

INQUIRY INTO CERTAIN AUSTRALIAN COMPANIES IN RELATION TO
THE UN OIL-FOR-FOOD PROGRAMME

Before The Hon TRH Cole AO RFD QC

Held at Court 2, Level 5,
55 Market Street, Sydney

On Thursday, 13 April 2006, at 10.05am

1 <JOHN WINSTON HOWARD, sworn:

[10.05am]

2
3 THE COMMISSIONER: There has been no application to
4 cross-examine the Prime Minister on behalf of AWB Limited,
5 AWB International Limited, any of the directors of either
6 company or any executives of AWB, except Messrs Geary and
7 Long. That application has been supported by a written
8 submission received this morning.

9
10 There is no evidence that the Prime Minister has ever
11 met Mr Geary or Mr Long. There is no conflict between the
12 evidence of the Prime Minister on the one hand and
13 Messrs Geary and Long on the other. There is thus no
14 application to cross-examine in relation to any substantive
15 conflict of interest.

16
17 The application relates to different matters. As I
18 read the application, it seeks to cross-examine to elicit
19 additional information. It does not call into question any
20 statement of fact in the Prime Minister's statement. No
21 question of credit thus arises.

22
23 The application, as is proper, is said to be subject
24 to the examination by counsel assisting. Much, if not all,
25 of the information which is sought in the application to
26 cross-examine I would expect will be dealt with in the
27 questioning by counsel assisting. It is thus premature for
28 me to rule on the application to cross-examine. However,
29 there are three matters referred to in the application in
30 respect of which I will not permit examination or
31 cross-examination.

32
33 First, the applicant wishes to ask the Prime Minister
34 regarding his knowledge of a ministerial report referred to
35 in the evidence of Mr Varghese. In reasons I published
36 yesterday, and prior to the receipt of the application to
37 cross-examine, I indicated that the document referred to by
38 Mr Varghese in the ministerial report was not material to
39 my terms of reference and will not be tendered before me.
40 Accordingly, I will not allow examination or
41 cross-examination on that matter.

42
43 Second, in relation to certain unassessed intelligence
44 distributed to the Department of the Prime Minister and
45 Cabinet and the office of the Prime Minister, the
46 application seeks the names of persons in those offices who
47 received or were likely to have received such unassessed

1 intelligence. As I am concerned only with the knowledge of
2 the Commonwealth, and as the fact of distribution of the
3 unassessed intelligence to the officers referred to is
4 established, any knowledge of the Commonwealth is neither
5 improved nor diminished by a nomination of the persons who
6 received or were likely to have received such unassessed
7 intelligence. Accordingly, I will not permit examination
8 or cross-examination in relation to item 1 in respect of
9 paragraphs 12 to 19 in the application.

10
11 Third, the application seeks to inquire whether, to
12 the Prime Minister's knowledge, certain unassessed
13 intelligence was linked by unnamed persons, presumably
14 Commonwealth officers, to allegations in certain cables.
15 The evidence of the Prime Minister that he was not aware of
16 either the unassessed intelligence or the particular cables
17 because such unassessed intelligence and cables were not
18 brought to his attention is not sought to be challenged by
19 the application to cross-examine. No doubt the applicant
20 recognised that it would be impermissible to ask the
21 Prime Minister whether he personally linked unassessed
22 intelligence, of which he was not aware, with cables, of
23 which he was not aware. Such a question would be a logical
24 absurdity because one cannot link together two items in
25 respect of which one has no knowledge.

26
27 No doubt to avoid this difficulty the applicants
28 slightly amended the inquiry to ask whether, to the
29 Prime Minister's knowledge, any innominate person ever
30 linked the unassessed intelligence, of which the
31 Prime Minister was not aware, with cables, of which the
32 Prime Minister was not aware. However, the logical
33 difficulty remains. That is not a question the Prime
34 Minister could answer. Accordingly, and as I am concerned
35 only with the knowledge of the Commonwealth, I will not
36 allow cross-examination or examination in relation to item
37 4 in respect of paragraphs 12 to 19. I will rule on the
38 balance of the application, should it be pressed, after the
39 conclusion of the examination of counsel assisting.

40
41 <EXAMINATION BY MR AGIUS:

42
43 MR AGIUS: Q. Prime Minister, your full name is
44 John Winston Howard?

45 A. It is.

46
47 Q. We have from you a statement. Could we bring up,

1 please, PMC.0003.0001. That's the first page of the
2 statement that we have by you?

3 A. Yes.

4
5 Q. If we go to the last page, 0007, is that your
6 statement?

7 A. Yes, that's my statement and that's my signature.

8
9 Q. Are the contents of that statement true and correct to
10 the best of your knowledge and belief?

11 A. Yes.

12
13 MR AGIUS: Mr Commissioner, I tender that statement.
14 However, I do not press two sentences in the statement in
15 the light of the provisions of the Parliamentary Privileges
16 Act of 1987. I do not press and include in part of the
17 tender the first sentence in paragraph 22, the last
18 sentence in paragraph 26. I include with the tender all of
19 the --

20
21 THE COMMISSIONER: Sorry, paragraph 26?

22
23 MR AGIUS: The last sentence in paragraph 26.

24
25 THE COMMISSIONER: Yes.

26
27 MR AGIUS: I include with the tender all of the annexures,
28 save for the annexure at PMC.0003.0084, entitled
29 "Ministerial Statement to Parliament on Iraq" and dated
30 4 February 2003, again, in consideration of the
31 Parliamentary Privileges Act of 1987.

32
33 THE COMMISSIONER: Yes. That statement, together with the
34 annexures, excluding the passages to which you've referred
35 and the statements made by the Prime Minister to the
36 parliament, will become exhibit 775.

37
38 EXHIBIT #775 STATEMENT OF JOHN WINSTON HOWARD,
39 BARCODED PMC.0003.0001, TOGETHER WITH ANNEXURES

40
41 MR AGIUS: Q. Prime Minister, do you have a copy of your
42 statement and the annexures with you?

43 A. I do.

44
45 Q. Can I ask you to go to page 2?

46 A. Yes.

47

1 Q. That paragraph at about point 5 of the page, where you
2 speak of your expectation --

3 A. Yes.

4

5 Q. -- that, in selecting DFAT cables that should be
6 brought to your attention, your senior advisers
7 (International) would exercise their professional judgment
8 based on their experience, their appreciation of the issues
9 that warranted your attention. Were there any formal
10 criteria laid down which indicated the basis on which
11 documents ought to be brought to your attention?

12 A. No, there weren't.

13

14 Q. Were you from time to time consulted as to the types
15 of material that you wanted to see or the issues that might
16 be covered in material that you wished to be made aware of?

17 A. If there were a change in the adviser, I would have a
18 talk with the new person and just a general discussion,
19 "Well, you've got to exercise your own judgment, I can't
20 possibly read everything, and clearly I want things brought
21 to my attention which are, in your judgment, important and
22 are relevant to issues in front of the government at the
23 time", but it was no more formal than that. It can't be.

