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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT
REFERENCES COMMITTEE

Reference: Iraqi wheat debt

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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE

Wednesday, 23 February 2005

Members: Senator Ridgeway (*Chair*), Senators Buckland, Heffernan, McGauran, O'Brien and Stephens

Participating members: Senators Abetz, Allison, Boswell, Brown, George Campbell, Carr, Chapman, Colbeck, Coonan, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Greig, Harradine, Hutchins, Ludwig, Knowles, Lightfoot, Sandy Macdonald, Mackay, Mason, McLucas, Nettle, Payne, Ray, Santoro, Tchen, Tierney, Watson and Webber

Senators in attendance: Senators Buckland, Ferris, Heffernan, McGauran, Ridgeway and Stephens

Terms of reference for the inquiry:

To inquire into and report on:

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

- how decisions were made; and
- the impact on wheat growers.

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Committee met at 9.50 a.m.**STOTT, Mr Charles Eric, General Manager, Rural Services, Australian Wheat Board Ltd****TAYLOR, Mr Christopher, Commercial Manager, Australian Wheat Board Ltd**

CHAIR—I welcome you all here today. I declare open this public hearing of the Senate Rural and Regional Affairs and Transport References Committee. The committee is inquiring into the compensation arrangements for wheat growers following the writing off of the Iraq wheat debt. This is a public hearing and a *Hansard* transcript of the proceedings is being made. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the order of the Senate of 23 August 1990 concerning the broadcasting of committee proceedings.

Before the committee starts taking evidence, I place it on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee and evidence given. Any act by any person which may disadvantage a witness on account of evidence given by him or her before the Senate or a Senate committee is a breach of privilege. While the committee prefers to hear all evidence in public, the committee may agree to take evidence confidentially. If the committee takes confidential evidence it may still publish or present all or part of that evidence to the Senate at a later date. The Senate also has the power to order production and/or publication of confidential evidence and the committee would consult the person whose evidence the committee is considering publishing before taking such action.

I also draw your attention to the continuing resolution relating to the claims of commercial confidentiality. Under the resolution the claim to withhold information on the basis that it is commercial-in-confidence can only be made by a minister and must include a statement setting out the basis for the claim, including a statement of any commercial harm that may result from the disclosure of the information. I ask everyone present to ensure that their mobile phones are turned off or rendered inaudible. Our first witnesses today, via teleconference, are representatives from AWB Ltd. Do either of you have anything you would like to add to your witness details?

Mr Stott—I appear as general manager of rural services for AWB. I was marketing manager for Middle East, Europe and Africa for the period from 1986 to 1996. From 1996 to 2000 I was not with AWB, but from 2000 onwards I was with AWB as the global marketing manager for the company.

Mr Taylor—I appear here today because in the early 1990s I was in the accounting group running the underwritten pools at the time. I have some knowledge of the accounting transactions that relate to the relevant pools that we are dealing with as part of this inquiry.

CHAIR—Thank you both. Mr Stott, before I ask you to make an opening statement I need to discuss your submission. In your submission you have requested that the committee treat it in confidence—that is, it is not to be published. I am advised that under Senate rules reasons must be provided for this request being made. So far reasons have not been provided. Can you respond to that issue and provide reasons? Obviously the committee is going to have to meet

privately at a later stage to make a decision on whether or not to publish. What would assist us in that process are the reasons or explanations that you might provide at this time.

Mr Stott—Certainly, Chairman. Firstly, I would like to thank the committee for allowing me to present via phone. I apologise for not being able to attend in person but we have a board day in Melbourne today. As for our concerns as to the confidential nature of the information we are going to talk about, they were just in respect of potential customer reaction. Obviously Iraq is a very important market for us and that is why I wanted to be cognisant that anything that we put on the public record not be misconstrued by our customers in Baghdad.

CHAIR—The committee is going to have to meet and make a decision on that at some stage. As well, we may well come back to you and talk through some of those issues. I am now going to ask you to make a short opening statement to your submission.

Senator HEFFERNAN—Before you do that, I wish to ask you this: have you blokes got to go to the board meeting today?

Mr Stott—Yes, I do.

Senator HEFFERNAN—Both of you? What about Mr Taylor?

Mr Taylor—No, I have no board commitments.

Senator HEFFERNAN—So is there any real reason why you could not have been in Canberra other than that you are not allowed?

Mr Stott—He is certainly allowed to come to Canberra.

Senator HEFFERNAN—I am just wondering why you are not here today.

Mr Stott—As I said—

Senator HEFFERNAN—You have got enough money to run around on the road shows all the time.

Mr Stott—I do apologise for not being there. It is only simply because of my board commitments today—

Senator HEFFERNAN—But that is you.

Mr Stott—Yes.

Mr Taylor—We thought it would be more efficient that we both handled this together rather than one of us being in Canberra and one being in Melbourne.

Senator FERRIS—That should have been our choice.

Senator HEFFERNAN—Do you actually publish how much it costs to run around with the road shows that you have got on at the present time?

Mr Stott—Obviously, as a publicly listed company, we disclose all our financial information on an annual basis.

Senator HEFFERNAN—Yes, but can you pick it out of the information? Whether it is to benefit the shareholders or the growers I am not sure, but certainly there has been a bit of PR and I just wondered how much it all costs. That is a pretty simple question. You might provide the cost of the road shows and flying people to the footy and all that sort of thing to us in due course.

Mr Stott—I will take your question on notice.

Senator HEFFERNAN—Thank you.

