with it, for the charges to be laid and for Mr Hicks to be dealt with according to fair and proper processes. That seems to be the position, but the broader question about Guantanamo I think is wider than these estimates. We could have, no doubt, a very interesting discussion about the proposition.

Senator ROBERT RAY—We have finished general questions.

CHAIR—Mr Grigson, can you come forward, please? We have a few questions that are South-East Asian related.

Senator TROOD—I apologise for not having the speed to get these questions to you earlier when you were at the table.

CHAIR—That is my fault, no doubt. I'll wear that.

Senator TROOD—It probably is, Mr Chair. Mr Grigson, I wanted to ask you a couple of questions about the situation in southern Thailand in relation to the Muslim insurgency or uprising. I wonder if you could give the committee a general appraisal of your assessment of the situation at the moment.

Mr Grigson—We continue to see incidents of violence in the south. You will be aware that on 16 September there was another series of coordinated bombings in Hat Yai, which is the capital of Songkhla province. Songkhla is a non-Muslim majority province but with a Muslim population. The bombings killed five people, including two foreigners. It was the first instance of the death of foreigners for some time in the south. I think that is an indication of the conditions that continue to be at play down there. You will know that there was some reporting following the coup that the interim government and the coup leaders were considering a different approach to the south, but it remains to be seen whether that has much effect.

Senator TROOD—There has not as yet been a move to change direction from the Thaksin government—is that right?

Mr Grigson—I have not had time to check, but I do know that there was discussion of a trip to the south today by Prime Minister Surayud and General Sonthi. I do not know whether that has occurred or not. There was also talk of them reopening a mediation centre that had been closed in 2001 or 2002 in the south. As I said, it is a little early to see whether the interim government will have a different approach, but there is talk of them trying a different way forward.

Senator TROOD—Perhaps we can explore that next time you are before us. I will move on to Burma and ask you if you can give us an appraisal of the process of democratisation insofar as it edges forward in that country.

Mr Grigson—That is a little easier: I do not think there is any edging forward. The national convention started again on 10 October. It remains the same controlled process that it has always been. The NLD, the National League for Democracy, does not participate in it because of the controls that are in place. Those that do have quite serious restrictions on debate and the area in which the convention is held is strictly controlled in terms of access.

Senator TROOD—I take it you are not optimistic this is going to lead us anywhere encouraging.

Mr Grigson—Certainly not the national convention. I think it is part of the so-called ‘road map to democracy’. One of the tasks of the national convention is to draft a new constitution. They have drafted several chapters, over which there is quite a bit of complaint within Burma. They have not finished it yet, but even when they do it would be hard to consider it a credible document unless all major players in Burma were involved.

Senator TROOD—Is there any sign that ASEAN might raise this matter and perhaps put some pressure on the government?

Mr Grigson—I think the ASEAN countries have stepped up in recent times. They have been quite critical publicly about the need for Burma to move forward. There was a visit by an ASEAN representative, the foreign minister of Malaysia. That trip did not give him all the access that he required but it was an indication of ASEAN’s attempt to help resolve the Burmese problem.

Senator PAYNE—There are current campaigns of petitions and protest by prayer—all very alliterative. Is there any report of adverse government response to those behaviours?

Mr Grigson—I have not seen a recent report but I would be very confident in saying that they would be watching that very closely and taking action against those they considered to be engaging in political activity. You will have seen reports, as we have, of continuing arrests of people involved in political activity, including the student leaders in September.

Senator PAYNE—Is there any further report on the state of the allegedly detained Hmong children in Laos from earlier this year? Is there any further report on their status? I am sorry to switch countries, but I thought it best to ask you while you are here.

Mr Grigson—No, those children are still unlocated. We have continued to raise it with the Lao government, including as recently as 2 October.

Senator PAYNE—During the human rights dialogue?

Mr Grigson—Yes, during the human rights dialogue. We do not get much of a response. It is something that we will continue to watch closely.

Senator PAYNE—Thank you. Chair, may I ask the department to take on notice a question to provide the committee with an update on the process of the inaugural Australian Lao human rights dialogue and come back to us?

CHAIR—Yes.

Mr Grigson—Certainly.

[3.15 pm]

Senator ROBERT RAY—We were asked about the future immediacy of the program. To suit the department and the witnesses, we might go to 1.1.4, South Pacific, Middle East and Africa. I give notice to the officials that under this section we will be raising Iraq civilian casualties, torture in Iraq, the amount of terror in Iraq and the current immediacy of the problems in Iraq. We will look at the staffing structure in Afghanistan, our new mission in Afghanistan, and there will be questions on Sudan and Western Sahara. They are the prospects coming up over the next 40 minutes to one hour. Then perhaps that section can go if they need to.

Senator FAULKNER—I would like to kick off with the issue of civilian casualties, which witnesses would know I have raised at a considerable number of estimates rounds. I was interested to see that the department had opened a new file. We know that because of the new file list that is lodged in accordance with the order of the Senate. In the last six months the Iraq Task Force has opened a new file 06120138—‘International relations monitoring: Iraq civilian casualties’. Can you confirm that is a new file that has been opened in the department?

Mr Robilliard—That is correct. That particular part of that file was opened on 24 March 2006. It is a new part in the file sequence with the same title. The actual file sequence was created in 2005.

Senator FAULKNER—But it is specifically for the Iraq civilian casualties issue, I gather.

Mr Robilliard—That is the material that is on that file. Previous to the creation of this file sequence, material relating to civilian casualties was filed on other files.

Senator FAULKNER—Why was it decided to open the new file?

Mr Robilliard—I was not in the Iraq Task Force at the time this was opened. I believe that because the issue has such currency it was considered appropriate to ensure that material was available on a specific file.

Senator FAULKNER—Does this indicate a more concerted effort—perhaps you or Mr Ritchie would care to answer this; I do not know whose responsibility this is—on the part of the department to monitor the issue of the civilian casualty rate in Iraq?

Mr DJ Ritchie—No. We have always watched civilian casualty rates in Iraq. There are very wide ranging estimates of that. As Mr Robilliard said, I am sure it is just a question of bringing those together in one place rather than filing them separately. I would not read anything of a sinister or weird nature into creating a new part of a file. We monitor civilian casualties in Iraq and we will continue to do so.

Senator FAULKNER—I am pleased to hear that, Mr Ritchie. I have heard a lot of evidence over a long period of time that the department did not monitor civilian casualties in Iraq. It is somewhat of a surprise to me, I must say.

Mr DJ Ritchie—We do not ourselves monitor them; we certainly watch what other people are totalling up and try to make some sense out of those statistics.

Senator FAULKNER—Is it not fair to say that there is more incoming information on this issue?

Mr DJ Ritchie—There has certainly been a lot of information on this issue recently, yes.

Senator FAULKNER—And it seems to be growing. That is a fair point to make, isn't it?

Mr DJ Ritchie—Yes, it is.

Senator FAULKNER—How does the department perceive the accuracy of the Iraq Body Count website?

Mr Robilliard—As has been discussed in previous hearings, there are no authoritative or definitive figures or estimates, even, on civilian casualties. Certainly, the Iraq Body Count site is one that is referred to often as a figure. But there are, as you are aware, a range of other figures quoted.

Senator FAULKNER—I do know it is referred to often, and it is considered by many to be a site that has a high credibility. Is that fair?

Mr Robilliard—It is regarded as a figure that is certainly within the realms of credibility.

Mr DJ Ritchie—The Iraq Body Count site estimates somewhere between 43,000 and 48,000 civilian casualties. The UNAMI report on human rights in July and August quotes the Iraq Health Ministry figure of around 50,000. The Brookings Institution put those two sites together and got around 62,000. It is of that order. We do not regard as credible figures we have seen which refer to 600,000 or 650,000.

Senator FAULKNER—I did not think you would, and I might come to that. So there is the Iraq Body Count website and other institutions or sites that you have mentioned. Can you confirm that there was a Pentagon report to the US Congress in relation to Iraqi casualties on 1 September 2006 that said that in the previous three months Iraqi casualties had increased by 50 per cent? Is the department aware of that?

Mr Robilliard—Yes.

Senator FAULKNER—There is a UN report to the United Nations Security Council dated 1 September, which actually said that Iraq was now the most violent conflict in the world and that on average 100 civilians a day were being killed as a result of the conflict—3,149 in June and 3,438 in July. Does the department accept the view expressed in this UN report that Iraq is now the most violent conflict in the world? Is that something that is accepted by DFAT?

Mr DJ Ritchie—There are a lot of violent conflicts around.

Senator FAULKNER—Yes.

Mr DJ Ritchie—I am not at all sure that we would subscribe to that precisely, but there is no doubt at all that there is an awful lot of violence in Iraq and, to some extent, that violence has been growing of late, particularly sectarian violence. So it is certainly indisputably a very violent place. Whether it is the most violent, I have no idea.

Senator FAULKNER—You said before, Mr Ritchie, that you drew a distinction between perhaps all the reports that we have canvassed to date—and there have been a range of them: you have mentioned some; I have mentioned some—and of course the recent published

research that was conducted by the Johns Hopkins School of Medicine which was published in the *Lancet*, which you have briefly referred to, which basically said that up to 654,965 Iraqi civilians had died as a result of the war in Iraq and over 600,000 of those by violence. Can you indicate to me why you drew a distinction between that report, those figures and those findings, as opposed to the others that broadly, I think, you have indicated you feel are credible?

Mr DJ Ritchie—I am not a statistician, but I understand that statisticians and others have criticised the methodology of the Johns Hopkins report. Apart from anything else, as I understand it—and I emphasise that I am not a statistician—the figure was not based on an actual count of deaths; it was a statistical extrapolation based on a very limited survey. Even the Iraqi government itself has dismissed it as not credible. And it is so far out of the ballpark of the other figures that we generally just do not regard it as credible.

Mr Robilliard—I might add there that I think that is a view, as you are aware, that was shared by ONA and also the Department of Defence.

Senator FAULKNER—Yes, and you may be aware that I asked ONA similar questions about these matters, as I have done now consistently for some period of time. So does the department itself come to a conclusion about the level of Iraqi civilian casualties? Or does it basically say, as I think you have said—without putting words into your mouth, Mr Ritchie—that you feel that the Iraq body count website, the Pentagon report, the UN security report, the Brookings Institution's work and so forth is credible? You say that is credible and you draw a distinction between that, obviously, and the work of the Johns Hopkins school of medical research which has been published in the *Lancet*.

Mr DJ Ritchie—That is right.

Senator FAULKNER—Do you do that, or do you actually come down and say more broadly that you acknowledge the credibility of any particular estimate?

Mr DJ Ritchie—No. The fact of the matter is that we do not know, so we are guided by estimates being done by a range of people. I just was noting that three of the groups that I mentioned at estimates, which were broadly of the same order—I noticed also from yesterday's estimates hearings that the Chief of the Defence Force thought that around 50,000 was probably right. All I am saying is that we do not know. I cannot say with certainty that that is the case or not.

Senator FAULKNER—Is there any reporting through from the post in Baghdad about impacts of the war on the civilian population? Does this regularly form part of the sort of reporting that is coming through from the post?

Mr Robilliard—The post in Baghdad does talk to a range of agencies in Iraq and also of course to the Iraqi government on issues associated with the impact of the war and the reconstruction activity that is taking place.

Senator FAULKNER—Beyond that and the sorts of published sources that we have spoken about, and possible classified sources as well, are there any other inputs to the department's sum total of knowledge—or any work that has been commissioned by the department—on this important issue of Iraqi civilian casualties, that you can point me to?

Mr DJ Ritchie—No, off the top of my head. We certainly have not commissioned any work on the subject, but we obviously watch other people's calculations very closely.

Senator FAULKNER—What about in terms of the department's advice? Is the minister advised about the impact of the war on the civilian population? Is that something that the minister is being briefed about regularly? I am not going to the content of the briefing; I want to know whether this issue of impacts on civilian population is being dealt with in briefings to the minister.

Mr DJ Ritchie—Yes, certainly—definitely.

Mr Robilliard—Certainly briefings which are provided to the minister in relation to Iraq cover those issues, yes.

CHAIR—Thank you.

Proceedings suspended from 3.31 pm to 3.46 pm

CHAIR—I call the committee to order. Senator Brandis has some questions.

Senator BRANDIS—I am not sure to whom to direct these questions and it may be, I expect, that many of them will need to be taken on notice. I want to pursue a matter which was the subject of a report on page 1 of the *Australian* on Monday, 30 October under the heading 'Canberra ignored secret agent's warning on sheik', and under the by-line of Natalie O'Brien. I will read from the article:

Intelligence reports warning that Taj Din al-Hilali had been linked to extremist groups in Egypt and could pose a threat to Australia ...

The article goes on to claim that those reports were generated at the Australian Embassy, Cairo in 1984 and it asserts:

The reports came from an Egyptian source who was considered to be highly reliable by western intelligence agencies, including the CIA.

The news article asserts:

The reports were passed on through the Australian Embassy in Cairo, which at the time was led by former ambassador Ken Rogers.

The newspaper report asserts that the agent who wrote the reports claimed that he had been:

... ordered to back off and not follow up any more information about Sheik Hilali.

It attributes to him the claim:

... his investigations were stymied because of the importance of the ethnic vote to the Labor party.

Obviously I understand that it would not be appropriate to—and I will not—ask about the contents of reports but what I want to ask about are the protocols governing the preparation of reports of the kind referred to in the newspaper article which I have identified. Is it the case that in 1984 a report concerning Sheikh al-Hilali generated within the Australian Embassy, Cairo was sent to Canberra?

Mr DJ Ritchie—Thank you very much. There are three things to be said about that. The first is that we do not comment on intelligence matters. The second is that I am not at all sure that you have the right organisation. Thirdly, I have absolutely no way of knowing at this

distance whether that is the case or not. I guess that is probably all I need to say. Our general rule is that we will not comment on intelligence matters.

Senator BRANDIS—All right. I am going to ask you some questions about process. Is it the case that on occasions—and I am not talking about any particular instance; I am merely talking about process now—an Australian embassy will be consulted to provide advice, including intelligence advice, concerning an Australian resident who is an applicant for either permanent residency or for citizenship?

Mr DJ Ritchie—In regard to visas for permanent residents, security checks of applications are matters which ASIO undertakes. They do it in consultation with the Department of Immigration and Multicultural Affairs. They often have people in our embassies overseas. ASIO staff in our embassies overseas would handle that aspect of it. DFAT staff overseas would not routinely do that.

Senator BRANDIS—Very well. In the event that a report of the kind we are now discussing were prepared at an embassy, is it not the case that it is the usual procedure for that report to be shown to the head of mission before it is transmitted to Canberra?

Mr DJ Ritchie—No, that is not the normal procedure. It might. I should add that a head of mission might be consulted, but it is not a routine thing.

Senator BRANDIS—All right. I understand that. By the way, I am not saying—and I do not think that I have said—that this was an ASIO report.

Mr DJ Ritchie—Sure. I understand that.

Senator BRANDIS—We are talking about 1984 here. Was it not the case in 1984 that a report of the kind we are speaking about, if it were generated within a foreign embassy, would be sent in those days by secure telex to the operations branch and to the intelligence branch in Canberra?

Mr DJ Ritchie—You are testing my memory. This was 22 years ago.

Senator BRANDIS—That is why I thought that you might want to take some of these on notice.

Mr DJ Ritchie—I am happy to take that one on notice. It would relate more to where cable traffic came into our communications branch in the then Department of Foreign Affairs. I am happy to take that on notice but I suspect that that is probably right.

Senator BRANDIS—In those days of cable traffic via secure telex, may we take it that documents of the kind we are speaking about—which would I assume attract a security classification—were subject to document-handling protocols?

Mr DJ Ritchie—Certainly. If they were subject to a national security classification, very much the same arrangements that apply now would have applied then.

Senator BRANDIS—Can you tell us—and you can take this on notice if you prefer—what the document-handling protocols would have been?

Mr DJ Ritchie—I would certainly have to take that on notice. I have no idea what they were 22 years ago.

Senator BRANDIS—You told me in your last answer that you would be very surprised if they were not the same as today.

Mr DJ Ritchie—Indeed.

Senator BRANDIS—Nevertheless, if you want to have abundant caution and check that, please do.

Mr DJ Ritchie—They may well have changed over the years as technology has developed, as agencies have changed and as arrangements have changed. We would need to check that. I should add that at this remove we will see what we can turn up. But we may not have much documentation around about what happened 22 years ago.

Senator BRANDIS—I am only asking about a document-handling protocol.

Mr DJ Ritchie—I understand.

Senator BRANDIS—Twenty-two years ago is not that long ago. Senator Ray was a senator 22 years ago. It is not that long ago.

Mr DJ Ritchie—And I was a foreign affairs officer. It seems a long time ago to me. We will have to look at our records and see what we have available.

Senator BRANDIS—Senator Faulkner was a Labor Party official, and he is again! Senator Faulkner, congratulations! It just goes to show.

Senator FAULKNER—Thank you for your congratulations.

Senator BRANDIS—That is all right.

Senator FAULKNER—I do not take office until April next year so you will have to congratulate me again then.

Senator BRANDIS—Mr Ritchie, turning from document-handling protocols to archival practices, what practices would have been in place as to the filing and, subsequently, archiving of documents of the kind we are discussing?

Mr DJ Ritchie—I would have to take that one on notice.

Senator BRANDIS—Would you expect that a document which was governed by a security classification would have been retained in archives over 22 years?

Mr DJ Ritchie—Probably not. We would have to check.

Senator BRANDIS—Could you check?

Mr DJ Ritchie—They may well have been destroyed. That is the issue.

Senator BRANDIS—That is what I want to track down. I am told that there was a report generated by an ASIS officer—not an ASIO officer; and this claim has been made in the press—from the Cairo embassy.

