

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 Friday, 24 February 2006, at 10.05am

1 MR AGIUS: Mr Commissioner, the next witness is
2 Mr Goodacre.
3
4 MR BRAHAM: Commissioner, I seek leave to appear for
5 Mr Goodacre.
6
7 THE COMMISSIONER: Yes, Mr Braham. That leave is granted
8 on the usual terms.
9
10 <TIMOTHY GOODACRE, sworn: [10.05am]
11
12 <EXAMINATION BY MR AGIUS:
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14 MR AGIUS: Q. Mr Goodacre, might we have your full name,
15 please?
16 A. Yes, it is Timothy Goodacre.
17
18 Q. Mr Goodacre, you accepted service of a notice
19 requiring your attendance here whilst you were in
20 New Zealand?
21 A. Yes.
22
23 Q. You have then travelled from New Zealand to give
24 evidence here today?
25 A. That is right, yes.
26
27 Q. Thank you for coming. We have a statement,
28 Mr Goodacre, which is on the system - WST.0012.0001 through
29 to 0032, including annexures. I will provide you with a
30 hard copy. Would you just confirm that that's a copy of
31 your statement. We have edited it to substitute the coding
32 we are using for the persons who were named in the
33 Arthur Andersen report where you refer to them in
34 connection with the Arthur Andersen report in your
35 statement.
36 A. That's correct, sir.
37
38 Q. Is that a copy of your statement?
39 A. That is correct, sir.
40
41 Q. Are the contents of it true and correct to the best of
42 your knowledge and belief?
43 A. They certainly are.
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45 MR AGIUS: I tender that statement, Mr Commissioner,
46 edited as I have indicated.
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4 MR AGIUS: Q. Can I bring you to paragraph 5 of your
5 statement on the numbered page 8. You say in the second
6 sentence:

7

8 I was aware that trucking fees were being
9 paid to a Jordanian trucking company.

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11 How were you made aware of that?

12 A. There was some discussion at the executive several
13 months - I suppose over several months prior to June where
14 I was - there was a description given generally of the
15 arrangement. I just was aware of it. It was not at that
16 time a key part of my responsibility - well, it wasn't part
17 of what I was responsible for in the business. So I was
18 generally aware of the arrangement. I guess that's really
19 what I am saying there, and it was what I understood at the
20 time.

21

22 THE COMMISSIONER: Q. From an ELG meeting?

23 A. Sorry, from the executive meetings. There were
24 general discussions around the Iraq arrangements because of
25 the United Nations involvement and the - I guess the
26 importance of them. I was generally aware of the
27 arrangements.

28

29 MR AGIUS: Q. Were you aware at that time of the
30 mechanism of the payment?

31 A. I would have to say, sir, not in any specific detail,
32 no.

33

34 Q. When you say that, I appreciate it was some time ago,
35 and you have done a lot of things since, but were you aware
36 that the fees were being paid via ship owners?

37 A. At that time I would have to say no. I can't recall
38 all the discussions, but they would - I recall that the
39 executive meetings, they were fairly high level, and the
40 rest of us, or the other executive members, would not have
41 been necessarily interested or - and I'm not sure that the
42 marketing people would have gone into any real detail at
43 all, not at that sort of meeting. There were a large
44 number of people at that meeting. I doubt whether they
45 would have done that.

46

47 Q. Were you aware of any role that Ronly had in the

1 mechanism for payment of the trucking fees?

2 A. Not at that time, no.

3

4 Q. Were you aware of negotiations or discussions that
5 were taking place with Ronly about a merger?

6 A. Yes, I was.

7

8 Q. In connection with those discussions, you never heard
9 anything about Ronly also being involved in the payment of
10 the trucking fees?

11 A. Not that I recall, sir, no.

12

13 Q. At paragraph 5.5 you use a phrase "The framework for
14 the Iraqi contracts had been negotiated by the previous
15 management team", and you go on to say in the second
16 sentence:

17

18 I understood the framework and the form of
19 the contracts that were used had been
20 approved by the United Nations.

21

22 I am trying to understand what you mean by the concept of
23 the "framework" for the contracts. Did you mean to include
24 in that the mechanism by which the trucking fees would be
25 paid?

26 A. I think at that time, and what I recall now, I was
27 just aware that there was a framework for where we did
28 involve, or the contract involved paying for trucking
29 services, and I understood that the arrangement had UN
30 approval. That's as far as my understanding would have
31 gone at that time.

32

33 Q. So if I summarise that, you had some understanding
34 that the UN had approved contracts which provided for the
35 payment of some kind of trucking fee?

36 A. Yes, sir. That would have been the extent of my
37 knowledge at that time.

38

39 Q. Had you seen any of the contracts?

40 A. No, not at that time.

41

42 Q. Your source of knowledge in relation to this?

43 A. It would have been those broad discussions at the
44 executive meeting. It was an important market and there
45 was always - there was some broad discussion about the
46 securing of the contract or the making of a sale at those
47 meetings.

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Q. You say at the bottom of that page:

I was generally aware that the AWB was responsible for meeting the costs of discharging the wheat and the inland transportation costs within Iraq as part of AWB's obligations under the contracts.

What was your awareness so far as AWB's obligation to actually secure the delivery of wheat to all governorates of Iraq?

A. I recall - at that time my recollection is that I would have understood that we had a responsibility to get the wheat delivered through Iraq, because there was a lot of discussion about problems with that - demurrage problems, slow discharge rates, and I believe some discussion about having problems getting the wheat distributed away from the wharf and into the country. So that's where my understanding, I suppose, lay at that time.

Q. Can I just tease that out a little. There are two concepts that have emerged generally from the evidence. One was the concept of an obligation to pay an amount of money on account of trucking; the other is an obligation to actually ensure that the wheat was delivered. In relation to the first concept, AWB's obligation extended no more than making the payment; in relation to the second, its obligation extended to ensuring delivery of the wheat, not just making the payment as directed by IGB. Are you able to say which of those two concepts you had in mind when you spoke of the framework of the contracts and the responsibility for meeting discharge costs in paragraph 5.5?

A. Probably the first, sir.

Q. So your recollection of your understanding was that AWB had an obligation to make the payment, not to actually secure the delivery of wheat itself?

A. My understanding - yes - I understood we had an obligation to make a payment to ensure the wheat was delivered. But beyond that, sir, I don't - I couldn't give you a greater level of understanding, no, that's --

Q. What we know from all the evidence - and I don't think this is disputed by anybody - is that during this period of time, certainly prior to 2003, AWB had not conducted any

1 due diligence in relation to the trucking company, had not
2 put in place any special insurance to cover the wheat once
3 it had passed the rail of the ship in Umm Qasr, and hadn't
4 done, in effect, any of the things that it did in 2003,
5 when it took on a contractual responsibility to actually
6 deliver the wheat.

7 A. Mmm.

8
9 Q. Now, does that assist you with your recollection?

10 A. I suppose all I can say is that my understanding at
11 that time was at a very high level, and, to be frank, sir,
12 you know, I couldn't comment on any more of the detail, I'm
13 sorry, but that's where my mind was at at that time.

14
15 Q. Now, in paragraph 5.6 you deal with a portion of
16 Mr Emons' evidence in which he alleged that knowledge of
17 the payments and the fact that at least some of the money
18 was going to Iraq was widespread within AWB. You say you
19 do not agree with that evidence. Where was your office in
20 relation to where Mr Emons was situated?

21 A. My office at that time was on the ground floor of the
22 building and the marketing floor was on the sixth floor.

23
24 Q. So you wouldn't have been party to the office banter
25 that would have been occurring around the IS&M desks?

26 A. No, not at all, sir.

27
28 Q. And you didn't spend much, if any, time there?

29 A. No.

30
31 Q. Then in the third sentence you say:

32
33 ...if it had been widely known, I believe
34 it would have been made public a long time
35 ago.

36
37 And you speak about the extremely competitive market. Up
38 until the time that Mr Emons left in mid-2000, was it not
39 the case that there had been no changeover of staff at the
40 IS&M desk in relation to the Iraq market?

41 A. That's correct - as far as I can recall, yes.

42
43 Q. If IS&M staff - and, indeed, chartering staff -
44 believed that payments that were being made were being made
45 in breach of sanctions, it is most unlikely, isn't it, that
46 they would have spoken to AWB's competitors about that?

47 A. My comment in that paragraph - I think I took

1 Mr Emons' evidence to suggest that it may have been widely
2 known around the organisation, or perhaps beyond at least
3 one - perhaps one or two individuals, and my comment is
4 that there were a lot of people who had relationships with
5 people in competitor organisations, so if comments had been
6 made outside I would suggest a small number of people, that
7 information would have been known within the grains
8 industry. And that was the culture or the circumstance at
9 the time.

10
11 Q. Apparently it was known within the grains industry, if
12 Mr Emons' evidence about his attendance at the conference
13 in London is accepted - a great many people concerned in
14 the grains industry were aware that the IGB had imposed a
15 trucking fee on all contracts for all goods being imported
16 into Iraq. Were you aware of that?

17

A. No, sir.

18
19 Q. When Mr Emons left the AWB he says that he had a
20 lengthy discussion with you after he had tendered his
21 resignation, and that he briefed you in depth as to what
22 was happening in the Middle East, and that included a
23 briefing on the true nature of the payments that were being
24 made. What do you say about that?

25 A. He is mistaken, sir. I did not have a conversation -
26 I clearly do not recollect having a conversation with him
27 after he resigned his position.