CHAIR—We will go back to Mr Stott and Mr Taylor. Would you provide a short opening statement to your submission and we will go to questions following that.

Mr Stott—Certainly, Chairman. I thought we could take the submission as read, but it may be useful for me to give you a bit of insight into the market conditions that were apparent in the 1980s and 1990s. That might give you a bit of a feel for the marketing of grain at that time, if you think that would be useful.

CHAIR—Yes, that would be useful.

Mr Stott—From 1980 to 1988 Iraq was at war with Iran. It was an eight-year war. It was basically supported by the US. Through that period Australia, via the AWB, was Iraq's major supplier. We were supplying about two million tonnes of wheat each year. To put that in perspective given the crop sizes that Australia produced, every five to six years effectively Iraq was consuming one year of Australia's entire wheat production, so it was a very important market for us. We worked extremely hard through the darkest years of the eighties during the Iraq-Iran war to maintain food supplies. We maintained food supplies to both markets, Iraq and Iran. All the Iraqi ports were closed off. We could not ship any grain up to the Gulf port of Umm Qasr so we shipped to Aqabah, Jordan, which is on the Red Sea, and then we trucked the grain some 1,800 kilometres to Baghdad in 30-tonne trucks. There were about 67,000 to 70,000 truck movements one way to Baghdad and obviously the same number back.

The world market at the time was corrupted by subsidies. The US had the EEP program in place and the Europeans had their own subsidy programs in place, so effectively the Europeans and the US were fighting it out in the global market with subsidies to try to maintain market share. The market prices for grain were very low at the time. Another feature of the market was that credit was a major factor in the purchasing decision of several countries, including Iraq. The US had three credit programs. They were supplying GSM 102, which was a three-year credit program. They also had GSM 103, which was a 10-year credit program, and they had a food aid program, which was a 25-year credit program and was a debt which was not repaid.

Iraq only purchased grain on credit. They purchased grain on credit from the US on three-year terms and they purchased grain on credit from the AWB on two-year terms. We would annually

go to EFIC for credit coverage and invariably the size of the credit that we were seeking on an annual basis was not able to be covered by EFIC, so it was referred on to Canberra for consideration under the national interest account. Australia was the major supplier into Iraq and we were growing our market share there. We were doing about 70 to 80 per cent of their total market. The Iraqis preferred Australian wheat because of its milling quality characteristics and, in comparison to US competitors, for a tonne of Australian wheat you could produce more flour per tonne. The US was our major competitor in that market. We were also an apolitical supplier, which was important at that time, so we did not get involved in any regional politics. You recall that our major competitor was heavily embroiled in regional politics with Iran and Iraq at that time.

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. Obviously, in January-February 1991, the US-led UN coalition liberated Kuwait and then we were back in the market after that. I thought that that might be useful in giving you a bit of flavour for the market at that time.

CHAIR—Does Mr Taylor wish to add anything?

Mr Taylor—When I joined the Australian Wheat Board in 1991, I was involved in our pool accounting area. Soon after joining, my team at the time got involved in winding up these wheat pools, and so I have some knowledge on the accounting related transactions and the impact on growers from a financial perspective. If there are any questions on this, I can contribute during this hearing.

Senator BUCKLAND—Are you of the view that farmers are being expected to bear the cost of the government's decision to forgive Iraq's debt?

Mr Stott—Back in 1990 when we made the wheat sales on credit, we had credit coverage in place. We claimed against that policy and we were repaid 80 per cent of the debt, which was the term of the credit insurance against that policy. From my perspective, the commercial arrangements that we had in place at the time with EFIC and the government had been fully met.

Senator BUCKLAND—And that was paid in 2004—is that correct?

Mr Stott—No, it was paid in 1991. We put the claim in in 1991 and it was paid in that year.

Senator BUCKLAND—So as a result of some discussions with the Paris Club—it sounds fairly exclusive—it appears that there was an insurance payment made to EFIC. Is that right? That was in 2004.

Mr Stott—I am not aware of any payments made by the Paris Club to EFIC in 2004.

Senator BUCKLAND—What was the insurance payment in 2004? Tell us about that. Or am I barking up the wrong tree?

Mr Stott—I am not aware of any payments that were made in 2004.

Senator HEFFERNAN—Tell him he is barking up the wrong tree.

Senator BUCKLAND—Did AWB consider commercial insurance for the residual amount not covered by the national interest cover?

Mr Stott—Yes, at the time we did. It depended on the liquidity of the commercial insurance market. It was obviously very tight, because commercial insurance was not available in the volumes that we needed or at a level that was commercially sensible for us to sell off at at risk.

Senator BUCKLAND—I see. How did you inform the growers about that, or didn't you?

Mr Stott—The growers were informed of the sales that we made and were aware of insurance policies that we had with EFIC and the support that we had from the government under the national interest account.

Senator BUCKLAND—Talking to the grower groups in Western Australia yesterday, one got the impression that they are not very happy with the world as it exists regarding this debt. What reaction have you had directly from grower organisations? Does it support my view that I formed yesterday?

Mr Stott—We have obviously had dialogue with grower organisations. From my perspective, if we go back to 1990 and the claim that we made, we got the payment from the government under our EFIC policy. Obviously, throughout the nineties and up to 2004, we worked very closely with the Iraqis and continued to supply their humanitarian requirements. 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.

Senator BUCKLAND—Has AWB had any direct payments from Iraq, following the imposition of the UN sanctions?

Mr Stott—No, other than payments that were received via the UN oil for food program. But no payments in relation to this debt have been received from the Iraqis.