Senator ROBERT RAY—I would like to raise a point of order. We deliberately do not even ask ASIS questions here. We never have. I really think you should rule that out of order. I am not trying to interfere, Senator Brandis, but I really think that one goes over the line.

Senator BRANDIS—I will not persist with that question. Let me ask another question; it may attract an objection but let me ask it anyway. I am now talking not about a particular

document but a practice or protocol. If a report of the kind we have been discussing were generated by ASIS—that is, a document concerning an Australian resident applying for permanent residency or citizenship—would it have been customary for that report to be shown to ASIO?

Senator ROBERT RAY—Just on a point of again, Chair, I am not asking you to rule that question out of order but I think when a question of that sensitivity is asked we need a minister at the table. It is a different point of order and a different objection.

Senator BRANDIS—You will understand, Senator Ray, that I have phrased the question in the most general terms so as to avoid the objection that you made earlier.

Senator ROBERT RAY—Even so, it goes to the methodology of ASIS which is generally not put on the public record, but a minister may be able to give guidance as to how that officer at the table can answer the question.

Senator BRANDIS—I appreciate that, Senator Ray. I do want to persist with that question and, depending on the response, to ask one more question. In view of your objection I might just wait until a minister is available at the table.

CHAIR—Mr Ritchie, did you want to say anything?

Mr DJ Ritchie—I just wanted to say that it strikes me, however that question is phrased, I would not be able to answer it anyway. We do not comment on intelligence matters, and I am neither from ASIO nor ASIS so it would be almost impossible.

Senator BRANDIS—I do want to ask another question but in view of what Senator Ray has said I will wait until there is a minister at the table.

CHAIR—Do we have any information as to where the minister is?

Senator ROBERT RAY—We can proceed on another matter and I will cede the floor to Senator Brandis when the minister is here.

CHAIR—That is delightful. Thank you, Senator Ray, let us do that.

Senator ROBERT RAY—Whilst we are on the subject of torture, I have a question about torture in Iraq. I want to ask Mr Robilliard whether the department has analysed the views of the UN Special Rapporteur on Torture—but I will cede the floor now and we will come back to that in a moment.

Senator BRANDIS—Thank you, Senator Ray. Mr Chairman, in view of the arrival of the minister, I will re-put the second question that Senator Ray said should only have been asked with the minister at the table. I will try to remember to put it as closely as possible to the same words. With a document of the kind of which we have been speaking—that is, a document generated by ASIS which was directed to national security issues concerning an Australian resident who has an application for Australian residency and citizenship—would it be expected or the custom that that ASIS report in relation to the Australian resident would be shown to ASIO?

Senator Coonan—Are you asking me?

Senator BRANDIS—I am asking whoever is the appropriate respondent. Minister, what happened was that I asked that question just before you arrived. Senator Ray suggested that it

is a question which should not be put in the absence of a minister at the table and I acknowledge that is probably right.

Senator Coonan—Yes. I apologise.

Senator BRANDIS—Mr Ritchie then volunteered an inability to respond in any event. Given that you are now here, I think it is appropriate to re-put the question, since you may be able to shed some light on it or, perhaps on the government's behalf, to take it on notice.

Mr DJ Ritchie—There is nothing we can add to what I said. We would not comment on those matters because they are intelligence matters. We are not competent to anyway, because we are in neither organisation.

Senator FERGUSON—Chairman, can I make a suggestion. I understand where Senator Brandis is coming from but I do have some sympathy for the point of view put by Senator Ray, as he, Senator Faulkner and I are on the parliament's Joint Committee on Intelligence and Security. I think matters like this which could be sensitive would in fact be much better put in writing so that a considered response could be given, rather than one here where Mr Ritchie is obliged to say, 'It's an intelligence matter and I can't comment.' It might be possible to extract more information by putting those questions on notice where a considered response could be given to you, which would give the intelligence agencies a chance to—

Senator BRANDIS—Indeed, Senator Ferguson; I thank you for that. That is very helpful, if I may say so. It was largely for that reason that I suggested that perhaps the minister might consider taking the question on notice—so that if the answer were no different from that offered extemporaneously by Mr Ritchie, so be it, but if on reflection more information could be provided, perhaps confidentially, that would be most helpful. Would you consider taking that question on notice, Senator Coonan?

Senator Coonan—Yes. We will have a look at it and, if there is anything we can add, we will do that.

Senator ROBERT RAY—Minister, I intervened before, but I encourage you to take it on notice.

Senator Coonan—Yes, I have said I will.

Senator ROBERT RAY—Then if there is a refusal, an explanation can be given to Senator Brandis in the answer to the question on notice and we will all have the guidance.

Senator BRANDIS—Yes. Minister, these claims—I do not know whether you have seen them—have, at least in part, been ventilated in the popular press in recent days. Again, I am sure you will want to take this question on notice: if an ASIS report dealing with national security issues concerning an Australian resident who was an applicant for permanent residency or for citizenship were generated by ASIS—in the case I have illustrated through the Cairo embassy—and were transmitted to Australia, would one not expect that that ASIS report would be drawn to the attention of the Minister for Immigration and Multicultural Affairs, who is responsible for making a decision concerning the application for permanent residency or citizenship? Will you take that question on notice?

Senator Coonan—That might be a reasonable expectation but, obviously, for the reasons that have been given, I will consider it and give you an answer.

Senator BRANDIS—Finally—and you may wish to take this on notice too—in what circumstances or for what reasons might it be the case that an ASIS report concerning national security matters about an Australian resident who was an applicant for permanent residency or for citizenship would be withheld from or not shown to the minister for immigration, who was seized of a decision on the application? In other words, if there was a report and if the minister did not see the report, as has been asserted, why would that be the case? I am struggling to see how it would not be the case that such a report would be shown to the minister. If it was not, as has been asserted, it seems to me that that is an event that begs an explanation.

Senator Coonan—I understand the basis on which the question is put and I will also give that some consideration and get back to the committee.

Senator ROBERT RAY—If, in the case raised by Senator Brandis—and I cannot really follow it; I do not think he understands ASIS as well as some of the rest of us—a former Foreign Affairs official or security official revealed information on a security matter, be it in 1984 or at any other time, would they continue to be in breach of the obligations they had at the time on confidentiality and secrecy?

Senator Coonan—Likewise, Senator Ray, I will give consideration—

Senator ROBERT RAY—In other words, if the source is tainted—that is, if someone has broken their oath of office—

Senator Coonan—Yes—does it infect the process.

Senator ROBERT RAY—It affects the credibility of the report. I was asking Mr Robilliard about whether the department has analysed the views of the UN Special Rapporteur on Torture in regard to Iraq. I think the rapporteur went as far as saying—although I do not comment on this—that the torture is worse at the moment than it was under Saddam Hussein. Secondly, it documented cases of torture committed by Iraqi security forces. Do we have any knowledge or analysis of that?

Mr Robilliard—I am aware of the comments you refer to, by the UN special rapporteur, Mr Nowak. He made those comments, as I recall, in September, at the time of the release of the UNAMI report on human rights in Iraq. I note that those comments do not appear in the report itself. Mr Nowak, of course, as he acknowledged, has been unable to visit Iraq to examine personally claims of torture. But let me say that there are concerns about the use of torture within Iraq. We are aware of those concerns and we share those concerns very much. Australian policy condemns the use of torture wherever it may occur. Let me also say that the Iraqi government has itself acknowledged its concerns about the use of torture and has taken well-documented steps recently to address that. I recall, for example, that just last month something like 1,200 Iraqi policemen were dismissed over allegations of torture.

Senator ROBERT RAY—Have there been any instances of dismissal on the grounds of torture from any Iraqi security forces that we have trained?

Mr Robilliard—I am not aware of any, no.

Senator ROBERT RAY—This may be more a Defence question, I understand that, but do we put emphasis on human rights training when we are training security forces?

Mr Robilliard—I recall there was some discussion of this at estimates with the Department of Defence yesterday. I do not recall if that particular question was asked, but it would be a question better directed to Defence. Similarly, in terms of my response to your previous question I will obviously check that and if there is any need to come back to the committee I will do so.

Senator ROBERT RAY—I say for the record that watching 12 hours of Defence estimates is beyond me, so I did not see any of it. Could we move to a more general question, having moved away from torture, which is the humanitarian situation in Iraq. Do we have an assessment of where we see the living standards in Iraq today?

Mr Robilliard—Clearly the humanitarian situation in Iraq is very much influenced by the security situation. It is readily acknowledged that there are serious challenges facing the Iraqi government in the security situation. That obviously impacts on the ability of the Iraqi government to deliver the reconstruction and economic reform processes that it is committed to. The trends in indicators on living conditions are, in most cases, positive.

Senator ROBERT RAY—Let us look at one of those trends: the availability of electricity. Do we measure that?

Mr Robilliard—The department itself does not measure that, but you would be aware, again, that there is a range of reports produced by international organisations and other agencies which examine electricity. Again, I would have to check the detail but my recollection is that the trend line in electricity generation and availability of electricity is positive. It does vary from area to area, from region to region and from city to city, but the overall trend, in my recollection, has been positive during the course of this year.

Senator ROBERT RAY—Not if you live in Baghdad. It is about a quarter of what it was a year ago.

Mr Robilliard—As I said, there are differences between city and city and between region and region, but I am talking about the overall trend across the country.

Senator ROBERT RAY—Do we have any figures, or do we monitor at all, how many of the civilian population have been displaced by this violence that you talk about, these internal problems?

Mr Robilliard—Certainly the Iraqi government and the UNHCR have made estimates on that, yes.

Senator ROBERT RAY—One final question: do we have any information about their healthcare system?

Mr Robilliard—I will check my notes here to see if I can give you some detail on that. In regard to healthcare facilities in particular, there have been 154 new healthcare facilities built. Ninety-eight per cent of children between one and three years old have now been immunised against measles, mumps and rubella, and 97 per cent of children under five have been immunised against polio. They are some brief figures in relation to health. I can look for some further detail and provide it to you.

Senator ROBERT RAY—Overall, what is the role of the Iraqi Task Force in keeping the government in touch with what is happening in Iraq? How often would you give a situation report, for instance, on the current security position in Iraq?

Mr Robilliard—In terms of reporting to the minister?

Senator ROBERT RAY—Yes.

Mr Robilliard—In terms of reporting to the minister, it is not done on a weekly or fortnightly basis; it is done on a needs basis, when it is appropriate.

Mr DJ Ritchie—But very regularly.

Senator ROBERT RAY—Very regular reporting?

Mr DJ Ritchie—It is very regularly, yes.

Senator ROBERT RAY—Do you report just through the Minister for Foreign Affairs or, for instance, do you occasionally brief and report directly to the Prime Minister?

Mr Robilliard—Our briefing goes to the Foreign Minister and, where appropriate, to the Minister for Trade.

Mr DJ Ritchie—And of course cables coming in from the post in Baghdad and others commenting on Iraq developments are given a wide distribution as well.

Senator ROBERT RAY—I am zipping my lip on cables.

Mr DJ Ritchie—Yes, I know.

Senator FAULKNER—I noticed today, Mr Robilliard, that there was a military report in the *New York Times* saying that the US Central Command believes that Iraq is close to 'chaos'. Is the department across this report? I gather that its placement in the *New York Times* is not from an official source but, as you would appreciate, it has been leaked by some interested party. Nevertheless its authenticity is not denied. Are you aware of this very recent report?

Mr Robilliard—Are you referring to the *New York Times* report or the CENTCOM report?

Senator FAULKNER—I am referring to the report that is in the *New York Times* of today's date.

Mr Robilliard—No, Senator. I have not seen that report.

Senator FAULKNER—No doubt you will be able to have a look at it and, when we get around to the next estimates, you will be right across it.

Mr Robilliard—Certainly, Senator.

Senator ROBERT RAY—Just a curious question—ignore it if you want: have you ever looked up a map of the Ottoman Empire division in Iraq?

Mr Robilliard—I have certainly seen the maps. I must admit I have not refreshed my memory for estimates today, but I have seen the maps in the past.

Senator ROBERT RAY—It may well be the solution to the future of Iraq, tragically. We never intended to have a full-blown debate on Iraq—at least not here. Could I ask about a staffing restructure. I think you have changed the geographic divisions in DFAT.

Mr DJ Ritchie—We have, Senator.

Senator ROBERT RAY—I want to look at the Middle East restructure.

Mr DJ Ritchie—As you correctly say, the secretary decided on a restructure of the department. Insofar as the Middle East is concerned, we have created a new division, which is called South and West Asia, Middle East and Africa Division. It incorporates the South and West Asia Branch, the Middle East and Africa Branch and the Iraq Task Force. The main purpose of that was to do two things. Firstly, we formerly had the South Pacific, Africa and Middle East Division. Given the prominence, importance and focus of Pacific issues, we thought it important to devote a division to that and to bring the Middle East and Africa issues more prominently in a separate division. Secondly—this is not necessarily related to your question—we took South Asia out from the division which will focus on South-East Asia and put it in a more prominent position so that we can spend more time focusing on India and so forth. So we have created a new division which has that structure.

Senator ROBERT RAY—How long has this new structure been in place?

Mr DJ Ritchie—Since about July.

Senator ROBERT RAY—Is it possible to draw any conclusions yet, or is it too early?

Mr DJ Ritchie—My view is that it is working very well. I think it is much better. You will appreciate, from an organisational point of view, that the head of our Pacific Division has a lot of issues on his plate, and we want to be sure that we are also giving due significant focus to the Middle East issues more broadly. I think that has worked very well.

Senator FAULKNER—Will this change the budget outputs that we try to deal with at estimates committees?

Ms Williams—We have looked at that, but I do not think that it does.

Mr DJ Ritchie—I do not think it does.

Senator ROBERT RAY—Would you like to give us a quick one-minute description of what accrual accounting is about, while you are it? Could I ask how many people you have got working on Afghanistan issues?

Mr DJ Ritchie—Yes, I will just ask Deborah Stokes to help me with that. I know you will be coming to it, but we have just augmented that by opening the new embassy in Kabul.

Senator ROBERT RAY—When was that? I saw some publicity.

Mr DJ Ritchie—It was opened in September.

Ms Stokes—We have the South and West Asia Branch. The staff that were associated with that in the previous division have moved to the new division. The staff that work on Afghanistan include the SES officers involved, so that is me as well as the branch head, the assistant secretary. And then of course there is a section and the director as well as one desk officer who works on Afghanistan.

Senator ROBERT RAY—But really, in summary, you are all doing a number of things. Do you have someone solely dedicated to work on Afghanistan?

Ms Stokes—Yes.

Senator ROBERT RAY—How many?

Ms Stokes—We have one staff dedicated to work on Afghanistan.

Senator ROBERT RAY—What level is that officer?

Ms Stokes—He is an EL1, to the best of my knowledge.

Senator ROBERT RAY—Does he have responsibility for any countries other than Afghanistan?

Ms Stokes—Not to my knowledge.

Senator ROBERT RAY—So he is working full-time on it.

Ms Stokes—But we do work as a team, and of course when staff are on leave other colleagues will take on some duties. So it is a question of the peaks and troughs in the work area.

Senator ROBERT RAY—I am just trying to understand how many staff hours we devote, say, to Afghanistan, where we have military involvement, and how many staff hours or the proportion we devote to Iraq. I am just trying to see where that balance is.

Mr DJ Ritchie—In addition to the dedicated people in Deborah's division, which includes the branch head, her and me—I spend quite a bit of time on Afghanistan as well—we of course have other parts of the department that are working on it. Our colleagues in the International Security Division deal with the defence deployment and intelligence issues relating to Afghanistan and a whole string of other things. The other thing is that, as I mentioned, we have just opened the embassy in Kabul, which at the moment has now a dedicated staff of two on the ground in Kabul, an ambassador and a senior administrative officer. So we have augmented that as well. But, in terms of staff hours, I find I spend—and probably we spend—more time on Iraq than Afghanistan, but quite a substantial amount of time on Afghanistan too.

Senator ROBERT RAY—The new mission, you said, has two people.

Mr DJ Ritchie—Yes.

Senator ROBERT RAY—Is this the one that was going to be or is located with the Dutch embassy?

Mr DJ Ritchie—It will be located with the Dutch embassy once some reconstruction work and new security work is undertaken. At the moment, as temporary premises, it is in the Serena Hotel in Kabul.

Senator ROBERT RAY—I do not know how to ask this—that has satisfactory security arrangements?

Mr DJ Ritchie—It has, yes. I will not go into the details, as you will appreciate, but we have provided very substantial security for the staff in Kabul.

Senator ROBERT RAY—And have you identified a site for the new embassy to be co-located with the Dutch?

Mr DJ Ritchie—We have. Yes, we have had very extensive discussions with the Dutch—most recently, I think only about a month or so ago, a joint site visit in Kabul—and we have

identified premises in the Dutch embassy compound where we will be establishing a permanent embassy.

Senator ROBERT RAY—In how many other cases are we co-located with another country? I have been to one recently where I am sure that the New Zealanders were co-located. In how many other places around the world are we co-located with another country?

Ms Williams—I would have to check, but there is at least one other, perhaps two or three, where we actually have another country in our mission.

Senator ROBERT RAY—This is a co-location rather than us subletting, though, isn't it?

Mr DJ Ritchie—With the Dutch?

Senator ROBERT RAY—Yes.

Mr DJ Ritchie—We are working through the financial aspects of that. It may be that we actually rent premises from them, but that is yet to be determined.

Senator ROBERT RAY—I do not intend to weaken your negotiating position!

Mr DJ Ritchie—Thank you! I think we are close to a good outcome, actually—I hope so. I should add that the Dutch have been extremely cooperative in this. They have been very good indeed.

Senator ROBERT RAY—Yes. And they were—what?—regarded as the ideal size to co-locate with, rather than the British, the Canadians or others?

Mr DJ Ritchie—Yes.

Senator ROBERT RAY—I see. I just want to ask about something that came up last year. The question of the Western Sahara has been around for almost 20 years, I would have thought, as an issue.

