

The Senate

Rural and Regional Affairs and
Transport References Committee

Iraqi wheat debt — repayments
for wheat growers

June 2005

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ISBN 0 642 71518 1

This document was prepared by the Senate Rural and Regional Affairs and Transport Committee, and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

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Glossary

AWB	Australian Wheat Board
DFAT	Department of Foreign Affairs and Trade
EFIC	Export Finance and Insurance Commission
EU	European Union
GCA	Grains Council of Australia
NIA	National Insurance Account
OFF	Oil-for-food
PGA	Pastoralists' and Graziers' Association
UN	United Nations
WAFarmers	Western Australian Farmers' Federation
WGA	Wheat Growers' Association

Chapter 1

Introduction

Origins of the inquiry

1.1 On 8 December 2004, the Senate referred the following matter to the committee for inquiry and report by 16 June 2005:

Compensation arrangements for wheat growers after the writing off of the Iraq wheat debt, with particular reference to:

- (i) how decisions were made; and
- (ii) the impact on wheat growers.

Conduct of the inquiry

1.2 The committee advertised the inquiry in *The Australian* on 15 December 2004, 2 February 2005 and 16 February 2005.

1.3 The relevant farmers' organisations and government departments were also invited to make submissions. The committee received five submissions.

1.4 The committee held two public hearings, in Perth on 22 February 2005 and Canberra on 23 February 2005. Evidence was provided by organisations including the Western Australian Farmers' Federation, the Pastoralists and Graziers' Association of Western Australia and AWB Ltd, and the Department of Foreign Affairs and Trade.¹ A complete list of those that appeared before the committee to give evidence is contained in Appendix 2.

1.5 Submissions and transcripts of the public hearings are available through http://www.aph.gov.au/senate/committee/rrat_ctte/index.htm.

Scope of the report

1.6 This report examines the extent and cause of Iraq's debt to Australian wheat growers, the arguments for and against federal government compensation for affected growers and the adequacy of communication pertaining to the debt.²

1.7 Chapter Two of the report outlines the circumstances surrounding Iraq's wheat debt, resulting from a default on payments for wheat supplied prior to the imposition

1 The Department of Agriculture Fisheries and Forestry also appeared with the Department of Foreign Affairs and Trade. Both provided a joint submission to the Committee.

2 An ex-gratia compensation payment was paid by the federal government in 1991 and 1992. This is discussed from paragraph 2.21 of the report.

of United Nations (UN) economic sanctions on Iraq in August 1990. The committee examines the extent of the debt, the insurance cover held by AWB Ltd, the Commonwealth's ex-gratia payment to growers for losses incurred as a result of the imposition of sanctions and finally, the decision to forgive 80 per cent of Iraq's debt to Australia through the Paris Club.

1.8 Chapter Three discusses the compensation claims of two farmers' organisations following the Paris Club's debt forgiveness, investigating the moral claims of wheat growers to a full repayment of the uninsured portion of the Iraq debt. This chapter also considers the administrative burden associated with distributing any repayments to affected growers.

1.9 Chapter Four examines the possible inadequacy of communication with, and information provided to, growers affected by Iraq's default. These issues specifically relate to growers' representatives raising expectations of repayments and a lack of consultation with growers over the Paris Club debt forgiveness agreement.

1.10 The committee makes its conclusions and recommendations in Chapter Five.

Chapter 2

Background

Iraq's payment default

2.1 The committee's reference stems from a debt incurred when the then Australian Wheat Board (AWB) sold wheat on credit terms to the Iraqi government.¹ Following the conflict arising out of Iraq's invasion of Kuwait in 1990 and the subsequent imposition of United Nations (UN) economic sanctions on the Iraqi regime, the Iraqi government defaulted on payments owing to its creditors. The overwhelming majority of Iraq's debt to Australia relates to contracts between AWB and the Iraqi government. A small amount of debt is owed to other exporters to Iraq.²

2.2 The debt relates to wheat sales made over the period 1987-1990, affecting the relevant individual seasons' wheat pools as follows:

- 1987-88: US\$0.36/tonne
- 1988-89: US\$3.21/tonne
- 1989-90: US\$4.06/tonne

2.3 The debt outstanding averages out to \$2.68 per tonne for growers that contributed to each of the three seasons' pools.³

2.4 In their joint submission to the inquiry, the Department of Foreign Affairs and Trade and the Department of Agriculture, Fisheries and Forestry⁴ calculated that as at 31 December 2004 AWB Ltd is owed US\$1.027 billion by Iraq, including interest. Of this, US\$211.9 million is the uninsured component.⁵

1 The Australian Wheat Board moved from being a statutory marketing authority to a grower controlled corporation (AWB Ltd) in July 1999. Further detail is included at paragraph 2.6.

2 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 5. Other companies, namely Bonlac Food Ltd, Kraft Foods Ltd, John Shearer Ltd, Westpac/Australis Irrigation Pty/Ltd and National Australia bank/Anchor Foods Ltd were owed US\$18.9 million when Iraq defaulted on its debts, of which US\$2.6 million was uninsured.

3 AWB Ltd, *Submission 4*, p. 8

4 This joint submission is simply referred to as the 'joint submission' for the remainder of the report.

5 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 6

2.5 This chapter will examine the insurance payout and the Commonwealth ex-gratia payment AWB received following Iraq's default, as well as the recent agreement between the Paris Club group of creditor nations to forgive the majority of Iraq's debt and schedule a timetable for repayments of the remaining debt.

AWB's EFIC Cover

2.6 Throughout the 1987-1990 period, the Australian Wheat Board operated as a statutory marketing authority, granted sole responsibility for the marketing and export of Australian wheat under the *Wheat Marketing Act 1984* and then the *Wheat Marketing Act 1989*.⁶ This regulated marketing arrangement is referred to as the single desk system. Today, the functions of the former AWB are undertaken by AWB Ltd,⁷ a publicly listed company with a dual class share structure that retains grower control. In July 1999, AWB became a grower owned and controlled corporation, and in 2001 AWB Ltd was publicly floated with the listing of B-class shares on the Australian stock exchange.⁸ In this report, the organisation is referred to as both AWB and AWB Ltd, depending on the time period being discussed.

2.7 AWB's sales to higher risk credit markets during the late 1980's were insured by the Export Finance and Insurance Commission (EFIC) on their National Insurance Account (NIA). This effectively meant that they were underwritten by the Australian government when a purchaser of AWB wheat on credit defaulted on payments.⁹

2.8 Under the NIA arrangement, EFIC undertook to pay out an agreed percentage of the debt to AWB in the event of a payment default, for distribution amongst the affected farmers. Depending on market conditions and the size of particular contracts, this ranged from 70 to 80 per cent of the value of sales during the relevant period.¹⁰ Australia's single desk wheat marketing arrangements dictate that all growers participating in the relevant seasons' wheat pool were equally affected per tonne of wheat sold to AWB.

2.9 AWB indicated that NIA cover was necessary as commercial credit insurance markets could not accommodate their insurance requirements due to the size of the contracts and the length of payment terms.¹¹

6 The Wheat Marketing Act 1989 came into effect on 1 July 1989. The new provisions deregulated the domestic market and established an industry fund imposing compulsory levies on growers.

7 AWB Ltd is the parent company of AWB International, which is solely responsible for the marketing of Australian wheat to overseas markets.