Senator HEFFERNAN—What we are arguing about here is about \$2.50 a tonne out of the pool at the time, is it?

Mr Taylor—Overall, that is about the average.

Senator HEFFERNAN—That is near enough.

Mr Taylor—Yes.

Senator HEFFERNAN—You may not be able to provide this because there would be some commercial aspects to it, but do you have any idea of what the premium was that we were able to extract for the price of the wheat at the time because of the fact that we could sell the wheat and because of the fact that we could get the insurance backing to do it? What sort of a premium do you think we paid into Iraq as opposed to into wherever at the time?

Mr Stott—We extracted very good premiums from the Iraqi market. It 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. Obviously the quantum of the premium that was achieved vis-a-vis our next best alternative is, even today, commercially-in-confidence because we are still endeavouring to extract significant premiums from the IGB.

Senator HEFFERNAN—But it would be reasonable to say that it would be a reasonable offset to the \$2.50 a tonne and the bit that went bad.

Mr Stott—I think that would be reasonable.

Senator HEFFERNAN—Also, because of our excellent track record—that is, the Wheat Board and everyone connected with the sales to Iraq at the time, the quality of the wheat that suited them and the working relationship we developed with Iraq—we were able, through the later period of the oil for food business, to sell a lot more wheat to them.

Mr Stott—That is correct.

Senator HEFFERNAN—So it would be reasonable to argue, as I tried to argue in Perth yesterday, that that would also have to be part of the offset to the \$2.50 a tonne loss on the three pools for the bit that went bad.

Mr Stott—That would also be reasonable.

Senator HEFFERNAN—Could you explain to me why the uninsured portion, under the insurance cover, was assigned to EFIC only last year?

Mr Stott—My view is that, under the terms of the insurance policy, on the date that we got compensated, or the government paid us out on the insurance claim, the entire debt was given to the government to pursue on a government to government bilateral basis. I suspect it is best to refer that question to EFIC. I only 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.

Senator HEFFERNAN—As I said yesterday, if you buy a car and it gets written off, the insurer gets the wreck.

Mr Stott—That is correct.

Senator HEFFERNAN—Thanks very much.

Senator McGAURAN—In your opening statement you mentioned that you wanted to keep all of your submission confidential. You said that one of the reasons was customer reaction. Can you explain that to us?

Mr Stott—I am happy to review our position in light of what we discussed at the meeting today. My concern is around premiums. Obviously, I do not want my Iraqi customers to know that we extract very good premiums from them vis-a-vis our next best alternative, because of the quality nature of our product and the whole marketing proposition that we put around our product. That is my sensitivity. I am very worried about the Iraqis being able to use against me, at a negotiating table, the fact that I have stated on public record that they are a high premium paying customer vis-a-vis my next best alternative.

Senator McGAURAN—Just to confirm perhaps the obvious—nevertheless we must, for the sake of the *Hansard*—that higher premium is gained particularly by the export cover insurance. You just could not do it without it.

Mr Stott—That was certainly a significant factor in the negotiations. You could not do business with Iraq at that time unless you could put credit on the table.

Senator McGAURAN—And you have always understood it to be a commercial relationship?

Mr Stott—Absolutely. While credit was an important component, there were other important components to our relationship. One component was the quality of the product we were supplying, and it was a superior quality product to our competitors'. The second was the service. The third was the fact that we have worked with the Iraqis through some very difficult times. There is an old Arab proverb that says, 'A friend in need is a friend indeed,' and we subscribe to that Arab proverb. We were set to enjoy the benefits of the conclusion of the Iraq-Iran war but unfortunately Iraq invaded Kuwait. The rest is well known.

Senator McGAURAN—That was very helpful but I also meant the commercial relationship with EFIC.

Mr Stott—EFIC and the Australian government supported us throughout that period extraordinarily well. When we needed access to credit they provided us with credit lines. 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 to get credit cover support but they supported us at that time and I am very grateful for that support. Without credit cover, we would not have sold the volumes that we sold to Iraq.

Senator McGAURAN—I know Senator Ferris is going to pursue this particular line but I will just let you know about an answer given by the Western Australian Farmers Federation yesterday. As you know, they are seeking the full \$98.1 million. When they were asked about the \$38 million gratuitous payment and the \$20 million to come for the grains facilities and whether that should be deducted from the \$98.1 million, they said, 'No.' Would you like to comment on that? What do you think?

Mr Stott—At the time of the claim, we were instructed by the Australian government, as a result of compliance with UN sanctions, to cease our trade with Iraq and to divert cargoes on the water that were destined for Iraq. We obviously had contractual commitments with shipping companies and stevedores, and we had tonnage commitments that we had allocated to Iraq that we could now no longer provide to Iraq. So in 1991 we submitted a very detailed compensation claim for losses incurred as a result of Australia's participation in the United Nations embargo on trade with Iraq, which was announced by the Australian government on 8 August 1990. So we submitted that claim for compensation. We received in the order of \$31 million. It was separate to the insurance cover. That was direct compensation as a result of the embargo. We signed a release to the government that we would make no further claims on the government after receiving that compensation at that time in relation to disruption to our trade. Obviously, the insurance cover with respect to the credit sales was handled separately. That did not form part of the compensation claim.

As for your comments regarding the future of Iraq, I think the proposal for the \$20 million grain storage and processing facility is a very sound development and is helpful in securing long-term access to this important market. We face very stiff competition at the moment from the US. The US obviously have a very strong presence in the country at the moment and we are continuing to maintain a significant market share. Long-term access to Iraq is important to us. Any support we can get to help the Australian wheat growers continue to have long-term access to the market would be greatly welcomed by us, the Australian wheat growers and, I am sure, the Iraqis.