28

29 Q. Did you have knowledge of the terms upon which
30 Mr Officer had left the AWB?

31 A. Not until some time after he had left the AWB.

32

33 Q. Were you aware that Mr Officer had signed a deed of
34 release with the AWB as part of his departure package?

35 A. Not at the time, no, sir.

36

37 Q. Did you become aware at any time that Mr Officer had
38 signed a deed of release?

39 A. My first recollection of that was during a debrief on
40 the Arthur Andersen report.

41

42 Q. We have Mr Officer's release, which has been edited to
43 remove some confidential material, at WST.0007.0035, and
44 there is an "R" after the number to record the fact that it
45 has been edited. Could we go to page 0036. In paragraph 8
46 the deed records:
47

1 AWB acknowledges that it (by its Board and
2 Chief Executive Officer) authorised agency
3 payments during the period 15 December 1999
4 to 9 June 2000 to overseas agents for
5 sales.
6

7 Were you aware that there were negotiations going on
8 between Mr Officer and AWB to have such a clause included
9 in a deed of release?

10 A. No, sir.
11

12 Q. Did you see the deed?

13 A. No.
14

15 Q. Mr Emons says that he spoke to you about the inclusion
16 of such a clause in his deed. What do you say about that?

17 A. He is mistaken.
18

19 Q. He says he gave you quite specific detail about why he
20 wanted the deed. He said, "I gave him the detail of the
21 agency payments that we were making under the Middle East
22 desk and the transport fees that we were paying that
23 related to the contracts with Iraq." What do you say about
24 that?

25 A. As I said in my statement, I am quite clear in my
26 recollection that I had probably only two meetings with
27 Mr Emons - one was soon after the changes at the executive
28 level, and I was talking to each of the managers, general
29 managers, of the various business divisions that I was now
30 responsible for to get a brief on what was happening, and
31 really to give them the message that, particularly where
32 there were positions to be filled, to continue with the
33 business, let me know of any major issues that were
34 concerning them. That discussion with Mr Emons, as
35 I recalled, certainly did provide an overview of the
36 markets that he was responsible for, but I also recall
37 quite clearly that a large part of the discussion was about
38 why he should be given the position of general manager
39 international sales and marketing. So --
40

41 Q. I am sorry, I didn't mean to cut you off - go on.

42 A. So it was a large part of that. He made reference to
43 the fact that he knew the customers and that I had limited
44 experience, and that Mr Lindberg had given him an
45 undertaking that he would fill the role. I noted that and
46 said that I would consider that interest, but that was the
47 tenor of that first discussion.

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The second discussion I had with him was when I advised him that I had appointed Mr Stott, or would be appointing Mr Stott, and that was a reasonably short conversation. After that, he went on leave and, frankly, I did not speak to or see him again, and I have not until this day.

Q. In the course of your first discussion with him, then, your answer was it would have included a statement to the effect "let me know of any major business, let me know of any major issues that were concerning you".

A. Yes.

Q. If we accept Mr Emons' evidence, this was a major issue that was concerning him. Might it not be that, in that connection, albeit before his resignation, he told you about the issues concerning this trucking fee?

A. He - I do recall him talking about the problems with demurrage - that was a major issue for Iraq. He talked about it being a complex market, as I recall, but that was in the context, again, of him pitching for the role; that, you know, I needed his expertise, he was very familiar with that market and the other markets of the Middle East; but certainly there was no mention of any particular detail around the arrangement. As I recall, the discussion probably would have only gone for half an hour or so at most, and the focus was on why he was best qualified for the position. That's the best of my recollection, sir.

Q. I understand that, Mr Goodacre. At this time when you were having this first discussion with him, you were the person to whom he would have reported?

A. That's correct, yes. I had already been appointed to the role, because between then and when he went on leave, as I think I said in my statement, it would have been only 10 days or so, so that was - I had already been appointed to the role, yes.

Q. What we do know is that prior to your appointment, when Mr Emons was reporting to Mr Officer, he made a point of sending Mr Officer an email so as to, in effect - and these are my words - lock Mr Officer in to knowledge of the mechanism for payment of the trucking fee because of his own concerns about it. That's a summary of his evidence, but it is supported by the existence of the email.

A. Mmm.

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Q. Might it not have been the case that when Mr Officer left he told you about the same matter in order to gain the same comfort that he had been given from locking Mr Officer in?

A. He didn't do that, and, as I said, I think - I don't want to speculate, but, as I said, he was looking to get Mr Officer's job and he didn't mention anything other than, as I said, his expertise and perhaps his inference, or strong inference, of my lack of expertise, and, therefore, his strong argument that he should get the position. He made no mention of any detail or any concerns that he had about the business. He was giving me comfort that he was in control of the business and that's why he should continue in the role.

Q. So you would dispute that he had a number of discussions with you - you limit them to two, do you?

A. If there were more than two, it would have been perhaps one more, but it might have been a very short discussion to update me on something. But, as I said in my statement, my relationship with Mr Emons as his manager was limited to a maximum of two weeks, and at that time I was trying to get my head across three business divisions in total, and I had limited time to have a large number of discussions with anyone in that particular period.

Q. Might it be that he told you about issues concerning this trucking fee and that, because of your lack of expertise - and I say that with respect to you, because you freely admit that you were being put into an area where you didn't have expertise - what he said to you just didn't register with you?

A. That's possible, sir, but he certainly didn't make any reference to concerns about the arrangements. He may have talked about the arrangements, and I acknowledge that in outlining some of the arrangements I would have taken that on board, but not in the context of any concern, no, sir.

Q. But if he did speak to you about a mechanism for the payment of the trucking fee at that time, it is possible that the significance of that might not have registered with you?

A. Certainly possibly in the context of how he had said it, yes, I accept that, sir.

Q. In your statement you speak of the Arthur Andersen

1 report, commencing at paragraph 7, and at 7.5 --

2

3 THE COMMISSIONER: Q. Just before you go to that, in
4 paragraph 6.3 you are addressing the Ronly issue and you
5 say that Mr Stott told you that he wanted to terminate the
6 agency agreements.

7 A. That's in relation to both the Pakistan and Ronly
8 arrangements.

9

10 Q. Did Mr Stott tell you that, notwithstanding the
11 termination of the Ronly agreements, the payments to Ronly
12 would continue?

13 A. Not at that time, sir, no.

14

15 MR AGIUS: Q. I will come back to the Ronly matter with
16 you when we get into the detail of the Arthur Andersen
17 report. I don't want to distract you from that line of
18 thought, Mr Goodacre. You refer in your statement at 7.5
19 to having seen the December 2000 report, which you describe
20 as the final report from Arthur Andersen. When you say
21 "final report", did you understand that that was in fact a
22 final report, and that there was no debate or talk or
23 negotiation concerning any further report that might come
24 in relation to the issues raised in that report?

25 A. Yeah, my - yes, my reference to the final report is
26 what I was sent by the AWB most recently. I don't
27 anticipate there was a further report. I'm not aware of a
28 further report.

29

30 Q. I am not suggesting that there was a further report,
31 but I think the substance of Mr Stott's evidence - and I'm
32 not quoting him verbatim - was that there was some
33 unhappiness about this report and that Arthur Andersen
34 wanted more time to produce a final report, and that a
35 decision was made not to afford that extra time, and that,
36 whereas this might have been the last report that came, it
37 wasn't understood to be a final report. Have you any
38 recollection of anything of that nature?

39 A. The only recollection I have about further work is
40 I think they may have been wanting to do some more work in
41 some areas in relation to perhaps some of the
42 recommendations. I think our view at the time was that
43 that was not necessary, and I suppose I probably took the
44 view that if the consultants were going to look for some
45 more work, well, this was an opportunity for them to pitch
46 for that work, and I think I took the view that we had the
47 substance of what we were looking for from the review. To

1 the best of my recollection, that's the tenor of the
2 decision that we took at the time.

3

4 Q. Now, if I follow the substance of your statement
5 correctly, you received the final report under cover of the
6 letter of 6 February 2001. You then have the discussions
7 concerning the report - and I will come back to that a
8 little later - and then Mr Stott undertook to follow up
9 concerns raised over the Iraqi trucking payments. It was
10 after that that Mr Stott came back to you and told you that
11 he had made inquiries with both IGB and DFAT as part of his
12 investigations into the issues relating to the trucking
13 payments that had been raised in the final report. Now, is
14 that the chronology in which you see the matters?

15 A. I suppose - yes, particularly when I saw the copy of
16 the final report given to me by AWB. If you had asked me
17 that question a week or so ago, I may not have been as
18 clear in my understanding of what happened, but that's - to
19 the best of my recollection, that is the sequence of
20 events.

21

22 Q. We have the final report as confidential exhibit 69C.
23 I can, for ease of reference, provide you with a hard copy
24 of it. Could we go to AWB.0182.0106 at 0117, which is
25 page 11 of the report, and you will appreciate,
26 Mr Goodacre, that we are using code names - AA1 to AA8 and,
27 in relation to this report, I think AA1 to AA7 - for the
28 names of various people referred to in it. Can I ask you
29 just to refresh your recollection of the report by reading
30 what is page 11 of the report and the first half of
31 page 12.

32

33 MR BRAHAM: Commissioner, just while that is occurring,
34 neither the witness, as far as I know, nor I have a
35 reference to the names in the report and the code names
36 used by the Commission. I don't know what my friend is
37 proposing to do next, but it may assist - it would
38 certainly assist me and it may be necessary for the witness
39 to be given a cross-referencing sheet.

40

41 MR AGIUS: I should indicate that the portions that I have
42 directed the witness to have, in the main, been read on to
43 the transcript in the course of earlier evidence and I had
44 substituted the code names in the course of my reading.

45

46 THE WITNESS: Thank you.

47

1 MR AGIUS: Q. Now, you say in your statement at
2 paragraph 7.6 that you read the Arthur Andersen report, you
3 took comfort in the way in which you have described that
4 some of the matters referred to in the report had
5 substantiated Mr Stott's concerns. May we take it, then,
6 that you read the report closely?