24

25 Q. One of the issues that I suspect was relevant to you
26 and the government during the whole of the Oil-for-Food
27 Program was whether or not Iraq was abiding by the
28 sanctions that had been imposed upon it; would you agree
29 with that?

30 A. That was one of them.

31

32 Q. The government's interest in that, even if we put
33 aside any reference to AWB or Australian trade with Iraq,
34 would have at least extended to a consideration as to
35 whether or not Iraq might be manipulating the system so as
36 to accumulate for itself a source of funds to be used for
37 nefarious activity?

38 A. Yes.

39

40 Q. Would you have expected cables that dealt with the
41 breach of sanctions by Iraq, as opposed to breach of
42 sanctions by Australian companies, to have been brought to
43 your attention?

44 A. Not necessarily.

45

46 Q. Would you have expected to have been briefed in a
47 general way in relation to breach of sanctions by Iraq?

1 A. Well, at various points in what's called the relevant
2 period it was public knowledge that Iraq was rorting the
3 Oil-for-Food Program.
4

5 Q. I noticed in your statement to the National Press
6 Club, and many of us will remember that statement - perhaps
7 you might want to turn it up. At page 96 of the annexure -
8 that's the paginated page number at the bottom - and
9 barcode 0104, in the third paragraph you listed a series of
10 atrocities of the Saddam Hussein regime. Then, about
11 two-thirds of the way down, you said this:

12
13 He has cruelly and cynically manipulated
14 the United Nations oil-for-food programme.
15 He's rorted it to buy weapons to support
16 his designs at the expense of the wellbeing
17 of his people.
18

19 Clearly that statement, and a statement of such gravity,
20 must have been based upon briefings that you received?

21 A. Well, it was based upon some open-source intelligence,
22 open-source material in particular - I think it was a
23 Chatham House address by Jack Straw, the British Foreign
24 Secretary, a press briefing by the United States State
25 Department - and the person who helped me prepare the
26 speech in my department said she had checked with some
27 cables to confirm that those cables supported the
28 open-source claims and was satisfied that they did. Now,
29 that was the basis of the material and the allegations I
30 made, because there were even books around at the time that
31 were talking about the sanctions busting and the export of
32 oil outside the Oil-for-Food Program by Saddam.
33

34 Q. In the course of that briefing, were you told by this
35 adviser which cables it was that she checked?

36 A. No. The speech was prepared and I would have said to
37 her, "Now, we should be completely satisfied that
38 everything we're saying here can be supported in fact"; I
39 wouldn't have gone into that kind of detail. Subsequently,
40 in seeking advice in relation to my statement, I asked some
41 further questions, but at the time I was satisfied that it
42 was an entirely supportable statement, and bear in mind
43 that most of it was from these open sources, of which I was
44 broadly familiar anyway, without the particular focus of
45 the preparation of the address.
46

47 Q. This speech was given on 13 March 2003. March was a

1 fairly auspicious date in terms of Iraq. Did you have in
2 mind at the time that you made the speech the possibility
3 that Australian companies might have been involved in the
4 rorting of the Oil-for-Food Program?

5 A. Absolutely not.

6

7 Q. Subsequently did you see any of the cables to which
8 reference was made when your speech was cross-referenced to
9 see if it generally accorded --

10 A. It was a cross-referencing by my assistants. I
11 haven't seen those that she saw. When I sought advice
12 about this a short while ago, a few days ago, she said that
13 she had checked a series of cables but, with the passage of
14 time couldn't identify them. I then had a look at what was
15 presented to me as a sample of the sorts of cables she
16 might have looked at, and they certainly supported the
17 open-source material and therefore supported the advice
18 that she'd given me.

19

20 Q. From when do you date your knowledge of the content of
21 those cables - your earliest knowledge; that is, of
22 material which --

23 A. Well, my earliest knowledge that she had looked at
24 such cables would have only been a few days ago.

25

26 Q. What about your knowledge as to the existence of
27 cables which referred to material that might be described
28 as supporting a statement that Hussein had rorted the
29 Oil-for-Food Program to support his designs and that he'd
30 manipulated the United Nations Oil-for-Food Program?

31 A. I would think that was probably only quite recently,
32 but the difficulty in answering that precisely is that
33 there's a merging here of public knowledge, supported by
34 private information and you sometimes, as you will
35 understand, can't separate the two and fix the point at
36 which the one came to your knowledge as distinct from the
37 other. My general knowledge at the time and belief was
38 that the program had been rorted, and it was not seriously
39 in dispute. Nobody was arguing it hadn't been rorted.

40

41 Q. I suspect that even the United Nations was quietly
42 admitting that the program --

43 A. Sorry, forgive me, would you repeat that question?

44

45 Q. I suspect that even the United Nations was privately
46 admitting that the system that it was monitoring had been
47 rorted by Saddam Hussein.

1 A. Well, I have seen something a very short while ago
2 that refers to such private admissions. As to earlier
3 admissions, I can't myself vouch for or speak for that,
4 except in relation to the materials forming part of the
5 bundle of cables which is covered by my statement.

6

7 Q. Can you say that as at the date of your speech, or
8 your address to the National Press Club, that you were not
9 aware of the existence of any cables which related to
10 breaches of the Oil-for-Food Program by the Iraqis?

11 A. I can't say I was not aware, but it's not an issue
12 that was contentious in my mind, because I believed that
13 Iraq had rorted the program, and that's why I made the
14 statement I did to the National Press Club.

15

16 Q. As at 13 March - I have only chosen that date because
17 it is the date of your address to the National Press Club -
18 were you aware of any cables or intelligence which
19 suggested to you that any Australian company had been
20 rorting the Oil-for-Food Program or acting in breach of
21 sanctions?

22 A. No.

23

24 Q. Can I ask you to go to page 2 of your statement,
25 paginated 0002, paragraph 6.

26 A. Yes.

27

28 Q. You say:

29

30 I am informed by my staff that records
31 examined by them show that the following of
32 the relevant cables were not received or
33 opened in my office...

34

35 And there is a list of them and we can identify them. Is
36 the corollary to that that the other cables which are
37 annexed to your statement were, or may have been, opened or
38 received at your office?

39 A. Yes.

40

41 Q. Would you go further than that and say that it was
42 likely that the other cables were received and opened in
43 your office?

44 A. Yes.

45

46 Q. Do you say that, to the best of your knowledge and
47 belief, you didn't read those cables?

1 A. They weren't, to the best of my belief, brought to my
2 attention. If they had have been brought to my attention,
3 I would have read them.
4

5 Q. Was there any record maintained in your office at that
6 time as to which cables were drawn to your attention and
7 which were not - a written record?

8 A. No, I believe a written record began to be kept
9 sometime in 2003. It was my general practice, when I was
10 shown a cable or assessment by ONA, or something of that
11 kind, I would normally initial it, often date it - not
12 always - sometimes only tick it. Occasionally I mightn't
13 do that if it was shown to me on an aircraft, or something.
14 Then it went back into the system, and I think the copies
15 were destroyed, I can't be absolutely certain about that in
16 every case.
17

18 Q. Are you confident that all records which might have
19 one time existed which recorded which cables you had seen
20 have been checked?