Senator McGAURAN—With regard to the attempts to rewrite this commercial agreement, as I would see it, do you think that could have an effect on future premiums if this came about on every occasion—that is, the 20 per cent uncovered? Do you think that would affect your premiums if a commercial relationship is going to be rewritten in this way?

Mr Stott—At the moment credit is really not a feature of the global trade in grain as it was in the eighties and the nineties when the US and the Europeans were basically matching program for program. Most of the sales now are made on standard commercial terms through commercial credit programs. That is not to say that we may not have a call in the future, and credit may indeed be a feature of the market economy going forward. Certainly the terms of the policy at that time will depend on the environment at that time. It will be considered in light of historical performances.

Senator STEPHENS—Following Senator McGauran's question about the compensation package, the ex gratia payment of \$31 million, was any of that distributed to the growers?

Mr Stott—Yes, Senator. The entire sum was distributed to the growers.

Senator STEPHENS—The issue of the 80 per cent payment by EFIC obviously causes some confusion. The evidence that we have heard to date is based on an assumption that the 80 per cent of debt forgiveness that occurred by the Paris Club equates to that 80 per cent portion paid by EFIC, and therefore the 20 per cent to be repaid from 2011 will pass directly to the growers. Is that your understanding?

Mr Stott—No, that is not my understanding. Whatever the government has decided to retire or forgive via the Paris Club process and 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. That is my understanding.

Senator STEPHENS—Have you communicated that to your members?

Mr Stott—Yes.

Senator STEPHENS—That did not seem to be the evidence that we heard in Western Australia yesterday. That certainly did not seem to be their understanding.

Senator FERRIS—Mr Taylor, can we begin by talking about the AWB's policy on EFIC insurance and the issue of insurance in general. When the decision was made to not insure the outstanding 20 per cent, was that a decision based on cost or was it based on the fact that you thought there was a reasonable chance that the payment would be met?

Mr Taylor—I might defer to Mr Stott on that one because he has previously covered part of that.

Mr Stott—Senator, I think it is exactly as you described: it is basically cost. One issue was that it was quite expensive to try and cover that remaining 20 per cent in the marketplace in a commercial market. Another was that the Iraqis had an impeccable payment record. We had been supplying grain to Iraq on credit throughout the eighties, and they had always consistently paid on the due date. We had no forewarning that they were going to go into Kuwait and UN sanctions were going to come on. Obviously, with the benefit of hindsight, you would have covered that off but, at the time, there was a very strong likelihood that we would get repaid. Finally, there was a liquidity issue in the marketplace. Because of the amount of coverage that we were trying to get in the commercial market, there was no debt, so there really was not a market there for selling off that 20 per cent.

Senator FERRIS—When you say it was very expensive, what would it have cost the growers at the time if you had decided to insure that remaining 20 per cent?

Mr Stott—We had some figures of up to 80 per cent of the value.

Senator FERRIS—Eighty per cent of the value to insure the 20 per cent?

Mr Stott—Correct.

Senator FERRIS—Right, that is interesting. Can I ask you generally now what your policy is in relation to insurance? I am not asking you to disclose the countries, but can you tell me what the AWB's policy is on insuring for payment now?

Mr Stott—We have a zero risk appetite.

Senator FERRIS—Is that well known and understood by growers?

Mr Stott—Yes.

Senator FERRIS—At the time you decided to float the 20 per cent free on a risk basis, was that communicated to growers? Would it have been known by growers at the time?

Mr Stott—It was certainly an item that was extensively discussed internally in the organisation at that time. Given that the board was basically comprised of growers and a government representative at that time, yes, it was discussed extensively with the grower community via the board and also when we presented to grower groups on the marketing environment. Obviously, Iraq was a very interesting market. Iraq and Iran were our No. 1 and No. 2 customers and we were supplying both of them while they were warring against each other. There was a great degree of interest as to the risks that were associated with the countries. I ran on two passports at the time and the government supported me. I would be in Baghdad one day and in Teheran the next. It obviously had a very high profile and certainly we were very open in our approach with that market.

Senator FERRIS—I want to clarify something. Did I hear you say in the early part of your answer to that question that there was a grower representative on the Wheat Board at the time? So the Grains Council would have been aware of your decision to forgo the 20 per cent insurance based on the likely cost?

Mr Stott—It was not one grower representative, Senator. There was one government representative; the rest of the board comprised growers.

Senator FERRIS—I am trying to establish whether there was a Grains Council representative. What I am trying to get at, Mr Taylor, is the communication flow back to the growers of the decision and the reason for it at the time.

Mr Taylor—We will have to take that one on notice. We need to go back and look at the construction of our board at the time and determine which board members were members of—

Senator FERRIS—I would appreciate that, because I think the communication issue is a point of principle in relation to this issue. In 1993 a document was prepared by the Grains Council. I want to read you one paragraph, which is on page 5 of that document, to see if you have got a response to it. It says:

In general, the bottom line is that wheat growers are better off running the gauntlet of incurring the loss of 20 per cent of the total value of the credit sale made at a much higher price than would have otherwise been the case had the sale either been made at a lower cash price or sold into an alternative lower priced, less preferred cash paying market.

This is a document written by Mitch Hooke, who was the then executive director of the Grains Council.

Mr Stott—What year was that, Senator?