7 A. At the time, yes.

8
9 Q. And then you say you very soon thereafter attended a
10 meeting with Mr Stott, Messrs Touhy and McKeller, both of
11 Arthur Andersen, to discuss the report.

12 A. That's correct, and I make that comment after looking
13 at my diary.

14
15 Q. In 7.8 you say that, to the best of your recollection,
16 this was the first time that had been brought to your
17 attention that there was a risk that some of the money that
18 was being paid to the Jordanian trucking company may have
19 been diverted to other purposes.

20 A. That's correct, sir.

21
22 Q. May we take it that you would have been aware at that
23 time that if that money, or some of it, was being diverted
24 to the Iraqis, that would have involved a breach of the UN
25 sanctions?

26 A. That's correct.

27
28 Q. And you were aware at that time that, if that was
29 occurring, that was a serious matter so far as AWB was
30 concerned?

31 A. Yes.

32
33 Q. And you would say not a matter that you would have
34 condoned?

35 A. No, because - I mean, as - the reason for the Arthur
36 Andersen report was all about probity issues, and where
37 I had come from, I was a - I had worked in government,
38 I was very aware of proper process. I was concerned about
39 Mr Stott's concerns. You know, I was new in the role.
40 I wanted to do the right thing. That's where I came from.
41 So I - that's why I was comfortable with getting the Arthur
42 Andersen people in to look at this, and similarly with that
43 finding I was concerned. I was also concerned about a lot
44 of the other issues in the report, particularly as we had
45 commissioned it on the basis of probity issues around
46 individuals. So there were a lot of things in that report
47 which obviously caused concern at the time for me and other

1 managers.

2

3 Q. If you go to page 11 of the report, which is barcoded
4 0117, you would have read in the fourth paragraph that AA3
5 had informed Arthur Andersen that concerns had been raised
6 at AWB about the future sales to Iraq, and that there was
7 AWB management pressure to maintain the sales to Iraq. Did
8 that give you concern - that an employee of AWB felt that
9 there was management pressure to maintain the sales and
10 this had led to employees of AWB wanting to find ways to
11 avoid attracting the attention of the United Nations?

12 A. Yes. Yes.

13

14 Q. And how did you address that particular concern?

15 A. Basically to ask Charles to have a look into the
16 arrangements, and that's what he assured me he did, and
17 I was - and part of that was checking with the IGB and
18 checking with DFAT - that was his response to that.

19

20 Q. So you gave Mr Stott responsibility for following up
21 the concerns that were raised by this report?

22 A. Yes, I had. It was on Charles's advice that we had
23 gone down this route with Arthur Andersen, and, you know,
24 he was certainly very focused on what he believed were
25 potentially improper practices and arrangements that the
26 previous team had in place. He was very committed to
27 addressing those issues, and I had seen from the decisions
28 or his recommendations relating to the agency payments that
29 there were some issues of concern, confirmed here in the
30 report. So I was comfortable to delegate this to him. He
31 knew the people that he was going to make the contacts
32 with, and, as I said, he seemed very committed to following
33 this through. So I was comfortable in delegating that
34 authority to him.

35

36 Q. His concern was one that you describe as to do with
37 probity issues. I mean, to be blunt about it, he had a
38 concern that certain employees at AWB were receiving some
39 kind of financial benefit, either through the Ronly
40 payments or through the facilitation payments that were
41 being made to the Pakistani agents?

42 A. Correct.

43

44 Q. Is that right?

45 A. That's correct.

46

47 Q. Did he, prior to the receipt of this report, ever

1 express any concern to you that money being paid to Alia
2 might be finding its way to the Iraqis?

3 A. No, no, sir.

4
5 Q. And in the commissioning of this Arthur Andersen
6 report, was that even an issue?

7 A. No.

8
9 Q. And you are quite certain about that?

10 A. Oh, I am quite certain. It was really about
11 individuals. That was the focus of the report.

12
13 Q. And whether they were receiving secret commissions or
14 whether they had somehow benefited from the arrangements
15 that AWB had had in place?

16 A. That and looking at means of addressing those flaws in
17 those arrangements, or the arrangements may have encouraged
18 or exposed people to improper practice, yes.

19
20 Q. So the exposure that this report gave to issues
21 concerning the trucking payments, that was all new, so far
22 as you were concerned?

23 A. Yes, sir; that's correct.

24
25 Q. It hadn't been identified to you as an issue by
26 Mr Stott?

27 A. No. The issues that had been raised prior to this
28 report, to the best of my recollection, were more around
29 execution of the contract, more around the demurrage issue,
30 and he would give me those sorts of briefings at our weekly
31 management briefings. But, other than that, I left him to
32 get on with the business. In fact I thought the
33 international sales and marketing side of the business was
34 in perhaps safer hands than I had in relation to a couple
35 of the other areas that I was addressing at the time.

36
37 Q. In his evidence before the inquiry Mr Stott said at
38 page 2290 that following his October mission to Iraq he had
39 a concern that maybe the Iraqis were in some way
40 benefitting from the trucking fees, and he said that he
41 then expressed that concern to you. Does that fit with
42 your recollection?

43 A. I don't recollect that, sir. If he had done it, it
44 wouldn't have been a high-order issue. Otherwise I would
45 have - I would obviously have some recollection of that.

46
47 Q. Now, just following on the sequence as we have it from

1 your statement, I think we had reached paragraph 7.10:

2

3 At this meeting --

4

5 and this is the first meeting that you had following the
6 receipt of the report --

7

8 Stott said that he would follow up the
9 concern raised over the Iraq trucking
10 payments. Stott said that he would
11 investigate the payments AWB was making to
12 the trucking company to see if there was
13 any substance to the comments made in the
14 Arthur Andersen report that there may be a
15 risk that money from those payments was
16 being diverted to Iraq.

17

18 Now, you don't have any doubt about the fact that he was
19 assigned those tasks and that he said words to the effect
20 that you have set out in paragraph 7.1?

21 A. I have no doubt about that, because it was also part
22 of the other, let's say, issues raised in the report.

23

24 Q. I said "7.1"; I should have said "7.10".

25 A. That's correct.

26

27 Q. So, in this connection, did Mr Stott tell you that he
28 had already carried out some tests and some investigations
29 to determine whether or not any money was finding its way
30 to the Iraqis?

31 A. He treated it as though - I do recall him treating it
32 as though it was not a serious issue, and I have - my
33 recollection is that he would make the checks but it was
34 not something which he was unduly concerned about, and it
35 may be that that was because he had satisfied himself
36 earlier. That's the best of my recollection.

37

38 Q. But it was left with him on the basis that he was
39 going to make checks?

40 A. Yes, that's correct.

41

42 Q. It was not left with him on the basis that he had
43 already made checks?

44 A. No, no, no, it was left with him on the basis that he
45 would make checks, yes.

46

47 Q. And he never said to you that he had already made

1 checks?

2 A. I don't recall him saying that, but, as I said, his
3 reaction was that he believed that it wasn't an issue, but
4 he would make those checks.

5

6 Q. No doubt you expressed your surprise to him during the
7 course of this meeting when you read what we see on pages
8 11 and 12?

9 A. I expressed my surprise, but as I recall at the time
10 the discussions with the Arthur Andersen people were more
11 in the context of that this may be a risk. That's how it
12 was discussed. They weren't - as I recall from the report
13 and the discussions at the time, it was not a categoric
14 issue, but it was certainly a risk. In the context of
15 that, I asked Charles to follow that up.

16

17 Q. Well, in terms of the impact upon you, Mr Goodacre, it
18 is apparent from pages 11 and 12 that what Arthur Andersen
19 was reporting was that AWB employees had wanted to find a
20 way to avoid attracting the UN attention to the payment of
21 the trucking fees?

22 A. Yes.

23

24 Q. That they had approached others in AWB to find a way
25 to structure the payments, and that the others at AWB had
26 declined to have anything to do with it; is that right?

27 A. That's correct.

28

29 Q. And that they pressed on with their attempts by having
30 the shipping companies' owners make the payments, and that
31 some shipping companies had refused, so that that would
32 have given you concern that perhaps the name of AWB was
33 being besmirched, since shipping companies were being
34 approached to make payments which might be considered
35 dubious?

36 A. I agree, and, as I said, Charles gave me comfort that
37 he would check it and that's what he did.

38

39 Q. And I think in your statement you say you learnt for
40 the first time when you read this report that Ronly had
41 provided the mechanism to make the payments?

42 A. Yes, that's correct. Well, I was aware of the Ronly
43 mechanism, but, as I recall - certainly Charles's concern
44 expressed to me was that it was more that it was a benefit
45 to the Ronly associates, rather than the nature of why the
46 arrangement was in place.

47

1 Q. Well, this report didn't help resolve that issue?

2 A. No.

3

4 Q. The report went on to raise red flags, including that
5 the type of arrangement could be misinterpreted as a money
6 laundering process - at page 12?

7 A. Yes.

8

9 Q. And that the recent increase in the trucking cost to
10 \$45 a tonne appeared to be high and that there was a risk
11 that money was being diverted to other purposes, and also a
12 risk that AWB was paying excessive trucking fees?

13 A. That's correct.

14

15 Q. So all of these were significant concerns, were they
16 not?

17 A. Yes, they were.

18

19 Q. To continue the chronology, you say at paragraph 7.13
20 that there were a number of red flags raised by the report,
21 and a certain view was taken in relation to AA2, that Stott
22 also looked into the activities of AA3, and a decision was
23 made in relation to AA3, and that he worked through a
24 number of steps with the HR people, which you set out in
25 paragraph 7.15. Then at paragraphs 7.17 and 7.18 you deal
26 with the follow-up of the trucking payment issue. Did
27 Mr Stott ever tell you what were the nature of the
28 inquiries that he had made with, as you set out, both the
29 IGB and DFAT as part of his investigations into the issues
30 relating to the trucking payments?