8 AWB Ltd, *Submission 4*, p. 3

9 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 5

10 AWB Ltd, *Submission 4*, p. 6

11 AWB Ltd, *Submission 4*, p. 6

2.10 In the years leading up to 1990, the terms of EFIC's insurance cover were becoming less favourable to AWB. In late 1987 EFIC reduced its credit insurance cover from 95 per cent to 80 per cent of sales.¹² Insurance premiums over the affected pool years had also risen, from \$10.1 million in 1987-88, to \$17.5 million in 1988-89 and \$23.3 million in 1989-90.¹³ Nonetheless, AWB still felt the arrangements were commercially beneficial:

They put us through the wringer on an annual basis under the national interest account and invariably we had to run through the corridors of Canberra but they supported us at that time and [we are] very grateful for that support. Without credit cover, we would not have sold the volumes that we sold to Iraq.¹⁴

Although the extent of the NIA cover had been reduced, AWB concluded that the cost of seeking commercial insurance cover for the residual 20 per cent was prohibitive.¹⁵

2.11 During the 1980's, Iraq was an important market for Australian wheat growers. AWB informed the committee that Iraq was our largest grain customer; approximately twelve per cent of our wheat exports,¹⁶ while DFAT submitted that in the three affected pool seasons Australia supplied 35 per cent, 49 per cent and 41 per cent (respectively) of Iraq's import requirement.¹⁷

2.12 According to AWB, Iraq's importance to Australia was enhanced by weak prices due to high production levels worldwide, the strength of Australia's currency and subsidies for US and EU wheat producers.¹⁸ Selling on wheat credit was deemed to be an essential strategy for accessing the Iraq market, which in turn required the coverage provided through the NIA. According to AWB Ltd:

You could not do business with Iraq at that time unless you could put credit on the table.¹⁹

2.13 Between February 1991 and December 1992 EFIC paid growers (via AWB) \$US381.2 million, AWB's full entitlement under their insurance arrangement.²⁰ This sum equates to approximately 80 per cent of the value of the contracts Iraq defaulted on during 1987 to 1990.

12 AWB Annual Report 1987-1988, p. 13

13 AWB Annual Report 1988-1989, p. 16 and AWB Annual Report 1989-90, p. 10

14 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 7

15 AWB Ltd, *Submission 4*, p. 6

16 AWB Ltd, *Submission 4*, p. 5

17 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 7

18 AWB Ltd, *Submission 4*, p. 5

19 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 7

20 AWB Ltd, *Submission 4*, p. 6

2.14 These insurance payments were not distinguished from ordinary payments to growers from contract sales in AWB's Pool Realisation Statements, which provide information to growers on AWB's financial activities for each seasons' pools.

2.15 The uninsurable portion owing to wheat growers, originally US\$98.1 million,²¹ is the debt of interest to the committee.

2.16 During the inquiry, some confusion arose as to the ownership of Iraq's debt following their payment default. Under normal insurance arrangements, once a claim has been paid by the insurer, the insurer then takes ownership of the debt. However, there was conflicting evidence as to whether EFIC actually took ownership of the debt at the time they paid out AWB's claim, or at a later date.

2.17 AWB Ltd maintained that the debt had transferred in 1991, though some administrative tasks may have been incomplete:

[We] assume that paperwork was outstanding as a result of their wanting to put the debt to the Paris Club. They wanted an extra piece of paper to demonstrate that they had the debt, but, as far as I was concerned, under the terms of the insurance policy, which were very clear, when they paid out the money in 1991 the entire debt went to them.²²

2.18 The Department of Foreign Affairs and Trade told the committee that:

... when the insured portion of the debt was paid, the legal responsibility for the rest of the money, if you like, was transferred to EFIC. It was decided before negotiations began in the Paris Club last year to do the last formality; ... Our understanding is that EFIC thought it would be useful at that stage formally to assign the rights.²³

2.19 In correspondence with the committee, EFIC indicated that under the terms of the insurance policy AWB was required to assign the debt 'upon request'. This request was not forthcoming when AWB's claim was paid out, but many years later in 2004. EFIC stated that although the rights and obligations attached to the debt transferred from AWB to EFIC upon payment of the claim:

EFIC obtained a legal assignment of the debt in May 2004. The assignment of the debt was not completed until 2004 because between the payment of claims in the early 1990s and the fall of the Iraqi Government, sanctions were in place precluding formal negotiation of recoveries between EFIC and Iraq. The Deed of Assignment was signed once sanctions were lifted and recoveries were in prospect through the processes of the Paris Club.²⁴

21 AWB Ltd, *Submission 4*, p. 8

22 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 6

23 Department of Foreign Affairs and Trade, *Transcript of Evidence*, Canberra, 23 February 2005, p. 15

24 EFIC correspondence dated 23 May 2005

2.20 Consequently, during the period between the payment of claims (over 1991 and 1992) and the assignment of the debt in 2004, the status of the Iraq debt was as follows:

- The rights and obligations attached to the debt belonged to EFIC;
- In accordance with UN sanctions, EFIC was precluded from negotiating recovery of the debt during this period; and
- Under AWB's EFIC insurance policy, money recovered by AWB, 'whether from the buyer or any other source', was to be remitted to EFIC and then divided in proportion to the loss borne.²⁵

2.21 In spite of the information provided by EFIC, the committee is still unclear as to whether the delay in formally assigning the debt was due to poor administrative practice or a belief that, until the Paris Club agreement, AWB (and subsequently AWB Ltd) was better positioned to pursue the debt in the context of ongoing sanctions, or a combination of both.

2.22 Regardless of the intent, the committee is of the view that such administrative practices have not assisted in preventing false expectations to arise, a matter discussed further in Chapter Four.

Commonwealth ex-gratia payment

2.23 Following the imposition of UN sanctions against Iraq in 1990, wheat shipments already in transit were diverted to alternative markets. This resulted in AWB incurring financial losses from the forced sale of goods to lower paying markets and increased shipping costs associated with diverting the cargo. DFAT submitted that:

The Government agreed that the grains industry should not bear the full burden of meeting these losses and compensated the exporters for the losses they incurred in the Iraq market from the imposition of UN sanctions ...²⁶

2.24 The then AWB received A\$31.03 million in compensation in the period from October 1991 until April 1992.²⁷ AWB Ltd informed the committee that the entire sum was distributed to growers.²⁸

25 EFIC correspondence dated 23 May 2005

26 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 8

27 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 8. Ricegrowers' Co-operative Ltd, Bergerco and WA Meat Exports also received payments with a combined total of almost \$1.9 million.

28 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 8

2.25 On 14 October 1991 the then Minister for Primary Industries and Energy informed the Parliament that the ex-gratia payments:

... fully meet the Prime Minister's undertaking to the Grains Council of Australia that the Government would not expect the grains industry to bear the full burden of the United Nations sanctions on Iraq. All of the claimants have accepted the payments as full and final settlement with the Government for their losses.²⁹

The Paris Club Agreement

2.26 In November 2004, the federal government announced that it would forgive US\$22.1 billion of Iraq's debt (measured from 1 January 2005), as part of an agreement negotiated between Iraq and the Paris Club group of creditor nations.³⁰ This reflected an international effort to forgive 80 per cent of the US\$38.9 billion owed to these countries. Iraq's debt to Australia stemmed predominantly from wheat imports (see paragraphs 2.1-2.4).