21 A. I have asked and I have been told that a thorough
22 search has been made, of both my office and my department,
23 in relation to any cable or assessment that I might have
24 annotated as evidence that I'd seen it. I have a nil
25 response to that inquiry. I have not carried out any
26 physical check myself. I can only report what I have been
27 told by my department and by my office.
28

29 Q. I don't think the Australian people would expect you
30 to be conducting a physical search of all the places where
31 you might have been when you saw various cables, but --

32 A. Strange things happen in Canberra.
33

34 Q. -- to the extent to which you say that you believe you
35 did not receive or read any of the relevant cables, are you
36 therefore relying upon at least two matters: one, your own
37 recollection; and, two, what's been reported to you about
38 searches that have been carried out at your request?

39 A. Yes, I'd be relying on both of those, and also the
40 fact that the issue before this inquiry - that is, the
41 culpability of AWB - did not really enter my mind until
42 2005.
43

44 Q. Can I ask you to go to what is probably the first
45 cable of significant interest to this inquiry, and that is
46 the cable from Bronte Moules of 13 January 2000. It's at
47 paginated page 9, barcode page 0017. You may well have

1 read this cable recently, Prime Minister. Can I ask you to
2 look at paragraphs 2 and 3 and read them again if you need
3 to. Is that the sort of material that you would have
4 expected to have been brought to your attention at about
5 the date of this cable?

6 A. Given the context of the time, no.

7
8 Q. When you say "the context of the time", what do you
9 mean by that?

10 A. Well, I mean that there was absolutely no belief
11 anywhere in the government at that time that AWB was other
12 than a company of great reputation. There was nothing by
13 way of hard evidence in the allegation and it would appear
14 on the face of it that the matter was going to be dealt
15 with.

16
17 Q. Dealt with where --

18 A. I'm trying to put myself in the shoes of my adviser in
19 making those remarks.

20
21 Q. This cable, at least with this distribution list,
22 indicates that it was directed for information to the
23 Department of the Prime Minister and Cabinet. Would you,
24 doing that exercise of putting yourself in the shoes of
25 your examiners, have an expectation that responsibility for
26 dealing with this cable rested solely with the Department
27 of Foreign Affairs and Trade, or would you expect that your
28 advisers would have concluded that the office of Prime
29 Minister and Cabinet had some role in responding to the
30 issues raised by this cable?

31 A. I think my adviser would have seen it as one of those
32 routine things that should be dealt with by DFAT, not in
33 any responsibility-shifting mode, but simply that's their
34 job.

35
36 Q. Now, we know that this issue that was raised in the
37 cable was, for one reason or another, dealt with to the
38 satisfaction of the UN within a few months, and this issue
39 itself was not raised again. Were you aware of the issue
40 in January, February, March of 2000 - that is, that there
41 had been a complaint by a third-party country, that the
42 complaint implicated AWB in what has been termed here
43 sanctions busting, and that that complaint had been looked
44 at and resolved? Were you even aware of that issue?

45 A. I don't recall being aware of that issue at the time.

46
47 Q. Do you think that, if you'd been made aware of that

1 issue, it's the sort of thing that would have stayed in
2 your mind, given what's transpired between early 2000 and
3 your announcement of this inquiry?

4 A. Not necessarily, because attacking the behaviour of
5 one's trade competitors in the international wheat trade is
6 fairly common.

7

8 Q. There is another cable that I want to take you to in
9 relation to this issue of sanctions busting. I'll just
10 turn it up. It's at page 39 of your bundle of annexures.
11 This is the cable that refers to the CPA's small new office
12 on oil for food tasking ministries to sort through approved
13 and funded contracts to check against priorities. If you
14 go to paragraph 5, which is eight-tenths of the way down
15 paginated page 39, it reads as follows:

16

17 Every contract since phase 9 included a
18 kickback to the regime from between ten and
19 nineteen percent. The CPA was advising
20 ministries to tell companies with contracts
21 that the "after sales service fee", which
22 was usually to be deposited in offshore
23 banks, would be remitted to them.

24

25 Now, that is a fairly bold statement of sanctions breaching
26 by the Iraqis, leaving aside any issue that might or might
27 not have involved AWB; would you agree with that - that
28 every contract since phase 9 included a kickback to the
29 regime from between 10 and 19 per cent?

30

A. Would I agree it's a bald statement, yes.

31

32 Q. I'm not asking you to agree with the truth of it, but
33 would you agree that it is a bald statement of implication
34 which implicates the Iraqis in sanctions busting?

35

A. Yes, it's a very bald statement. Yes, I agree.

36

37 Q. It's been made at the time by the CPA, three months
38 after the entry into Iraq of the allied forces. Would you
39 not have expected the substance of that, either as an
40 allegation or as a bold statement, to have been brought to
41 your attention in June of 2003?

42

A. Not necessarily.

43

44 Q. I have in mind a different context. I have in mind
45 the context that Australia had been committed to the
46 alliance to enter Iraq and questions were being raised and
47 directed to you as to the foundation for that decision, and

1 here seemed to be some hard evidence that indeed the Iraqis
2 had a source to put together funds which they might use for
3 their own nefarious activity, and this cable seems to
4 confirm that. In that context, wouldn't you have expected
5 this cable to have been brought to your attention?

6 A. Mr Agius, the issue of whether the former regime had
7 been corrupt and had corrupted programs was not contentious
8 to me, it was accepted that it had. Once again, applying
9 my mind to the context of the officer looking at this, I
10 can only repeat that I don't necessarily dispute his
11 judgment in not bringing it to my attention, particularly
12 as the cable itself describes a mechanism, I think, whereby
13 the issue is to be resolved.

14
15 Q. Well, the resolution here was simply to remove
16 10 per cent of the value of all cables that were being
17 renegotiated - sorry, all contracts that were being
18 renegotiated. The removal of 10 per cent of all of the
19 cables may have avoided the need for this inquiry.

20 A. I won't comment.

21

22 Q. Now, can I ask you to go back to your statement at
23 page 3, where you deal with issue 2, and this is at
24 paginated page 0003. Here you deal with the unassessed
25 intelligence.

26 A. Yes.

27

28 Q. And at paragraph 14 you say:

29

30 I am informed by my staff that records
31 examined by them show that the only
32 document in Secret Exhibit 4 that was
33 available to my office was the document
34 behind Tab 12.

35

36 I want to ask you a number of questions about that. When
37 you refer to "my office", are you referring to your own
38 office - that is, the office of Prime Minister - or are you
39 referring to the office of Prime Minister and Cabinet?

40 A. Well, I'm referring to my staff - that means my
41 personal staff - in the office of the Prime Minister, but I
42 accept and should say that their advice would in part be
43 informed, or could be informed, by discussion with officers
44 of my department.