Mr DJ Ritchie—A long time, yes.

Senator ROBERT RAY—One of the questions I was asked last on GDA in New York by a couple of lobbyists and a couple of other countries was why we have started to abstain on the UN resolution, the one coming out of the 4th Committee on the future of Western Sahara. I think the last motion was passed 76 votes to nothing but there were 72 abstentions, which included us. Is this a change of policy for us to abstain?

Ms Stokes—No, it was not. What was a change of practice was that the resolution was a very different resolution. We would have preferred a consensus resolution as is traditional in the 4th Committee on 4th Committee decolonisation issues. We regret very much that the parties were unable to reach agreement on a resolution, and so we decided to abstain. The debate in New York was very divisive, and we were in a very wide range of good company in doing so.

Senator ROBERT RAY—I notice in terms of the Cairns approach that Canada abstained but New Zealand voted for the resolution, so that is one of the rare instances where we did not vote in a tripartite way—is that right?

Ms Stokes—Yes.

Senator ROBERT RAY—So it is actually the nature. How different was this resolution to the usual one?

Ms Stokes—It endorsed having a referendum and that is a position that is not agreed to by both sides.

Senator ROBERT RAY—But we have in the past, of course, supported a referendum, have we not?

Ms Stokes—In the past, my understanding was that the whole process on Western Sahara has evolved over time, and there is not a consensus by the parties on having a referendum.

Mr Foley—Perhaps I can clarify: as Ms Stokes said, the practice in the past has been for the two parties to the resolution, Morocco and Algeria, to come up with a consensus resolution. This year they were unable to do so, and that is the reason for the large number of abstentions.

Senator ROBERT RAY—As you say, there were a large number of abstentions. I remember when I was minister we intervened militarily in Western Sahara to promote a referendum and we were criticised for leaving just before the referendum; when was it—1992—we left?

Mr Foley—I think we left in 1993. Our position is still that we support a UN endorsed process for an early endurable political settlement to the dispute that is acceptable to all parties, so the pressure is on the parties to come up with something. I think that is the message of the international community that came out of that resolution.

Senator FAULKNER—Have you finished with Western Sahara?

Senator ROBERT RAY—Yes. You can move 2,000 kilometres if you want to.

Senator FAULKNER—I will move to Sudan. I am aware in broad terms of UN Security Council resolution 1672, which, as I understand it, imposes financial and travel sanctions on a number of individuals in relation to their activities in the Sudan. Has that required any implementation activity in terms of Australia? Can someone assist me with that?

Mr Foley—I believe it did and that the legal area of the department has undertaken that action.

Senator FAULKNER—Right. Is there someone from the legal department who can assist us on that?

Ms Richards—I am afraid I might have to take this question on notice because I do not appear to have any briefing on Sudan sanctions. If you could let me know what aspects you are interested in, we will see how we can provide that information for you.

Senator FAULKNER—In addition to the question I have asked, I was going to canvass the steps that the government had taken to support the implementation of UN Security Council resolution 1706, which is about the transition of the African union mission in Sudan to the United Nations force by no later than 31 December 2006. That is probably not a legal issue. It is much more a policy issue. You gave me a legal response to the first question I asked. Let's just move to the policy issue and cut to the chase and take that one on notice, if you do not mind, Ms Richards.

Ms Richards—Yes.

Ms Stokes—I am sorry, Senator Faulkner, but it turns out that we do have some briefing on 1672. What the brief says is that UN Security Council resolution 1672 imposed financial and travel sanctions on four individuals because of their activities in Darfur. One of these four is a regional commander in the Sudanese air force. Australia is in the process of implementing these sanctions against the four individuals.

Senator FAULKNER—And how are we doing that?

Ms Stokes—I do not have full detail on that.

Mr DJ Ritchie—We will get you an answer on that.

Senator FAULKNER—And what about the Security Council resolution 1706 matter that I mentioned? As I say, will move away from the legal elements to a policy element.

Ms Stokes—Yes. That is right. Australia certainly welcomed the adoption of that resolution. We have made that view widely known, including in Mr Downer's address to the UN General Assembly in New York in September.

Senator FAULKNER—Does that include representation to the minister's counterparts in the Sudanese government?

Ms Stokes—The Sudanese government would be well aware of Australia's position on this issue. Mr Downer has also issued a press release which makes our position very clear on that resolution. We have had a great deal of concern about Sudan for some time, and it has been the subject of regular discussions with the Security Council members as well as with African governments.

Senator FAULKNER—I am no diplomat, as everyone knows. I am sorry not to have told Senator Ray. He was not aware of that; he thought I was very diplomatic.

Senator FERGUSON—You have sold yourself short, Senator Faulkner.

Senator FAULKNER—Let me rephrase that. Clearly, I am far more diplomatic than I ever had considered myself to be. But even in that circumstance I would have thought there is a difference between taking domestic action by putting out a press release in Australia—I dare say 'grandstanding' might be one way of looking at it—and actually making more formal representations to the Sudanese government. Am I wrong about that? Is that the way you do business these days in Foreign Affairs? You just stick out a press release in Australia and you reckon that is a representation to a government?

Ms Stokes—It is a combination of actions. Our embassy in Cairo visits Sudan periodically and has discussions with the government authorities. The resolution that was adopted in September reflects what we have been calling for for quite some time. In that sense, the position that we have been advocating has not been recently advocated; it has been advocated for quite a period of time.

Senator FAULKNER—We do not think the Sudanese government actually reads Mr Downer's press releases, do we?

Mr DJ Ritchie—We draw them very strongly to their attention.

Senator FAULKNER—Do you, formally?

Mr DJ Ritchie—Certainly. That is one of the things the ambassador in Cairo and his staff do very regularly. We are also active in a number of other ways. We have provided nearly \$53 million, I think, in humanitarian aid over the last two years. We have 15 ADF personnel in Sudan and 10 Australian Federal Police officers there helping out in the UN mission. We have issued, I understand, a very large number of humanitarian visas—about 15,000 since mid-2003—for Sudanese refugees.

Senator FAULKNER—So when did Mr Downer last visit Sudan?

Mr DJ Ritchie—That is a very good question. I am not sure. We could find out for you.

Senator FAULKNER—I am sure someone there will help me from the relevant desk. Do we know when Mr Downer last visited the Sudan?

Mr DJ Ritchie—We will let you know. We are not sure.

Senator FAULKNER—Has Mr Downer ever had any formal meetings or discussions with representatives of the Sudanese government?

Mr DJ Ritchie—I am not aware of any.

Mr Foley—We will take that on notice.

Mr DJ Ritchie—I am not aware of any.

Senator FAULKNER—Mr Ritchie says he is not aware of any. I am not aware of any either. That is why I am asking.

Mr DJ Ritchie—We will find out for you.

Senator FAULKNER—When was Mr Downer's last visit to Africa?

Mr Foley—Probably 2002 or 2003. I would have to check the details.

Senator FAULKNER—So it is not a high priority?

Mr DJ Ritchie—It is a priority for us, but not as high a priority as some of the other regional issues which are much more important to us.

Senator FAULKNER—So is it fair to say that, as far as the officials at the table are aware, we are not aware of any actual formal representations that Australia has made to the Sudanese government?

Mr DJ Ritchie—We did say that the embassy in Cairo makes representations to them.

Senator FAULKNER—But that is sending the press releases on.

Mr DJ Ritchie—No. They go well beyond the press release. You asked whether they direct it to the attention of the Sudanese. We do. Plus they make representations at the same time and they visit, of course.

Senator FAULKNER—When was the last ministerial representation or interface with the Sudanese government? Do we know that?

Mr DJ Ritchie—I do not, but we will find out for you.

Mr Foley—There was a ministerial visit last year, I believe. I believe the former defence minister visited Sudan.

Senator FAULKNER—The former defence minister?

Mr Foley—Senator Hill, as defence minister, visited Sudan.

Senator ROBERT RAY—In his official capacity?

Mr Foley—Correct.

Senator FAULKNER—I was asking about the foreign minister.

Mr Foley—Sorry, I misheard you.

Senator ROBERT RAY—But there has been a ministerial visit.

Senator FAULKNER—So does the Cairo embassy actually visit Sudan?

Mr Foley—Yes.

Senator FAULKNER—So how regular is that sort of contact?

Mr Foley—It would be periodic. They have a number of non-resident accreditations. But Sudan is obviously one of the key ones.

Mr DJ Ritchie—I know they visited at the time of the shadow foreign minister's visit, and may well have visited since then.

Senator FAULKNER—We do not have a situation here where we have been lecturing the world community on this but have not actually spoken directly to the Sudanese, do we? It certainly sounds like that to me.

Mr DJ Ritchie—I think we are taking action which we regard as appropriate, given its priority to us. We support international efforts—

Senator FAULKNER—Which is grandstanding and no hard yakka.

Mr DJ Ritchie—No. We certainly have hard yakka. We have provided aid there. We have Defence and police personnel there. We are making a contribution that we think is commensurate with the plans for us.

Senator FAULKNER—Mr Rudd went there, didn't he?

Mr DJ Ritchie—He did indeed.

Senator FAULKNER—I think he was accompanied by someone.

Mr DJ Ritchie—He was accompanied by the embassy. I mentioned that earlier.

Senator FAULKNER—Well, one up for Mr Rudd as opposed to Mr Downer. He will be pleased. I will pass that on to him.

Senator ROBERT RAY—I think we have finished in that broad area of the world. I have the odd question, if you like, on our more immediate region. I want to cover a PNG issue and then maybe the Solomon Islands and the Pacific Islands Forum.

Senator FAULKNER—Ms Bird, you were keen to leave us, weren't you? That is fair enough.

Ms Bird—I am at your convenience. I am here to answer any questions you might have on the subject.

Senator ROBERT RAY—If we do this I am sure you can then leave, Ms Bird. I had not realised it was there.

Senator FAULKNER—I just stress, Minister, that in asking these questions that I do not accept the ruling of the government on the guidance to officials that the government has provided in relation to answers on the Cole commission. You are aware of my view on that?

Senator Coonan—I am.

Senator FAULKNER—Nevertheless, to save time, I will not ask questions that fall into that possible area. I did, however, want to ask some legal costs questions. They are first of all in the broad and then in relation to the Cole royal commission, if I can ask them. We regularly ask, of course, for the departmental budget on external legal service providers for financial years. Could you give us the overall figure for 2005-06, please.

Ms Cooper—For the financial year 2005-06, the outsourced legal expenditure of the department was \$1.7 million.

Senator FAULKNER—What was the budgeted figure for that financial year?

Ms Thorpe—I have not got the budget figure with me. The way we do the legals, it is actually split across a number of different areas. So I would have to pull it out of a number of areas. We have been collecting data because we have to report obviously externally in terms of the actual costs, but we do not get specific line funding for it. It is an internal figure.

Senator FAULKNER—Fine. Let me not waste too much time on it, then. What I would like to do, if I can, Ms Bird, is get the now updated legal costs that have been associated with the Cole royal commission. I flag with you that I will ask if there are any projected legal costs, as we have asked previously. In the first instance, I would like to get those figures from you, please.

Ms Bird—Yes. As at 30 October, the department had spent \$1,460,790 on legal costs related to the Cole inquiry.

Senator FAULKNER—Have you any disaggregation of that in broad areas?

Ms Bird—Yes. I can break that down as follows. Barristers fees were \$280,923. Solicitors costs were \$1,094,868. Additional legal costs for individual, current and former employees who sought separate legal representation in conjunction with the Cole inquiry were \$84,999.

Senator FAULKNER—I think we have had this issue about this additional cost before. Can you just explain the circumstances surrounding that, please.

Ms Bird—The additional costs?

Senator FAULKNER—The additional ones, yes.

Ms Bird—Yes. There were a number of current and former employees—three, to be precise—who sought separate legal representation in conjunction with the Cole inquiry.

Senator FAULKNER—Does that include costs for all three of them?

Ms Bird—Yes. That is the total cost for the three.

Senator FAULKNER—Are you able to provide the names of those three former employees who sought that legal advice outside the normal departmental provision?

Ms Bird—For privacy reasons, we do not think it appropriate to give the names of the individuals.

Senator FAULKNER—Are you able to explain why those three individuals undertook that course of action?

Ms Bird—It was up to any of the departmental or former departmental employees who wished to seek separate legal representation to do so. These were the three who did.

Senator FAULKNER—Are there any departmental employees or former departmental employees who actually paid for their own legal representation?

Ms Cooper—Perhaps I can provide some further elaboration. The Attorney, under the Judiciary Act, issues legal services directions which provide guidelines to all departments on how to manage various aspects of their legal budget and the provision of legal services. It provides guidelines on how individual employees of agencies can apply for assistance for their own legal costs. Those three individuals we are talking about in relation to the Cole inquiry opted to do that. We agreed to pay their costs in consultation with the Attorney-General's Department and in accordance with those guidelines.

Senator FAULKNER—The total figure is \$1.46 million. Is that correct?

Ms Bird—Correct.

Senator FAULKNER—For barristers, solicitors and additional legal costs. This is for staff, former staff and any other broad areas covered by that or other departmental advices?

Ms Bird—It was for the department, former staff and current staff.

Ms Cooper—I will just add one point of clarification on that \$84,999 which Ms Bird mentioned were the additional legal costs for the individual employees. Around \$2,000 of that was not for individual employees but was for some very preliminary advice that we got before the inquiry started on aspects of royal inquiries.

Senator FAULKNER—So what was that preliminary advice precisely about? What was the cost of that first preliminary advice?

Ms Bird—I think Ms Cooper misspoke there. That \$84,999 is indeed the total for the three employees.

Senator FAULKNER—Where do we find the preliminary advice, then? That is in the solicitors or barristers figure, is it?

Ms Cooper—That is correct. Sorry, I misspoke. That is in the solicitors fees, that one.

Senator FAULKNER—Can you divide the additional \$84,999 into a barristers and solicitors breakdown?

Ms Cooper—They were all solicitors fees.

Senator FAULKNER—Thank you for that. That is as at 30 October?

Ms Bird—Yes.

Senator FAULKNER—In total, Ms Bird?

Ms Bird—That is correct, yes.

Senator FAULKNER—Are there any other projected legal costs that you can indicate to the committee might be or are likely to be borne by the department?

Ms Bird—I cannot give a precise amount. But given that the public hearings have now concluded and Commissioner Cole is due to report on 24 November, we do not anticipate significant additional costs. But I cannot give a precise figure.

Senator FAULKNER—Have you got a contingency at all, albeit a small one?

Ms Bird—We have not put any particular sum aside. As I said, we do not anticipate significant additional costs.

Senator FAULKNER—But you do not know of any additional costs in the pipeline?

Ms Bird—We think there will still be a number of bills coming through, but we do not anticipate significant additional amounts. But I cannot put a precise figure.

Senator FAULKNER—I see. So you do not believe that there may be some services which the department might not have been invoiced or billed for?

Ms Bird—There may be the odd bill that still has not come through.

Senator ROBERT RAY—Could you give me the name of lawyers who do not bill straightaway!

Senator FAULKNER—So they can be struck off! Can I ask you, as I have on previous occasions, the departmental estimate, Mr Ritchie or Ms Bird—whoever is responsible for this—of the staff costs that have been associated with the Cole inquiry. It was pretty substantial last time. Can we get an update on that, please.

Ms Bird—Sure. As we discussed last time, two areas of the department have been involved in our cooperation with the Cole commission: the Domestic Legal Branch and the Iraq Task Force. That workload has obviously varied over time, but it has been one of the issues that those two work areas have been dealing with. In addition, as we discussed last time, from time to time when there have been particular peak workloads associated with the Cole commission, we have redeployed staff from other areas of the department to provide assistance.

Senator FAULKNER—Do you know how many staff hours or staff days have been spent on the Cole commission to date or up until, say, 30 October?

Ms Bird—I cannot give a precise figure because it is very difficult to determine what percentage of officers' times in the Domestic Legal Branch and the Iraq Task Force have been spent on this matter. It has varied considerably over time. We cannot put a figure on that.

Senator FAULKNER—Are you saying to me you do not have any estimations, or do you have estimations that are a bit rubbery?

Ms Bird—As I said, it would be very difficult to attempt to do it given that both of those areas have quite busy agendas and a whole range of issues. From time to time Cole has been a particular peak. What we have tended to do then is to redeploy some officers to assist. But I

cannot break down the amount of time that the individual officers in the Iraq Task Force or the Domestic Legal Branch have spent on the matter.

Senator FAULKNER—I am pretty surprised to hear that because there have been massive staff resources, haven't there, to be fair?

Ms Bird—As I said, it has been dealt with by those two areas of the department. As I said, we have had additional staff deployed from time to time.

Senator FAULKNER—But no-one in the department, which I am surprised to hear, has thought to try and put a figure on what this has meant in terms of staff resources?

Ms Bird—What has mattered to us is to make sure that we have sufficient staff to deal with our cooperation with the Cole commission, and we have done that.

Senator FAULKNER—But what matters to me is to try to get some accountability for what this government has been up to. We know so far that Cole has cost \$1.46 million in legal costs. That is legal costs. I am now going to staff costs. I am going to go to other disbursements in a moment. I am very disappointed that we cannot get a figure, which is massive, for the staff resources—the staff hours and staff days—that have been utilised on this particular matter.

Ms Bird—What I can say is that it has been done within the department's resources, within our overall budget. As I said, we have redeployed staff when we have needed to.

Senator ROBERT RAY—All that tells us is that you have a lot of fat to burn. If intensive and expensive efforts are being made and you can do it within existing resources, you do not have an efficient distribution of resources.

Ms Bird—With respect, it is standard practice. Workloads vary from time to time from one area to another. We are a very flexible organisation in the deployment of our staff.

Senator FAULKNER—What about travel costs in relation to Cole?

Ms Bird—Travel costs?

Senator FAULKNER—Yes, travel costs.