2.27 The joint submission stated that:

The Australian Government, in consultation with the grains industry, believes that the interests of wheat growers are best served by assisting Iraq's recovery. Relieved of much of its debt, Iraq has the potential to be a stable and solvent partner for Australia in the Middle East to enable it to service any remaining debt and provide a more financially viable export destination.³¹

2.28 Under the Paris Club agreement Iraq is to start repaying the 20 per cent unforgiven debt from 2011, for government distribution to the industry and/or growers. In accordance with the proportion of debt that was uninsured by AWB, AWB Ltd will be entitled to 20 per cent of this figure. DFAT officers explained the arrangements as follows:

Given that the original exporters as a whole have already received from taxpayers approximately 80 per cent of the value of their original contracts, fulfilling commitments under the insurance arrangements, the Government's view is that they would as a group be entitled to receive just over 20 per cent of any future recoveries (including in particular 19.9 per cent to AWB Ltd). The remaining 80 per cent or so of any recoveries would be retained

29 Hon. Simon Crean, *House of Representatives Hansard*, 14 October 1991, p. 1803

30 The Paris Club is comprised of 19 nations that meet to find solutions to debtor nations' debt problems. Its members are Australia, Austria, Belgium, Canada, Denmark, France, Finland, Germany, Ireland, Italy, Japan, the Netherlands, Norway, Russia, Spain, Sweden, Switzerland, United Kingdom and the USA. South Korea also participated in the agreement with Iraq.

31 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 1

by the government as a recovery against the taxpayer-funded insurance payments.³²

2.29 The committee was advised that the Paris Club agreement provides for AWB Ltd to receive 34 payments of US\$1.2 million plus interest over seventeen years, totalling approximately US\$42 million. Providing Iraq is able to fulfil its obligations under the agreement these payments will commence in 2011, with some interest to be paid prior to that date.³³

2.30 Significantly, debt forgiveness is extended to Iraq under the Paris Club agreement on the condition that Iraq does not undertake to repay other creditors on terms more favourable than that agreed to with Paris Club creditor nations.³⁴

2.31 In light of apparent confusion regarding the financial consequences of the Paris Club decision, the committee reiterates that the burden of debt forgiveness will be equally shared by AWB Ltd and its insurer, EFIC. That is, AWB Ltd and EFIC will receive a 20-80 split of monies paid by Iraq under the agreement, matching on a pro rata basis the financial loss suffered when Iraq defaulted. This means that growers will receive approximately 20 per cent of the original 20 per cent debt outstanding following EFIC's payout. In effect, the government has applied the consequences of the Paris Club decision equally to the growers (AWB Ltd) and the taxpayers (EFIC), both of whom have forgone 80 per cent of their Iraq debt entitlement.

2.32 In evidence to the committee, AWB Ltd confirmed the extent of their future entitlement:

... if, ultimately, the government is successful in getting repayment of money from the Iraqis, our portion of that payment will be 20 per cent of the debt recovered.³⁵

2.33 This equitable division will occur despite EFIC legally owning the debt owed by Iraq.³⁶

2.34 In mathematical terms, after AWB's insurance payout in 1991 and 1992 and their prospective repayments under the Paris Club up until 2028, AWB will have been

32 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 6

33 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 7

34 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 3

35 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 9

36 Entitlement to the debt owed under the contract is not legally divisible, so could therefore not be proportionally split, as a legal entitlement, between AWB and EFIC. However, as part of the terms of AWB's agreement with EFIC, EFIC agreed to pass to AWB 20 per cent of any debt recovered.

paid approximately 84 per cent of the value of their defaulted contracts with Iraq over the relevant pool years.

Chapter 3

A case for compensation?

3.1 The committee received submissions and heard evidence from two organisations seeking federal government compensation to wheat growers for the US\$98.1 million uninsured portion of the Iraq debt.¹ The committee notes that both are WA-based organisations, although they indicated that they were pursuing compensation for all affected growers. Despite this, there appears to be a regional divide over the issue at a representative level. Except for the Western Australian Farmers' Federation (WAFarmers), all other state farming organisations represented on the Grains Council of Australia (GCA) have supported the GCA's position that the government has fully discharged its responsibilities to wheat growers. WAFarmers disagree with this majority view and have resigned from the GCA.²

Compensation claims

3.2 WAFarmers told the committee that the federal government should settle the Iraq debt in 2005/06:

The WAFarmers proposes that the government should settle the debt due to growers in the 2005/06 financial year. That would bring to an end the claim growers have over the debt. Administering the debt repayment agreement would then be a government-to-government matter between future Australian and Iraqi administrations within the overall Paris Club framework.³

3.3 WAFarmers emphasised to the committee that this claim was for the principal uninsured debt only, offering to forego interest accrued if prompt settlement of the debt occurs.⁴ They also requested that the government fund the costs associated with distributing payments to affected growers.⁵ As to this latter claim, the committee notes that AWB would have met the costs of distributing the funds had Iraq not defaulted on their payments.

3.4 While not calling for the costs of distributing payments to be met by government, the Wheat Growers' Association (WGA) also called for the federal government to meet the US\$98.1 million shortfall in 2005/06. In evidence to the

1 See WAFarmers, *Submission 3* and Wheat Growers Association, *Submission 2*. The WGA represents the interests of AWB Ltd A-class shareholders, but its members are overwhelmingly based in WA.

2 WAFarmers, *Transcript of Evidence*, Perth, 22 February 2005, p. 22

3 WAFarmers, *Submission 3*, p. 14

4 WAFarmers, *Submission 3*, p. 3

5 WAFarmers, *Submission 3*, p. 17

committee, they indicated that this could be made as an advance to AWB Ltd in contemplation of Iraq's eventual scheduled repayments.

3.5 Such a payment would represent approximately US\$56 million in excess of the amount growers will receive under the Paris Club repayment schedule.

3.6 Throughout the inquiry, all organisations agreed that EFIC and the government had discharged its legal responsibilities to AWB and the growers when the insurance payout was made. However, both WAFarmers and the WGA rejected the assertion that growers had relinquished their claim to the outstanding amount after receiving payment from EFIC. The basis for this claim is a moral one: wheat growers had unfairly shouldered the burden of governmental decisions relating to Iraq's wheat trade and subsequent debt to AWB.

Moral obligations of government

The Iraq debt not a commercial default?

3.7 One element of the moral argument for a full payout of Iraq's uninsured debt is the cause of their default. The basis for this is that an uninsured loss borne through a creditor's inability to pay differs from a payment default imposed through political action. The implication is that growers should not be expected to bear a financial loss created by political decisions; this responsibility should rest with the taxpayer, upon whose authority such decisions are taken.

3.8 Therefore, while accepting that no legal obligation existed, WGA argued that:
When a country goes to war, no one section of the community should have to suffer the consequences of it. It should be paid by taxpayers.⁶

3.9 They contended that the source of the government's moral obligation to affected growers is the political, rather than commercial, aspect of the Iraq debt:

... it is really not an issue of commercial failure. This failure has been caused by sanctions being imposed. ... EFIC insurance was taken out in case of failure to pay, not in case of war.⁷

3.10 The WGA further emphasised the political nature of the default by stressing Iraq's willingness to pay:

The Australian wheat industry had been assured repeatedly throughout the Saddam Hussein regime that Iraq had acknowledged the debt and had the capacity to pay, and the only impediment to making payment was the UN sanctions.⁸

6 Wheat Growers' Association, *Transcript of Evidence*, Perth, 22 February 2005, p. 47

7 Wheat Growers' Association, *Transcript of Evidence*, Perth, 22 February 2005, p. 46

8 Wheat Growers' Association, *Submission 2*, p. 2

3.11 WAFarmers also argued that the debt was incurred due to government action and therefore created a moral obligation on the part of the federal government:

Basically, the cheque was stopped from coming because of the UN sanctions. The UN sanctions were not something that the Wheat Board or the farmers at the time would have considered as a commercial risk that they would have needed to be aware was about to happen or that they should have taken out extra insurance cover for.