Senator FERRIS—The document is dated 16 July 1993.

Mr Stott—That is a reasonable statement by Mitch Hooke. He was with the Grains Council at the time, wasn't he?

Senator FERRIS—Yes, he was. But would the Wheat Board agree with the principle of that statement—that is, it was better for growers to run the gauntlet of chancing their arm on the loss to get premium market price?

Mr Stott—Mitch always had an eloquent turn of phrase. I would not necessarily argue with the sentiment behind his proposition.

Senator FERRIS—You almost did in answer to questions earlier today when you were talking about risk factors in premium markets. Anyway, I thought it was an interesting document for the Grains Council to have at the time. One of the other issues I wanted to raise with you was the continuing status of the claim. In your submission you state:

Growers were advised of the status of the claim through the publication of annual Pool Realisation Statements and media releases issued at the time.

One of the criticisms that has been made by some grower groups, not all, is the lack of communication by the Wheat Board at the time, which is why I asked you the question about Grains Council representatives on the board. Is it possible for this committee to be supplied with excerpts from the pool realisation statements and the media releases of the time?

Mr Stott—Certainly.

Senator FERRIS—Further on on that page, you say:

Despite EFIC now owning the total debt, in accordance with the Policy, AWBI retains the right to receive pro rata payments of any amounts recovered by EFIC concerning the debt.

On the next page you talk about the difficulties. You say:

It is believed this process could be difficult, potentially costly and time-consuming.

Would you be able to give us an estimate of the likely cost of trying to identify those growers in the 1990s—for those three years—and what sort of price that would extract from any likely return that might be made available?

Mr Taylor—We do have the record. We have maintained the record of all the growers who delivered. Over that time there is a big movement in our grower database. Growers change their farming relationship, they move in and out of the industry, they sell their entitlement—

Senator HEFFERNAN—Go to the farming fields in the sky.

Mr Taylor—That is right. To be frank, we have not fully analysed the issues involved in taking out any further payments.

Senator FERRIS—But it would obviously come out of any payments that were received before distribution to those growers.

Mr Taylor—Those decisions would have to be made.

Senator FERRIS—It is reasonable to think that growers of today may well find themselves having to pay some portion of the costs of any distribution to growers of 14 years ago.

Mr Taylor—There has been no decision made on that.

Senator FERRIS—It is an interesting point of principle though. I want to take you to another comment you make on page 10 of your submission where you say:

... AWBI is realistic about the likelihood of recovering the full debt and understands the Federal Government's decision to retire a portion of debt owed to Australia ...

That is through the Paris Club. I would like to take you to an answer that was given by the then minister for primary industries, Simon Crean, on 26 February 1992. I will quote the paragraph to be fair in asking you to comment on it. He said:

(3) An ex-gratia payment of \$31 million was made to the AWB in October 1991 for losses arising from the imposition of the United Nations trade sanctions on Iraq. This payment covered losses on contracted tonnages of wheat and associated costs involved in reselling that wheat to alternative markets. The AWB accepted the payment as full and final settlement with the Government for their losses.

That statement that was made in 1992 by then primary industries minister Simon Crean is still the position of AWBL and AWBI today? That is, those two sets of payments were accepted then and still are as full and final settlement with the government for their losses?

Mr Stott—Yes.

Senator FERRIS—Why did your chairman, Brendan Stewart, say to grower groups in Western Australia in recent times that growers should still remain optimistic that they would receive some payment?

Mr Stott—We have always believed that by keeping a very close relationship with the Iraqis they would honour the debt commitment. They said that on numerous occasions. In 1991 the first agenda item of our discussions, within 48 hours of hostilities ceasing when we went through to Baghdad, was the repayment of the debt. They constantly acknowledged the debt and constantly acknowledged that they would honour their debt commitments once the UN sanctions were lifted. Unfortunately, in March 2003 the government we were working with in Iraq was ousted and we have a completely different environment. Obviously, if the government is successful in getting any money for the repayment of the debt then we are confident that growers will receive their proportion of that, being 20 per cent.

Senator FERRIS—So Mr Stewart was simply reflecting that view to the growers?

Mr Stott—Yes.

Senator FERRIS—In the submission that the Wheat Growers Association put up to us yesterday, Mr Iffla was arguing that the growers should receive the payment from the government. However, during questioning, he ultimately agreed that in fact the government had no legal obligation to meet the debt; it was simply a moral obligation. He then went on to say that he believed that the government was morally obligated to advance the Paris Club agreed payment as a cash advance to growers to enable growers to ‘carry on farming’. Do you have a comment to make on that?

Mr Stott—Certainly. I am very clear on the facts pertaining to the commercial arrangements that were in place at the time, and we have received our entitlement under those insurance policies. I will leave this committee to decide what to do about the moral obligations.

Senator FERRIS—But the Wheat Board does not agree that there is a moral obligation, nor that there should be a cash advance?

Mr Stott—I have no comment to make on the moral obligation.

Senator FERRIS—But there is no legal obligation?

Mr Stott—The commercial obligations and the legal obligations in accordance with the policy have been met.

Senator HEFFERNAN—I noticed the value of the dollar back in those days was about where it is now. Is that correct?

Mr Taylor—Yes.

Senator HEFFERNAN—Just for historical purposes, do you have any idea of the comparison between the pool return then and now?

Mr Taylor—We would have to take that one on notice and get back to you.