45

46 Q. So this was not a narrow inquiry restricted only to
47 your personal staff?

1 A. Well, it is my understanding that they would have
2 consulted others. I cannot with certainty testify to that
3 because I'll have to go and ask them again, but that would
4 be my working assumption that, in relation to something
5 like this, they would make all the necessary inquiries in
6 order to satisfy themselves that the advice they were
7 giving me was right.

8

9 Q. The paragraph says that that was the only one that was
10 available to your office.

11 A. Yes.

12

13 Q. Do you know from your inquiries as to whether or not
14 that document was accessed by your office or by personnel
15 in your office?

16 A. I assume it was accessed, but not drawn to my
17 attention.

18

19 Q. You go on to speak further about this issue. In
20 paragraph 16 you say that it was rare for unassessed
21 intelligence to be brought to your attention, that you may
22 be shown in the order of approximately 10 items of
23 unassessed intelligence in a year. Were the criteria laid
24 down anywhere - that is, formal criteria - as to the basis
25 upon which unassessed intelligence might be drawn to your
26 attention?

27 A. No.

28

29 Q. From your own experience - I certainly do not want you
30 to feel that you need to divulge the content of any of the
31 unassessed intelligence you've seen - in dealing with these
32 10 items a year, or thereabouts, does it tend to fall into
33 a particular category?

34 A. Probably two categories.

35

36 Q. I think we'd all assume that perhaps matters of
37 national security might be one of those categories?

38 A. Well, a really active issue of national security,
39 something that's really of day-to-day preoccupation.

40 Obviously I recall seeing some unassessed intelligence in
41 2002 and 2003 in relation to Iraq, and from time to time
42 something involving a particularly sensitive issue from
43 left field will be drawn to my attention. You will
44 understand my not wanting to give examples.

45

46 Q. I don't want you to. Do you say that, to the best of
47 your recollection, you did not see any unassessed

1 intelligence relating to breaches of sanctions by Iraq
2 during the Oil-for-Food Program?
3 A. Not until recently. I have, of course, recently seen
4 them.

5
6 Q. But during the Oil-for-Food Program?
7 A. During its period, no. To the best of my belief, no.

8
9 Q. I asked you this in relation to cables: was there any
10 record kept in your office as to which pieces of unassessed
11 intelligence were brought to your attention? Was there any
12 written record?

13 A. I would have to check that. I cannot with certainty
14 say yes or no to that.

15
16 Q. Have you had inquiries made, though, within your
17 department in order to determine whether any particular
18 unassessed intelligence was brought to your attention -
19 that is, unassessed intelligence that dealt with the
20 possibility of breaches of sanctions by Iraq during the
21 Oil-for-Food Program?

22 A. Well, I've had inquiries made about the unassessed
23 intelligence relating to the Oil-for-Food Program, and the
24 product of that is what is in my statement.

25
26 Q. So when you say that you believe you did not read or
27 become aware of the unassessed intelligence or of any of
28 the substance of any of the information distilled in
29 exhibit 641, again, is that based upon your belief plus the
30 result of inquiries that you've had made?

31 A. Yes.

32
33 Q. To the extent that the document behind tab 12 may have
34 been opened or accessed by officers within your department,
35 are you able to say what, if anything, was the response by
36 those officers to their access to that document?

37 A. No.

38
39 Q. Do you know whether anything came of that access? Do
40 you know what the result was?

41 A. Well, any answer I give to that has to be informed by
42 my subsequent knowledge in a different context of all of
43 the unassessed intelligence, and I don't think I can say
44 more than that.

45
46 Q. Finally, Prime Minister, are you able to put a date on
47 the knowledge that the Iraqis were routing the Oil-for-Food

1 Program that you gained? We know that obviously you were
2 aware of the public statements, and you spoke of the
3 rorting of the Oil-for-Food Program by Saddam Hussein in
4 your National Press Club address in March of 2003. Are you
5 able to say how long before the date of that address, which
6 was 13 March, you accepted it as a fact that Iraq had been
7 rorting the Oil-for-Food Program?

8 A. It would be well before that. It's very hard -
9 probably a year or more that I would have had that belief,
10 but, like a lot of these things, it would have been a
11 mixture of bits and pieces plus a predisposition to believe
12 the worst, I suppose, of that regime.

13
14 Q. Well, in that connection, did you ever have any
15 suspicion that any Australian company, including AWB, one
16 of the largest exporters to Iraq, might have been involved
17 in that rorting?

18 A. No, I didn't.

19
20 Q. Are you able to say why it was that you never had any
21 such suspicion?

22 A. Well, because I'd never been presented with any hard
23 evidence. I was, I guess, conscious only of AWB because of
24 the predominant role of AWB in the wheat trade, and I had
25 always believed the best of that company, as had most
26 people in the government. It had been associated with the
27 Australian wheat industry since the 1930s, and it hadn't
28 crossed my mind that it would have behaved corruptly.

29
30 MR AGIUS: Thank you. That's the examination of the Prime
31 Minister, Mr Commissioner.

32
33 THE COMMISSIONER: Mr Robertson?

34
35 MR ROBERTSON: I have no questions, thank you.

36
37 THE COMMISSIONER: Do you press your application,
38 Mr Forrest?

39
40 MR FORREST: I do, sir.

41
42 THE COMMISSIONER: In respect of which matters? It seems
43 to me that Mr Agius has covered all of the matters in your
44 application.

45
46 MR FORREST: Commissioner, we submit that the inhibition
47 upon my cross-examination is wrong.

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THE COMMISSIONER: Which matters in your application do you say have not been addressed?

MR FORREST: As to paragraph 6 - do you have, sir, to hand the letter?

THE COMMISSIONER: Yes.

MR FORREST: We would seek to ask the Prime Minister whether any response was, or ought be, forthcoming by the person who it appears received and opened the cables. We submit that that's a reasonable area for examination and we seek to pursue that.

Perhaps I should say we accept that (i) to (iv) of paragraph 6 have been clarified by Mr Agius in his examination; that is, the corollary of what is contained in those Roman numerals has been established. Insofar as paragraphs 9 to 11 are concerned, in my submission, we ought be entitled to explore whether it is likely that the contents of one particular cable were brought to the Prime Minister's attention and, insofar as that issue is concerned, explore the issue of the memory of the Prime Minister as to whether that occurred.

I understand what's left of our capacities to be able to cross-examine at all are contained in (ii) and (iii) at page 2 of the letter; is that correct, sir?

THE COMMISSIONER: Yes.

MR FORREST: Within the ambit of those two Roman numerals, we would seek to explore what responses were taken to the intelligence received. That necessarily involves an examination of who received it - I don't have to resort to names, but the position of the person who might reasonably have been expected to have received that intelligence - and what response he might reasonably have been expected to make. We seek to explore that and, in doing so, ask whether the Prime Minister, in recalling that particular period, is able to recall whether there was a response from the particular person who brought it to his attention.