Ms Bird—I can give you an amount for that. The total cost of witness travel and staff we have had in Sydney from time to time, which includes accommodation, airfares, travel allowance et cetera, is \$138,610.73. That was as at 11 October 2006.

Senator FAULKNER—Let's go through it. That includes accommodation?

Ms Bird—Yes.

Senator FAULKNER—Actual airfares?

Ms Bird—Yes.

Senator FAULKNER—What else is included?

Ms Bird—Travel allowance.

Senator FAULKNER—Travel allowance. Anything else included in that?

Ms Bird—There are some miscellaneous charges.

Senator ROBERT RAY—Cabcharge and that sort of thing.

Senator FAULKNER—Fair enough. So that figure is \$138,600-odd. What other costs has the department been able to identify in relation to Cole? Overtime costs? Can I ask that?

Ms Bird—I cannot give you a specific figure for overtime. That goes to the issue we were discussing previously. A number of different staff have worked on this matter at different times. I do not have a particular figure for overtime.

Senator FAULKNER—What other costs are there in relation to Cole? Are there any other costs apart from legal costs and, broadly, costs for travel, accommodation and so forth that you have been able to draw down that have been specifically needed to be met in relation to the Cole royal commission? Are there other categories that you have been able to distil?

Ms Bird—Yes. There is one other category that I can mention. We have lumped it together as what we call ‘other administrative costs’. That figure is \$33,416.

Senator FAULKNER—What is ‘other administrative costs’?

Ms Bird—We purchased some additional equipment and hired a fax. You might recall that we had officers in Sydney when the hearings were on. We set up a small office there for them. I think we put a fax in there. We got a scanner. We had to do some scanning of material related to the Cole inquiry. So it is for things like that.

Senator FAULKNER—Did it include a shredder or two or three?

Ms Bird—No shredders.

Senator FAULKNER—So there are no other categories of expenditure you are able to provide for us?

Ms Bird—No. That is the total.

Senator FAULKNER—That is \$1.46 million on legal, \$138,600 on witness travel and \$33,400 on other administrative costs. This massive expenditure, though, does not include any of the staff resources. Is there a way, Ms Bird or Mr Ritchie, that this committee, which does have an interest in accountability on these sorts of issues, can be provided with an indication of the sorts of internal staff resources and the dollar costing attached to those resources that have been expended on internal activities in relation to the Cole royal commission?

Mr DJ Ritchie—As Ms Bird has already said, I think it would be very difficult to do that, given the number of people involved and the times they were involved. We simply do not know and cannot quantify what work was involved in some of those aspects of it. I think that would be very hard to do. With regard to the people who were working directly on Cole or working as Ms Bird mentioned, we might be able to; although, again, that was only part of their time. But across the whole department, I think that would be almost impossible.

Senator FAULKNER—Has there been a legal specialist recruitment round in recent times?

Ms Cooper—Yes, there has.

Senator FAULKNER—What has that been for? Has that been associated with the Cole work at all?

Ms Williams—I am happy to answer that question. We run legal specialists rounds at least once a year, often more regularly. It is to staff legal positions in our Domestic Legal Branch, our International Legal Branch and our Office of Trade Negotiations and other trade lawyers on our FTA task forces. So it is ongoing. I think we have been running legal specialists around for as long as at least I have been in the department.

Senator FAULKNER—Sure. So what is the demand? Has the demand increased—that is what I am trying to establish—as a result of the Cole inquiry?

Ms Williams—No.

Mr DJ Ritchie—No. I do not believe so.

Senator FAULKNER—It does not have any relevance to Cole?

Ms Williams—None.

Mr DJ Ritchie—The demand for legal services and legal advice has increased exponentially over the last decade, particularly as the international agenda has become more complex it has increased very significantly, but not with regard to Cole.

Senator FAULKNER—Thanks for that. Commissioner Cole is due to bring down his report. The latest extension was to the end of this month. That is my recollection. Is that right?

Ms Bird—24 November.

Mr DJ Ritchie—24 November.

Senator FAULKNER—Of course, no doubt there are contingency plans for the department in place for that day. Has there been any planning for that particular date? Have any efforts been put into a media strategy or the like?

Ms Bird—We are just waiting to receive the report.

Senator FAULKNER—It will just be shot through the post to you, do you think?

Ms Bird—It will be presented to the government in accordance with the referral. It will then be up to the government to decide how to handle the report. We obviously look forward to receiving it.

Senator FAULKNER—I would be amazed if you did. But that is fine. I accept what you say. But there has been no preplanning or planning in the department in relation to what might occur after the presentation of the report. Is that what you are saying to me?

Ms Bird—We really need to wait and get the report. The government will then obviously respond appropriately, and that includes the department.

Senator FAULKNER—The commissioner will report to ministers. That is right, isn't it?

Ms Bird—Correct.

Senator FAULKNER—I have just asked, and I think I have been clear on it, whether there has been any planning at the departmental level—contingency planning, media planning or any strategic planning.

Mr DJ Ritchie—I think the answer is no.

Senator FAULKNER—Okay. That is fine.

Senator ROBERT RAY—As I indicated quite a while ago, we might move to PNG. I do not think we will need Ms Bird again. We will take the risk if she wants to go.

CHAIR—Very good.

Senator ROBERT RAY—First of all, on what date was the Papua New Guinean government informed of the ministerial ban on PNG ministers coming to Australia?

Mr DA Ritchie—We informed the government of PNG of the measures taken on 12 October.

Senator ROBERT RAY—On 12 October. Would I be right in saying the first public announcement of it was when Minister Downer did *Meet the Press* on 15 October?

Mr DA Ritchie—I think so, yes.

Senator ROBERT RAY—That was the first time. Are you aware of comments made by the Prime Minister of PNG that the first he heard of this was through the media?

Mr DA Ritchie—Yes.

Senator ROBERT RAY—If it was on the 15th and the government was informed on the 12th—that does not compute—is there some sort of breakdown in communications within the PNG government as to why he was not informed?

Mr DA Ritchie—I would prefer not to comment about the internal workings of the PNG government. But we informed the PNG government on the 12th here in Canberra and in Port Moresby.

Senator ROBERT RAY—In both?

Mr DA Ritchie—Yes.

Senator ROBERT RAY—That is pretty fail-safe, isn't it? Has a final decision been made whether to go ahead with the annual ministerial forum that is usually held at the end of the year?

Mr DA Ritchie—The decision is to defer the forum.

Senator ROBERT RAY—What about the visiting PNG army chief? Wasn't he due to arrive slightly after the ban?

Mr DA Ritchie—Ilau, the commander of the PNG defence force, was here.

Senator ROBERT RAY—He was already here. I see.

Mr DA Ritchie—I think from memory he came after the 12th. That is from memory.

Senator ROBERT RAY—So that was not a precluded visit?

Mr DA Ritchie—No.

Senator ROBERT RAY—It was only at a ministerial level?

Mr DA Ritchie—Yes.

Senator ROBERT RAY—I see. That is good. Did the government consider any other methods to deal with the strained relationship with the PNG government over the Moti affair other than by way of ministerial bans? Did we look at a suite of other alternatives?

Mr DA Ritchie—I would prefer not to comment on the advice we gave to ministers. The government's decision was, as you know, to defer ministerial contact.

Senator ROBERT RAY—Will this hiccup in the relationship, do you think, disrupt the major mining conference to be held later this year and to be opened by Mr Rabi Namaliu, the foreign minister?

Mr DA Ritchie—I am not aware of the latest developments with regard to the mining conference. I would think it could go ahead, certainly, but I am simply not aware of where all that stands at the moment.

Senator ROBERT RAY—Has there been any movement on putting in place a revived policing component of the enhanced cooperation program or any further assistance in the law and justice sector?

Mr DA Ritchie—We have put a proposition to the government of Papua New Guinea both with regard to the deployment of a further 10 AFP officers and with regard to a rollout or further deployment of law and justice officers contingent upon the selection of the Solicitor-General. So those propositions are with the government of Papua New Guinea at the moment.

Senator ROBERT RAY—Have we been monitoring the current state of tensions in the Southern Highlands as of late?

Mr DA Ritchie—Yes.

Senator ROBERT RAY—When did our high commissioner last pay a visit to the Southern Highlands?

Mr DA Ritchie—I could not say offhand, but the high commissioner travels extensively in PNG. I know that. But I could not say offhand. I can check that and we can get back to you.

Senator ROBERT RAY—I cannot say this with any accuracy, but I have been told it was 2004. Given the current state of affairs, that surprises me.

Mr DA Ritchie—If not the high commissioner himself, then the high commissioner has travelled there recently. One of the tasks of the high commissioner is to travel through PNG and to know the country well, and they do.

Senator ROBERT RAY—Can I ask you for an update on how the Australian assistance with regard to AIDS is occurring in PNG? I think that is starting to concern a lot of people in the region.

Mr DA Ritchie—Indeed it is. It is a large problem. I ask you to ask AusAID that question. AusAID has a substantial program of assistance.

Senator ROBERT RAY—I do not know if my cold will allow me a post-dinner appearance. But if I can, I will.

Mr DJ Ritchie—It is certainly an issue we are really very worried about in PNG. I know AusAID is a very significant contributor to the HIV-AIDS program up there.

Senator ROBERT RAY—I do not know whether this is your area, Mr Ritchie. I turn briefly to the Pacific Islands Forum and the Solomon Islands. Last week, the Pacific Islands

decided to set up a task force to review RAMSI's performance and to report to ministers. Who will be on the task force?

Mr DA Ritchie—That question is at the moment with the forum Secretary-General, Mr Greg Irwin. He will make some propositions, probably to the forum chair, which is Fiji, and then to the forum membership. But it is under consideration at the moment.

Senator ROBERT RAY—All my next questions are probably not relevant if we have not formed it. I just wondered where the task force would be centred.

Mr DA Ritchie—The secretarial support for it will be the forum secretariat. They will do the logistics arrangements and the secretarial work. So Suva would be probably the answer to that question.

Senator ROBERT RAY—Who provides the resources for this task force?

Mr DA Ritchie—In terms of finance and travel and so on?

Senator ROBERT RAY—Yes.

Mr DA Ritchie—It would come out of the forum secretariat budget.

Senator ROBERT RAY—Does the task force have a mandatory reporting date?

Mr DA Ritchie—It does not. I think the wording of the forum communique was 'expeditiously'.

Senator ROBERT RAY—I think the forum also decided to set up an ongoing consultative body comprising the Solomon Islands government, RAMSI officials and forum representatives. Could you please explain the rationale for that?

Mr DA Ritchie—Certainly. RAMSI has already set up a consultative forum with the Solomon Islands government, comprising what are known as RAMSI principals—the principal officers in RAMSI—in charge of the different areas and the secretaries of the Solomon Islands government departments. I think the idea of this consultative group is actually to join that consultative forum and participate in the discussions or observe the discussions that that consultative forum takes forward with regard to RAMSI. I think we are keen for that to start reasonably promptly. We see that it could be of considerable benefit.

Senator ROBERT RAY—I am not sure whether you can answer this or not or whether it impinges on other matters. Is there any thought to varying the composition of RAMSI to make Australia's contribution, in the view of the Solomon Islands at least, less oppressive or, in our view, less onerous on our resource allocation?

Mr DA Ritchie—The Australian leadership role in RAMSI is historically derived because Prime Minister Kemakeza asked Australia for assistance. But it is also enshrined in the RAMSI treaty which has been adopted by forum members. We are the largest contributor both of personnel and finance by a long way. But we are also very keen to increase the number of Pacific Island people who work in RAMSI. I think all forum countries do participate or have participated in RAMSI. That is 13 apart from Australia, New Zealand and the Solomon Islands. But we are very keen, in fact, to increase the number of Pacific Island countries. One of the problems is that the personnel in those island countries are very frequently highly prized and very important in their own systems. So it is very difficult for them to actually

move out of their own systems and into RAMSI. As I say, we are keen. We have done a lot of work with the forum secretariat and advertised throughout the region to get further people moving into RAMSI. It is an area where we can increase our efforts.

Senator ROBERT RAY—There is quite a pool of retired police officers and very competent military operators in Fiji. I am not making any allusion to current circumstances, but they have a lot of international experience.

Mr DA Ritchie—Indeed. Fiji is a very large contributor to RAMSI, both the police element and the military element. One of the senior officers in the central RAMSI coordinating group is in fact a Fijian.

Senator ROBERT RAY—I think that will do on that. I think Senator Faulkner will ask about the international status of forces agreement.

Senator FAULKNER—I am a little worried that perhaps that might not be possible now that Ms Bird has left.

Mr DJ Ritchie—We are not the direct experts, but I think our legal people and David Stuart from our International Security Division will take a stab at it anyway.

Senator FAULKNER—Good. I am just wondering in relation to this matter whether one of the witnesses perhaps could assist me by saying how many status of forces agreements Australia currently has in force at the moment. If you are able to, can you indicate to me which countries?

Ms Richards—If I chanced that, I would be guessing, so I would rather check the facts and give you an accurate answer.

Senator FAULKNER—It strikes me that I might have to put some questions on notice. I am not yet sure what questions. Without that level of information, it is pretty difficult for me to ask some follow-through questions. I think the best I can do here is try and work out some questions on notice, if possible.

Mr DJ Ritchie—It might help if we say that we have a role in the international status of forces agreements because our colleagues in the defence department, through their legal people, also have a significant role in the area. They are engaged in the negotiation of it. So it is not just DFAT in this area.

Senator FAULKNER—No. I do appreciate that. Thank you.

Senator ROBERT RAY—Has there been any discussion between DFAT officials and their counterparts in India about the export of uranium?

Mr DJ Ritchie—Yes and no. Following the Prime Minister's visit to India, he agreed to a proposal from the Indians that we would send a small delegation of experts to India to be briefed on the US-India nuclear deal, which we did in May. I led that delegation to India. So we had discussions with the Indians, but more in terms of being briefed on the details of that arrangement. We saw a very wide range of people. During the course of that, the Indians from time to time said, 'Wouldn't it be nice if you could export uranium to us', to which our response was, as the Prime Minister said, 'The government's current policy is that we won't

export uranium to countries that have not signed the NPT.' That was it. That was the sum total. The visit was very much about being briefed on the US-India nuclear deal.

Senator FAULKNER—What was the brief for the delegation, just so that I understand?

Mr DJ Ritchie—To be briefed by the Indians on the US-India nuclear arrangement.

Senator ROBERT RAY—How big was this delegation that went over?

Mr DJ Ritchie—It was me; John Ryan from the Department of Industry, Trade and Resources; Mr John Carlson, who is the director of the Australian Safeguards and Non-Proliferation Office; and a couple of other officers from the department. So it was about five or six people.

Senator ROBERT RAY—And how did you generally find the atmosphere of relations between Australia and India?

Mr DJ Ritchie—I think the relations are very good—very good indeed. The trick with India is always, and has been for many decades, to translate that goodwill into action and implementation and to gain and hold the Indians' attention. But, in terms of that visit, we were received at extremely high levels, right up to the Indian national security adviser and a whole bunch of other people. We had open slather and they briefed us very warmly on all those things. We saw the head of the Indian nuclear organisation. They were very senior people and they were very open with us.

Senator ROBERT RAY—Have we actually been approached by the US government in relation to the Global Nuclear Energy Partnership? If so, how have we responded?

Mr DJ Ritchie—Mr Stuart and Mr Carlson will respond on that.

Mr Stuart—We have had discussions with the US government about the Global Nuclear Energy Partnership.

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

Mr Stuart—In his visit to the United States in the middle of the year, the Prime Minister had some discussions. We have also had discussions. Our embassy in Washington, on instruction from us, has had some discussions about GNEP—trying to find out more about it and exploring on what terms we might be involved in it.

Senator ROBERT RAY—I might come back to another thing in your area, Mr Stuart. I just want to ask about foreign missions and embassies in Canberra who are apparently—I did not bring the quote in with me, but I read it yesterday—concerned about getting relief from rates in the ACT. I think the article very helpfully pointed out that they had racked up \$100,000 in unpaid traffic and speeding fines over the past two years, just to give it a bit of juice. Could we have an update on where we are with that. You might also indicate how much we actually pay in a subsidy per year.

Ms McLean—We have had an approach by all of the diplomatic corps by the dean of the corps with regard to the level of rates that is being imposed upon them by the ACT government. We have entered into discussions with the ACT with regard to our international obligations and how they determine the rates payments for the diplomatic missions. There is a review under way at the moment. We hope to be able to have a final advice from the ACT

government by the end of this year as to how they will be looking at the rates for the diplomatic corps for the coming year.

Senator ROBERT RAY—What is our subsidy? Is it 15 per cent of the rates?

Ms McLean—At the moment we pay 15 per cent.

Senator ROBERT RAY—So how much do we pay in total?

Ms McLean—The way it works out is 85 per cent is determined as beneficial services and then 15 per cent is non-beneficial. So the federal government subsidises that 15 per cent.

Senator ROBERT RAY—What does that total come to per year?

Ms McLean—I do not have the exact figure here. I will have to take that on notice.

Senator HOGG—Is that 85 per cent, 15 per cent split the same that applies to our missions overseas or is there a different treatment of our missions overseas by different governments?

Ms McLean—It is different overseas, Minister—I am sorry; Senator.

Senator HOGG—Thanks for the promotion.

Ms McLean—That is all right. It is different country by country. In some countries, we are not charged any rates at all and we are in others. It is on a reciprocal basis.

Senator HOGG—So is the 85-15 split fairly average for what we would find overseas?

Ms McLean—No. We are charging a higher rate than most other countries.

Senator HOGG—We are charging a higher rate.

Senator ROBERT RAY—I am not sure I fully understand this particular issue. You can stare at me if I get it wrong. There is a requirement—I think it is a Senate order, in fact—to publish all departmental file names on their website every six months. Is that right?

Mr DJ Ritchie—That is right. Yes.