...

The payments were there, ready to come to us, and we were deprived of them because of the government action.⁹

3.12 AWB Ltd acknowledged the cause of the debt and the previous reliability of Iraqi credit:

The Iraqis had an impeccable payment record. We were long-term suppliers of grain on credit to them, and they always paid on time and were very good on their payment. That was the 1980s and up to the 1990s. As you know, they seized Kuwait on 8 August 1990. Sanctions were imposed. UN sanctions were imposed which effectively froze all their international assets. They lost access to their oil exports and therefore their entire mechanism of being able to pay us was frozen. We lost access to the market in 1990 and we were directed by the government of the day to stop all trade with Iraq and divert all shipments on the water to other destinations.¹⁰

3.13 The committee recognises that despite the Paris Club's decision to forgive 80 per cent of Iraq's debt, the country is highly indebted. In this context, it is questionable that wheat growers could have now been reimbursed, even if the Saddam regime remained and the sanctions had been lifted.

3.14 The committee also notes that Australia's compliance with UN sanctions was not an optional decision for the government at the time, but an obligation under international law. Regardless of Australia's willingness to comply with the sanctions, no payment from Iraq would have been possible. Further, continuing to seek access to the Iraq market during this time would almost certainly have had negative implications for Australia's trade with other nations.

The Paris Club decision an unfair burden?

3.15 Another aspect of the argument for full compensation is that growers have involuntarily forgone their capacity to pursue the debt as a consequence of other government imperatives. Again, this contention by some grower representatives is based on the view that one sector is unfairly shouldering the impact of governmental decision-making.

9 WAFarmers, *Transcript of Evidence*, Perth, 22 February 2005, p. 32

10 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 4

3.16 Central to this view is that affected growers have been disproportionately impacted by Australia's participation in the Paris Club agreement. WAFarmers argued that:

... the government have now changed the rules. They have, through the Paris Club, forgiven the debt. They are going to receive the further 20 per cent, which they say is now worth approximately \$212 million with back-charges. We are only asking for \$100 million.¹¹

3.17 WAFarmers suggested that EFIC should bear the full weight of the Paris Club agreement, as it reflected governmental priorities:

Technically, of course, Iraq still owed the Australian government because the government were the insurance company. The insurance company probably has a right to go back to the original debt, which they have. But they have chosen in the world's interest to forgive that portion that they paid out to the Australian growers.¹²

3.18 Accordingly, argued WAFarmers, EFIC (as the government funded insurer) should relinquish a proportion of their entitlement to repayment to allow growers to be fully compensated. The committee notes that EFIC is, in fact, entitled to claim all repayments from Iraq, as the government insurer has legal ownership of the Iraq debt. As such, WAFarmers' claim that EFIC has forgone 'their' portion, as opposed to any entitlement to growers, is incorrect.

3.19 AWB Ltd declined to comment on whether a moral obligation to compensate affected growers existed.¹³

3.20 Debt forgiveness was agreed to by the Grains Council of Australia (GCA), the organisation representing Australia's wheat growers.¹⁴ The committee recognises that some growers may consider the level of consultation they had with GCA and AWB Ltd over the Paris Club decision to be inadequate. Issues concerning communication between growers' representatives and affected growers over Iraq debt decisions are discussed in Chapter Four.

3.21 Finally, the committee notes that the Paris Club debt repayment schedule offers scope for a partial debt repayment that may not have otherwise occurred had Australia not participated in this forum. As referred to in paragraph 2.30, the Paris Club agreement dictates that no more favourable debt repayment terms are available through other agreements. Essentially, it is a compromise that represents the best

11 WAFarmers, *Transcript of Evidence*, Perth, 22 February 2005, p. 23

12 WAFarmers, *Transcript of Evidence*, Perth, 22 February 2005, p. 33

13 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 13

14 GCA's policies are reached after consultation with its six member organisations: Agforce Grains, NSW Farmers, VFF Grains, SAFF Grains, WAFarmers and AWB Ltd.

possible outcome Australian wheat growers could achieve without direct federal government compensation.

Financial loss suffered?

3.22 The final aspect of the moral argument for compensation is that many growers have lost significant amounts of money, diminishing their financial viability. With respect to this, the committee recognises that growers contributing to the relevant pools suffered financial losses as a consequence of Iraq's default (see paragraph 2.2). WAFarmers suggested to the committee that Western Australian growers are owed approximately \$10,000 each, while 'serious wheat growers are owed twice or three times that'.¹⁵

3.23 The committee does not underestimate the impact of the Iraq debt on some growers. However, the financial losses incurred when Iraq defaulted on credit payments from 1987-1990 should not be taken in isolation. The committee is of the view that despite these losses, the federal government's ex-gratia payment, the insurance arrangements provided by EFIC, the premiums extracted from the risky Iraq market and an ongoing wheat trade relationship with Iraq, have probably left Australian growers financially better off than had there been no trade with Iraq at all.

3.24 In a 1993 memo supplied to the committee by the PGA of WA, the GCA deemed the government's \$31 million ex-gratia compensation payment to be a successful outcome:

... the bureaucracy, and indeed, some parliamentarians are still quite amazed at the way in which the Grains Council successfully mounted and executed its strategy for Federal Government compensation for the losses incurred in Iraq to the tune of nearly \$33 million. This is an achievement that should not be understated nor, I suggest, allowed to be forgotten as growers, understandably, focus on potential losses of Pool equity on account of outstanding Iraqi debts.¹⁶

3.25 The GCA memo continued:

Indeed, when you consider that the Government will have, in addition to this compensation, paid out 80% of the total outstanding debt of some US\$483 million (albeit, with the prospect that they too will recover these monies if the sanctions are lifted and we resume wheat trade with Iraq), it is fairly dangerous territory to be charging the Government with having not made a substantial contribution to compensating growers for the losses (and

15 WAFarmers, *Transcript of Evidence*, Perth, 22 February 2005, p. 20

16 Grains Council of Australia memo dated 16 July 1993, p. 5. See PGA of WA evidence, *Transcript of Evidence*, Perth, 22 February 2005, p. 2.

potential) that they have incurred as a consequence of the United Nations sanctions.¹⁷

3.26 Indeed, the insurance cover provided by EFIC to AWB during this period was considered both necessary and beneficial to growers, despite the fact that it had been reduced from 95 to 80 per cent in 1987 (see paragraph 2.10).

3.27 AWB informed the committee that selling wheat to the Iraqi market required credit terms to be offered, which in turn necessitated NIA cover through EFIC: 'Without credit cover, we would not have sold the volumes that we sold to Iraq'.¹⁸

3.28 The PGA of WA argued that the EFIC arrangement was very lucrative for growers:

... wheat growers were actually getting a pretty favourable deal from the government as regards the insurance arrangements which facilitated the wheat board to sell wheat into risky markets. When the creditor actually paid, the growers collected the premium for the risk and when the credit defaulted the taxpayers wore the loss.¹⁹

3.29 In their 1993 memo, the GCA emphasised that the EFIC insurance cover was potentially seen as a subsidy to wheat growers, and that public attempts to recover the remaining debt 'could seriously undermine the nature and coverage of our export credit arrangements'.²⁰

3.30 The PGA of WA reiterated this consideration in evidence to the committee:

The EFIC scheme that was in place at the time was a subsidy for growers, which was very attractive. It was worth walking away from the Iraqi debt to keep that EFIC scheme going.²¹

3.31 The WGA denied that the EFIC arrangements represented special treatment for AWB and growers:

... EFIC insurance is of a character that is specifically to help Australian exporters into markets where other insurance is not available. It is not simply a one-off deal for the wheat industry.²²

17 Grains Council of Australia memo dated 16 July 1993, p. 5. See PGA of WA evidence, *Transcript of Evidence*, Perth, 22 February 2005, p. 2.