If it be that the same person who was in receipt of or opened the cables, or, alternatively, a person in the same position was in receipt of or opened the cables and

1 familiarised themselves with their contents, we would seek to
2 ask the Prime Minister whether that person could also
3 reasonably have been expected to make a response to the
4 intelligence received in the light of the fact that he may
5 well have been the person who opened the cables himself, we
6 say, or it was brought to the Prime Minister's attention.
7 I'm conscious that what I'm saying is tied to this letter,
8 our application to cross-examine. I repeat, sir, that we
9 do not accept that we ought be so inhibited.

10
11 THE COMMISSIONER: You've said that many times.

12
13 MR FORREST: No, I haven't been allowed to say it once in
14 relation to this witness, sir.

15
16 THE COMMISSIONER: Is there anything further you want to
17 say?

18
19 MR FORREST: No, that is the ambit of the
20 cross-examination.

21
22 THE COMMISSIONER: Application has been made by
23 Mr Forrest, on behalf of Messrs Geary and Long, to
24 cross-examine the Prime Minister. At the commencement of
25 proceedings I indicated that, in relation to the
26 application to cross-examine, which was made in a letter
27 dated 12 April 2006 and supported by some written
28 submissions this morning, I would allow cross-examination
29 in relation to certain matters if they were not addressed
30 by the counsel who are assisting me. The fact is each of
31 the matters in respect of which counsel for Messrs Geary
32 and Long wish to cross-examine has been addressed by
33 counsel assisting. In respect of the other matters, I had
34 indicated I would not allow cross-examination. The
35 consequence is that every matter in respect of which Messrs
36 Geary and Long wish to cross-examine the Prime Minister has
37 been addressed and I do not believe that any
38 cross-examination would be of assistance to this inquiry.
39 Accordingly, I do not propose to allow it. Thank you,
40 Prime Minister. You are excused.

41
42 <THE WITNESS WITHDREW

43
44 MR AGIUS: Would that be a convenient time to take an
45 early morning tea adjournment, Mr Commissioner?

46
47 THE COMMISSIONER: Yes, very well. We'll adjourn.

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SHORT ADJOURNMENT

<ANDREW ALEXANDER LINDBERG, on former oath: [11. 30am]

THE COMMISSIONER: You're on your former oath, Mr Lindberg.

THE WITNESS: Yes.

<EXAMINATION BY MR AGIUS CONTINUING:

MR AGIUS: Q. Mr Lindberg, there's one matter that I want to put to you for your comment which I neglected to put to you on the last occasion, for which I apologise. At transcript 3237, line 1, on the topic of the recoupment of the Tigris debt, Mr Cooper gave this evidence - I said to him:

Q. I do not want you to disclose any advice that Mr Quennell gave you. Did you brief Mr Lindberg on the fact - not an opinion, but on the fact - that AWB had recouped the Tigris debt by inflating or loading up the contract price for wheat?

His answer was:

Yes.

Now, in point of time that was before your address to the joint boards. What do you say about that? When you consider that answer, can I remind you of what you said when the Commissioner asked you about this on 19 January of this year, at page 848, line 47:

Q. Have you been informed that the Tigris debt was recovered by inflating the price of the contracts for wheat with Iraq?

Your answer was:

A. I don't think it was ever put to me in that way. It was never put to me in that way. It was - it was put to me in the sense that the Iraqis had agreed to pay for the shipment of wheat that had been delayed

1 from their money, and that was agreed as
2 part of the process in the contracts.

3 Q. Their money being the money in the
4 escrow account --

5 A. Yes.

6 Q. -- controlled by the United Nations
7 which the Iraqis were, by Resolution 661
8 and following, prohibited from using,
9 except for humanitarian purposes such as
10 the purchase of food?

11 A. Yes, and I think we believed it was a
12 humanitarian cargo of wheat that had
13 entered Iraq.

14

15 That's the evidence you gave. You've heard me read the
16 evidence that Mr Cooper gave. Do you have any comment to
17 make on the apparent difference between your evidence as it
18 was in January and that of Mr Cooper?

19 A. Well, my understanding, Mr Agius, was that the debt
20 was recovered through the wheat contracts. I don't recall
21 the loading up or the inflation. I don't recall that
22 specifically. But it's possible that Mr Cooper said that.

23

24 THE COMMISSIONER: Q. How could they be recovered
25 through the wheat contracts other than by loading up the
26 price?

27 A. I think that's right, Commissioner. I see that.

28

29 MR AGIUS: That was the additional matter. Thank you. I
30 believe there's been an application to cross-examine
31 Mr Lindberg.

32

33 THE COMMISSIONER: Mr Allen, do you wish to ask any
34 questions?

35

36 MR ALLEN: No, sir.

37

38 MR ROBERTSON: I have an application, Mr Commissioner.
39 Could I preface it by saying that I seek leave, with
40 Mr Neil and Mr Izzo, to appear on behalf of Mr O'Sullivan.

41

42 THE COMMISSIONER: Yes.

43

44 MR ROBERTSON: Overnight, or perhaps early this morning,
45 there has been, I think, given to counsel assisting the
46 Commission a statutory declaration by Michael L'Estrange
47 and a statutory declaration by Paul O'Sullivan. Those

1 statutory declarations, the contents of them, give rise to
2 the, I think, five or six discrete issues that I wish to --
3

4 THE COMMISSIONER: They're referred to in the email that
5 you sent to the solicitor assisting.
6

7 MR ROBERTSON: That's so, yes.
8

9 THE COMMISSIONER: It does appear to me, on the basis of
10 those two declarations, that there is a conflict between
11 the evidence of Mr Lindberg and Mr L'Estrange and
12 Mr O'Sullivan in relation particularly to the events of the
13 meeting on 1 June --
14

15 MR ROBERTSON: It's all about the 1 June meetings, yes,
16 sir.
17

18 THE COMMISSIONER: In which case I will allow
19 cross-examination in relation to the matters referred to in
20 the email of 12 April 2006. Mr Agius, do you intend to
21 tender these documents?
22

23 MR AGIUS: I'm just reading them. I will in due course
24 tender them. I've made them available to Mr Allen on
25 behalf of Mr Lindberg. I imagine he's reading them at the
26 same time as I am.
27

28 MR ALLEN: I am, sir.
29

30 MR AGIUS: I will tender them perhaps after this
31 examination.
32

33 MR ALLEN: Mr Commissioner, as we understand the practice
34 which you've made clear on a number of occasions, if an
35 issue of conflict in evidence arises on the basis of
36 statements or evidence, then it's the responsibility of
37 counsel assisting to deal with those issues. If the issues
38 haven't been sufficiently addressed by counsel assisting,
39 then you'll permit the counsel representing the party to
40 cross-examine. You've pointed that out several times. It
41 seems to us that the proper course would be to allow
42 Mr Agius - they seem to be very short statements - some
43 time to look at them and to decide whether he wants to
44 pursue the areas of conflict, if there are any. Then if
45 there remain areas of conflict not addressed by counsel
46 assisting, then it would be appropriate to give leave to
47 our learned friends.

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THE COMMISSIONER: Yes.