Senator ROBERT RAY—But for some reason, as I understand it, the department has claimed exemption. I think it is for 06/111-11, international relations agreements and nuclear non-proliferation treaty 2005 review conference. That is one example it has sought exemption on. So exactly what has the department sought exemption on?

Mr DJ Ritchie—I do not know the answer to that question. We can find out for you. I am not sure if we have anyone here who can actually answer that question for you.

Senator ROBERT RAY—I will explain. As I understand it, the Senate order provided that only those parts of the file names that disclosed national security matters can be withheld—that is, it is not a blanket exemption for all national security files. The last time this came up, I have some dim memory that the legal or other opinion said you could not be exempt. But now you are claiming exemption. My colleague is back now and he knows a lot more about this than I do.

Senator FAULKNER—Yes. If I were concentrating on what you were saying. All I can do is confirm that I know a great deal more than Senator Ray and leave it at that, I think.

Mr DJ Ritchie—It is a lot more than I do.

Senator ROBERT RAY—If we have no-one here, you might just take the general gist of that down and regard it as a question on notice.

Mr DJ Ritchie—Sure.

Senator ROBERT RAY—There is one last area. Have we been doing any work on the question of the extradition of Australians facing the death penalty overseas in particular?

Mr DJ Ritchie—The answer is that we do not know, because extradition matters are being handled by the Attorney-General's Department. We do not get involved in that. We obviously make our opposition to the death penalty known very frequently. I know from my own personal background that, in my time in Indonesia, the transfer of prisoners was a very big issue as well. But the Attorney-General's Department handles extradition matters.

Senator FAULKNER—I am sorry to do this, Mr Ritchie, but I actually just want to revisit something that was dealt with before. You would recall my questioning earlier today in relation to Mr David Hicks. I asked Consular Services some questions. I have received what I think is some concerning information as a result of a meeting that was held today in Parliament House. It does put a very different emphasis on evidence that was given here. That is why I want to raise it again with you, to give you or one of your officials an opportunity to comment.

Major Mori, who is Mr Hicks's counsel—I think that is his status—told a meeting that was convened here in Parliament House today that on two occasions when Mr Hicks had accepted consular visits he had been punished in some way. If you like, there was a denial of privileges or removal of something or other from his cell. It was clearly suggested to the people at that meeting—I want to put to you what was put; this is clearly the view of those who attended—that Major Mori was saying that is why Mr Hicks refused to accept the last consular visit. In other words, he refused to accept the visit to avoid repeat punishment. That is what has been, I am assured and I believe, said at a meeting here in Parliament House by Major Mori today. It does give a very different emphasis indeed to the evidence that was provided here, so I want to ask you or any other official whether there was any knowledge within DFAT of any such suggestions. Major Mori was very clear about it in a meeting attended by parliamentarians in this building today. I think you would accept, Mr Ritchie, it is quite a different story and emphasis.

Mr DJ Ritchie—Certainly. Yes.

Mr R Smith—Let me make a couple of comments in response to what you have just said. Firstly, it would be a matter of very great concern to us if Australians in detention overseas were punished for simply drawing to the attention of consular officials concerns they have about the conditions of their detention. It is our longstanding consular practice and it is the longstanding consular practice of many other governments, including the United States, to look after the welfare and the interests of their nationals in detention overseas. It is our practice assiduously to follow up with detaining authorities whenever issues of concern have been raised with us.

In relation to Mr Hicks specifically, we are aware of a suggestion that the reason he was moved to the new facility in April was that he had complained. The advice that we were given, when we pursued the US authorities on the reason for his transfer to that new facility,

was that as new facilities at Guantanamo Bay were constructed and commissioned, detainees were being relocated at that point. All detainees that were subject to military commission hearings, including Mr Hicks, were being brought together in Camp 5, which is the facility that he was moved into and that he is still in. So that was the reason that was given to us for his transfer. We have no reason to doubt that that was indeed the reason.

Mr DJ Ritchie—I think, as Mr Smith said, if the allegations are true, it would be an extremely serious matter which we would be very concerned about. With Major Mori having made those claims, we would obviously want to pursue them.

Senator FAULKNER—There are a number of things here, Mr Ritchie, so let us be absolutely clear about it. First of all, I was not in attendance at Major Mori's briefing here in Parliament House today. You know why I was not in attendance; I was here.

Senator ROBERT RAY—Testing you with your inquiries.

Senator FAULKNER—But I have been told this by people who I believe are reliable and I have no reason to doubt what I have been told. Having not heard it first-hand, I properly made that qualification. Regardless, they are views that I have been informed have been expressed today by Major Mori. I do not put it at any higher level than that. But you acknowledge the seriousness of this if there is any truth to these allegations. The reason I am revisiting it is to be absolutely assured that these suggestions or concerns at no stage have been communicated to the Department of Foreign Affairs and Trade.

Mr DJ Ritchie—Certainly not from the US authorities. There is no question of that whatsoever. We were aware of the reports.

Senator FAULKNER—I do not count Major Mori as a 'US authority'. He is Mr Hicks' legal counsel.

Mr R Smith—That is right. Other than the reports attributed to Major Mori, we are not aware of any suggestion.

Senator FAULKNER—But is this the first time you have heard of any reports attributed to Major Mori?

Mr R Smith—I recall that there was some media reporting about this. There has been some over the last month or so.

Senator FAULKNER—But did any of that media reporting, which I cannot recall, of reprisals link in to the actual consular visits?

Mr R Smith—We have had absolutely no suggestion from US detaining authorities that his move to Camp Five was in any way related to comments that he has made to consular officials during those visits.

Senator FAULKNER—Well, they would say that, wouldn't they. That is the concern here. I do not know the answer to the questions I am asking. That is why I am asking them. Have these allegations come before DFAT from any other area apart from US detaining authorities? I am sure the US detaining authorities are not saying that. But apparently Major Mori has said it in this very building on this very day. That is my concern.

Mr R Smith—Other than media reports, no, we are not aware of that at all.

Senator FAULKNER—Has anyone thought to follow through any of these media reports? Is the only line of communication that DFAT has to US through detaining authorities? Is that what you are saying to the committee?

Mr R Smith—I think I said earlier in the day that we have an ongoing dialogue with the Pentagon and with the US detaining authorities in Guantanamo Bay about Mr Hicks' circumstances. It was important for us when his move to Camp Five took place to establish the reasons for that transfer. The advice that we were given is the advice that I relayed to you earlier.

Senator FAULKNER—It comes down to this simple fact. In the main committee room in Parliament House this committee is being told one thing. In another place in this Parliament House on the very same day, a meeting attended and I think convened by the parliamentary Amnesty International group but attended by Major Mori, where parliamentarians have also been present, is being told something very different. I am just trying to find out what if any knowledge the Department of Foreign Affairs and Trade might have had about this. I am not satisfied that the information you are providing is so qualified when I am told consistently it is only US detaining authorities. As I say, they would say that, wouldn't they.

Mr R Smith—Let me put it this way. To the best of my knowledge, Major Mori has not raised this issue with us directly.

Senator ROBERT RAY—Well, having had it raised now, the puzzling thing from evidence you gave earlier today, Mr Smith—you did not intend to puzzle us, by the way—was why a prisoner basically kept effectively in solitary confinement would knock back a visit from an Australian consular official. It could be because he has the stitch with Australia. We can tick that one off. It could be that his physical and mental health has left him in a position where he cannot make a judgement or it could be that he thinks, let alone what the reality is, he may have been punished for those other visits. There has to be some reason why it was rejected. We are trying to get to the reason why. The fact that he may never have been punished for these visits does not mean that he does not think he has. That part has to be chased up.

Mr DJ Ritchie—As Mr Smith said, to the best of our knowledge, Major Mori has not repeated those allegations to us. If he does, we will certainly take it up.

Senator FAULKNER—Do you have a line of communication open to Major Mori? It does not sound like it because everything we hear is from 'US detaining authorities'. No, you do not?

Mr R Smith—The Consul-General in Washington does speak to Major Mori from time to time.

Mr DJ Ritchie—And if he has such allegations, I hope he will bring them forward to us.

Senator FAULKNER—I hope as a result of what I have been informed has been reported to this Amnesty International parliamentary group the department will take urgent and serious action to establish the basis of Major Mori's claims. I hope you will be able to follow that through, Mr Ritchie, or that the minister will be able to.

Mr DJ Ritchie—We will follow it through. But I certainly encourage Major Mori to come and tell us about it.

Senator FAULKNER—I support you in that encouragement. I encourage the department and the minister to follow this up as a matter of urgency. I hope you will do that, Senator Coonan.

Senator Coonan—I will bring it to the minister's attention.

Senator ROBERT RAY—On another subject: is DFAT responsible for negotiating the memorandum of understanding with Indonesia which set up the Indonesia Australia Language Foundation?

Mr Grigson—No.

Senator ROBERT RAY—Do you know who was?

Mr Grigson—I would need to check, but I think it was AusAID.

Senator ROBERT RAY—That may be taken up later. Mr Nash might be able to help us with this other aspect of it. I read somewhere it is alleged—the person that committed suicide—that another teacher at that foundation, an Australian, had changed his name, had been issued with a new passport and was subsequently employed without disclosing that he was a convicted paedophile. Have we any verification that this person did change their name and was issued with a passport? Should we have known?

Mr Grigson—I will ask Bob Nash to answer those questions.

Senator ROBERT RAY—Briefly, if you could. We do not want a long answer here.

Mr Nash—I can confirm that the gentleman in question did change his name, having previously been issued with a passport in a previous name. He subsequently changed his name and was subsequently issued a passport in the new name.

Senator ROBERT RAY—Were all of the procedures correct in terms of issuing him a passport in his new name?

Mr Nash—Yes, they were.

Senator ROBERT RAY—I have nothing further.

Mr Grigson—I want to add something. I would just like to check across the department that we were not involved in the negotiation of the setting-up. Certainly my division was not.

Senator ROBERT RAY—Check that. That will be good.

Senator TROOD—Mr Ritchie, I want to return to a couple of things that were mentioned earlier. In particular, I want to pick up on something that Senator Ray raised just a moment ago in relation to your visit to India recently.

Mr DJ Ritchie—Yes.

Senator TROOD—I think I heard you say that the Indians had raised almost in passing the question of selling Australian uranium to India. Do I take it from your response that there has been no subsequent request or pressure or anything that might be taken as a desire or a request?

Mr DJ Ritchie—The way it was put to us was that India, in outlining its future energy needs, has quite a reliance on nuclear energy. They would say, ‘Wouldn’t it be nice to get Australian uranium,’ and we would say, ‘Well, you know we can’t do that.’ That was really the sum total of it. I am not aware of any other formal contact we have had with them in that regard. They have not formally requested it or anything of that nature.

Senator TROOD—Did they respond equably?

Mr DJ Ritchie—India has a particular view about the non-proliferation treaty and clearly has no intention of signing the non-proliferation treaty. Under our current policy, that means we cannot supply uranium to India. So they expounded, as Indians do, their views about the NPT at some length.

Senator TROOD—In some respects I have some sympathy for their position, although it is a problem that needs some attention, I think. Since you have come to the table, Mr Stuart, I might take the opportunity to ask you a couple of questions, because I think a couple of questions were asked to you about the global nuclear energy partnership. Can you perhaps tell us, as you have been discussing this matter with the United States, whether or not they are actually prosecuting this proposal with any vigour or enthusiasm and what kind of assessment they have made of the progress of this proposal.

Mr Stuart—The proposal was announced in February this year, but it is a very long-term endeavour. I would say it is still very much in its formative phase. The United States is still talking to different countries about how to pursue it. There are working assumptions about technology and how it will develop in the nuclear field which Mr Carlson is in a better place than me to comment on. It is ambitious. The US is taking a number of steps to pursue its general policy on the nuclear industry—in particular, control and proliferation risks—through a number of areas—for example, through the International Atomic Energy Agency. It has had mixed success with that, but it takes a very long-term view. In our consultations, we have not committed to anything. We are simply trying to find out more about their intentions and explore what implications those might have for us. It is a presidential initiative. It at least stands to have a significant impact on the international nuclear industry. As such, we have been trying to find out more. They are pretty much exploratory talks, with us registering not only the interests we have as a uranium supplier but also our strong interests in nonproliferation and interests in some of the scientific aspects of the nuclear industry.

Senator TROOD—Do you get the sense that this is the centrepiece of their non-proliferation policy—at least of the Bush administration’s policy?

Mr Stuart—The United States administration is addressing the issue that has been highlighted by the situation with Iran, where programs were developed, ostensibly under a peaceful guise, which can bring a country to the level where it could develop a nuclear weapons capability relatively easily. The US is concerned that we might see a proliferation of the number of countries with that sort of capability over the next few decades, with clear and major effects for the state of proliferation of nuclear weapons. The GNEP initiative is one of the ways it is addressing that.

Senator TROOD—It is an initiative that requires, I would have thought, multilateral commitment from the international community, does it not?

Mr Stuart—Yes. I think the United States has talked to a number of the countries which one might say are advanced nuclear countries—countries with the full fuel cycle or countries with advanced civil sectors. I think it is in the process of trying to engage the broader international community.

Senator TROOD—Have we spoken to any of those countries about this particular proposal?

Mr Stuart—We have been talking to countries like Canada, which, as you can imagine, would have some similar interests to us. Yes, we have a growing dialogue with a number of countries.

Senator TROOD—Do you sense there is any sympathy in the international community for the proposal or not?

Mr Stuart—I think there is sympathy for what it is seeking to address. As I said, technologically it assumes certain processes and certain ways of producing nuclear energy. I am not sure there is a consensus that that is where the future lies. But I must say I think the United States administration—certainly this administration—is quite committed to developing the idea, even if it is still in a formative phase. If you asked me to pin down exactly where GNEP will be in five years, I do not think I could, but I could tell you what they are proposing at the moment.

Senator TROOD—Mr Stuart, if you could do that you would be a most valuable asset to the department. They should put you in a special room and make sure you are fed the right sort of steroids, because you would be very valuable.

Mr Stuart—They often think of putting me in a special room.

Mr DJ Ritchie—We already do, Senator!

Senator TROOD—I think in a constructive way rather than in any other way! But the question here, obviously, is what has happened to this proposal and, indeed, all other non-proliferation proposals in light of the North Korean nuclear test. Perhaps you could fill us in on the way in which the North Korean activity has affected the perceptions and the thinking that now exists within the department in relation to the wider non-proliferation issue.

Mr Stuart—A lot of our attention since the test and in the lead-up to it has been on how to react to the test and how to deal with the strategic and political problem that the test supposes. We are aware that we are going to need to look at our broader approach to counterproliferation and to nonproliferation. We are in any case coming up to the beginning of the five-year review cycle of the NPT. You will be aware that the government put out last year a quite substantial publication about its policies in these areas. We have already begun informally to look at whether it is sufficient.

The test obviously does bring an acute focus on the area. But, as I think you would be aware, the government is very active in a number of fields already. We have, with Mr Downer very much involved, been leading in a formal way the efforts to get more support for the Comprehensive Test Ban Treaty in the last two years. We have been what is called the article 14 chairman. Mr Downer has chaired two meetings in New York on that. We have had some success in getting more adherents to that treaty. We continue to press that.

We are quite active in a number of other areas. Australia is a member of a seven-nation group that crosses regional groups. It has attempted to try to forge greater unity, especially given the difficulties that emerged in the Non-Proliferation Treaty Review Conference in the middle of last year. I could entertain you at length—I know you are very well informed in this area—about all the different things the government is doing but they are set out in that publication. But we are aware we have to review that and think whether there is more we need to do or whether we need to do some of these things in a different way.

Senator TROOD—I am aware of the government's initiative. I applaud the earnest attempts on the part of the government and, indeed, of Mr Downer, who has invested a great deal of energy and time in this exercise. It is a matter of some regret, I think, that the international community has failed indeed to see the wisdom of many of the proposals, in particular the CTBT proposal. The collapse of the review conference in New York last year was very unfortunate, I thought. But it does leave us with the problem of how we are going to go forward now that we have a ninth nuclear state. I think it is a matter that deserves the close attention of the department.

Mr DJ Ritchie—As you say, I think there are some very significant challenges to the international non-proliferation regime, not just as a result of the DPRK. The US-India deal represents another challenge, as does potentially Iran, of course. Really, there are some serious issues.

Senator TROOD—Mr Ritchie, I wonder whether this might be something that the new global issues unit within the department might be turning its attention to.

Mr DJ Ritchie—Good try. The new global issues unit has already produced a number of papers for us, which have been very good indeed. I think as the secretary said at the National Press Club when he spoke recently, it is not a policy planning unit as such. It is meant to bring together issues which could have cut across the department and bring all those issues together and look a number of years ahead. Issues like the challenges to the non-proliferation regime are ones that the unit might well want to have a look at. They are the sort of emerging topics looking ahead. They are sorts of topics that the unit wants to address—how do we cope with some of the big challenges that we are now facing or new policy approaches or coming up with ideas. It has already done some very good work in that area. It does not mean the rest of the department, I think as the secretary said, stops thinking. Certainly, for example, on this issue, David's area and John's area are very active in thinking about new ways in which we can prosecute the non-proliferation agenda, ranging from the sorts of things David has mentioned with the Fissile Material Cut-Off Treaty to all sorts of things that we are looking at at the moment. So we handle it in a number of issues. The papers I have seen so far—and I will not go into them—have been of an immensely high quality and not only give us a new scope to think a little ahead about some of those issues but also draw together some of the threads. It has been very useful.

Senator TROOD—I applaud the secretary's initiative in that area. In fact, I think I may have told him so. I think it is an important development. I think it could be helpful if at some stage in relation to some of this work you are doing the department considers sharing some of the content of those papers with people outside the department who have expertise. Obviously

there are some sensitivities in relation to classified material. But if they can be got around, I think it would be helpful to explore some of these ideas more widely.

Mr DJ Ritchie—We are certainly very open to ideas.