31 A. All I recall is that he said he had made contact with
32 both entities and discussed the issue and was confident
33 that the arrangements were legitimate.

34

35 Q. In your statement you say:

36

37 Some time later Stott informed me that he
38 had made inquiries with both the IGB and
39 DFAT as part of his investigations into the
40 issues relating to the trucking payments
41 and was satisfied from those inquiries that
42 the level of trucking fees was justified
43 and that the trucking company (Alia) was
44 legitimate. He also said that the increase
45 in the payments to Alia had been authorised
46 by the UN. I do not now recall whether
47 Stott told me with whom he had communicated

1 at IGB and DFAT.

2

3 A. That's correct.

4

5 Q. Did he tell you how he had addressed the issue raised
6 in the Arthur Andersen report that there may be a risk that
7 the money was being diverted to other purposes?

8 A. I just recall that his inquiries, from my
9 recollection, were in terms of revalidating the overall
10 arrangement.

11

12 Q. Did he tell you how it had been indicated that the
13 increase in the payments to Alia had been authorised by the
14 UN?

15 A. I don't recall, sir, no.

16

17 Q. You see, there is nothing in the contracts that
18 indicates that there was any increase in payments of the
19 trucking fee. There is nothing in the contracts to
20 indicate that trucking fees were being made to Alia.
21 That's why I ask you whether he went into the detail as to
22 how he had substantiated that the increase in the payments
23 to Alia had been authorised by the UN. He gave you no
24 detail about that?

25 A. I wouldn't expect him to have given me great detail
26 about that, no, sir.

27

28 Q. Would you have expected him to go to DFAT, given the
29 concerns that were raised in this Arthur Andersen report,
30 and to spell those concerns out to DFAT and seek their
31 assistance?

32 A. Absolutely.

33

34 Q. And did he give you to believe that that is indeed
35 what he had done?

36 A. Mr Stott had certainly had an ongoing contact with
37 DFAT in terms of these arrangements. That was certainly my
38 understanding. That had gone back to the time he had been
39 in the position, and he had a relationship with people in
40 DFAT in relation to earlier work in the AWB. So I was -
41 I had no concerns that he wouldn't have been able to
42 contact the right people and that he wouldn't have been
43 open about what was being - what was of concern here, no.

44

45 Q. Did it surprise you, then, that there has been no
46 evidence from him that he contacted DFAT about any of the
47 concerns raised in this report after December of 2000?

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MR LACAVA: Commissioner, I'm not sure that that's an accurate statement of the evidence. The evidence of Mr Stott, to my recollection, was that he had spoken with DFAT, there was a telephone call that was the subject of a great deal of cross-examination.

MR AGIUS: Yes. I said after December of 2000.

THE COMMISSIONER: After December.

MR LACAVA: I am sorry. I missed that.

MR AGIUS: I will just get back to my question. I don't think we got an answer.

Q. Did it surprise you, then, that there has been no evidence from Mr Stott that he had contacted DFAT about any of the concerns raised in this report after December of 2000?

A. Yes.

Q. One of the issues raised by this report is found at page 29 of the report, and you may need to look at page 28 - 0134 and 0135 - just to pick up the context, Mr Goodacre.

A. Sir, is it just the last - the bottom paragraph and the one over the page?

Q. I think if you read the bottom paragraph on page 28 and the first paragraph on page 29 you would have the context, but I don't want to restrict you to that if you want to look at more.

THE COMMISSIONER: Q. You might like to start on page 28 in the fourth paragraph.

A. Mmm. Yes. Thank you.

MR AGIUS: Q. In paragraph 1 on page 29 there is a reference to AA3 stating that the extra payments were commissions, to the best of his knowledge, that the "friend in the Middle East" is probably Zuhair, and that Zuhair had dealt with AA1 and Zuhair was the one who instructed which trucking company to use:

At an airport lounge one time [AA1] received a mobile phone call and said that

1 it had been Zuhair who had asked if extra
2 payments could be made. [AA1] said that he
3 told him that he could not make those
4 payments.
5

6 Now, that must have been a matter that raised concern for
7 you - the possibility of extra payments being made to
8 Zuhair, who, as we understood, had been the
9 director-general of the IGB. Did Mr Stott tell you what he
10 had done to address those concerns?

11 A. I do recall that when that was discussed Mr Stott's
12 reaction was that Zuhair was a very honest man, and he
13 disputed the comments made by that person. It was
14 I suppose in the context of the probity issues around that
15 person.
16

17 Q. We are told that Mr Zuhair died in a car accident.
18 Mr Stott gave some rather dramatic evidence about the
19 circumstances of Mr Zuhair's death. Did Mr Stott discuss
20 that with you at the time that it was learnt that Mr Zuhair
21 had died?

22 A. I remember he was certainly shocked and concerned,
23 mainly in the context of we had a good contact in the IGB
24 who had worked with the company a long time - with AWB for
25 a long time, and it was a cause of concern.
26

27 Q. Did he discuss with you his concerns that Zuhair may
28 have been deliberately killed?

29 A. I don't recall that, sir, no.
30

31 Q. May we take it, then, in relation to my question as to
32 whether Mr Stott had indicated how he had addressed the
33 concern raised at the top of page 29 of the report - what
34 do you say, that he more or less dismissed that concern
35 because of what he said was his knowledge of Zuhair?

36 A. And the probity concerns around the person who made
37 the comments.
38

39 Q. Was it ever discussed that one approach to addressing
40 these concerns would be to go back to these people who had
41 made the comments and speak to them, because AA3 was still
42 working at AWB at the time?

43 A. Yes. At the time of this report, I have to say our
44 attitude to those people was an extremely negative one, and
45 the decision then subsequently for the person to remain in
46 the organisation was a decision made later, but at the time
47 certainly my impression and Charles's impression was that

1 these people were not ones who were going to provide
2 anything truthful or positive about issues.

3

4 Q. One matter that arises for consideration is this: it
5 seems that there were concerns about the probity of AA1,
6 AA3, in the very least, and perhaps AA2 at one time.
7 Various concerns are raised in the Arthur Andersen report
8 concerning attempts to pay the trucking fee without drawing
9 the attention of the UN, and about this being a matter of
10 debate within AWB and about Mr Owen and others declining to
11 be a party to a process. Given that those concerns were
12 raised in this report, did it occur to anybody to go back
13 and check on the emails, trip reports and correspondence
14 that would evidence exactly what processes had been put in
15 place with the trucking company?

16 A. I probably - I don't recall that occurring. I do
17 recall a lot of discussion about the absence of emails that
18 were perhaps behind what were the public or the formal
19 arrangements relating to these arrangements. But I don't
20 recall specifically going back and focusing on that
21 particular point, no.

22

23 Q. You see, we have seen, and they are in evidence, a
24 number of emails from around October of 1999, which make
25 plain that various employees of AWB were at least
26 discussing amongst themselves a method of making a trucking
27 payment in the belief that the making of the payment may be
28 a breach of UN sanctions, and the emails indicate - and you
29 may have seen them - that a considerable amount of thought
30 was put into trying to come up with a process whereby the
31 trucking fee which had been imposed as a condition could be
32 met. They really tell the story of how the process that
33 was employed was developed. Did anybody think to go back
34 and look at those emails in December 2000 or February 2001
35 and to examine them, in an effort to address the very
36 matter that is raised by this report on page 11?

37 A. No, I can't say that we did, no.

38

39 Q. Is that a decision that now, with the benefit of
40 hindsight, you regret?

41 A. Absolutely.

42

43 Q. Were you aware that in February of 2001, at about the
44 time that you were reading and assessing the Arthur
45 Andersen report, Mr Hogan and Mr Borlase had produced a
46 trip report in which they had raised a concern that the
47 imposition of the 10 per cent service fee, together with an

1 increased price in the trucking fee, may indicate that the
2 Iraqis were trying to withdraw more money from the escrow
3 account? Were you aware of the existence of that trip
4 report?

5 A. I am now, but at the time, no. I think as I said in
6 my statement, given where the reference was made and the
7 nature of the reference and where it was made, it is
8 unlikely I would have actually opened the detail of the
9 trip report. I think, as I said in my statement, the way
10 I was operating was really one where my general managers
11 were delegated to run the business, and to draw to my
12 attention any issues that were of concern. That's where
13 I put my trust and confidence.

14
15 I was in an area where, as I have said, I was dealing
16 with a number of issues. But to deal with that, you know,
17 I did have an open-door policy. We had weekly management
18 meetings. I did employ someone to actually look after my
19 appointments, my emails. So I guess the thing that puzzles
20 me in all this is that some of those references that are
21 made in certain documents are not highlighted, are not -
22 have not been brought to my attention, and I question why,
23 because I would have acted on something like that. You
24 know, the history of where I have come from, even in terms
25 of Arthur Andersen, the agency payments, I did - I took
26 action when I was aware of something, and, as I said, it is
27 a long answer, but it does puzzle me as to why these things
28 were not put up front, or it was not brought to my
29 attention specifically.

30

31 Q. But you had employed Mr Stott and placed him in the
32 position that he occupied from about the middle of 2000,
33 and you had worked with him before?

34 A. When I had - when I was working with the government in
35 1988 I was seconded to the Wheat Board as part of the
36 review of the single desk. During that time I went on a
37 trip with Mr Stott for a couple of weeks as part of a
38 familiarisation process, and I had seen him work in the
39 market and I had been very impressed. Then, in subsequent
40 years, I was impressed with the way that he related to his
41 customers and he was very sharp, he had good relationships,
42 and I felt he was a very experienced, highly credentialed
43 person of integrity. I had a lot of confidence in him.