18 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 7

19 Pastoralists' and Graziers' Association of WA, *Transcript of Evidence*, Perth, 22 February 2005, p. 2

20 Grains Council of Australia memo dated 16 July 1993, p. 5. See PGA of WA evidence, *Transcript of Evidence*, Perth, 22 February 2005, p. 2.

21 Pastoralists' and Graziers' Association of WA, *Transcript of Evidence*, Perth, 22 February 2005, p. 7

22 Wheat Growers' Association, *Transcript of Evidence*, Perth, 22 February 2005, p. 56

3.32 The committee is aware that EFIC's National Interest Account (NIA) insurance cover was not available for the exclusive benefit of the wheat industry. However, AWB's insurance cover through EFIC assisted wheat growers significantly, enabling their sole statutory marketer to access the Iraq market underwritten by insurance cover not available on commercial terms.

3.33 The attraction of selling wheat into the Iraqi market was the premium price obtained from selling to that market. While the AWB was reticent to quantify the premium paid by the Iraqis, and other organisations were unable to do so, there was a general consensus that sales to Iraq were made on favourable terms to AWB.

3.34 In evidence to the committee, AWB admitted that selling to Iraq elicited a premium:

[Iraq] was our largest customer at the time. I was happy to put more and more volume into Iraq because of their impeccable payment record and the fact that we were getting good premiums from the market.²³

3.35 However, the WGA disputed this contention also, citing market distortions existing at the time:

... Iraq was a world wheat producer who the US would not contribute EEP to when purchasing grain from the US. So the actual price paid on the day for Australian wheat more closely relates to the world market price rather than to the world's distorted market price when you have to compete against EEP from the US.²⁴

3.36 Regardless of the unfair nature of subsidisation of wheat exports from other countries, Iraq was paying a premium price for Australian wheat. If the distorted wheat price reflects widespread or normal trading conditions, then being able to sell into a market where these distortions do not exist reflects a premium price.

3.37 In evidence, AWB Ltd confirmed to the committee that this premium meant that the overall value of the trading relationship was beneficial to AWB, even taking into account the loss of the uninsured portion.²⁵

3.38 The 1993 GCA memorandum quoted extensively by the PGA reflected this prevailing belief:

... the bottom line is that wheat growers are better off running the gauntlet of incurring the loss of 20% of the total value of the credit sale made at a much higher price than would have otherwise been the case had the sale

23 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 6

24 Wheat Growers' Association, *Transcript of Evidence*, Perth, 22 February 2005, p. 51. The EEP (Export Enhancement Program) is a US export subsidy program.

25 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 6

either been made at a lower cash price or sold into an alternative lower priced, less cash preferred paying market.²⁶

3.39 The committee is of the view that although a debt from Iraq remains outstanding, the extent of this loss was mitigated by EFIC's \$US381.2 million insurance payment made on sales at premium prices.

3.40 Wheat growers affected by Iraq's default also benefited by having an existing trade relationship that was able to be maintained and strengthened during the subsequent period. Following the imposition of United Nations (UN) economic sanctions on Iraq in 1990, AWB was able to continue to export wheat to Iraq under the UN Oil for Food (OFF) Program.

3.41 AWB Ltd informed the committee that from 1992-2004 AWB exported approximately 12.5 million tonnes of wheat into Iraq under the UN's OFF Program.²⁷

3.42 The PGA of WA highlighted the long term benefit associated with the imposition of UN sanctions:

Australian wheat growers were initially disadvantaged by the invasion of Iraq but, subsequently, Australia was the sole provider of wheat to Iraq under the food for oil program ... from 1996 so, in fact, the events that led to this situation occurring ultimately benefited the Australian wheat grower.²⁸

3.43 The committee recognises that Australia's wheat trade under the UN's OFF program was founded on the AWB's trade undertaken in previous years. Unfortunately, one aspect of those years was Iraq's default on payments when UN economic sanctions were imposed. Despite this, growers have benefited from AWB's good trade relationship with Iraq, despite the debt outstanding from 1987-1990.

3.44 The committee is of the view that any attempt to approximate the likely wheat sales to Iraq (and growers' incomes) had UN sanctions not been imposed is highly speculative, and not useful.

Distributing payments

3.45 The task of distributing payments to growers that contributed to the wheat pools in the affected seasons will be undertaken by AWB Ltd. The committee notes that this will be difficult and potentially time consuming, whether undertaken in the context of a compensation payment, or as part of Iraq's rescheduled payments through the Paris Club Agreement. Given the time that has passed since the debt was incurred,

26 Grains Council of Australia memo dated 16 July 1993, p. 5. See PGA of WA evidence, *Transcript of Evidence*, Perth, 22 February 2005, p. 2.

27 AWB Ltd, *Submission 4*, p. 10

28 Pastoralists' and Graziers' Association of WA, *Transcript of Evidence*, Perth, 22 February 2005, p. 15

some growers will have moved out of the industry, some may have restructured their business operations and others will have passed away. Although most affected growers will be readily identifiable, a proportion of these will not. Tracking down these growers will potentially become an expensive administrative burden for AWB Ltd.

3.46 AWB Ltd informed the committee in evidence that they maintained the records of growers who delivered to the affected pools but had 'not fully analysed' the costs of the task or how those costs would be disbursed.²⁹ In their submission they stated that the 'process could be difficult, potentially costly and time consuming'.³⁰

3.47 The WGA suggested that the task would be facilitated by the growers themselves:

In a season like we have just had, it is not hard to find people who are owed the money. They put their hands up readily.³¹

3.48 They further stated that many growers were aware of the amount they were individually owed, and that AWB Ltd had the information readily available:

Every grower who makes a telephone call to AWB will be faxed the information within ten minutes.³²

3.49 The committee is concerned that growers who were not affected by the Iraqi default will be expected to contribute to the administrative cost of distributing debt repayments. Accordingly, the committee urges AWB Ltd to ensure that the cost of distributing these payments is equitably attributed to those receiving them. The committee is also of the view that the government should not be required to contribute to this administrative cost.

29 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 23

30 AWB Ltd, *Submission 4*, p. 8

31 Wheat Growers' Association, *Transcript of Evidence*, Perth, 22 February 2005, p. 55

32 Wheat Growers' Association, *Transcript of Evidence*, Perth, 22 February 2005, p. 62

Chapter Four

Communication with growers

4.1 The effectiveness and appropriateness of communication with growers affected by the Iraq wheat debt is a matter of concern to the committee. Specifically, growers' representatives (the Grains Council of Australia (GCA) and to a lesser extent AWB Ltd) and the federal government were variously criticised during the inquiry for not appropriately communicating with wheat growers in two respects:

- a) raising false expectations as to the likelihood of the debt being repaid and distributed; and
- b) not adequately consulting with growers before agreeing to support the Paris Club arrangement.

Growers' expectations

4.2 The committee notes that the issue of whether or not a significant proportion of wheat growers legitimately held certain expectations is difficult to assess in this instance. However, evidence received by the committee suggested that many growers had been led to believe that Iraq would fully repay their debt.