Senator TROOD—How big is the branch?

Mr DJ Ritchie—It is quite small.

Ms Williams—It is either six or seven staff members.

Senator TROOD—It is headed at what level?

Ms Williams—Assistant secretary band one.

Mr DJ Ritchie—I knew there would be somebody who could tell us. It is headed by an SES band one officer. That is Richard Moore from the department. It has six staff.

Senator TROOD—You are obviously reluctant to discuss specifically the papers they have worked on, but can you tell us how many they have produced?

Mr DJ Ritchie—I think it is four or five. I will give you some idea of the nature of the papers.

Senator TROOD—Please.

Mr DJ Ritchie—This is not necessarily what they have written on, but the sort of topics that we might look at are things like the evolving nature of major power relations in Asia and the implications for Australia; energy security issues in the region; regional architecture; and, potentially, issues relating to terror and Islam. There are a series of issues which are really big issues. As I mentioned to you, the challenges to the non-proliferation regime are something that the department is thinking about very carefully, not just as a global issues thing but in David's and John's area very carefully.

Senator TROOD—I want to ask Mr Baxter some questions about North-East Asia. I know I do not have much time. Mr Baxter, a lot has been happening in your part of the world in the last few weeks and months.

Mr Baxter—Indeed. It is a busy period.

Senator TROOD—The first question is your assessment of the foreign policy direction of the new government in Japan and whether or not it is likely to mean any significant changes in the bilateral relationship or, indeed, with the nature of Japan's policy within the north-east Asian region. That would perhaps be a useful place to begin.

Mr Baxter—The foreign policy direction of the new Abe government is one that we are certainly very comfortable with and we applaud. You are probably aware that, as his first major foreign policy initiative, Prime Minister Abe visited Beijing and Seoul on 8 and 9 October. Those visits were, I think, a very useful circuit breaker in what had been a difficult period in relations between Japan and China and Japan and South Korea. In fact, I was in both Beijing and Tokyo last week and there is a very much more positive atmosphere in both capitals towards each other and a commitment on both sides to move forward with the relationship while recognising there are still some issues that they need to resolve.

Both President Hu and Premier Wen agreed in principle to accept Mr Abe's invitations to make visits to Japan. Mr Abe's visit was the first visit by a Japanese Prime Minister to China in I think five years. Similarly, in South Korea, it was a good visit, of course, which occurred literally within hours of the action of the North Koreans to test a nuclear device. The visit was a good start to mending that relationship as well. More broadly, Prime Minister Abe has indicated that Japan will play a much more active role internationally both within the region but on key global issues as well and Japan would continue to pursue its campaign to get a permanent seat on the UN Security Council. I think we will see an activist Japan policy.

As far as bilateral relations goes, Prime Minister Abe has singled out a few countries as particular priorities for Japanese foreign policy—India, the United States, of course, and Australia. He has been very explicit in his comments both before becoming Prime Minister and since of the importance he places on the bilateral relationship with Australia. It is on the public record that we are working with Japan at the moment on a joint feasibility study to see whether we can move to formal negotiations. We have also started discussions with Japan on how we can enhance our defence and security cooperation, building on what has become quite a well-established pattern of cooperation between the two countries, most recently in the work that we have done on the North Korean issue since the missile tests in July and, of course, before that working together in Iraq.

Senator TROOD—What do you assess the reaction to Mr Abe's visit to have been in South Korea in particular, which has obviously been a difficult relationship for both countries?

Mr Baxter—It is very positive that Prime Minister Abe took the initiative to actually make it his second visit and after being in office for really only a week or so. There are still historical issues that have to be worked through between South Korea and Japan, but the fact that we have had a head of government meeting is a significant advance on where we were six months ago. I think the South Korean government is going to respond to that positively. Again, President Roh agreed in principle to make a visit to Tokyo at a convenient time. Over the next couple of months, you will see, of course, the three main north Asian leaders attend APEC and the EAS. That will give them other opportunities to talk, and I am sure they will.

Senator TROOD—There are many more questions I could ask, Mr Baxter, but I notice the time.

CHAIR—I think we will pull stumps and go to dinner. Mr Ritchie, I thank you very much and all of your team and officers for attending. It has been a long day, but I think we have achieved a considerable amount of information to the benefit of the committee and those participating members. Thank you for coming. The committee is suspended until 7.00 pm.

Proceedings suspended from 6 pm to 7 pm

Australian Agency for International Development (AusAID)

CHAIR—I call the committee to order and declare open this meeting of the Senate foreign affairs, defence and trade committee. I welcome the Acting Director-General, Ms Annmaree O'Keefe, and officers from AusAID. The committee will now examine the topics nominated by senators for AusAID. When written questions on notice are received, the chair will state for the record the name of the senator who submitted the questions. The questions will be

forwarded to the department for answer. The committee has resolved that Thursday, 14 December 2006 is the return date for answers to questions taken on notice at these hearings. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. The giving of false or misleading evidence to the committee may constitute a contempt of the Senate.

The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings. That is, 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 purposes of estimates. The Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. An officer of a department or of the Commonwealth or of a state shall not be asked to give opinions on matters of policy. He or she shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist upon an answer, having regard to the ground of which is claimed. Any claim that it would be contrary to the public interest to answer a question must be made by the minister and should be accompanied by a statement setting out the basis for the claim.

When officers are first called upon to answer a question, they should state clearly their full name and the capacity in which they appear and speak clearly into the microphones. Could we have all mobile phones off. Ms O’Keeffe, do you have an opening statement?

Ms O’Keeffe—No.

CHAIR—I would not have thought so. I will go to Senator Hogg, who has some questions.

Senator HOGG—Thank you very much, Mr Chairman. Firstly, I want to address some of the answers to questions on notice that I placed. The first one is question No. 92. The answer was that AusAID is in the transitory stage of upgrading its information management system, which I understand. It then goes on to say:

However, it will be possible to provide this information shortly.

Has that ‘shortly’ arrived yet? Are you in a position to provide that information? If so, when?

Mr Lehmann—We have taken on board your request from last time and looked at our data collection in this area. We are currently finalising what is called a flat file system for this data. It is called a data mart. That is a technical term. The important point is that once this is completed, we expect in early December, it will enable us to manipulate this data by DAC coding and provide the sorts of breakdowns that in the past has meant we had to do very laborious manual processes—by country type of aid and DAC coding. So that process is

under way now. I am advised this morning that we are about six weeks away from that being available.

Senator HOGG—So that question is still live in the pool to be answered. I must say there was a leap of joy in my heart when I saw the answer to question No. 63. But the answer you provided goes part of the way. You will recall that over a number of different estimate sessions I have asked for a disaggregation in a way that is reasonably understandable by people such as me. I must say I congratulate you because it has gone a substantial part of the way. It does give a total regional figure. For example, in your response to question No. 63, I can now see that, for the Pacific region, \$79.4 million was expected in 2005-06 and the budget for 2006-07 is \$90.2 million. That is helpful. As I understand it, that is the sole and total AusAID component. Is that the correct way to read that?

Mr Lehmann—Sorry, are you referring to this?

Senator HOGG—No. I am referring to an answer to a question on notice that you took, which I had been badgering you people for over a period of time.

Mr Dawson—Just to be clear, it is attachment A to the answers on notice that you are referring to. Is that right?

Senator HOGG—I got it out of a file from the foreign affairs committee. It could be.

Ms O’Keeffe—That is the one?

Senator HOGG—That is the one, yes. I think we all know what I am talking about. It was a disaggregation. But I am reading that correctly and interpreting it correctly that you could identify for the regional Pacific area AusAID’s contribution of \$79.4 million; AFP, \$0.9 million; Defence, \$2.4 million; other, \$3.8 million; and a total for the region of \$86.5 million. Next to it are the figures for the projection of this budget, 2006-07. Is that reasonable?

Mr Dawson—That is correct. That is regional Pacific within the overall allocations for Papua New Guinea and the Pacific, of which there are country allocations as well.

Senator HOGG—I think that is going down a useful path. I want to come to the area that I thought was deficient. I thought you would have put the spreadsheet to good work and summed it up across all the areas. Forgive me, but I cannot seem to find that. I can find each of the various regions’ sum but I cannot find it across. That is one enhancement I seek. The other question I have is a more material question to what you provided in the answer. It goes to the other government departments not attributed to country or region. For DIMA, there is a quite substantial total expected outcome of \$144 million budgeted for 2006-07; DFAT, \$9.8 million; Defence, \$16 million; AFP, \$2.8 million; AFFA, \$7 million; Health, \$7.4 million; and Treasury, \$2.7 million. DEST shows no figure for 2005-06 but for 2006-07 shows \$15 million. ‘Other’ shows \$15.3 million. Can you tell me why that could not be attributed? Is there a specific reason why it could not be attributed within region?

Mr Dawson—The reason is that the assistance does not relate to any one particular country or any one particular region.

Senator HOGG—So they are global type allocations made through the budget process?

Mr Dawson—That is right.

Senator HOGG—So long as I understand it. Well, once again, I think just with that one minor enhancement, I must congratulate you. I am sure now that, having gone through the pain and trouble once, it should be possible to have a rolling figure so that we can get an ongoing comparison as time goes on.

The first matter I would like to turn to is a matter that arose out of a question on notice not in the May estimates but in November 2005. You might not have the question with you. I will just go through it so you understand where my line of questioning will come from. It was question No. 24 submitted by Senator Brown on behalf of the Australian Greens. He asked:

What is the value of the employment contract for Charles Tapp?

Answer:

\$288,000 excluding GST and compulsory superannuation contributions.

Then it goes on in (b):

What are the terms and conditions of that contract?

The contract term was 28 April 2005 to 7 April 2006. AusAID has developed an inputs based contract with standard contract conditions for agreements such as the contract between AusAID and Mr Tapp.

A standard contract was attached to the answer. I found that interesting because I would just like some background on Mr Tapp's role within AusAID. I understand from that that it looks as if he is no longer employed with AusAID, that is he on some form of contract. I understand he was a former employee. Are you able to tell me, firstly, when Mr Tapp left AusAID?

Mr Lehmann—I am not precisely sure of the date that Mr Tapp left AusAID or left the contract to which you are referring, but I can confirm that he is currently engaged with AusAID on a new contract which is not related to the one that was outlined in the answer.

Senator HOGG—I can assure you I will most certainly be coming to that a little later. Is there anyone who might have an idea, even a rough idea?

Ms O'Keeffe—It was April this year that Mr Tapp ceased working with us along the lines of the contract that you are referring to.

Senator HOGG—So under this contract that Senator Bob Brown asked questions about in November 2005, you are saying Mr Tapp was still an employee of AusAID?

Ms O'Keeffe—Along the lines of the contract to which you are referring.

Senator HOGG—No. That is not my question. Was he employed or was he under a contract as an independent contractor of AusAID? This is not a trick question. I am just trying to find out his status.

Ms O'Keeffe—I will ask Mr Lehmann if he can explain not so much the employment conditions for Mr Tapp but just the way in which AusAID itself approaches the employment of different people in different ways.

Mr Lehmann—Mr Tapp was employed at that time under a contract. He was not employed under the Public Service Act. It was a contract of employment, which is one of the various ways we engage the services of experts and other individuals to provide us with services and advice. Other ways include through consultancy services or through contracts with managing contract companies or as public servants from time to time.

Senator HOGG—So this was not an AWA? This was treating him as a person who was not part of the AusAID payroll but as a contractor as such?

Mr Lehmann—That is correct.

Senator HOGG—But that is where I am confused. It was in 2006 that Ms O’Keeffe said Mr Tapp left. My view is that he would have left prior to 2006 if he was given the status that you have just described to me.

Mr Lehmann—That is also correct. He was formerly engaged as a public servant with AusAID until early 2005. Again, my apologies. I do not have the exact date to hand.

Senator HOGG—Early 2005?

Mr Lehmann—I would have to check that.

Senator HOGG—That will do me fine. So he was formerly a public servant. In early 2005 he left. He then went on to the contract that was described in response to the question put on notice from Senator Bob Brown. Is that reasonable?

Mr Lehmann—That is correct.

Senator HOGG—That is correct. Why did Mr Tapp leave AusAID as an employee under the Public Service Act, I presume, to become a contractor? What was the difference?

Mr Lehmann—I am not sure if I can speak on Mr Tapp’s behalf. I believe there are a range of reasons.

Senator HOGG—I will put the question directly to you. Was he made redundant?

Mr Lehmann—No.

Senator HOGG—Was he dismissed?

Mr Lehmann—No.

Senator HOGG—So he left of his own volition?

Mr Lehmann—That is correct.

Senator HOGG—As I say, there are no trick questions in any of this. It is just something that tickles my imagination, to say the least. You will see why in a minute. So he left some time in early 2005 and became a contractor to the department. Did he physically move out of the department as a contractor or did he stay working for all intents and purposes one and the same wherever the office might be that he was working?

Ms O’Keeffe—He physically stayed within the agency.

Senator HOGG—So he physically stayed?

Ms O’Keeffe—Until April this year.

Senator HOGG—Until April 2006. So he was not re-engaged other than as a contractor when he left in early 2005. Do you have other employees or other people working in AusAID employed on the same basis?

Ms O’Keeffe—We have a range of people who are employed not on exactly the same contract. It will differ according to personal circumstances and negotiations. For example, we

have a cohort of principal advisers who work on a full-time basis for us and are working within the agency's physical infrastructure.

Senator HOGG—Was it the choice of AusAID for Mr Tapp to go from being employed as a public servant to being placed on a contract? If so, what were the advantages to AusAID?

Ms O'Keefe—The advantages to AusAID were that we were still able to have access to the services of Mr Tapp.

Senator HOGG—But wouldn't you have had that same access if he had continued on in normal employment?

Ms O'Keefe—That is right. But Mr Tapp resigned.

Senator HOGG—So was there an understanding upon Mr Tapp tendering his resignation that he would be engaged again as a contractor?

Ms O'Keefe—Not that I am aware.

Senator HOGG—What was the period of time from when Mr Tapp's resignation became effective to when he was engaged as a contractor?

Ms O'Keefe—I do not have those details before me.

Mr Lehmann—I do not have those to hand.

Senator HOGG—Can you take that on notice and give that to me. I suggest to you—we will see this in a few moments when we look at the contracts—that there was not a lengthy period of time from when he left as an employee in early 2005 to when he commenced work again as a contractor. Am I able to find out what the remuneration for Mr Tapp was prior to his resignation?

Ms O'Keefe—Remuneration of senior executives within AusAID, as in other departments, tends to be a subject that relates to the person themselves, so we do not have that information before us.

Senator HOGG—That is unfortunate because it would be interesting to compare what Mr Tapp was on prior to his resignation and what he then received as a consultant some short time later. We can find out from the contract what he was on as a consultant, but are you able to tell us?

Ms O'Keefe—Not this evening. We will have to take that on notice.

Senator HOGG—Can you take that on notice, because I think it is quite germane to some of my interests in this. This is the first time I have struck it with you. There are some other departments around the place where people are with the department one day and the next day they show up as contracted to the department as consultants and it is costing the department substantially more. So that is my underlying concern in this whole process. Mr Tapp, you say, resigned in early 2005. I have checked your organisational charts in your annual reports of 2003-04, 2004-05 and 2005-06. In 2003-04, Mr Tapp was designated in your flow chart diagram under the title 'Papua New Guinea Pacific' in the Partnerships Division as Charles Tapp, so clearly you considered him part of your organisation there. But the AusAID organisational chart as at 30 June 2005 similarly shows Mr Tapp being part of the organisation, which just does not gel with the fact that he left probably, I suspect, somewhere

around March or April 2005. So that is the importance of being able to establish when he left. If he was not the person who was running that section of AusAID at that stage, who was? Clearly, when I go to 2006, much to your delight, Mr Dawson, your name is there. So there is no doubt that Mr Tapp has well and truly left. So if you can get for me an accurate date, that would be helpful indeed.

I now turn to the issue of the contract itself. The answer to Senator Brown's question, which said that Mr Tapp was employed from 28 April 2005 to 7 April 2006 as a consultant, says that he was paid \$288,000 excluding GST and compulsory contributions. That is correct?

Mr Lehmann—That is correct.

Senator HOGG—Can you therefore tell me how that ties in with the document that is available to me through AusTender, where contracts are reported? Are you aware of what contracts have been reported at AusTender? I presume you are the people who reported it.

Ms O'Keefe—I will just ask a colleague to come to the table who is responsible for the notification of tenders et cetera.

Mr Mitra—In respect of AusTender, any contract that is entered into that exceeds \$10,000 in value is notified and published in AusTender.

Senator HOGG—Are you aware of the notification that AusAID gave on this particular tender?

Mr Mitra—Not on the specific one. It would be an automatic process.

Senator HOGG—I am pleased to hear that. You can check the AusTender documents yourself. Contract ID for Charles Tapp—I will not read all the details—is 1497989. The contract date is 22 April, which is six days earlier than the date in the answer that you gave to Senator Bob Brown. But the value is the thing that interests me. The value there is \$340,000 yet the answer to Senator Bob Brown was \$288,000. Can you tell me why there is the discrepancy? Is that the GST and the compulsory superannuation?

Mr Lehmann—I expect that would account for the difference.

Senator HOGG—Even my humble maths would say roughly \$30,000.

Senator FAULKNER—There is nothing humble about your maths, Senator Hogg.

Senator HOGG—Thank you very much, Senator Faulkner. It is \$30,000 for roughly GST, which bills that into \$318,000. So it is a \$22,000 contribution for superannuation. Is that correct?

Mr Lehmann—I do not have that detail in front of me. I trust your maths.