44

45 Q. During your period of working with him at the AWB, did
46 you form the view that he was very much a hands-on manager?

47 A. Yes.

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Q. The sort of person who devoured information?
A. Yes. He was very passionate and very involved. He enjoyed his work. He was - as I said, he was able to relate very well with the customers. He could identify the areas where he could be most effective in pursuing the interests of the company in terms of the relationship and his knowledge of the markets.

Q. Can I bring up a letter that Mr Stott wrote to DFAT on 30 October 2000. This is three, nearly four months - perhaps at least three months - before you received the Arthur Andersen report. It is exhibit 77, WST.0004.0003.
A. Yes.

Q. Did Mr Stott ever bring that letter to your attention, or the fact that he had written that letter to DFAT to your attention?
A. He probably - he would have referred to it. I don't recall specifically, but he would have - I would suggest he may have covered it during our weekly management meetings.

Q. At the time, in October of 2000?
A. It is possible, sir.

Q. Or November of 2000?
A. It is possible, sir.

Q. You can't recall any conversation about it?
A. Not specifically, no.

Q. There was a reply to that letter. Could we bring up WST.0004.0004, which is also part of exhibit 77.
A. Thank you.

Q. Did Mr Stott ever tell you about the existence of that letter or its receipt by AWB?
A. I don't recall so, and I - as I said, unless it was an issue that he was concerned that he wasn't being able to address, I probably wouldn't have expected him to do that.

Q. Did Mr Stott ever tell you that he had seen a contract drawn by the IGB which indicated a specific sum on account of trucking fees in the order of US\$44 or US\$45, which had been approved by the United Nations?
A. No, sir.

1 Q. In relation to Ronly, you will recall that the
2 Commissioner asked you a question about this earlier on.
3 I want to try to put your knowledge in relation to Ronly
4 into a chronology, if we can. In this regard, please feel
5 free to refer to your statement. Could we bring up,
6 please, AWB.5010.0063. This is an email from Mr Stott to
7 you in which he forwards an email that he had earlier sent
8 to you and to Ronly and to others, as you can see. Would
9 you just take a moment to read that.

10 A. Yes.

11
12 Q. For what it is worth, we have the primary email which
13 he first sent to you, not that you need to see it twice,
14 Mr Goodacre. Can you recall the circumstances in which it
15 was that Mr Stott came to write to you about this matter?

16 A. I recall it related to a contractual issue that we had
17 that not continuing the 20 cents was going to cause us
18 legal issues and that the - the best of my recollection is
19 that it was better to let it run out, given we had
20 identified the issue, but, as I said, there were some legal
21 issues around being able to execute the decision. That's
22 my recollection at the time.

23
24 Q. You will see about halfway down the primary interview
25 Mr Stott says:

26
27 As per our discussions in Melbourne, we
28 have amended the Iraq freight payment
29 arrangements...

30
31 And then he sets out what the payments would be for the
32 future. May we take it that you were kept informed of the
33 discussions and negotiations as they were taking place?

34 A. With Ronly, sir?

35
36 Q. Yes - on this issue of payment of the land transport
37 costs and the fact that Ronly was being paid 20 cents a
38 tonne?

39 A. Yes. I think - that's right, yes, because it was that
40 original Ronly issue, and Charles would have kept me
41 informed of where things were going.

42
43 Q. Can you recall now how it came about that Mr Stott, or
44 yourself, first learnt of the arrangement with Ronly
45 whereby Ronly was to be paid a commission for making the
46 land transport payments?

47 A. It was very early on in terms of my appointment. It

1 was something Charles brought to my attention probably in
2 the first weeks of his appointment, is the best of my
3 recollection.

4
5 Q. Was it something that Mr Stott brought to your
6 attention or something that somebody else had brought to
7 your attention?

8 A. It was Mr Stott.

9

10 Q. Did he tell you then, or at any later time, that other
11 ship owners had been used as a conduit for - and that's my
12 word, but as part of the mechanism for the making of a land
13 transport payment?

14 A. I don't recall so, sir. The focus was certainly on
15 Ronly.

16

17 Q. We have evidence that other ship owners, aside from
18 Ronly, were used to effect payments - that payments of the
19 land transport fee were made through other ship owners
20 rather than being made directly by AWB. Did you ever learn
21 of that?

22 A. I don't think so, sir, no.

23

24 Q. Did you ever learn of an audit inquiry that Pac Rim
25 had directed to AWB on that very issue?

26 A. I certainly don't recall that, sir.

27

28 Q. I think as part of an answer you reflected upon the
29 circumstance that you had made an agreement to continue
30 paying Ronly the 20 cents per tonne for performing the
31 payment of land transport fees, even though the fees were
32 no longer being directed through them?

33 A. Yes. I understood there was a legal consequence of
34 cancellation immediately. That was my recollection, sir.

35

36 Q. In terms of dating your knowledge of the Ronly matter,
37 is it likely, then, that you learnt that Ronly had been
38 used as a conduit for these payments, what, from some time
39 in June of 2000?

40 A. Yes, it would have - it was early - it was at around
41 the same time or as part of a briefing on the Pakistan
42 agency commissions.

43

44 Q. And who had given you that briefing?

45 A. Mr Stott.

46

47 Q. Did Mr Stott tell you that he had been involved in

1 setting up the agency agreement with at least one of the
2 agents in Pakistan?

3 A. He may have, sir, yes. He had intimate knowledge of
4 the arrangements upon his arrival at the AWB, and that's
5 when he briefed me, I am sure.

6

7 MR AGIUS: Is that a convenient time to take a short
8 break, Mr Commissioner?

9

10 THE COMMISSIONER: Yes. We will take a short adjournment.

11

12 SHORT ADJOURNMENT

13

14 MR AGIUS: Mr Commissioner, we have a statutory
15 declaration from Michael Wallbanks of P&O Nedlloyd, dated
16 24 January 2006, WST.0010.0086, together with annexures,
17 and I tender it.

18

19 EXHIBIT #421 STATUTORY DECLARATION OF MICHAEL WALLBANKS
20 OF P&O NEDLOYD DATED 24/1/2006 BARCODED WST.0010.0086

21

22 MR AGIUS: The annexures are RRP.0001.0223-0321. It may
23 be appropriate in the circumstances to read this short
24 statutory declaration.

25

26 THE COMMISSIONER: Yes.

27

28 MR AGIUS: Mr Wallbanks says:

29

30 I am currently the General Manager of the
31 Dubai office of P&O Nedlloyd Limited
32 ("PONL"). I have occupied this position
33 since July 2000.

34

35 This statutory declaration is directed to
36 the period 2000 to 2003 ("the relevant
37 period").

38

39 During the relevant period PONL contracted
40 with persons and entities to ship goods to
41 Iraq. As an operation, however, PONL did
42 not put its own ships into the Iraqi port
43 of Umm Qasr. Rather PONL would carry the
44 cargo from its point of origin to the port
45 of Jebel Ali in Dubai, United Arab
46 Emirates, and then use third party "feeder"
47 shipping companies that operated ships

1 between Jebel Ali and Umm Qasr. Whilst a
2 third party shipping company was used, the
3 shipment would be on a through bill of
4 lading - that is, the shipper would
5 contract with PONL for the whole of the
6 journey to Umm Qasr, while PONL would
7 subcontract the last leg from Jebel Ali to
8 the feeder companies and their vessels.
9 PONL mainly used a UAE-based shipping
10 company named Simatech Shipping LLC to ship
11 goods from Jebel Ali to Umm Qasr, but there
12 were other shipping companies that offered
13 the same service, including Stalco LLC,
14 also of the UAE, and a Norwegian-owned
15 operation the name of which I cannot
16 presently recall.

17
18 On my 2000 arrival in Dubai, I became aware
19 that the Iraqi Government had imposed a
20 requirement that all persons shipping goods
21 in containers to Iraq were to pay a
22 terminal handling charge (THC). This had
23 been communicated to PONL and, as far as
24 I later became aware, to all other shipping
25 companies involved in shipping goods to
26 Iraq. In my experience it is not unusual
27 that port authorities in various countries
28 impose a THC to cover the cost of
29 discharging containers from vessels using
30 the port (for example, the use of cranes).
31 However, THCs are ordinarily set figures,
32 ranging in different parts of the world
33 from \$20.00 to \$200.00 per container or
34 unit of cargo, while the THC the Iraqi
35 Government sought to impose was, unusually,
36 set as a percentage - ten percent - of the
37 value of the goods in the shipment.

38
39 The THC for shipments to Iraq was required
40 to be paid by the shipper to a company
41 acting on behalf of the Iraqi Government
42 but based in Dubai named AL Wasl & Babel
43 (which I understand is now defunct). This
44 was also unusual for a THC, which port
45 authorities normally charged to shipping
46 lines, rather than directly to shippers.
47 Once the THC was paid to Al Wasl & Babel,

1 this company would confirm the payment to
2 the Iraqi State Company for Water Transport
3 ("ISCWT"). As I recollect it, however, the
4 requirement to pay THCs was not strictly
5 enforced by the ISCWT, mainly because ISCWT
6 was not sufficiently well organised to do
7 so; moreover, exporters frequently did not
8 pay, either because they did not know that
9 they were required to, did not know how to,
10 or simply because they refused to. As a
11 result, shipments frequently arrived in
12 Umm Qasr without the fee being paid.