4.3 The Western Australian Farmers' Federation (WAFarmers) indicated to the committee that they had been informed they would be reimbursed for their uninsured portion of debt when sanctions against Iraq were lifted:

Iraq and the Wheat Board have continually told us we were going to be paid the extra 20 per cent.¹

4.4 The Pastoralists' and Graziers' Association (PGA) of WA suggested that differences between GCA's private and public positions on the wheat debt issue had created unrealistic expectations amongst its constituents. In highlighting the benefits of the then AWB's insurance cover, the PGA of WA stated in a 29 June 2004 press release that:

We believe the GCA and its WA affiliate should have made these facts clear to their members instead of raising their expectations.²

4.5 In evidence to the committee, the PGA of WA suggested that the GCA and AWB Ltd 'were in a bind, in that they did not wish to attract publicity to the generous arrangements they had with the government'. However, they added that this reticence had fuelled the present discontent amongst growers:

1 WAFarmers, *Transcript of Evidence*, Perth, 22 February 2005, p. 24

2 Leon Bradley, PGA of WA Grains Chairman, *PGA of WA media release*, "GCA/WAFF agreed to Iraqi terms in 1993 – PGA", 29 June 2004

... the absence of information provided at the time has been the major deficiency that has led to the continuing speculation about the true circumstances.³

4.6 In its submission to this inquiry, the GCA conceded that poor communication by itself and AWB had contributed to the wheat debt dispute. The submission also stated that the issue had partly stemmed from:

Potentially misleading statements made by representatives of AWB in correspondence to producers or producer groups relating to possible recovery of default payment and potential reimbursement of producers.⁴

4.7 AWB Ltd maintained that they had kept growers informed of the repayments they would be entitled to:

We got regular commitments from the Iraqi authorities that they acknowledged the debt and that as soon as UN sanctions were lifted they would find a mechanism to repay that debt. So, certainly, we have advised growers at various times from 1990 through to 2000, and most recently up until 2004, that should any money be repaid by the Iraqis for that debt then they would proportionately receive the 20c in the dollar that was received by the government for any repayments that were received.⁵

4.8 However, a report on ABC online on 1 June 2004 provides an example of potentially misleading statements from representatives of AWB Ltd. Despite having already undertaken to support Australia's participation in the Paris Club agreement, an AWB Ltd board member was quoted as saying:

This money is owed to wheat growers.

We haven't signed it away, we've had no intention to.

If forces outside the parameters of power that the AWB board has do that to the industry, then there's a position of fait accompli about this, but the board is very strong that this money belongs to growers and must be accounted to the growers in its use and destination, and that's where we are with it.⁶

4.9 This comment did not appropriately reflect EFIC's responsibility for negotiating repayment of the debt. The committee also notes that Iraq's apparent undertakings to repay the debt ought to have been treated with caution, as they were given by the authorities of a country operating in an uncertain economic climate. For AWB and AWB Ltd to publicly place faith in such commitments failed to provide

3 Pastoralists' and Graziers' Association of WA, *Transcript of Evidence*, Perth, 22 February 2005, p. 17

4 Grains Council of Australia, *Submission 1*, p. 3

5 AWB Ltd, *Transcript of Evidence*, Canberra, 23 February 2005, p. 5

6 ABC rural news online, *Wheat exporters pursue money owed from Iraqi sales*, www.abc.net.au/rural/news/stories/s1120557.htm, accessed 16 December 2004

proper context to the 'undertaking', and did not assist in accurately communicating with growers over the issue.

4.10 From the GCA perspective, the President of the GCA made the following comments in a press release dated 26 July 2004:

GCA is confident that any funds recovered from Iraq will be passed back to industry first, in line with the resolution passed at our 15th July board meeting. The first recipient of any monies recovered will be AWB.⁷

4.11 The GCA declined the committee's invitation to appear at a public hearing.

4.12 Department of Foreign Affairs and Trade (DFAT) officers did not, however, agree that a widespread misunderstanding amongst growers was evident:

... I do not think it is uniform. I think a large part of the industry well understood precisely what the situation was following the Paris Club decision and the government's decision in relation to that. While certainly there are some growers, I am sure, who did not and perhaps still do not have the full picture, nonetheless it is probably more accurate to say there is a large part of the industry that did fully understand on the basis of the discussions and consultations that the minister had with them about what the decision was and what the implications were.⁸

4.13 The committee believes that the reluctance of the peak growers' organisation, the GCA, to publicly clarify the situation before the committee does not assist in bringing openness and transparency to this issue.

4.14 The committee recognises that the Iraq wheat debt has presented growers' organisations with the challenging task of communicating a complex issue to its members. However, relevant factual information should be readily available to wheat growers in the event of a default on payments. This was not the case with AWB's Pool Realisation Statements from the relevant period, where neither narrative comment on the insurance payments, nor a distinction in the financial statements between payments from ordinary sales and those from insurance payouts, was provided. Further, in addressing the concerns of their members over such issues, growers' organisations should be careful not to distort the reality of the situation in the interests of providing simple explanations.

Consultation with growers

4.15 The second issue concerning poor communication is the limited consultation with growers over the forgiveness of Iraqi debt. There are two interrelated elements to

7 Keith Perrett, GCA President, *GCA news release*, "Wheat producers misinformed over Iraq payment defaults", 26 July 2004

8 Department of Foreign Affairs and Trade, *Transcript of Evidence*, Canberra, 23 February 2005, p. 19

this: the first is the government's consultation with growers' representatives, the second is the consultation between those organisations and affected growers.

4.16 The committee precedes this discussion with the acknowledgement that, as the owner of the Iraq debt (through EFIC), any government consultation with growers over this issue is a recognition of their interest in the debt, rather than an obligation under the terms of the insurance held by AWB.

4.17 The joint submission outlined the consultation between the federal government, growers and their representative organisations before and after the decision to forgive the majority of Iraq's debt. This occurred on the following occasions:

- On 5 May 2004 the Minister for Trade and Minister for Agriculture, Fisheries and Forestry met with AWB Ltd and GCA representatives and 'relayed the Government's view that forgiveness of most of the outstanding debt would likely be required'.
- On 24 May the Minister for Trade and Minister for Agriculture, Fisheries and Forestry met with the President of WAFarmers' grains section to convey the government's position.
- On 31 May the Minister for Trade met with GCA and its affiliates to further discuss the debt forgiveness plan.
- On 2 June 2004, the Minister for Trade announced in a press release Australia's intention to forgive the majority of Iraq's debt through the Paris Club group of creditor nations.
- The Minister for Trade held two public meetings in Western Australian wheat growing regions, in Merredin and Lake Grace, on 30 June 2004.

4.18 WAFarmers informed the committee that on 14 May 2004 they received notice of a GCA teleconference for 16 May. According to WAFarmers, at this meeting:

... the GCA president advised that he had been in confidential discussions with the government for some time and had reached a position where on Monday 17 May, the government was intending to sign off on a debt forgiveness plan.⁹

4.19 On that day (17 May 2004), the GCA President wrote to the Prime Minister indicating the GCA and its affiliates' acceptance of the inevitability of debt relief to Iraq, while noting the decision 'could cause significant angst'.¹⁰

9 WAFarmers, *Submission 3*, p. 7

10 Grains Council of Australia, *Submission 1*, p. 4

4.20 WAFarmers submitted that they had very little opportunity to deliberate over the matter:

The delegates representing the state grower bodies affiliated with the GCA were advised of this matter with very little notice or opportunity to discuss what was presented very much as a *fait accompli*.¹¹

4.21 Media releases by the Minister for Trade and the GCA on 2 June 2004 announced an agreement between the government and the Australian grains industry to support forgiveness of the majority of Iraq's debt. GCA's statement included:

Following extensive consultation, the Government and Industry (Grains Council of Australia and its affiliates AgForce Grains, NSW Farmers, VFF Grains, SAFF Grains and WAFF and AWB Ltd) considers the interests of wheat growers are best served by accepting the inevitability of debt forgiveness and concentrating on the future of the Iraqi wheat market.¹²

4.22 The committee notes that on 2 June 2004 WAFarmers also released a press statement that included the following:

WAFarmers has given in principle support for a new deal which may see the eventual recovery of a proportion of the Iraqi wheat debt given back to individual growers but primarily focuses on a trade enhancement program to hold and build market share in Iraq.¹³

4.23 Although this position differs from the stance WAFarmers subsequently took, including their decision to resign from the GCA, the committee is aware of the short time frame growers' organisations had to consult with their members on the issue.

