



*Inquiry into certain Australian companies in relation to the
UN Oil-for-Food Programme*

Reasons

1. There has been no application to cross examine the Prime Minister on behalf of AWB Limited, AWB (International) Limited, any of the directors of either company, or any executives of AWB except for Messrs Geary and Long. That application has been supported by a written submission received today.
2. There is no evidence that the Prime Minister has ever met Mr Geary or Mr Long. There is no conflict between the evidence of the Prime Minister, on the one hand, and Messrs Geary and Long on the other. There is thus no application to cross examine in relation to any substantive conflict of evidence.
3. The application relates to different matters. As I read the application, it seeks to cross examine to elicit additional information. It does not call into question any statement of fact in the Prime Minister's statement. No question of credit thus arises.
4. The application, as is proper, is said to be subject to the examination by Counsel Assisting. Much, if not all, of the information which is sought in the application to cross examine I would expect will be dealt with in the questioning by Counsel Assisting. It is thus premature for me to rule on the application to cross examine.
5. However, there are three matters referred to in the application in respect of which I will not permit examination or cross examination.
6. First, the applicant wishes to ask the Prime Minister regarding his knowledge of a Ministerial report referred to in evidence by Mr Varghese. In Reasons I published yesterday, prior to the receipt of the application to cross examine, I indicated that the document referred to by Mr Varghese in the Ministerial report was not material to my Terms of Reference, and will not be tendered before me. Accordingly, I will not allow examination or cross examination on that matter.

7. Second, in relation to certain unassessed intelligence, distributed to the Department of Prime Minister and Cabinet and the Office of the Prime Minister, the application seeks the names of persons in those offices who received or were likely to have received such unassessed intelligence. As I am concerned only with the knowledge of the Commonwealth, and as the fact of distribution of the unassessed intelligence to the offices referred to is established, any knowledge of the Commonwealth is neither improved or diminished by a nomination of the persons who received or were likely to have received such unassessed intelligence. Accordingly, I will not permit examination or cross examination in relation to item (i) in respect of paragraphs 12 – 19.
8. Third, the application seeks to inquire whether, to the Prime Minister's knowledge, certain unassessed intelligence was linked by unnamed persons, presumably Commonwealth officers, to allegations in certain cables. The evidence of the Prime Minister that he was not aware of either the unassessed intelligence or particular cables, because such unassessed intelligence and cables were not brought to his attention, is not sought to be challenged by the application to cross examine. No doubt the applicant recognised that it would be impermissible to ask the Prime Minister whether he personally linked unassessed intelligence, of which he was not aware, with cables, of which he was not aware. Such a question would be a logical absurdity because one cannot link together two items in respect of which one has no knowledge. No doubt to avoid this difficulty, the applicant slightly amended the inquiry to ask whether, to the Prime Minister's knowledge, any innominate person ever linked the unassessed intelligence, of which the Prime Minister was not aware, with the cables, of which the Prime Minister was not aware. However, the logical difficulty remains. That is not a question the Prime Minister could answer. Accordingly, and as I am concerned only with the knowledge of the Commonwealth, I will not allow examination or cross examination in relation to item (iv) in respect of paragraphs 12 – 19.
9. I will rule on the balance of the application, should it be pressed, after the conclusion of the examination of Counsel Assisting.

13 April 2006