Senator HEFFERNAN—It was a curiosity thing. The dollar was about where it is now. I appreciate the price of wheat is what I would call ‘s-h-i-t’ at the present time, but I just wondered what the difference was so as to put this into some sort of context. Whether you just say what the ASW was then and what it is now—or the H2—I would be interested to know what the pool return was. If you do not have that information but you can get it, that would be helpful.

Mr Stott—Certainly. We do have some information here on the pool return at that time.

Mr Taylor—In our submission, you can actually see that, from between the 1987-88 season and the 1989-90 season, the average pool returns ranged from \$164 in 1987-88 to \$205 in 1988-89 to \$180 in 1989-90. That was obviously a function of the world price at the time for the wheat market, and then the currency determined the Aussie dollar equivalents of it.

Senator HEFFERNAN—So they were relatively good times compared with the situation today. That is just a farmer’s observation.

CHAIR—Mr Stott and Mr Taylor, that brings us to the conclusion of our questioning. Before you depart, can I thank you for your assistance to the committee. A copy of the *Hansard* will be available shortly. If there are any issues that do need to be followed up—and I think there was one matter taken on notice—the secretariat will certainly be in touch. Again, thank you for your assistance to the committee.

Mr Stott—It has been our pleasure. Again, we apologise that we were not able to attend in person.

Mr Taylor—Thank you, senators.

Proceedings suspended from 10.39 a.m. to 10.48 a.m.

DEADY, Mr Stephen Patrick, First Assistant Secretary, Trade Development Division, Department of Foreign Affairs and Trade

DICKSON, Mr Ian, Executive Officer, Trade Finance Section, Trade Development Division, Department of Foreign Affairs and Trade

PIERCE, Mr Mark, Assistant Secretary, Market Development Branch, Department of Foreign Affairs and Trade

MORTIMER, Mr David Kenneth, Executive Manager, Food and Agriculture Division, Department of Agriculture, Fisheries and Forestry

PITTAR, Mr Roland Yorke, General Manager, Crops, Wine and Horticulture Branch, Department of Agriculture, Fisheries and Forestry

CHAIR—I welcome representatives from the Department of Foreign Affairs and Trade and the Department of Agriculture, Fisheries and Forestry. I want to place on record the resolution agreed to by the Senate on 25 February 1988 that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. Do you wish to start by making some opening remarks?

Mr Deady—We do not have a detailed opening statement to make. We passed to you a joint submission by the Department of Foreign Affairs and Trade and the Department of Agriculture, Fisheries and Forestry. My colleagues have been involved in this issue for quite some time. It is best, I think, if we move to any questions you might have. Our submission is a detailed one and reflects a number of aspects of this issue, particularly the involvement of the Paris Club and those aspects of the process that led to the government's decision on this matter.

Senator FERRIS—I am not sure who I should direct this question to, so you can choose. I would like to explore the timing of EFIC assuming the Iraq wheat debt. Can you take me through the point at which the decision was made that EFIC should assume that debt and how that process worked?

Mr Pierce—Our submission does address that issue. In our judgment, when the insured portion of the debt was paid, the legal responsibility for the rest of the money, if you like, transferred to EFIC. It was decided before negotiations began in the Paris Club last year to do the last formality; to paraphrase the Wheat Board representatives in their testimony earlier, they were talking about an extra piece of paper. Our understanding is that EFIC thought it would be useful at that stage formally to assign the rights. That was the stage at which there began to be a serious prospect of some recoveries—that is, when substantive negotiations began in the Paris Club. But for further detail that would really be a matter for EFIC.

Senator FERRIS—Are you able to tell me why it was that the decision was made to insure only 80 per cent of the debt? How did that decision come about? Who decided that 20 per cent should not be insured?

Mr Pierce—That was standard procedure at the time. That reflected a calculation of the risks involved in selling into the Iraq market. It was a calculation based on the principle of risk sharing and, flowing from that, on the principle of moral hazard, which is again addressed in the text of our submission. It was thought to be prudent judgment at the time that the taxpayer would bear 80 per cent of the risk and the Wheat Board would bear the remaining 20 per cent.

Senator FERRIS—And the Wheat Board agreed at the time that that was a satisfactory arrangement with them?

Mr Pierce—I believe so. You are talking about a period when I was not directly involved in the issues.

Senator FERRIS—I know it is a long time ago, but Mr Deady you have been around for a long time. I was wondering whether there would be any documentation in the department which might be useful to this committee covering those negotiations at the time.

Mr Pierce—We will certainly check, but we were not the department at the time which had portfolio responsibility for EFIC, nor were we the department which would have dealt most closely with the Wheat Board, which at that time was in a quite different configuration; its structure was quite different.

Senator FERRIS—I am interested in the government's communication with the Wheat Board. I understand all of those things, and I know that departments change, but if it were possible to discover some of that documentation I think it might be useful to the committee.

Mr Pierce—We will find whatever we can and hand it on as quickly as we can.

Senator FERRIS—Can you take us through the second payment—that is, the compensation payment—that was made to the industry arising from the imposition of the sanctions? That amount of money, as I recall, was determined by the fact that the ships carrying the grain were on the water. Can you tell me how it was that the nearly \$33 million was arrived at?

Mr Deady—Again, I confess that, despite my grey hair, this was even before my time. I cannot give you a precise answer to that. It was an ex gratia payment, as I understand it, of—

Mr Pierce—If you come to page 8 of our submission there is at least the beginning of an answer for you—that is to say that there is a breakdown by commodity group of the payments, coming to the total of \$32.9 million.

Senator FERRIS—I see that.

Mr Pierce—There is an explanation at the bottom of that.