MR AGIUS: I have been briefed by those who assist me in relation to this issue this morning. There is nothing in either of these statements upon which I would want to examine Mr Lindberg.

THE COMMISSIONER: Very well.

MR ALLEN: Does that mean there's no conflict?

MR AGIUS: No, there is conflict, but in the circumstances in which the conflict arises, and given the subject matter over which there is conflict, it's not a matter that I wish to examine Mr Lindberg on. I can see why it is that Mr Robertson may wish to examine on it, because there is a dispute of fact, but it's a dispute of fact that dates from June of 2005. In that sense, it's not a matter that I wish to examine Mr Lindberg on.

THE COMMISSIONER: Yes, very well. Yes, Mr Robertson.

<EXAMINATION BY MR ROBERTSON:

MR ROBERTSON: Q. Mr Lindberg, do you have with you your supplementary statement?

A. I do.

Q. Could I ask you to look at that - exhibit 767 - and, in particular, could I ask you to look at paragraph 7 of that statement. At the end of that paragraph you refer to the meeting, and that's the meeting between you and other officers of AWB on 2 June 2005; is that right?

A. Yes.

Q. You refer as well in this supplementary statement to the Cooper note. Is it right that you don't refer specifically in the balance of your supplementary statement to the meeting that you had on 1 June with Mr O'Sullivan?

A. I don't think I refer to that specifically, but I do recall Mr Agius taking me through the Cooper document.

THE COMMISSIONER: Just before you go any further, I'll mark these two declarations. The declaration of Mr O'Sullivan will become exhibit 776.

1 EXHIBIT #776 STATUTORY DECLARATION OF PAUL O'SULLIVAN

2

3 THE COMMISSIONER: That of Mr L'Estrange will be
4 exhibit 777.

5

6 EXHIBIT #777 STATUTORY DECLARATION OF MICHAEL L'ESTRANGE

7

8 MR ROBERTSON: Q. Mr Lindberg, do I understand,
9 therefore, that in relation to the meeting that you and
10 others from AWB had with Mr O'Sullivan on 1 June 2005, your
11 position is that what is in Mr Cooper's note, and subject
12 to what you answered in relation to Mr Agius's questions,
13 is your evidence about what happened at that meeting?

14 A. It is in respect of the matters that Mr Agius took me
15 to.

16

17 Q. In relation to the meeting with Mr L'Estrange, also on
18 1 June 2005, you refer to that, to some extent anyway, in
19 paragraph 12 of your supplementary statement; is that
20 right?

21 A. I do.

22

23 Q. And again there was some further evidence that you
24 gave the day before yesterday in relation to that meeting?

25 A. Yes.

26

27 Q. Would you agree with me that one of the matters that
28 you wished to convey to Mr L'Estrange at the meeting that
29 you had with him on 1 June 2005 was that the Volcker
30 Inquiry was or might be drawing conclusions unfair to AWB?

31 A. I think that's the case, yes.

32

33 Q. What I want to ask you is whether Mr L'Estrange said
34 to you and the other representatives of AWB at that meeting
35 that companies which had cooperated fully with the Volcker
36 Inquiry were likely to be better understood than companies
37 which did not cooperate; would you agree with that?

38 A. I can't remember that specific comment.

39

40 Q. Is it right to say that Mr L'Estrange was encouraging
41 AWB to fully cooperate with the Volcker Inquiry at that
42 meeting?

43 A. Look, I don't recall that specifically, but I believe
44 that that was a constant theme I think in all the meetings
45 that we had.

46

47 Q. And you understood the encouragement on the part of

1 the officers of the Commonwealth that AWB cooperate fully
2 with the Volcker Inquiry would extend to providing all
3 relevant documents to the Volcker Inquiry?

4 A. Well, we took advice from the company's lawyers about
5 what constituted appropriate cooperation, and we acted on
6 that advice.

7
8 Q. Did not Mr L'Estrange say to you at the meeting on
9 1 June that companies which had cooperated fully with the
10 inquiry were likely to have their perspectives properly
11 reflected by the Volcker investigators, or words to that
12 effect?

13 A. Look, I don't recall that specifically, but I think
14 there was a general level of encouragement about
15 cooperation from the government and the government
16 officials.

17
18 Q. Mr Lindberg, do you have with you the handwritten
19 notes of Mr Cooper, exhibit 685?

20 A. I don't.

21
22 MR ROBERTSON: Could the witness be given a copy of those
23 notes. I don't have the barcode reference, I don't think.

24
25 MR AGIUS: Are these Mr Cooper's notes?

26
27 MR ROBERTSON: AWB.0393.0003. If the monitor could bring
28 up the next page, which is 0004.

29
30 Q. Could you, Mr Lindberg, look at the second page of the
31 document that's just been handed to you?

32 A. Yes, sir.

33
34 Q. In particular, what I wanted to ask you about,
35 Mr Lindberg, was the fifth or sixth line on page 2, against
36 the name "L'Estrange" - do you see that?

37 A. Mmm-hmm, yes.

38
39 Q. As I understand it, it's your evidence that
40 Mr L'Estrange said to you "parties who had taken criticism
41 have since been left alone"; is that what you say?

42 A. As I recall the discussion, it was to the effect that
43 there may be adverse findings, witting or unwitting, and it
44 may be better to accept unwitting, and, that being the
45 case, they may not take the matter any further. That was
46 my understanding of what was conveyed.

47

1 Q. What I want to put to you, Mr Lindberg, is that,
2 firstly, the proposition that the parties who had taken
3 criticism have since been left alone really doesn't make
4 any sense, does it, given the date of this
5 conversation - that is, 1 June 2005?

6 A. I think that was referring to previous reports that
7 had been handed down by the Volcker commission, where
8 comments had been made about other firms or entities.

9

10 Q. What I want to suggest to you is that what
11 Mr L'Estrange had said in that regard was, as I put to you
12 before, companies that had cooperated fully with the
13 inquiry were likely to be better understood?

14 A. I wouldn't disagree that that's a sensible thing to be
15 putting forward, but I don't remember Mr L'Estrange putting
16 it in that way.

17

18 Q. All right. Could I suggest to you that what you were
19 saying at the meeting was that Alia was a designated
20 trucking company under the Oil-for-Food Program and the UN
21 had raised no concerns about the use of Alia; do you
22 remember that?

23 A. Yes, I certainly remember saying that in my meeting
24 with Minister Downer.

25

26 Q. Yes, I'm just focusing on your meeting with
27 Mr L'Estrange, though.

28 A. Yes.

29

30 Q. And that the comment that you were referring to just
31 now - that it may be better conceding the point if it is
32 unwitting - what I wanted to put to you was that the use of
33 the term "unwitting" was your term or Mr Trewin's term,
34 rather than Mr L'Estrange's?

35 A. Well, I think the terms "witting" and "unwitting" were
36 discussed, because in fact those terms were the terms that
37 were used by Mr Volcker.

38

39 Q. All right. Now, I want then to go to the
40 conversation, the meeting, that you had with Mr O'Sullivan
41 on the same day. I think your evidence is - correct me if
42 I'm wrong - that the meeting with Mr O'Sullivan was before
43 the meeting with Mr L'Estrange - was it?