13
14 In the early second part of 2001, Simatech
15 wrote to PONL in Dubai - and, as far as
16 I was aware, other shipping lines offering
17 services into Iraq - advising that
18 companies shipping goods to Iraq would in
19 future (and specifically if shipping under
20 Phases VIII and IX of the UN's Oil-for-Food
21 Programme) be required to pay an "after
22 sales tax", or fee, amounting to 10% of the
23 value of the goods, and that shipments
24 would not be permitted to be discharged in
25 Umm Qasr (and ships would be turned away)
26 if proof was not available that this tax
27 had been paid. Simatech advised PONL that
28 it would not permit its ships to load any
29 of PONL's containers from Jebel Ali unless
30 and until PONL furnished them with proof of
31 payment of the 10% tax. Unlike the 10%
32 THC, which from this point disappeared, the
33 after sales service tax was not paid to
34 Al Wasl & Babel, or in Dubai, but was able
35 to be paid in a number of ways. In most
36 cases I heard of, exporters chose to pay
37 the tax to a bank account in Jordan.

38
39 At the time, PONL had an Iraq Documentation
40 Policy (available to all PONL offices
41 globally, via an online Bulletin Board
42 called 'Iraq-doc.policy') which set out all
43 of the documentary and other requirements
44 for shipping goods to Iraq. It was regular
45 PONL practice to send out copies of or
46 extracts from that Policy as guidance to
47 any customers, including freight

1 forwarders, who inquired about shipping
2 goods to Iraq. As a result of Simatech's
3 advice, PONL added information about the
4 requirement for proofs of payment of the
5 10% after sales service tax to their Iraq
6 Documentation Policy. Annexed to this
7 statutory declaration are copies of the
8 following documents showing such extracts
9 from PONL's Documentation Policy, about
10 requirements for shipping goods to Iraq.
11

12 And there is a summary of three of the documents, the
13 first:

14
15 ...Email from S Stanton of PONL dated
16 23 July 2002, attaching a 2001 email from
17 C. Bahnson of PONL (Dubai office). The
18 latter email posted to the on line Bulletin
19 Board information about a change to point
20 (dd) of the Documentation Policy,
21 concerning the new requirement for shippers
22 to provide proof of payment 10% after sales
23 tax;
24

25 The second document:

26
27 ...Email from S Stanton of PONL dated
28 23 July 2002 attaching a January 2002 email
29 from T. Khattak of PONL (Dubai office)
30 relating to "after sales charges". This
31 latter email added to the Documentation
32 Policy, and posts to the on line Bulletin
33 Board, more/new information on what
34 constituted a proper and acceptable proof
35 of payment. This email asks that the new
36 information should be given the widest
37 circulation.
38

39 The third document:

40
41 ...Email from P Jivani of PONL (Dubai
42 office) to Darren Byrne dated 4 September
43 2002 enclosing an email from Simatech
44 relating to the after sales service charge.
45 (This latter email from Simatech is what
46 had originally prompted T. Khattak
47 in January 2002 to make the addition --

1
2 to the previous document above --

3
4 ... to PONL's Documentation Policy).

5
6 To my knowledge, copies of or extracts from
7 PONL's Iraq Documentation Policy, including
8 details of the requirement to prove payment
9 of the 10% after sales service tax, were
10 being sent by PONL's Dubai office as a
11 matter of course and widely circulated, to
12 any PONL customer or freight forwarder who
13 enquired or contracted with PONL for
14 shipping goods to Iraq. Pradip Jivani,
15 Casper Bahnson and Tariq Khattak, who are
16 referred to in the above email exchanges,
17 were administrative officers at the Dubai
18 office of PONL involved in the
19 dissemination of the bulletin.

20
21 To my knowledge other shipping lines who
22 were involved in shipping goods to Iraq via
23 transshipment in Dubai were also made aware
24 of this requirement by Simatech, and
25 similarly advised their customers of the
26 requirement to prove payment of the 10%
27 after sales service tax. I gained this
28 knowledge as a result of my significant
29 involvement in commercial shipping in Dubai
30 and my liaison with and knowledge of other
31 shipping companies. It was well known and
32 widely communicated, and anyone involved in
33 shipping goods to Iraq from August
34 or September 2001 would have known
35 about it.

36
37 I recall that at the time that PONL
38 received the advice from Simatech about the
39 10% after-sales tax, I consulted the
40 British Embassy in Dubai, the US Navy
41 office (that liaised with the commercial
42 shipping committee) and the Royal Navy
43 about Simatech's advice. I recall that
44 they were all aware of the requirement to
45 pay the after sales service tax and advised
46 that if PONL was merely advising exporters
47 what it was told in relation to

1 requirements for shipping goods to Iraq it
2 was doing nothing wrong.

3
4 And then there is the formal part of the statutory
5 declaration.

6
7 Q. Mr Goodacre, did you ever learn, during your time at
8 AWB, that the Iraqis had imposed a 10 per cent service fee
9 or 10 per cent aftersales service fee on contracts for
10 wheat from the AWB to the IGB?

11 A. Not specifically, sir, no.

12
13 Q. You learnt of a, dare I say, quite significant
14 trucking charge?

15 A. Yes.

16
17 Q. Something over US\$45?

18 A. Yes.

19
20 Q. But you were never told, were you, that, in addition
21 to that trucking charge from the end of 2000, there was to
22 be included a 10 per cent fee on the FIT value of the
23 contract --

24
25 THE COMMISSIONER: Included in the trucking charge.

26
27 MR AGIUS: Q. Included in the trucking charge?

28 A. I don't recall so, sir, no.

29
30 Q. In that regard, I just want to take you to one
31 document. This is an email from Mr Stott to you,
32 AWB.0137.0280. This is an email to you and to Mr Lindberg
33 on 5 February 2001. If I bring you down to the price,
34 there is a CIF FIT value for each of two grades of wheat, a
35 freight charge, averaged over the whole of the one million
36 tonnes to which the email relates, and then a trucking fee
37 of US\$25 from Umm Qasr to all governorates of Iraq. There
38 isn't specifically spelt out in this email that there was
39 also a 10 per cent impost on the FIT value included in the
40 contract price for the wheat. That's apparent by looking
41 at the email itself. Were you told separately from this
42 email about the inclusion of a 10 per cent figure to be
43 added to the trucking fee in respect of the contracts to
44 which this email relates?

45 A. No, sir, I don't recall that.

46
47 MR AGIUS: Mr Commissioner, this email contains a great

1 deal of information which I am --

2

3 THE COMMISSIONER: I will mark it a confidential email.

4

5 MR AGIUS: Yes.

6

7 EXHIBIT #138C EMAIL FROM CHARLES STOTT TO TIM GOODACRE
8 AND ANDREW LINDBERG, DATED 5/2/2001, BARCODED AWB.0137.0280

9

10 MR AGIUS: Q. Would you have expected to have been told
11 that included in this contract was a 10 per cent fee that
12 had been imposed by the Iraqis?

13 A. If it was at a variance to what we had normally done,
14 yes. I would not have recognised it from reading that
15 email, I have to admit.

16

17 Q. What we know from Mr Hogan, and I think also Mr Stott,
18 is that this 10 per cent had first been applied in October
19 of 2000 and then was reapplied in relation to the contracts
20 to which this email refers, and remained as a feature of
21 contracts right up until the contracts numbered 1670 and
22 1680, which were signed on 11 December 2002, after you had
23 left. During your period there, is it your evidence that
24 you were never told about the 10 per cent impost, however
25 described, either as a service fee, an aftersales service
26 fee, a surcharge or a 10 per cent addition on the value of
27 the contract to the trucking fee?

28 A. No, I don't recall being told, and I don't recall
29 being told in the context that this was an issue of concern
30 or major variation.

31

32 Q. Can we bring up, please, confidential exhibit 67C -
33 AWB.0139.0246. This is an email 10 months later referring
34 to a million tonnes of wheat that had been sold in December
35 of 2001. It is addressed to Mr Lindberg and to you and to
36 a number of others. If you go to the second line, the
37 inland transport fee is set out at 55.17 Euros for one
38 contract, and 55.40 Euros for the other. Somebody has done
39 the translation into US dollars, so it is approximately
40 US\$48 or US\$49 per metric tonne. On the face of it, this
41 is nearly twice the trucking fee that was advised in the
42 previous email that I showed you - 138C - bearing in mind
43 that that email didn't disclose the 10 per cent that was
44 also included in the contract price. Here that 10 per cent
45 has been added into the inland transport fee, and you can
46 see that the transport fee has nearly doubled the US\$25 of
47 the last million tonne sale from February 2001. Did it

1 strike you at the time that there had been a near doubling
2 of the inland transport fee --
3 A. No, sir.
4
5 Q. -- from February to December of 2001?
6 A. No, sir.
7
8 Q. Is it likely that you would have seen and read this
9 email?
10 A. It is likely I would have seen it, but it is also
11 likely I wouldn't have focused on the break-up of the
12 contract, to be frank. Unless something was drawn to my
13 attention, I would not have acknowledged or recognised some
14 of the detail in that.
15
16 Q. In relation to the Tigris transaction, you deal with
17 this at paragraph 8.20 of your statement. Can I bring you
18 to an Iraq ELG brief of 1 October 2002 - AWB.0305.0139. It
19 is dated 1 October 2002, which, as I understand it, would
20 have been a month before your resignation from the AWB?
21 A. That's correct.
22
23 Q. Can I ask you to look at paragraph 3,
24 "Issues/Actions", and then the subheading "Iraq Debt".
25 A. Yes, sir.
26
27 Q. Is it likely that you would have received this ELG
28 Iraq brief?
29 A. Yes.
30
31 Q. And that you would have attended a meeting where these
32 matters were discussed?
33 A. That may have been unlikely. That would have been
34 unlikely.
35
36 Q. Does this paragraph refresh your recollection as to
37 what you knew of the Tigris Petroleum debt and AWB's
38 assisting Tigris to recover that debt?
39 A. No. I would have to say that until this Commission
40 Tigris did not come to mind.
41
42 Q. Clearly enough, this ELG brief raises the Tigris
43 matter and raises it in connection with the iron filings
44 claim, and there appears to be a clear inference from this
45 paragraph that AWB was indeed assisting Tigris in some way
46 to recover the debt. Now that you have had an opportunity
47 to read it, does that assist your recollection?