Senator FERRIS—It says:

... losses and costs relating to: the forced sale of goods to alternative lower paying markets ...

I am wondering whether the decision to pay that amount was made after the Wheat Board had sold to other markets, so they were able to substantiate the loss, or whether it was a projected loss. That figure of \$31,030,103 is interesting. It is not a rounded-up figure and it would be interesting to know how it was arrived at.

Mr Mortimer—I have a suggestion. My expectation is that this was done in the light of how the shipments were placed. I say that on the basis of the timing in terms of the fact that Minister Crean at the time issued a press release, which you referenced—

Senator FERRIS—Yes.

Mr Mortimer—about the timing of the payment. His statement was on 14 October 1991.

Senator FERRIS—Yes, but he does not say how it was arrived at.

Mr Mortimer—No, but what I am leading to is that that was October and he referenced there in that comment to parliament that the Friday before was when the payment had been made. That was some little while after the events in question. So my expectation is that there was considerable analysis. Indeed, in looking at that question in a bit more detail, Minister Crean—as he was then—said in his answer to the House:

... following an independent audit of the claims, the final payment of \$32.9m was assessed to cover those losses associated with contracted tonnages.

It would seem that there was analysis done at the time, with independent scrutiny, of what the impact on those shipments was in the light of where they ended up being sold, the price difference, insurance et cetera.

Senator FERRIS—Thank you for drawing that to my attention. I see that now. I should just read to you very quickly from a Grains Council document of 16 July 1993. Mitch Hooke says: ‘Just as a footnote, 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 forgotten by growers.’ It seems as if some Western Australian ones have.

Senator STEPHENS—Gentlemen, I assume that you have had a chance to look at the submissions from the other witnesses we have heard from so far?

Mr Mortimer—I have not seen the AWB submission. Given the timing of the hearings, I have only seen the submissions made yesterday in summary.

Mr Deady—I think that is the situation for us, too. We certainly saw something very early this morning from yesterday’s discussions.

Senator STEPHENS—If you listened to the conversation earlier, you would know that the evidence that we have received so far seems to be, from our viewpoint, based on an understanding that the Paris Club commitment to the 20 per cent debt is the full 20 per cent that

was not paid out of EFIC. It is quite clear from your submission that that is a coincidence of numbers and not much else—that 80 per cent of the remaining 20 per cent is what has been forgiven. Am I right there?

Mr Pierce—Yes.

Senator STEPHENS—Is there any other mechanism that you are aware of by which the growers could receive a payment in lieu of the scheduled payments under the Paris Club agreement?

Mr Pierce—The Paris Club mechanisms were the only means we had to hand to secure any recovery of the debt.

Senator STEPHENS—Did you have discussions with the AWB about the outcome of the Paris Club negotiations that you entered into?

Mr Pierce—No direct discussions with the AWB.

Senator STEPHENS—Did you advise them of the decision?

Mr Pierce—The decision of the Paris Club was announced by the minister in a press release on the day.

Senator STEPHENS—So, Mr Pierce, the real issue that we are confronting here is a misunderstanding and an expectation that has been raised quite significantly by the Western Australian farmers in particular, who are doing it very tough at the moment and now have an expectation that they may well receive a substantial payment that might, as we heard yesterday, keep them on the farm. Do you have any comment to make about the way in which the decision of the Paris Club and the way it has been interpreted has been communicated? Has the department been asked to clarify the implications of that decision for any of the key stakeholder groups?

Mr Pierce—As our submission indicates, the minister had a number of consultations with the industry while negotiations were proceeding in the Paris Club. I led the delegation to the Paris Club negotiations. The standing government policy is that, of any recoveries we obtained, 80 per cent would go to the government—the taxpayer—and 20 per cent would go to the Wheat Board, and therefore to the growers, from the first dollar we obtained until the last dollar. That will mean in practice that the wheat growers will receive about \$US42 million over the course of the recovery period. That recovery period itself is necessarily prolonged because it is related directly to Iraq's capacity to pay.

Senator STEPHENS—That is very clearly described in your submission that is before us today. We still have to deal with the obvious misunderstanding with the growers about what the outcome of those negotiations is, but that is an issue for us. Are you able to clarify whether or not the growers might receive priority over EFIC when the moneys are repaid?

Mr Pierce—I am sorry; the growers might receive priority over whom?

Senator STEPHENS—In terms of the payments that are to be received, will the growers receive any priority over the government for the 20 per cent of the debt? Of the \$US42 million that comes to them, how will that come? How will it be distributed?

Mr Pierce—Could you please turn to the very bottom of page 13 of our submission and the paragraph beginning ‘The Australian government’.

Senator STEPHENS—Yes.

Mr Pierce—What we did in the Paris Club was argue for a policy called differentiation, and that policy was a straightforward one. It was to ask the club to accept the principle that Iraq had contracted debts for many different types of things and, in our case, all those debts were for commodity sales—they were essentially humanitarian related. But not all of Iraq’s debts were in that category. We sought to negotiate a position where the debts which were humanitarian related, like our commodity sales and our wheat sales, would have been paid first—they would have been given priority. We found it was not possible to obtain sufficient support in the Paris Club for that position.

Senator STEPHENS—You said a while ago that the first 80 per cent was a return to the taxpayers—is that right?—and then the 20 per cent, which is represented by US\$42 million, is to the grain growers.

Mr Pierce—Yes.

Senator STEPHENS—Is it your expectation in the period of the payments that come from the Paris Club that the first 80 per cent will go to the government or is there some capacity for the grain growers to receive some of their payments before 2028?