44 A. As I recall, in fact I believe the meeting with
45 Mr O'Sullivan and Mr Langhorne may have been the previous
46 evening. It was not in fact the 1st. I think it may have
47 been the previous evening.

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Q. The meeting with Mr O'Sullivan, would you agree, lasted for about 30 to 40 minutes?

A. I'd say probably a little longer.

Q. Would you agree that it was you who spoke for the majority of the meeting?

A. Probably on balance, yes.

Q. And that you or other representatives of AWB were telling Mr O'Sullivan about the concerns you had about the questions being asked by the Volcker Inquiry and the conclusions that could be reached by reference to those questions?

A. I think in a broad sense, yes.

Q. And the consequences that could flow if those conclusions were reached?

A. Well, we certainly talked about adverse findings, and that was certainly discussed, yes.

Q. And of course no adverse findings had been made at that point, would you agree?

A. No, but I think the state of mind was that since the IIC investigators had come I had a belief that they already had a firm view, and we had obviously corresponded and even complained about certain things, including process, and had had no response.

Q. One of the things in your mind and on your mind and which you spoke about at the meeting with Mr O'Sullivan was this perception on your part of the lack of fairness?

A. I think, yes, procedural fairness, yes.

Q. You also discussed, did you not, a potential United States congressional inquiry; do you remember that?

A. Look, I can't specifically remember that. It's possible.

Q. Is it right to say that Mr O'Sullivan asked you a lot of questions?

A. He certainly asked me a number of questions, yes.

Q. The questions that he asked you, I suggest, included why it was that AWB were worried about the Volcker Inquiry; do you remember that?

A. I don't remember that specifically.

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Q. Another question he asked you was what AWB were doing about the Volcker Inquiry; do you remember that?

A. Well, we certainly discussed the process and the issues and what our position was on them, yes.

Q. Do you remember him asking you whether AWB had obtained legal representation in the United States.

A. I do, I do - not specifically in the United States.

Q. You remember Mr O'Sullivan asking you why it was that AWB were concerned about a US congressional inquiry?

A. US congressional inquiry? Look, that may have been discussed, but I think by then those matters were really behind us.

Q. Do you recall Mr O'Sullivan suggesting that AWB obtain legal advice and representation in the United States?

A. Yes - well, I don't know about the United States, but I certainly remember discussing the need for good legal advice and that that would be a very important part of our defence, if you like.

Q. Do you remember Mr O'Sullivan saying to you and the other AWB representatives that the best way of handling the questions from the Volcker Inquiry was to answer the questions as fully and comprehensively as possible?

A. I think that's right.

Q. Do you remember Mr O'Sullivan observing that, if AWB wanted to minimise the possibility of a US congressional inquiry, AWB should avoid discussing political issues, such as the war in Iraq?

A. I don't recall that.

Q. Or avoid discussing Iraq generally?

A. No, I don't recall that.

Q. What I want to suggest to you, Mr Lindberg, is that Mr O'Sullivan did not say to you words to the effect that AWB should keep its response narrow; would you agree with that?

A. No, I wouldn't.

Q. That what Mr O'Sullivan was putting to you was that AWB should avoid, in its response to Mr Volcker, attacking the Volcker procedures and raising issues about the war in

1 Iraq and Iraq generally; would you agree with that?
2 A. No, I wouldn't. I would agree in part with the first
3 part of that, but not with the second.

4
5 Q. Which part do you agree with?

6 A. Well, the first part, if you'd read that again.

7
8 Q. And that Mr O'Sullivan was not suggesting to you, or
9 using words to this effect, that the AWB's response to the
10 Volcker Inquiry should be technical; would you agree with
11 that?

12 A. Well, I think in the sense that we should confine it
13 to the legal issues, and they were around with whether or
14 not breaches of sanctions had occurred, and to that extent
15 the best position AWB could have would be to have strong
16 legal advice from independent counsel supporting that
17 position, and that's exactly what we wanted to achieve.

18
19 Q. Did Mr O'Sullivan say to you at the meeting on 1 June
20 that AWB should not blame the United States?

21 A. I don't know if he used the words "the United States".
22 I think he said that we shouldn't try and attack Volcker or
23 complain about the process; we should just deal with the
24 issues in the best way, and the best way was to confine it
25 to the legal issues. That's my recollection of the
26 discussion.

27
28 Q. You see, Mr Lindberg, if you look at the foot of the
29 page that you should have open before you - that is,
30 Mr Cooper's notes - four lines up from the end of that
31 page, you'll see there is a reference to "do not blame US";
32 do you see that?

33 A. Mmm-hmm.

34
35 Q. What I want to put to you is that the words, the two
36 lines that include the line beginning "O'Sullivan", are not
37 words that Mr O'Sullivan used but are matters of impression
38 that either you formed or Mr Trewin formed; would you agree
39 with that?

40 A. No, I wouldn't. I would say, if you want to
41 forensically analyse it, that Mr O'Sullivan did say "keep
42 it narrow, keep it confined to the issues". I don't recall
43 him saying "blame the US" - that may be an interpretation
44 of Mr Trewin's. I don't recall that, but I certainly do
45 recall him talking about the process, about Volcker, and
46 about the issues of whether it was witting or unwitting,
47 and the other comments around that.

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Q. When it says "complain about process" - do you see those words?

A. Mmm-hmm.

Q. What he was telling you was do not complain about the process?

A. I agree. I agree.

Q. As I put to you before, the language of "witting" or "unwitting" was AWB language rather than Mr O'Sullivan's language; is that right?

A. Well, it was certainly language that was used.

Q. And you can't really remember whether it was, at the meeting, AWB representatives, including yourself, or Mr O'Sullivan?

A. Well, I believe Mr O'Sullivan used those words, but it may well be that those words did emanate from AWB. I wouldn't dispute that, because those words are words that had been used by Mr Volcker.

Q. You'll see two lines above where I'm taking you to on this page, so if you count from the foot of the page six lines up, "PM's office - Paul O'Sullivan"; do you see that line?

A. Yes.

Q. The statement "was most probative" is a reference, is it not, not to any language that Mr O'Sullivan used but to the number of questions that he asked you and the other AWB representatives?

A. I would agree.

Q. He didn't use words to the effect that he was a supporter; that again was a matter of impression or conclusion drawn by you or Mr Trewin or Mr Stewart - would you agree with that?

A. I would agree with that.

Q. And really these notes of Mr Cooper are an undifferentiated set of impressions, notes, recollections interspersed, perhaps, with the occasional direct quote of somebody's language; would you agree with that?

A. Well, I think I've already conceded that there are a mixture of things in there, and I've given my views about what are direct quotes, what are impressions and who said

1 what.