1 A. I certainly recall the concern over iron powder
2 contamination, but not, I have to say - not in terms of
3 Tigris Petroleum, no.

4
5 Q. May we take it, then, that you were not consulted as
6 to AWB's role in the process of assisting Tigris to recoup
7 money from the IGB for this debt?

8 A. Yes.

9
10 MR AGIUS: Mr Commissioner, I will tender that ELG brief
11 of 1 October 2002. We will prepare an edited version of it
12 which reflects only the paragraph "Issues/Actions" and what
13 is written under the heading "Iraq Debt".

14
15 THE COMMISSIONER: Yes, very well. That will become
16 exhibit 422.

17
18 EXHIBIT #422 DOCUMENT HEADED "IRAQ ELG BRIEF - 1/10/2002",
19 BARCODED AWB.0305.0139

20
21 MR AGIUS: Q. I just want you to cast your mind back, if
22 you can, 10 years to a meeting that you attended as a
23 representative of the AWB, which meeting was also attended
24 by Mr Stott as a representative of, at that time, BHP, and
25 there were also officers from DFAT present, on 22 May 1996
26 concerning, in particular, a shipment of 20 tonnes, US\$5m
27 worth, of wheat by the Australian Wheat Board, as it was
28 then, to Iraq at the behest of BHP. Can you recall such a
29 meeting?

30 A. I was aware, through this Commission, of the document,
31 but I certainly - I just don't recall the meeting, I am
32 sorry, sir.

33
34 Q. When you say "the document", which document are you
35 referring to?

36 A. I'm not - I just recall seeing a document, or it may
37 have been some evidence, but I do recall it being raised in
38 the Commission.

39
40 Q. We have exhibit 266, which is a letter from
41 Mark Pierce of the Department of Foreign Affairs and Trade
42 of 27 May 1996 to Mr Harley. Could we bring it up,
43 please - AWB.0198.0047. This speaks in the first
44 paragraph of a discussion concerning Iraq with Messrs Stott
45 and Lyons on 22 May 1996. The inquiry has information that
46 that meeting was attended by yourself and Messrs Martin and
47 Harvey on behalf of the AWB, and that during the course of

1 that meeting there was a discussion concerning the 20,000
2 tonnes that had already been shipped, and a suggestion
3 during the course of that meeting by Mr Stott that he could
4 obtain from the Iraqis some form of side letter to cover
5 the 20,000 tonnes that had been shipped in which the Iraqis
6 would promise some form of payment in kind for that
7 shipment. Do you have any recollection of that matter
8 being discussed at any meeting that you attended in 1996?
9 A. I have tried to recollect what or whether I was there.
10 I just don't recall it, sir.

11
12 Q. Do you recall on behalf of AWB there being any
13 statement that AWB felt a moral obligation to pursue the
14 matter, but that it was prepared to drop the idea?
15 A. No, sir.

16
17 Q. Could we bring up DFT.0001.0506. That's exhibit 272.
18 I believe your name has been misspelt in the second line of
19 that minute, but Mr Stott has given evidence that you
20 attended that meeting - I am assuming that that reference
21 is a reference to you, Mr Goodacre?
22 A. Yes.

23
24 Q. Would you read that and see if the document which
25 appears to be a DFAT minute refreshes your recollection?
26 A. Sorry, sir, I don't recall that - I just don't recall
27 that meeting.

28
29 Q. There are two final matters I want to deal with,
30 Mr Goodacre. In your statement you refer to the question
31 of market briefs. I think you deal with it at
32 paragraph 8.19. You refer to them as "market reports". We
33 have copies, which are the subject of this inquiry, of
34 market reports or documents which were created from the AWB
35 market reports, and that were sent to the Wheat Export
36 Authority. Those market reports, the ones that went to the
37 Wheat Export Authority, do not appear to contain any
38 reference to the fact that the inland trucking fees were
39 paid via Alia to any entity in Iraq, although information
40 to that effect can be found on copies of the market reports
41 on the electronic database of the AWB. Did you have any
42 role in the preparation of the market reports that were
43 sent to the WEA?
44 A. No, not in the preparation of the reports. I was,
45 I guess, an interface between the AWB and the WEA in 2002,
46 more in terms of, as I said, an interface and to ensure
47 that people, or WEA and the AWB's relationship was a strong

1 one - a good one. But I had no involvement in the
2 preparation of the reports, no.

3

4 Q. So a strong inference available from the existence of
5 the two documents, one containing that reference and the
6 one going to the Wheat Export Authority not containing that
7 reference, is that somebody has cut and paste it from the
8 AWB version of the document, deleted the portion that I
9 have referred to concerning payments via Alia, and sent the
10 resulting document to the Wheat Export Authority. May
11 I take it then that you didn't see the unedited document?

12 A. I didn't see either document - any form of document,
13 no.

14

15 Q. Were you aware, during the time that you had the
16 responsibility that you have identified, that there was any
17 record at the AWB indicating that payments were being made
18 via Alia to an Iraqi organisation?

19 A. No, no, sir.

20

21 Q. I take it that, had you been aware, you would also
22 have been aware that such payments would have been in
23 breach of sanctions?

24 A. At that stage, sir, yes.

25

26 Q. And would you have accepted that you had an obligation
27 to do something about it?

28 A. Yes, and I think what I have done in my whole working
29 life and also at the AWB, yes, and I think I was well
30 recognised for that.

31

32 Q. And you would have done something about it?

33 A. Absolutely.

34

35 Q. Is that what you say?

36 A. That's the way I live my life, sir, yes.

37

38 Q. So this is not just a matter of recollection?

39 A. No, this has been the trouble - the most troubling
40 issue for me, is the fact that I was unaware of the issues
41 raised and I ask why.

42

43 Q. Finally, I go back to the Arthur Andersen report and
44 to your statement at paragraph 7.11, page 13. You record
45 the fact of your meeting in Mr Lindberg's office with
46 Mr Stott and Mr Touhy and that that occurred on
47 23 February. By this time had Mr Stott reported back to

1 you and told you that he had made inquiries with both IGB
2 and DFAT into the issues relating to the trucking payments,
3 or was that a report that you obtained from him after your
4 meeting with Mr Lindberg? I should tell you that in your
5 statement it appears to come after that meeting, but it was
6 just a matter I wanted to draw your particular attention
7 to.

8 A. Yes, sir. I don't recall confirmation of the Iraqi
9 arrangements at that meeting on 23 February. I don't
10 recall it, so I am assuming it would have come after.

11
12 Q. You speak of some matters that were discussed at that
13 meeting in paragraph 7.12. Was Mr Lindberg taken to the
14 substance of the report, the December report of
15 Arthur Andersen, on the pages that I have taken you to -
16 pages 11 and 12 and pages 28 and 29?

17 A. It was a discussion of the whole report, sir.

18
19 Q. Including that material?

20 A. It was - to the best of my recollection, it was a
21 discussion of the final - of the report. There were to be
22 no exclusions, as far as I can recall.

23
24 Q. Do you know whether anybody ever reported back to
25 Mr Lindberg the outcome of Mr Stott's inquiries as you have
26 recorded them at paragraph 7.18?

27 A. Not specifically, sir, no. I assume it did - I may
28 have mentioned that to him. I just don't recall
29 specifically doing it, I have to say.

30
31 Q. There was an ELG meeting where that Arthur Andersen
32 report was discussed?

33 A. I believe so.

34
35 Q. And was it discussed in the same detail?

36 A. It wouldn't have been the same detail, no, sir.

37
38 Q. Were the ELG members, or the members of that group,
39 provided with access to the December report?

40 A. Not - I am not sure, sir. Because of the probity
41 issues with individuals, I doubt whether it would have been
42 provided for them in full.

43
44 Q. Did you retain a copy of it?

45 A. No.

46
47 MR AGIUS: Thank you. Mr Commissioner, that is the

1 examination --

2

3 THE COMMISSIONER: Can we just clarify with the witness
4 paragraph 2.2 and the structure in exhibit 4?

5

6 MR AGIUS: Yes. I wonder if we can bring up exhibit 4.

7

8 THE COMMISSIONER: EXH.0001.0030.

9

10 Q. This is a draft corporate structure we have been
11 provided by AWB. As I understand it, you say it is not
12 correct.

13 A. No, it is not correct. In practice, I reported to
14 Michael Tighe when he arrived in the organisation.

15

16 Q. So should your name be, as it were, in the line
17 between Mr Officer and Mr Laskie?

18 A. Yes, it should be on the same line, yes.

19

20 MR AGIUS: Q. And that would be the case until when?

21 A. Until Mr Lindberg's appointment.

22

23 Q. And then how did matters change? From the time of
24 this appointment, would this draft corporate structure, so
25 far as it reflected your position, be accurate?

26 A. Sorry, Mr Agius?

27

28 Q. From the time of Mr Lindberg's appointment --

29 A. Yes, until the restructure --

30

31 THE COMMISSIONER: We have exhibit 5. Can we have a look
32 at that?

33

34 THE WITNESS: That - a similar comment to the previous
35 one. I reported from Mr Tighe's appointment until
36 Mr Lindberg's appointment in June to Mr Tighe.