Senator HOGG—Well, do not trust my maths. Would you check that out for us, please, and let us know. In respect of that contract, which goes from 22 April 2005 to, I think, 30 June 2006, again, in your annual report—I turn to the annual report for 2004-05—you do not report anything in respect of that contract. I think it is only in 2005-06 that anything is mentioned about any contract whatsoever. It mentions Charles William Nicholas Tapp, white paper implementation, \$126,140. If I understand it correctly, there was a contract. The contract date was 22 April 2005 for \$340,000. I thought it was a responsibility to report it in the annual

report. It does not seem to be there. It does not seem to be in the 2004-05 annual report and there only seems to be \$126,000-odd in the 2005-06 annual report. What happened?

Ms O'Keefe—I will have to take that on notice to find out why it did not appear in the 2004-05 annual report. I do not have any information at hand to be able to respond.

Senator HOGG—If this contract—and this is the first of the contracts; I will come to the second of the contracts in a moment—numbered 1497989 was entered into on 22 April 2005, when would it be reasonable to expect that that contract would be reported in the annual report? Would it be reasonable to expect that it would be reported totally in the 2004-05 annual report or, given that it straddled two years, would it be broken up and reported over two years?

Ms O'Keefe—Again, we will have to take that on notice.

Senator HOGG—I am just surprised that with a contract of such a large sum, as you have indicated in that previous answer to Senator Bob Brown and now which you have confirmed with me, you have to take that on notice. It is a substantial amount of money. It is not an insignificant contract. That is why I am also interested in comparing that with the remuneration that Mr Tapp would have received previously. It is only then that I can satisfy myself and the committee can satisfy itself that there was a reasonable deal done. That is that first contract. Of the first consultancy that I have just referred to, what was embraced within that consultancy? What did the \$340,000 cover?

Ms O'Keefe—At the time for that period, Mr Tapp was undertaking a range of duties quite relevant to some of our geographical work as well as taking a very key role in the development of the white paper.

Senator HOGG—Are you able to tell me how much of that \$340,000 was attributed to, in your words, geographical work and how much was attributed to work for the white paper?

Ms O'Keefe—At the time of that particular contract, Mr Tapp was working for no-one else apart from AusAID. Therefore, he was working full time for us on a range of issues, as I said, relevant to the geographical as well as the white paper. It would be difficult, without sitting down and putting time against each of his days, to say whether he spent more time on the white paper or more time on the geographical work. But I was around at the time and I can tell you he did a lot on both.

Senator HOGG—I am not doubting that. This just seems to be a horrible mess to me, as I keep digging into it. I then go to the Senate order list for the financial year 2005-06—we have not really got to that yet; again, I am glad it is reported—and it says 'Contractor, Charles W.N. Tapp Consultancy, white paper implementation, \$105,000'. So I am just not sure what you are reporting, to whom you are reporting and how people such as me are to work our way through this maze. That is why the questions are here this evening. It does seem as if there is a fair bit of disparity between some of the reporting and some of the attribution that is made in terms of the spending of Commonwealth money. In terms of the \$340,000, that was solely paid, then, under the first contract to Mr Tapp. Was he responsible for paying any expenses out of that?

Ms O'Keefe—Again, I do not have that sort of detail with me.

Senator HOGG—I will put it to you a different way. Were any facilities operated by AusAID made available to him during that period of time?

Ms O’Keeffe—Yes, they were. He was working within the building.

Senator HOGG—What facilities was he provided with?

Ms O’Keeffe—He was working within the building. Therefore, he had the usual range of office facilities.

Senator HOGG—So office facilities, including?

Ms O’Keeffe—A computer, desk, telephone and paper.

Senator HOGG—Computer, desk, telephone and paper. Did he have a PA provided?

Ms O’Keeffe—There is a shared PA, not necessarily just for one person.

Senator HOGG—As part of the contract, was Mr Tapp obliged to make a contribution for the use of these facilities?

Ms O’Keeffe—I am unaware of that.

Senator HOGG—Can anyone tell me? Did he get them gratis?

Mr Mitra—It is not unusual for a contractor to be working in the building and have access to facilities such as telephones and the like and not make a contribution to it. We have done so in many instances where we needed to have contractors on call and close by to officers who might be managing that. They will have access to it but we do not charge them for the use of those facilities or deduct it from their contract.

Senator HOGG—It seems to me that Mr Tapp, from where I sit, has got the best of all worlds. He has gone from being an employee. He now moves on to a contract as a consultant. He does not move out of the building. And Mr Tapp’s contract went for almost 12 months; it went from 22 April 2005 to 7 April 2006. Whilst people might be consultants and come in from time to time and have the use of these facilities, and I can understand that, he is more or less embedded there in much the same role as he previously was and he has no overheads at all. Have you got a spare job? I have never seen more ideal conditions in my life. No contribution whatever for any facilities, a shared PA and no contribution. That is on the first contract. I then turn to the second contract. Are you able to identify the second contract for me? I will help you. It is contract ID 1609146. This contract with Mr Tapp was dated 20 July 2006. What happened to Mr Tapp between 7 April 2006 and 20 July?

Ms O’Keeffe—That is only a question you can ask Mr Tapp.

Senator HOGG—I can ask you. Was he contracted in some other way to AusAID at that stage that I cannot find?

Ms O’Keeffe—Not that I am aware.

Senator HOGG—Not that you are aware. From 7 April 2006, we can assume that, subject to checking—and I would like you to check it—he was no longer serving as a consultant. The second consultancy, the second contract, is for \$47,300 and runs from 20 July 2006 to 30 August 2006. So that is roughly just over a month. Can you tell me what that contract is for?

Ms O’Keeffe—I do not have the details of the contract before me. However, I can tell you anecdotally that the work he is doing is assisting our approach to the implementation of the white paper.

Senator HOGG—And during this period of time, is Mr Tapp still embedded within the offices of AusAID?

Ms O’Keeffe—No. He is not.

Senator HOGG—He is not. So he does not have access to a computer, a desk, a telephone, paper, a shared PA and other things that he had previously had access to?

Ms O’Keeffe—Only on the same basis as other consultants have, as Mr Mitra has pointed out.

Senator HOGG—So what are AusAID getting from Mr Tapp for basically one month’s work for \$47,300? Again, if you have a spare job, let us know. I think there are a few people interested. What are you getting for \$47,300?

Mr Proctor—Again, on a slightly anecdotal basis, I can tell you that Mr Tapp has recently led a mission for us to review activities in Indonesia. I am not sure if it is exactly the contract you are referring to. But it is a significant review which he undertook for us.

Senator HOGG—Well, it might be a significant review but, by anyone’s calculation, that is not bad earnings for just over a month’s work—six weeks work. When you couple that with the \$340,000 that has already been paid to Mr Tapp since his leaving on 22 April 2005, he has been on a pretty good earner, as far as I can see. But there is more. We will leave that because I am sure you will come back and clarify some of that material for me. What role do consultants have when they work for AusAID? Do they have any official capacity to be able to speak for and on behalf of AusAID, or is that left to AusAID officers?

Ms O’Keeffe—It depends what the person has been contracted to do. It depends on the issues which are being canvassed. I will give you an example of our principal advisers. We have a principal adviser dealing with economic growth. Because of his background, his degree of skill and expertise and he is extremely well-respected internationally—he was previously working with the World Bank in India—there are times when it is very appropriate for him to speak on behalf of AusAID. So it will depend on the circumstances.

Senator HOGG—Would that principal adviser appear at estimates and speak for and on behalf of AusAID? Would you see that as being normal practice?

Ms O’Keeffe—No.

Senator HOGG—Why, then, did Mr Tapp appear before estimates on 16 February this year and is listed in the official *Hansard* record as Mr Charles Tapp, senior associate, Pacific and PNG Division. Not only that, if you read the *Hansard*, he engaged on a large number of occasions with myself during that appearance. I was not aware that he was no longer an employee of AusAID. Is AusAID breaking out and establishing a new practice?

Ms O’Keeffe—Mr Tapp’s appearance in February related to the tasks that he had been doing with AusAID and continued to be doing at that particular time. That is when he was

working very largely on a full-time basis for AusAID. He now no longer works on a full-time basis for AusAID. You would describe him as a consultant.

Senator HOGG—You are trying to defend the indefensible, Ms O’Keeffe, with the greatest of respect. He was no longer an employee. We have established that. Even by any stretch of the imagination, he ceased being an employee of AusAID. How many non-AusAID employees appear before this committee to give evidence for and on behalf of AusAID? I think if we called most of the people in this room here tonight, they would be full-time employees of AusAID. It just seems to me that there has been no thought, no planning and no understanding of the position that Mr Tapp has been in. I just find it quite absurd. Let me say that on some of the other committees I serve—and I stand to be corrected—I cannot think of anyone who does not have an official cap with the department. I have checked with the Deputy Clerk of the Senate and I am advised that this is most unusual if not extraordinary, to say the least. Anyway, I am not going to waste all night on that. I have only got until 8.30. I thought it was an important issue. It really does highlight to me management deficiencies within AusAID. I look forward to answers to some of the questions that I have already put on notice. The answers hopefully will see this put to bed. You might also take on notice how many of your consultants have access to the full facilities of AusAID—in other words, what you rolled off for me. List the names of the consultants and who has access to those facilities. Then tell me the consultants that do not have access to those facilities. I am sure that if you are letting out contracts on such a basis, it is come in spinner.

I turn next to Australian Legal Resources International. Can someone give me some history of what happened with the winding up of ALRI, please.

Mr Mitra—ALRI, as a non-profit organisation, had been an accredited organisation with AusAID since 2000. It was in April 2005 that we discovered ALRI was not submitting the paperwork that is required as part of that accreditation—the acquittals and the like. On investigation, we discovered that the organisation had gone into administration. Subsequent to that, we spoke with the administrators and were advised that they were moving into liquidation.

Senator HOGG—When was it finally liquidated, just roughly?

Mr Mitra—Roughly in about August, I believe.

Senator HOGG—August 2005. Was AusAID a creditor of ALRI at that stage?

Mr Mitra—Yes.

Senator HOGG—To the tune of how much?

Mr Mitra—Approximately \$120,000.

Senator HOGG—That is the figure I have—roughly \$120,000. I presume there would have been a creditors meeting.

Mr Mitra—There was.

Senator HOGG—Did AusAID attend that creditors meeting?

Mr Mitra—No, we did not.

Senator HOGG—Why not?

Mr Mitra—At that time we did not think it was appropriate, but we did notify the administrators that there was a liability and that we would wish to be advised of the outcomes of that meeting. That was based on legal advice that that was an appropriate action.

Senator HOGG—How many creditors of ALRI were around at that time that you are aware of?

Mr Mitra—I am not entirely sure of the answer to that.

Senator HOGG—That is all right. I understand that. If you did not attend the meeting, were you aware from a report in the *Australian* of 1 September this year that there was a decision taken by the creditors for the winding-up of the company and that they agreed to destroy the company's books and records? Is that correct?

Mr Mitra—That is correct.

Senator HOGG—Were you notified of that?

Mr Mitra—We were notified of that.

Senator HOGG—And what was your response to that?

Mr Mitra—We advised the administrator or the liquidator that we did not see that as an appropriate action and we would not support the destruction of the books. We also contacted ASIC and got legal advice in terms of whether that was appropriate action. I must say to my personal surprise, it is apparently not unusual for that sort of outcome from a liquidation process.

Senator HOGG—Are you able to advise me and the committee whether or not those records have been destroyed?

Mr Mitra—They have not been at this stage.

Senator HOGG—They have not?

Mr Mitra—As far as I understand.

Senator HOGG—As a creditor, you are owed some \$120,000. Has any of that \$120,000 been recovered?

Mr Mitra—No. We believe that about 50 per cent of that \$120,000 would be appropriately acquitted from our discussions with the posts where ALRI undertook some of its activities. We think 50 per cent perhaps may still be in question.

Senator HOGG—So you stand to lose 50 per cent of the \$120,000.

CHAIR—So you went back and worked out the work that was actually done by ALRI. Who valued it?

Mr Mitra—These are specified activities under the agreement with ALRI so you would be able to see. For example, if the organisation were implementing a workshop in Cambodia, there would be a price to that so you could calculate. If the activity took place, then that part of it would be reasonably acquitted.

Senator HOGG—So we actually had someone who interviewed people who attended these workshops?

Mr Mitra—We asked our posts to confirm that the events had actually taken place.

CHAIR—And the events had taken place to the extent of about, what, \$60,000?

Mr Mitra—I believe that on three of the occasions where there was a report that an event was to take place, the post followed up on that and confirmed that the event took place. We were then able to calculate roughly how much of that \$120,000 would be reasonably acquitted. But this is exactly why we would like to have a look at the records of ALRI and ask the liquidators to provide us with the final acquittal of the funds advanced to them.

Senator HOGG—So when will you be doing that?

Mr Mitra—We are in the process now.

Senator HOGG—You are in the process now?

Mr Mitra—Yes.

CHAIR—Have we sought to lodge with the administrator or liquidator, as the case may be, the extent of indebtedness to the Commonwealth?

Mr Mitra—Yes, we have.

CHAIR—What figure have we lodged?

Mr Mitra—The \$120,000 figure.

CHAIR—The full \$120,000?

Mr Mitra—That is right.

CHAIR—Very good.

Senator HOGG—Following on, the world moves on. As I understand it, the work that ALRI was doing will now probably have to be picked up by the Federal Court of Australia. Is that correct?

Mr Mitra—If the activities did not take place, they just would cease. But ALRI has not actually undertaken work for us for the last financial year because they have not been in a position to do so.

Senator HOGG—I accept that. I know it is not your agency. I am not trying to put words in. I am just trying to find out whether, if the work is to be undertaken by the Federal Court of Australia, that is likely to be financed through AusAID. Is that the sort of way these things happen?

Mr Proctor—I suggest that assistance in the legal area for AusAID funding comes through a variety of mechanisms. For instance, we have a very large assistance for legal development in Indonesia as a project. Separately, the Attorney-General's Department may do some activities for us. Certainly as you suggest, individual courts might provide assistance under some agreements. So there is just a gamut of means by which assistance in the legal area is provided.

Senator HOGG—Thanks very much for that, Mr Proctor, because I am just concerned. It seems to me that there is a gap there. I am just wondering if AusAID is being asked to come in and fill that gap, no more and no less. There is nothing hidden in that. Is that happening?

Mr Proctor—Can I say that on the Asian side we have not identified a particular gap. We respond to individual requests and proposals. So it is not noticeable that there is a gap in terms of how we can assist individual countries.

Senator HOGG—Thanks very much for that. I now turn to the ANAO audit report of the Australia-Indonesia Partnership for Reconstruction and Development. How many contracts have been directly sourced? I note that from the last estimates there were quite a range of answers to, I think, Senator Nettle on notice. But it does not seem to indicate where they were directly sourced. Are you able to give us an idea of what contracts have been directly sourced and who were the contractors engaged in the direct sourcing?

Mr Proctor—I want to check the definition of ‘direct sourcing’.

Senator HOGG—In country. I think that is my understanding of direct sourcing. If you have another definition, I will welcome it.

Mr Proctor—In general, under this initiative, contracts are open to Australian and Indonesian bidders. As a general statement, very few Indonesian firms have won the tenders, although some may have come in as subcontractors. I am afraid we would have to take on notice that question because I just do not have those details in front of me.

Senator HOGG—I accept that. It was just that in looking at the answers to questions on notice I do not think that was clear. One of the criticisms that I think some people, maybe rightly or wrongly, are saying is that too much of this is staying here and none of it is reaching into the areas where the work needs to be done. I put it no higher than that. What specific actions have been taken in response to AusAID’s agreement to the recommendations made by the Australian National Audit Office report? They were all agreed, but if we could have a little more of an expansion than just ‘agreed’.

Mr Proctor—Thank you. There was a recommendation that we enhance the accountability and transparency by a change in reporting. In response, we have engaged a full-time finance and budget coordinator for the Indonesia branch. There are regular reports to the secretary’s committee, which is the Australian bureaucratic side of the partnership with Indonesia. There is a performance framework being developed at the moment for the revised Indonesia program which will incorporate reporting on this aspect of the overall relationship. As you will recall, there was already an ongoing program before the Prime Minister announced the billion-dollar initiative. There is some additional reporting, as you will see, in the annual report this year as well.

Senator HOGG—In terms of additional costs in meeting those requirements, was that allowed for in the 2006-07 budget?

Mr Proctor—That is not budgeted for separately.

Senator HOGG—You will just accommodate it out of the existing budget?

Mr Proctor—That is correct.

Senator HOGG—So you have reviewed your reporting mechanisms to both the public and government, as addressed in the report?

Mr Proctor—That is correct.

Senator HOGG—Recommendation 6, as I understand it, states:

The ANAO recommends that AusAID enhance the AIPRD accountability and transparency by ensuring that the future public reports on the program identify and subsequently report against the expected early disbursement of grant and loan funds by major grant and loan activity.

The second dot point is:

Significant activity milestones and performance indicators covering effectiveness, quality and quantity, particularly for larger activities.

So I presume that is all being done?

Mr Proctor—That is correct. There certainly will be a report on those yearly disbursements in more detail and activity milestones. There has been a separate reporting process on AIPRD. I think we have an annual report now on the anniversary of the tsunami. That is normally roughly the timing they have provided. The third of those points you mention—the performance indicators and the effectiveness—is the issue we are still working through at the moment.

Senator HOGG—When will that be bedded down?

Mr Proctor—Early next year with the release of a broader revised strategy for the pilot program.

Senator HOGG—And that will not affect the quality of the reports that come out?

Mr Proctor—No. There are already performance indicators. This is just an improvement of the process.

Senator HOGG—Thank you. In respect of the audit report, the summary at page 19 and point 46 states:

Some AusAID salary and administrative costs are being funded out of grant funding. It is not clear that this was envisaged at the time funding arrangements were originally developed. The Australian Government's stated aim was that the full \$1 billion of funds be available for reconstruction and development. In this context, more explicit arrangements are warranted for these salary and administrative costs.

Firstly, has that taken place? Secondly, what is the extent of costs that have been recovered out of the allocation by AusAID?