4.24 WGA submitted to the committee that:

During the April/May 2004 period there was a definite lack of industry consultation. This was demonstrated by the reaction of grass roots growers, particularly from Western Australia, when it became known in late May that certain decisions were said to have been arrived at after consultations with growers.¹⁴

4.25 They argued that 'there were issues addressed behind closed doors',¹⁵ reflecting a lack of grassroots consultation. According to WGA, this was evident in the public meetings conducted by the Minister:

The public meetings were used by the Minister and the GCA as a forum in which to defend decisions apparently made between the GCA and the

11 WAFarmers, *Submission 3*, p. 7

12 Grains Council of Australia media release, *Grains Council welcomes Iraq initiative*, 2 June 2004

13 WAFarmers media release, *Future of Iraqi market seen as a priority*, June 2 2004

14 Wheat Growers' Association, *Submission 2*, p. 4

15 Wheat Growers' Association, *Submission 2*, p. 4

Government in mid to late May 2004. It is the WGA's view that those decisions lacked proper process and failed to address the interests of the growers ...¹⁶

4.26 In its submission the GCA stated that:

The policies of the GCA are developed from policy positions of its members and become the policies of the Grains Council as a result of discussion and consultation between the members.

GCA policies represent an agreement by its members to a 'national policy position', reached through consensus or via majority decisions.

The Grains Council has NO policy positions arrived at independently of the policy development process described above.¹⁷

4.27 The committee notes that all member organisations supported GCA's policy on the Iraqi debt. Only WAFarmers have subsequently opposed the policy, still leaving a majority of the GCA's member organisations that support it. Furthermore, all GCA members agreed upon the ex-gratia payment and EFIC's insurance payout that affected growers had accepted these disbursements as full and final.

4.28 The committee acknowledges that the time available for consultation between the federal government and growers' organisations over the Paris Club agreement was limited. On the evidence available to the committee, there appears to have been little opportunity available for growers' organisations to properly canvass the views of their members on the proposal. The consequence is that growers may not have had sufficient opportunity to communicate their views before their representative organisations were required to support or reject the policy of securing limited repayments through the Paris Club.

4.29 However, as the legal owner of the Iraq wheat debt, EFIC, through the government, was entitled¹⁸ to negotiate repayments from Iraq in the manner it deemed necessary. Government consultation with the wheat industry was a matter of recognising their financial interest in the debt, not an obligation attached to it. The committee is also cognisant that the timing and nature of the Paris Club negotiations may not have allowed for more extensive consultation.

4.30 Further, the GCA may have been able to better consult with growers through its member organisations. The committee again reiterates that the GCA's presence at a public hearing would have been useful to ascertain the exact nature of discussions it had with its affiliate organisations during this period.

16 Wheat Growers' Association, *Submission 2*, p. 4

17 Grains Council of Australia, *Submission 1*, p. 1

18 This became the case after the legal assignment of the debt in 2004.

Chapter Five

Conclusions and recommendations

5.1 The committee recognises that wheat growers contributing to the national pools between 1987 and 1990 have suffered financial loss as a consequence of the imposition of United Nations (UN) sanctions against Iraq. For some, the extent of the loss would have been considerable. However, the trade in wheat with Iraq during that period was underwritten by insurance cover through the government-funded Export Finance and Insurance Corporation (EFIC), which paid out US\$381.2 million (approximately 80 per cent of the debt owing) in 1991 and 1992. In October 1991, the federal government also made an ex-gratia payment of \$31 million to growers for losses directly attributed to the imposition of UN sanctions on Iraq. As noted in this report, these payments were accepted as full and final by the growers' peak representative body, the Grains Council of Australia (GCA).

5.2 During this inquiry, both WAFarmers and the Wheat Growers' Association (WGA) argued that the government owed a moral obligation to compensate growers for their loss. This was on the basis that growers had disproportionately borne the financial impact of governmental decisions, being:

- (i) The imposition of UN sanctions on Iraq; and
- (ii) Participation in the Paris Club's debt rescheduling agreement.

5.3 The committee rejects these arguments. Firstly, Australia's compliance with UN sanctions reflected a legal obligation under international law; there was in fact no federal government 'decision' that caused Iraq's default.

5.4 Secondly, the Paris Club represents the best, and possibly only, hope of recovering any debt repayments from Iraq. During the inquiry, WAFarmers and WGA informed the committee that Iraq had 'promised' to repay their debt to Australian growers, implying that the Paris Club agreement reflected an abandonment of a possible full recovery of the debt. Aside from the fact that Iraq's parlous financial predicament precludes this, the committee notes that any debt repayments Iraq is claimed to have promised AWB or AWB Ltd are not relevant to this issue, given that the Iraq wheat debt is legally owned by EFIC.

5.5 Woven into the justifications for federal government compensation is the inference that EFIC could afford to forgo some of its debt repayment entitlement because it is a taxpayer-funded entity. The committee does not believe that this is a reasonable inference. Simply because the funding for government compensation payments can be spread across a large taxpayer base, it does not follow that taxpayers, through the government, should automatically compensate the growers who have suffered a financial loss, albeit through no fault of their own.

5.6 Accordingly, it is the committee's view that a government compensation payment is not justified by the arguments presented by WAFarmers and the WGA. Furthermore, such a measure would potentially create uncertainty over EFIC's future viability.

5.7 In evidence, the Department of Foreign Affairs and Trade (DFAT) argued that any scenario in which EFIC was to forgo its entitlement to allow growers to be fully compensated would create a dangerous precedent:

If the Government or EFIC were to pay out the proportion of loss required to be borne by individual exporters, this could undermine the integrity and future operations of the NIA. It could, for example, encourage individual policy holders to consider that 100 per cent of any loss could be recovered by lobbying the Government; diminish the authority and standing of contracts entered into with EFIC; and reduce incentives for insured parties to make financially prudent decisions about high risk markets. Once a precedent was established it would be difficult to prevent broadening and consequential undermining of EFIC/NIA insurance arrangements.¹

5.8 The committee agrees that growers should not receive an amount greater than 20 per cent of the total sum paid by Iraq. To do so would indeed undermine the future viability of NIA insurance arrangements and reflect a short-sighted approach to export insurance arrangements. Although EFIC is a government entity, the insurance policies they provide to exporters represent commercial agreements that ought to be free from governmental intervention; potential or retrospective.

5.9 However, the committee considers it reasonable for growers to request that the payments they are scheduled to receive under the Paris Club agreement be made as early as possible. In their submission, GCA attached a letter to the Prime Minister in which they outlined a resolution supported by all GCA members (except WAFarmers). This resolution included the request that:

Any monies recovered ... be disbursed back to industry first.²

5.10 In evidence to the committee, the government ruled out the prospect of AWB Ltd receiving their repayments before EFIC. DFAT officers told the committee that:

The standing government policy is that any and all recoveries will be divided on that 80-20 split from the first dollar received until the last dollar recovered.