2

3 Q. So you'd agree that there is a mixture of
4 impressions --

5 A. Well, there is a mixture, clearly, in the Cooper note,
6 including asides that were never said to anyone.

7

8 Q. Apart from the next day --

9 A. Apart from the meeting, yes.

10

11 Q. By "the meeting", you mean on 2 June at AWB?

12 A. Yes.

13

14 MR ROBERTSON: Thank you, Mr Lindberg. Thank you,
15 Commissioner.

16

17 THE COMMISSIONER: Mr Allen?

18

19 MR ALLEN: Nothing further, Mr Commissioner.

20

21 THE COMMISSIONER: Mr Agius?

22

23 MR AGIUS: Nothing, Mr Commissioner.

24

25 THE COMMISSIONER: I can't release you, I'm afraid,
26 Mr Lindberg, because of the Federal Court proceedings. You
27 may or may not be required further; we won't know that
28 until after the application to the court. If you are
29 further required, it will be by arrangement with you and
30 your legal advisers. Thank you very much.

31

32 THE WITNESS: Thank you, Commissioner.

33

34 <THE WITNESS WITHDREW

35

36 MR AGIUS: Mr Commissioner, there are some documents to be
37 tendered. Perhaps if I go through the list and just put
38 this on the record. I'll provide a schedule of the
39 documents.

40

41 We have a series of statements as confidential
42 exhibits 329C through to and inclusive of 334C. They are
43 statutory declarations of Mr Barry, Mr McClelland,
44 Mr Charmarette, Mr Fitzgerald, Mr Polson and Mr Schmolli. I
45 ask that each of those now be marked as a public exhibit.

46

47

1 EXHIBIT #778 STATUTORY DECLARATION OF ROBERT BARRY
2
3 EXHIBIT #779 STATUTORY DECLARATION OF WARRICK McCLELLAND
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5 EXHIBIT #780 STATUTORY DECLARATION OF STEPHEN CHARMARETTE
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7 EXHIBIT #781 STATUTORY DECLARATION OF BRENDAN FITZGERALD
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9 EXHIBIT #782 STATUTORY DECLARATION OF PETER POLSON
10
11 EXHIBIT #783 STATUTORY DECLARATION OF JOHN SCHMOLL
12

13 MR AGIUS: Commissioner, I tender the statutory
14 declaration of Michael Long, dated 10 April 2006,
15 WST.0038.0169.

16
17 THE COMMISSIONER: That will be exhibit 784.

18
19 EXHIBIT #784 STATUTORY DECLARATION OF MICHAEL LONG,
20 DATED 10/4/2006, BARCODED WST.0038.0169
21

22 MR AGIUS: I tender a statutory declaration of Peter Geary
23 dated 10 April 2006, WST.0038.0168.
24

25 EXHIBIT #785 STATUTORY DECLARATION OF PETER GEARY,
26 DATED 10/4/2006, BARCODED WST.0038.0168
27

28 MR AGIUS: I tender the statutory declaration of
29 Terrence Arthur Aucher, dated 10 March 2006, WST.0027.0006.
30

31 EXHIBIT #786 STATUTORY DECLARATION OF TERRENCE ARTHUR
32 AUCHER, DATED 10/4/2006, BARCODED WST.0027.0006
33

34 MR AGIUS: That document has attached to it an annexure
35 which lists the names of ships. It may contain other
36 commercially sensitive material. I do not believe it does.
37 So we will substitute an amended schedule as part of
38 exhibit 786.
39

40 THE COMMISSIONER: Very well.

41
42 MR AGIUS: Just for reasons of commercial in confidence.
43 My learned friend will have an opportunity to check that.
44

45 THE COMMISSIONER: Yes.

46
47 MR AGIUS: I tender the statutory declaration of Paul

1 Ingleby of 21 March 2006, WST.0027.0010.

2

3 EXHIBIT #787 STATUTORY DECLARATION OF PAUL INGLEBY,
4 DATED 21/4/2006, BARCODED WST.0027.0010

5

6 MR AGIUS: I tender the statutory declaration of
7 Clinton Henry Starr dated 6 April 2006, AWB.0417.0009.

8

9 EXHIBIT #788 STATUTORY DECLARATION OF CLINTON HENRY STARR,
10 DATED 6/4/2006, BARCODED AWB.0417.0009

11

12 MR AGIUS: I tender the statutory declaration of
13 Anthony Howarth dated 11 April 2006, AWB.0422.0002.

14

15 EXHIBIT #789 STATUTORY DECLARATION OF ANTHONY HOWARTH,
16 DATED 11/4/2006, BARCODED AWB.0422.0002

17

18 MR AGIUS: The last two deponents are directors.

19

20 THE COMMISSIONER: Yes.

21

22 MR AGIUS: I tender the second supplementary statement of
23 Trevor James Flugge dated 7 April 2006, WST.0039.0001.

24

25 EXHIBIT #790 SECOND SUPPLEMENTARY STATEMENT OF
26 TREVOR JAMES FLUGGE, DATED 7/4/2006, BARCODED WST.0039.0001

27

28 MR AGIUS: There may be issues of commercial sensitivity
29 that arise in relation to some annexures to that document
30 and I will ask my learned friend Mr Corbett to look at
31 those annexures before we make them public. But I'll ask
32 that they be made public exhibits. If we need to edit
33 them, we'll do so.

34

35 THE COMMISSIONER: Yes, very well.

36

37 MR AGIUS: I tender the statutory declaration of
38 Edward John Laskie, which is unsworn, WST.0037.0001.

39

40 EXHIBIT #791 UNSWORN STATUTORY DECLARATION OF
41 EDWARD JOHN LASKIE, BARCODED WST.0037.0001

42

43 MR AGIUS: And I tender what is an agreed excerpt of
44 transcript of taped interview between Mr Hogan and those
45 assisting you, Mr Commissioner. It's two pages. It's
46 barcoded INQ.0012.0001.

47

1 EXHIBIT #792 AGREED EXCERPT OF TRANSCRIPT OF TAPED
2 INTERVIEW BETWEEN MR HOGAN AND INQUIRY STAFF,
3 BARCODED INQ. 0012. 0001
4

5 MR AGIUS: That completes the list of material that we
6 have available for tender today. It also completes the
7 examination of witnesses that we have available to this
8 point in time. I expect that we will be asking you to sit
9 again, Mr Commissioner, the week of Anzac Day, the earliest
10 date being 26 April.

11
12 THE COMMISSIONER: The 26th or 24th?

13
14 MR AGIUS: The 24th is the Monday, the 25th is Anzac Day.
15 We are making arrangements for witnesses. I think it's
16 unlikely we'll be able to get anybody for the 24th. In
17 that week at some time we will be asking you to sit again.
18 I would ask that we adjourn to a date to be fixed, because
19 I'm not able to fix a date at the moment, but ask those who
20 are interested to pay attention to our website, where we
21 will publish the date that it's intended to sit again.
22 We'll give as much notice as we can about that.

23
24 THE COMMISSIONER: Yes, very well. I shall adjourn to a
25 date to be fixed. I trust you all have a happy Easter.

26
27 AT 12.10PM THE COMMISSION WAS ADJOURNED
28 TO A DATE TO BE FIXED
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