Mr Proctor—The extent in 2005-06 was approximately 1.3 per cent of the annual expenditure of the grant funds. I remind you that the grant funds are half of the overall initiative. We are seeking, as a result of the recommendation, to move any of these costs into a separate administered budget to sort of take action in line with the recommendation of the ANAO.

Senator HOGG—So that will see a lessening of a reliance on funds that are allocated to go strictly to the projects themselves?

Mr Proctor—That is correct. That is in train. We are starting that process at the moment. But it is part of the budget process.

Senator HOGG—There was a comment at point 52. The ANAO found that:

Stronger management of certain aspects of contractual arrangements is required to protect the Australian Government's interests and provide greater assurance of value for money. A number of contracts were signed after the provision of services had commenced, including ones delivering aid after the emergency period had passed.

How many such contracts fell into that category? The ANAO obviously identified them. There was obviously no tender process and they were obviously done with a degree of haste.

Mr Proctor—It would be a small number, and I will find out for you. I remind you of the context, of course. This is within months of the tsunami. There was an enormous range of assistances required for a very devastated area. I am sure it relates to the urgency of the response by Australia. You need to appreciate that there was an immediate emergency phase. But it really has been ongoing reconstruction and relief.

Senator HOGG—I understand that. But this specifically goes to contracts that were entered into 'after the emergency period had passed', in the words of the ANAO. They are not my words. Can you identify those for us? Obviously the ANAO were able to identify them. They must have discussed them with you or the officers of AusAID. I would just be interested to find out how many contracts, the value of those contracts and the status of those contracts now. If they were contracts that lasted for a period of two or three months and were for \$5,000 or \$10,000, I do not think people are going to get excited necessarily. But if they were substantial amounts of money, I am sure people would want to have a closer look at what happened there. Arising out of the ANAO report there seems to have been a number of references to taking a greater note of fraud and corruption risks into the thinking of the way AusAID approaches the grants program. I do not think it made any criticism as such, but it just seemed to ring an alert bell. Can you respond to that?

Mr Proctor—I think really they were reflecting upon the future and the challenges ahead. You mentioned the grants program. I think they were in fact looking particularly to the loans component, which is very different, obviously, from grant projects because we are lending to the government of Indonesia. In fact, I think they were quite happy with the arrangements to date. I note that we have had a range of analyses done in this area. We have also appointed an anti-corruption person to be in our post in Jakarta specifically. A lot of attention has been given, in developing both the grant and loan programs, to ensuring that fraudulent use cannot be made of Australian moneys. I note too that there was an incorrect report, a misreading of that document you have, in the *Age*, which said that \$2 million of the moneys for the billion dollars had been lost to fraud. That is utterly and completely incorrect.

Senator HOGG—I am glad you raised it because I certainly was not going to.

Mr Proctor—No. It was a total—

Senator HOGG—No. You are entitled to.

Mr Proctor—There is a table at the back of that document that ANAO put in about possible frauds against the entire aid program over many years, which totalled \$2 million. Some of them are in fact probably just accounting problems with small grants all over the world. But it was misreported and then corrected by the *Age*. It was completely incorrect what was said.

Senator HOGG—The statement at point 72 says in the third sentence:

Also to hasten initiatives on the ground, funds have been committed to some projects with limited supporting rationale, reflecting incomplete knowledge of development needs at the time.

Is this the area of fraud and risk that the ANAO were talking about, where some projects have just been given a tick and a flick too quickly, or are they referring to something with greater depth, such as what will happen once the loans come on line?

Mr Proctor—I think they are referring, from memory, to grant activities that were undertaken very quickly, particularly in Aceh, to address things like the reconstruction of village halls and assistance to restore training for midwives. That is a couple of examples. They may have felt that there should have been a more detailed design, for instance, of the activity concerned. But, again, these things were done in a situation of great urgency. We feel that our activities have considerable development design behind them and that they are all quite justifiable. I would also remind you that they do go through quite a process of agreement by Australia and Indonesia and at very senior levels in Australia as well.

Senator HOGG—I have a few general questions. I realise that we have until 8.30.

Senator PAYNE—If I can take maybe five minutes of that time, Senator Hogg.

Senator HOGG—You go right now.

Senator PAYNE—No. I do not mind waiting.

Senator HOGG—No. Go now.

Senator PAYNE—Okay. I will. Thank you very much. I am so glad Ms O’Keeffe is here.

Ms O’Keeffe—Thank you, Senator.

Senator PAYNE—I know you will share the experience too. I promise to be nice, as always. I wanted to just, if I can, get an update particularly on the work of the Asia-Pacific Business Coalition on HIV. Whilst I do make occasional visits to the AusAID website, it is not hugely informative on that matter.

Ms O’Keeffe—Thanks. The reason it is not hugely informative on that is that it is really not the Australian government’s. It is very much the private sector. The CEO of the Asia-Pacific Business Coalition is Stephen Grant. The chair of the board is Margaret Jackson, who of course is the chair of Qantas. The deputy is Lachlan Murdoch. Another board member is Paul Brasher, who is the global head of PricewaterhouseCoopers. The company secretary is a partner from Deakins law firm and the president of the China-Australia Business Council. I am also on the board but very much to support the board and the coalition more broadly in terms of the connections that we have to the broader international community involved in HIV-AIDS.

Senator PAYNE—So has the coalition established its own website?

Ms O’Keeffe—It is in the process of doing so. They are running very much on a very slim approach. They have membership subscriptions of 5,000 per company.

Senator PAYNE—Do you know what the number of members is at this stage?

Ms O’Keeffe—I do not have the final number. It is something that the coalition, because it is private sector, likes to keep a bit close. But we are going to have our third board meeting on 1 December. I imagine that the coalition CEO will let people know precisely what the latest

numbers are. But at this stage there are about 30 members which back up the board. In terms of activities so far, November is actually going to be a pretty important month. The CEO, Stephen Grant, came with me to PNG last month and is looking to get the Asia-Pacific coalition to support the establishment of the PNG business coalition. There is not one at the moment. But it will use the good resources, both human and financial, to support the PNG business coalition. There is also likely to be the merger of the Asia Business Coalition with the Asia-Pacific Business Coalition. Mr Grant intends travelling to Indonesia, also this month, to look at trying to galvanise support from the private sector in Indonesia for a similar sort of approach.

Senator PAYNE—You cannot speak for Mr Grant, but what was your impression of Mr Grant's ultimate aim in trying to not so much rationalise all of them but engender that greater interest in the business community?

Ms O'Keefe—I think it is recognised that the support of the business community can in many ways be better if it is localised or nationalised. That is why he is looking at supporting a series of different business coalitions. I have to say that the response of the PNG private sector to this idea has been overwhelmingly very positive. A home for the PNG business coalition has already been identified. In fact, it is an organisation that has already been doing some work in HIV and is very keen to do more. It has probably one of the most efficient methods of communication to major private sector companies operating in PNG.

Senator PAYNE—If you compare the Asia-Pacific Business Coalition with the work, for example, of the Thai coalition on business in relation to HIV—they have done a lot of work on minimising stigma and discrimination, assisting HIV positive people in the workplace and that sort of thing—which direction is Mr Grant seeing the regional coalition is going? Is it the same as the Asia-Pacific one or more like the Thai one?

Ms O'Keefe—Quite different to the Thai Business Coalition. The Thai Business Coalition operates very much as a resource for private companies to be able to access when they want to improve awareness and instigate education campaigns or even improve their own workplace policies. The Thai Business Coalition has set itself up over time—it has sort of been an iterative process—as the sort of organisation that can advise private sector companies. The Asia-Pacific Business Coalition, particularly given the sort of board membership it has, is looking to using its influence, if you like, to support embryonic coalitions in the different countries.

Senator PAYNE—I have just two more questions. At last week's forum meeting, was there any discussion of the impact of HIV in the Pacific? Was that on the agenda at all?

Ms O'Keefe—I was not at the forum, but I will ask Mr Dawson, who was.

Mr Dawson—I am just looking for the leaders communiqué. There is some reference, albeit very brief, in the leaders communiqué to the Pacific regional strategy on HIV-AIDS, noting progress made and the implementation of it and reaffirming the commitment to the achievement of the objectives at all levels in governments from leaders. That was the only reference that I am aware of out of the forum documentation. I am not aware of any other discussions at the forum.

Senator PAYNE—I am not sure how they were then able to note progress made and aspects of the implementation if it was not discussed.

Mr Dawson—Because those things were discussed at a previous forum officials meeting, which goes through all the issues before leaders. Basically, the leaders note the outcome of that forum officials meeting.

Senator PAYNE—Is there some more information you could on notice provide to the committee on those discussions?

Mr Dawson—Certainly.

Senator PAYNE—Thanks. Finally, I have a question on the situation for all donors in Burma in relation to HIV issues. Ms O’Keeffe, can you or anyone else please give us some idea of where those processes are now at, given the matters in relation to the global fund?

Ms O’Keeffe—I will ask Mr Proctor to talk about what is actually happening specifically. In general terms, there has been success in negotiating a three-diseases fund. The three-diseases fund is to take the place of the global fund that had to withdraw from Burma for very justified procedural reasons. Donors were very conscious that this left a significant gap, particularly in terms of both HIV and malaria, for Burma. Donors have included Australia as well as the UK. As far as my most recent information, that is proceeding in a positive way.

Mr Guthrie—Just to confirm what Ms O’Keeffe said, the three-diseases fund has now been established. Australia is committing \$15 million over five years to that fund. We are hoping the fund is operational from early 2007.

Senator PAYNE—And the other key partners in that, Mr Guthrie?

Mr Guthrie—There is the European Commission, the United Kingdom, the Netherlands, Norway and Sweden.

Senator PAYNE—Perhaps on notice, can you give us some idea of the value of their contributions as well.

Mr Guthrie—Yes, certainly. We can take that on notice.

Senator PAYNE—Thank you very much.

Senator HOGG—I have a number of general questions. The rest I will put on notice for you. These are in the area of the white paper and general aid issues. What progress has been made since the decision was made to untie aid? What examples can be given of how this is working?

Mr Mitra—Since the decision to untie aid in April, we have relaxed the eligibility criteria. Before it was restricted to Australian and New Zealand bidders and, in certain instances, to bidders from the country of our operations. Now anyone can apply. When we put a project or an intervention out to tender, it is now placed on the DAC website so it is exposed to the international market. We are also planning on visiting the US, Europe and the UK to talk about the Australian aid program and to try to expose those markets to potential opportunities under the aid program.

Senator HOGG—Have you got any examples of how this has changed what happens within AusAID as such? Since you have untied it now, you are getting different bidders, say,

from outside where the operation is or where Australia or New Zealand might have previously dominated.

Mr Mitra—It has been quite interesting in the sense that we have had interest from a number of UK firms. We have had interest from a number of Danish firms. But the general trend is that they are trying to enter into partnerships with established Australian development contractors and, through those partnerships, bid for work. I assume there is a significant initial transaction cost to enter the Australian market and this is a way of exploring the market.

Senator HOGG—So you have not actually let any contracts out under that?

Mr Mitra—We have. One contract has gone to a UK based firm. That is the first European contract.

Senator HOGG—Can you make that known to us?

Mr Mitra—Yes. Can I just take that on notice?

Senator HOGG—I did not expect you to have it at your fingertips. That would be good. I will move to the Office of Development Effectiveness. What stage is that at in its establishment?

Mr Versegi—The Office of Development Effectiveness has been established. I am its head. We currently have a staff of around 10 people, including a principal adviser on development effectiveness. We are in the process of hiring an international evaluation expert to bolster our ranks. The main priority for the office at the moment is trying to develop an enhanced performance assessment framework. The white paper and the Prime Minister's announcement very much lifted the bar in terms of effectiveness and increased resources so we are looking at ways in which we can strengthen our performance assessment framework. We are looking to have that operational on 1 July 2007. We also have a focus on upgrading our country assistance strategies. Under the white paper, the country strategies have a greater prominence not only to encompass all aid delivered by Australia but also to have a single policy implementation and performance framework for our assistance to a particular country. So we have been doing a lot of work around the country strategies. That includes doing some rigorous reviews of the performance of past strategies. We have ones being undertaken at the moment on our program to the Philippines and Indonesia. We are just now starting on East Timor. We have basically a three-year timetable for upgrading all our country strategies on that basis. We are also establishing, I suppose, a flagship evaluation work plan, where we will identify some particular high-profile and significant issues, particularly relevant to the scaling up of our program, to garner lessons learnt for that scaling up and make sure we do that effectively. So that is basically where we are at at the moment.

Senator HOGG—Thanks very much for that. You said you have 10 staff. Does that include the principal adviser?

Mr Versegi—Yes.

Senator HOGG—Are those 10 staff all existing AusAID employees?

Mr Versegi—Except for the principal adviser. Some of them are part time too.

Senator HOGG—Some of them are part time. And the principal adviser has a non-AusAID background?

Mr Versegi—He does, but he has been an adviser in AusAID for a number of years. When the ODE was established, his role became the principal adviser, development effectiveness.

Senator HOGG—Do you operate on terms of reference?

Mr Versegi—Yes.

Senator HOGG—A set of guidelines?

Mr Versegi—Yes.

Senator HOGG—Have they been published?

Mr Versegi—I think they have been. I will check on the website. I will see if they are available.

Senator HOGG—So it is something that should be available on the website?

Mr Versegi—Yes. Absolutely.

Senator HOGG—You can see I am not the most computer literate person around here, even though I have a laptop in front of me. Is this the right place for the enhanced cooperation program, or is that better left with other agencies?

Mr Dawson—I can attempt to answer some questions.

Senator HOGG—Can you give us a status report on the enhanced cooperation program.

Mr Dawson—As at October, there were had 44 Australian public servants—I think that number may be slightly less than that now—working in a variety of non-policing positions in the Papua New Guinea bureaucracy under the enhanced cooperation program. Most of those officers were working in economic and public sector administration agencies, 29 in fact in that area. Six were in non-policing areas of the law and justice sector. Nine were working on border and transport security issues in relevant agencies.

Senator HOGG—That number has not changed since there was a suspension in the policing role? Is that reasonable to assume?

Mr Dawson—That number has been, I think, more or less the same.

Senator HOGG—More or less consistent. So that part of the program has continued and has delivered?

Mr Dawson—That is correct.

Senator HOGG—That was my understanding. Is it your understanding that the policing part of the program will change shortly or is about to change? Is that still in a state of suspension?

Mr Dawson—There have been some proposals discussed between governments about additional support for various policing functions, but there have been no decisions reached about that.

Senator HOGG—What is the funding that has been spent on the program to date?

Mr Dawson—The cost of the enhanced cooperation program in the 2005-06 financial year was approximately \$16 million. It is estimated to be somewhat more than that, at approximately \$23 million, in the current financial year.

Senator HOGG—Why the substantial increase? Is it the activities?

Mr Dawson—I think it is more why the amount was lower in the previous financial year. A number of deployments were put on hold pending the outcome of the legal consideration in Papua New Guinea.

Senator HOGG—So it is not a matter of increased activity; it is getting back to what was an acceptable and normal activity. The previous year had been quite restrained.

Mr Dawson—There was a degree of uncertainty about deployments that was caused by the court action in Papua New Guinea about the program.

Senator HOGG—It has been put to me that, at the time of the original announcement, PNG stated that some of the funding under this program was to go towards the recruitment of 400 local police. Is that correct?

Mr Dawson—I could not comment on that. I have no information about that.

Senator HOGG—You might take that on notice. It just seems to me that that was said. I do not know if that was our view, but it would be interesting to know if that was the view of PNG. I want to ask a question about the white paper. The aid white paper foreshadowed increasing use of NGO partners to address issues such as promoting good governance at a local level. But NGO programs fell significantly in the last budget as a proportion of the overall aid. Is there any intention to reverse this situation in the future?

Mr Mitra—I believe this question was asked in a different way in the last Senate estimates. The Director-General did respond to that. At that time I believe he indicated that the onus is really now on NGOs to demonstrate that they are linking into the priorities in the white paper and to the priorities established under the respective bilateral programs. It is not necessarily a question of increased funds but appropriately targeting the assistance.

Senator HOGG—Thanks for that answer. How are the NGOs performing under that criteria?

Mr Mitra—Discussions are currently under way with a number of NGOs to talk about how they might participate in creating a demand for better governance. So those activities will be developed over time.

Senator HOGG—So what sort of timeframe are we looking at?

Mr Mitra—I would expect reasonably soon, but I cannot provide a fixed date.

Senator HOGG—I am not trying to hold you down. It is not something, though, that is 12 months or two years away?

Mr Mitra—No.

Senator HOGG—We are looking at something far more immediate. So you are saying that the response of the NGOs under the circumstances that prevail is they are picking up the baton and now trying to run with it?

Mr Mitra—Some NGOs are certainly very interested in working on that basis.

Senator HOGG—Are some more interested than others? If so, why?

Mr Mitra—I would say that probably some are more capable than others.

Senator HOGG—When you say ‘more capable’, more capable because of their organisational capacity and ability and their funding?

Mr Mitra—That is correct. It is about their organisational capacity and ability. Some NGOs are quite small and niche focused. Others have a greater capacity.

Senator HOGG—I note that it is 8.30. I am quite happy to put the rest of my questions on notice. I would like to thank the officers. I know we had a difficult issue at one stage, but it had to be pursued. Thanks very much for your time.

CHAIR—I thank you, Ms O’Keeffe, and all of your officers. We will now go to Austrade.
[8.40 pm]

Australian Trade Commission (Austrade)

CHAIR—I thank the representatives of Austrade for attending. Unfortunately, we are without a person to ask any questions as the committee has no questions from any of the government members, so I will adjourn the committee formally. Thank you once again, Mr McCormick, for coming. Sorry about the issue of not having any questions for you. The Senate estimates for October-November stand adjourned. I thank the secretariat and thank the members of the committee.

Committee adjourned at 8.41 pm