Mr Pierce—The standing government policy is that any and all recoveries will be divided on that 80-20 split from the first dollar recovered until the last dollar recovered. So from the first recovery payment onwards AWB Ltd—

Senator STEPHENS—They will receive 20 per cent.

Mr Pierce—acting on behalf of the growers, would be entitled to 20 per cent.

Mr Deady—On your earlier comment, my understanding, as Mr Pierce has said, is that Mr Vaile was involved in a number of consultations and discussions with the industry. From my understanding, including from a brief reading of some of the evidence given to you yesterday, 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.

Senator STEPHENS—It is certainly not the impression we got yesterday from the Western Australian Farmers Association and others, unfortunately.

Senator HEFFERNAN—I do not think there are many growers that do not know the score. There are a few growers that are having a bit of a try-on, which is a bullshit exercise. Could you comment on the proposition put to the committee in evidence yesterday that Iraq's debt was not a commercial default but a consequence of UN sanctions?

Mr Pierce—Since the imposition of sanctions there have been a number of resolutions taken by the United Nations Security Council, which are therefore binding on Australia, that limited Iraq's ability to pay. Iraq defaulted on its debt payments, and certainly the Iraqis argued this was directly related to sanctions and therefore their incapacity to pay. You recall that Iraq was allowed a certain proportion of purchases under the oil for food program and under that oil for food program we successfully continued to sell substantial quantities of wheat into the Iraq market during the sanctions period.

Senator HEFFERNAN—If we had not complied with the UN sanction, what do you think would have happened to us, or is that something you would rather not contemplate? If I were to argue the ridiculous side of what this committee is looking into, which is why didn't we tell the UN to bugger off, what do you think would have happened? What penalties would have applied to us? I am aware that we have built up over many years a good relationship with Iraq, and we have been rewarded over many years for having a good relationship commercially with Iraq in the wheat field. If the people who think that somehow this is a default argue, 'Why did we comply with the UN and what would have happened to us if we hadn't?', would the answer to that be that we had signed on the bottom line and we did not have a choice? Did we have an option to not comply?

Mr Pierce—Our compliance with UN Security Council sanctions is not optional; it is mandatory.

Senator HEFFERNAN—Thanks, that is all I wanted to hear.

Mr Pierce—It is a matter of international law incorporated into domestic law.

Senator HEFFERNAN—Are you aware of any direct payments made to AWB by Iraq after the imposition of the sanctions?

Mr Deady—No.

Senator HEFFERNAN—I do not know where Senator Brown is today, but this is all his idea.

Senator STEPHENS—In relation to the continued trade with Iraq, I understand that Australia got preferential treatment as the sole supplier of wheat into Iraq under the food for oil program—is that correct?

Mr Pierce—That would be more a question for our colleagues from DAFF, but I would just mention that we worked hard during the 1990s to ensure that we could continue to sell grains into the Iraq market under the food for oil program. These are really matters for the Wheat Board and I think they mentioned those in their discussion with the committee earlier this morning. We successfully sold a great deal of wheat to Iraq during that period. Did we receive any preferential

treatment as the sole supplier? Not to my knowledge but, again, that is a matter for my colleagues and for the Wheat Board.

Mr Mortimer—All I would say is that we are not aware that there was any preference given. Essentially, it was worked out within the rules that applied to that oil for food program, which is run by the United Nations. Within the rules established around that program, the Wheat Board was able to successfully negotiate sales.

Senator STEPHENS—That evidence was presented to us yesterday, and I just wanted to confirm whether that was the case. Thank you very much.

Mr Pierce—There was no suggestion of preferential treatment. All of our sales during the period of sanctions were absolutely, scrupulously and meticulously within the framework of the sanctions regime, which is to say within the framework of the oil for food program and the so-called 661 committee within the UN.

Senator STEPHENS—I do not think there was any suggestion that there was anything untoward in terms of preferential treatment. The negotiation of an ongoing contract with Iraq following the sanctions was in fact a reflection of the very strong relationship that had been built prior to that occurring. It certainly was not meant to be that there was anything untoward.

Mr Pierce—Again, that is a matter for the board, but there were other considerations at play as well. One was the quality of the product we were supplying. Another one would be our reliability as a supplier. The board representatives mentioned other considerations when they were talking to you earlier. But I would emphasise that every single sale we conducted during that period was conducted within the framework of the UN, was notified to the UN, was cleared by the UN and was authorised by the UN.

Senator FERRIS—Australian wheat growers are very fortunate to have had the opportunity to sell as they did under that program.

CHAIR—It is not just a question of being fortunate. Isn't there also a reasonable argument that, given that you already have existing or previous business arrangements for a range of issues, whether it is price or quality of product and so on, it is plausible to put forward a suggestion that those arrangements continue, even if the circumstances change?

Mr Mortimer—The proposition, I thought, was originally that there was some sort of preferential arrangement there. I think the point being made was that there were no preferential arrangements in conducting business on a commercial basis within the framework of that UN program.

Mr Deady—That is right. I agree with you. The commercial relationship, the ability of the board, the understanding, the quality of the product and the price of the product—all of those—were the factors that drove the sales.

CHAIR—Thank you, gentlemen, for providing assistance to the committee today. I think there is one matter to be pursued in terms of documentation concerning negotiations with AWB

at the time. The secretary will be in touch. A copy of the transcript of *Hansard* will be available if you need to check that as well. Thank you again for your assistance to the committee.

Committee adjourned at 11.17 a.m.