5.11 As to the timing of the distribution of Iraq's debt repayments, the committee believes the government (through EFIC) should allow some flexibility in this instance. In a farming context, the length of time Iraq has owed this debt renders the timing of the repayments a particularly salient issue. The time span between Iraq's default and

1 Department of Foreign Affairs and Trade and Department of Agriculture, Fisheries and Forestry, *Submission 5*, p. 12

2 Letter from GCA to Prime Minister dated 9 December 2004, *GCA Submission 3*, p. 7

their repayment schedule dictates that only payments in the early stages of the repayment schedule will directly benefit affected growers, if at all. Payments received in 2028 will arrive 38 years after UN sanctions were imposed on Iraq, a period over which few, if any, affected wheat growers will still be growing wheat. It is likely a majority will be deceased. These considerations are not as important to a government insurer, and ought to be taken into account if all parties are to benefit meaningfully from the Paris Club agreement.

5.12 An arrangement between AWB Ltd and EFIC to alter the timing of the distribution of these payments would not, in real terms, affect the equitable 20-80 division of recovered money between growers and taxpayers. Therefore, due to the long period of time involved in the recovery of these repayments, the committee considers it appropriate that affected growers receive the first 20 per cent of payments made and makes the following recommendation.

Recommendation 1

5.13 The committee recommends that the Export Finance and Insurance Corporation and AWB Ltd agree to a distribution of Paris Club scheduled repayments that enables growers, through AWB Ltd, to receive the first 20 per cent of repayments from Iraq, beginning in 2011.

5.14 Whether or not growers recover their debt repayments in advance of EFIC's own entitlements, the committee recognises that identifying every grower affected by Iraq's default will be potentially time consuming and expensive. Although the majority of growers will volunteer their entitlement to payments, many others will need to be individually located and contacted. It is the committee's view that this process should begin immediately, as the more time passes the more difficult the task will become.

5.15 Moreover, the distribution of costs associated with this process should also be resolved. The committee recognises that while AWB Ltd will incur these administrative costs before a proportion of affected growers are identified and located, these expenses should not ultimately be borne by growers unaffected by Iraq's debt, and consequently not entitled to any repayments.

Recommendation 2

5.16 AWB Ltd immediately commences the process of identifying and locating every grower entitled to receive payments made by Iraq under the Paris Club agreement. Further, prior to the commencement of Iraq's scheduled debt repayments in 2011, AWB Ltd undertakes to establish a payment mechanism whereby those receiving Iraqi payments are responsible for meeting the costs of their distribution.

5.17 Finally, the committee is of the view that AWB Ltd and GCA need to improve the clarity of their communication with wheat growers. Further, AWB's Pool Realisation Statements should clearly identify, and preferably elaborate on by way of

narrative comment, extraordinary payments made to growers through AWB's pool payments.

Senator Aden Ridgeway
Chair

Dissenting Report by Senator Bob Brown

The Committee has acknowledged the absurdity of growers waiting until 2028 for repayment of the Iraq wheat debt – few will be farming and the majority will be dead.

It fails the same logic to recommend that growers wait until 2011. Some will have already left and a number will have already died.

The recommendations would have been more logical and fairer as follows:

Recommendation one:

The government should within 12 months undertake to repay growers the outstanding Iraq wheat debt and to cover the cost of this redistribution.

Recommendation two:

That the Export Finance and Insurance Corporation and AWB Ltd ensure that the first 20 per cent of Paris Club scheduled payments, beginning in 2011, are returned to the government.

Recommendation three:

That, to assist the government, the AWB Ltd immediately commence the process of identifying and locating every grower entitled to receive payments made by Iraq under the Paris Club agreement.

Senator Bob Brown
Australian Greens

Appendix 1

List of submissions

1. Grains Council of Australia
2. Wheat Growers Association Inc.
3. The Western Australian Farmers Federation (Inc)
4. AWB Limited
- 4A. Confidential submission
5. Department of Foreign Affairs and Trade & Department of Agriculture, Fisheries and Forestry

Appendix 2

Witnesses who appeared before the committee at the public hearings

Tuesday, 22 February 2005

Perth

Wheat Growers Association Inc

Mr Robin Iffla, Chairman

Mr Trevor Badger, Secretary

Mr Peter Wells, Adviser

Pastoralists and Graziers Association of Western Australia

Mr Leon Bradley, Chairman, Western Grain Growers Division

Mr Rick Wislon, Vice Chairman, Western Grain Growers

Ms Emma Field, Policy Director, Grains

Western Australian Farmers Federation Inc.

Mr Trevor De Landgraft, President

Mr Alex Wahlsten, Grains Section President

Mr Douglas Parker, Executive Director

Wednesday, 23 February 2005

Canberra

Department of Foreign Affairs and Trade

Mr Stephen Deady, First Assistant Secretary, Trade Development Division

Mr Mark Pierce, Assistant Secretary, Market Development Branch

Mr Ian Dickson, Executive Officer, Trade Finance Section, Trade Development Division

Department of Agriculture, Fisheries and Forestry

Mr David Mortimer, Executive Manager, Food and Agriculture Division

Mr Roland Pittar, General Manager, Crops, Wine and Horticulture Branch

AWB Ltd

Mr Charles Stott, General Manager, Rural Services

Mr Christopher Taylor, Commercial Manager

Appendix 3

List of tabled documents and additional information

Tabled Documents

Date	Tabled by	Description
22/2/05	Pastoralists and Graziers Association of Western Australia	Information brief titled "Iraq Debt – the Facts" (<i>Hansard</i> p. 2)
22/2/05	Pastoralists and Graziers Association of Western Australia	GCA memorandum -16 July 1993 (<i>Hansard</i> p. 2)
22/2/05	WAFarmers	Minutes of meeting – undated (<i>Hansard</i> p. 21)
22/2/05	WAFarmers	GCA meeting agenda - 2 August 2001 (<i>Hansard</i> p. 21)
22/2/05	WAFarmers	WAFarmers 'grain grabs' press release "Iraq wheat debt" - June 2004 (<i>Hansard</i> p. 21)
22/2/05	WAFarmers	Email correspondence from GCA – 14 May 2004 (<i>Hansard</i> p. 21)
22/2/05	WAFarmers	Video "Iraq debt" (<i>Hansard</i> p. 21)

Additional information provided to the Committee

Date	Provided by	Description
3/3/05	Department of Foreign Affairs and Trade	Letter to the Committee secretary clarifying statements made in evidence (see <i>Hansard</i> pp. 17-18)
18/3/05	Department of Foreign Affairs and Trade	Letter indicating that information on negotiations into terms of EFIC insurance could not be located (see <i>Hansard</i> p. 16)
21/3/05	Pastoralists' and Graziers' Association of Western Australia	Letter to Committee responding to claims made in evidence (see <i>Hansard</i> p. 63)
22/3/05	Export Finance and Insurance Corporation (EFIC)	Response to Committee request for information on EFIC's insurance arrangements with AWB
23/3/05	AWB Ltd	Response to questions taken on notice (see <i>Hansard</i> p. 3, p. 10 and p. 13)
11/4/05	AWB Ltd	Further response to question on notice (see <i>Hansard</i> p. 11)
16/5/05	AWB Ltd	Further response to question on notice (see <i>Hansard</i> p. 11)
23/5/05	EFIC	Further response to Committee request for information on EFIC's insurance arrangements with AWB
2/6/02	DFAT	Clarification of information provided in the joint submission