37

38 THE COMMISSIONER: And then we have another structure in
39 late 2000, which I think is not an exhibit.

40

41 MR AGIUS: We do. I will just have a search made for that
42 exhibit. AWB.0194.0013.

43

44 Q. What do you say about that structure, Mr Goodacre?

45 A. That is more accurate, but it doesn't include - it is
46 an abbreviated structure in terms of my responsibilities,
47 because I also had domestic - or AWB Australia or domestic

1 trading, and I also had the grower services division.

2

3 THE COMMISSIONER: We have another one for 19 March 2001.

4

5 MR AGIUS: That's AWB.0174.0007.

6

7 Q. I'm not sure the extent to which you can help with
8 this, Mr Goodacre. What do you say about that?

9 A. That's largely correct, except I also had - at that
10 time I was given the grain technology business, so it is -
11 for what is there it is correct in terms of what it is
12 describing, although there are some - there was one
13 business division which is not included.

14

15 THE COMMISSIONER: There is another one, February 2002.

16

17 MR AGIUS: AWB.0174.0008.

18

19 Q. What do you say about that, Mr Goodacre?

20 A. It is - well, it is basically correct, as best I can
21 recall, sir.

22

23 THE COMMISSIONER: There is another one in August 2002.

24

25 MR AGIUS: That's 0174.0009.

26

27 THE WITNESS: I think it is largely correct, sir.

28

29 THE COMMISSIONER: Shall I mark those as exhibits?

30

31 MR AGIUS: Yes. That would be AWB.0194.0013,
32 AWB.0174.0007, AWB.0174.0008 and AWB.0174.0009.

33

34 EXHIBIT #423 AWB CORPORATE STRUCTURE DOCUMENTS BARCODED
35 AWB.0194.0013 AND AWB.0174.0007-0009

36

37 THE COMMISSIONER: Mr Braham, do you wish to ask your
38 client any questions?

39

40 MR BRAHAM: No.

41

42 THE COMMISSIONER: Mr Judd?

43

44 MR JUDD: No, thank you.

45

46 THE COMMISSIONER: Anybody else?

47

1 MR FORREST: Yes, thank you. These questions will be
2 asked on behalf of Messrs Geary and Long.

3

4 <EXAMINATION BY MR FORREST:

5

6 MR FORREST: Q. Mr Goodacre, you were, I think, general
7 manager of trading from June 2000 to mid January 2002?

8 A. That's correct.

9

10 Q. So shortly before you concluded your stint in that
11 role Michael Long would have been recruited to that
12 department?

13 A. That's correct.

14

15 Q. Were you part of the recruitment team?

16 A. I was in consultation with Peter Geary, given that, at
17 the end of 2001, Andrew Lindberg had indicated I would be
18 moving out of the role some time in the next couple of
19 months.

20

21 Q. Right. I think Peter Geary replaced you in that role,
22 didn't he?

23 A. That's correct.

24

25 Q. Why was it that you recruited Michael Long?

26 A. We went through a recruitment process, including an
27 external search, and Michael was seen to be the best -
28 considered to be the best candidate for the role.

29

30 Q. His reputation for competence and integrity,
31 I suggest, was very high?

32 A. Yes.

33

34 Q. And you were aware that he had worked for the AWB on a
35 couple of occasions in previous years?

36 A. That's correct.

37

38 Q. And that he had extensive experience in both the grain
39 business and the Middle East.

40 A. Correct.

41

42 Q. During the period between June 2000 and January 2002
43 you set out in your statement that there was a large volume
44 of email traffic that came your way?

45 A. That's correct.

46

47 Q. In part, that was as a result of a practice that had

1 developed within AWB to copy people in on emails with some
2 abandon?

3 A. That's what I outline in my statement, yes.

4
5 Q. That meant two things: it meant that, firstly, you
6 received an enormous number of emails; and, secondly, you
7 had to develop a strategy to deal with them?

8 A. That's correct.

9
10 Q. And you set out in paragraph 8 of your statement the
11 filtering system which you talk about?

12 A. Correct.

13
14 Q. The point is, isn't it, that it would be entirely
15 unfair to fix you with knowledge of a particular fact
16 simply on the basis that that fact was mentioned in an
17 email that you were copied in on or received six years ago.

18
19 THE COMMISSIONER: I reject the question. It is a
20 question for me to decide. It is a matter for submission.

21
22 MR FORREST: Mr Commissioner, this question has not been
23 the subject of an objection by my learned friend. Mr Agius
24 has asked him about whether or not he had knowledge of
25 facts that were contained within emails that were directed
26 to him. Other witnesses have been asked about their
27 knowledge of facts that were contained in emails
28 themselves. In my submission, it is entirely permissible
29 to ask the question and it is quite unfair of you to seek
30 to stop me.

31
32 THE COMMISSIONER: The question you asked related to
33 unfairness. The question of unfairness is for me to
34 decide.

35
36 MR FORREST: I will leave that word out of the question
37 and ask the question again.

38
39 THE COMMISSIONER: Ask a different question.

40
41 MR FORREST: Q. Mr Goodacre, of the email traffic that
42 came your way, there would be some that would be filtered;
43 correct?

44 A. Correct.

45
46 Q. In the way that you described in your statement?

47 A. Correct.

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Q. There would be some that you would read?

A. Correct.

Q. As to the degree of attention that you paid the emails that came your way, there would be some that you skimmed, in terms of reading?

A. Correct.

Q. Some that you paid close attention to?

A. Correct, if there was a reference that I needed to do that, yes.

Q. Some that you would read closely, in part, and skim in other parts, depending upon the area of your interest?

A. That's correct.

Q. Does it follow that what now, six years down the track, may be seen by others to be a significant fact may well have not been the subject of your attention six years ago when the email was viewed by you?

A. Correct.

Q. Sarah Scales has told us that over the last five or six years she has received in the range of 53,000 emails, which, if you do the maths, comes out at about 50 a day. Would that have been the sort of volume that you were receiving at the time that you were in the position that you have described?

A. Given my areas, my several areas of responsibility, it is quite likely I would have received more than that.

Q. You told us about your levels of understanding insofar as the propriety of paying a trucking fee is concerned, and you have told us about your view as to its appropriateness from a corporate governance perspective. When you left the employ of the AWB - so we're talking mid-January 2002 - can you indicate to the Commission your state of knowledge as it concerned the trucking fee and its appropriateness from a corporate governance perspective?

MR BRAHAM: I should interrupt my friend to point out that Mr Goodacre left the AWB at the end of 2002, and perhaps he means January 2003.

MR FORREST: Q. I accept that. Perhaps I will confine it to mid-January 2002, because that's the time when Mr Geary

1 took over your position.

2 A. Mmm.

3

4 Q. Can you tell us as at mid-January 2002 what was your
5 understanding of the lawfulness of paying the trucking fee,
6 your understanding of its appropriateness from a corporate
7 governance perspective?

8 A. From my understanding, they were legitimate
9 arrangements.

10

11 Q. And was that understanding derived in part from
12 information from Mr Stott that inquiries with the IGB and
13 DFAT had satisfied you that the level of fees was justified
14 and that Alia was a legitimate organisation?

15 A. Yes.

16

17 Q. I think you said that the information that you had
18 received from Mr Stott had revalidated your opinion that
19 these fees were appropriate from a corporate governance
20 perspective?

21 A. Following up from the AA report, yes.

22

23 Q. When you left the position of group general manager of
24 trading in January 2002, Mr Geary, as you have told us,
25 took over that position. I understand there wasn't, in
26 effect, a formal handover; is that correct?

27 A. That's correct.

28

29 Q. But your understanding of the lawfulness of paying the
30 trucking fee was, to your knowledge, the general
31 understanding within your department of that issue?

32

33 MR AGIUS: I object to that. How can this witness say
34 what the general understanding was of others?

35

36 THE COMMISSIONER: Yes. I reject the question.

37

38 MR FORREST: We have had witness after witness come to
39 this court and say everyone in the building knew --

40

41 THE COMMISSIONER: Just keep calm, Mr Forrest.

42

43 MR FORREST: -- everyone in the building knew a state of
44 facts. Surely I am entitled, sir, to ask a witness,
45 "Within your confined department, what, to your
46 understanding, was the level of understanding about a
47 particular issue?"

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THE COMMISSIONER: I think you will have to take it step by step, Mr Forrest.

MR FORREST: I will see how we go.

Q. Mr Goodacre, we have established, I think, that it was your understanding that the payment of the trucking fees was, from a corporate governance perspective, entirely appropriate, as at January 2002?

A. That was my understanding.

Q. Right. The people within your department with whom you worked at that time were whom?

A. In the international sales and marketing area it would have been the team headed up by Michael Long.

Q. Who worked for you for a couple of months?

A. Yes.

Q. Had you given him a background as to the Iraq market?

A. No, because he was well aware of the issues that were involved there.

Q. Did he ever lead you to conclude that he had a different view of the appropriateness of paying the trucking fee to you?

A. He made no other reference or contrary reference on that issue to me.

THE COMMISSIONER: Q. Did you ever discuss trucking fees with him?

A. I don't think so, Commissioner, no.

MR FORREST: Q. He never brought to your attention the proposition that he may have thought the trucking fees were inappropriate somehow?

A. No.

Q. And you knew from your experience with Michael Long that he was a person who, if he had a problem, would go to his superior and speak about it?

A. That was my experience, yes.

Q. In fact, that was one of the reasons that you recruited him - that he was a person whose reputation was of being of integrity and a person who obeyed corporate

1 governance regulations?

2 A. That's correct.

3

4 Q. Within your department, insofar as you dealt with the
5 international sales and marketing personnel, no-one brought
6 to your attention the fact that they thought there may have
7 been a problem with the payment of the trucking fees?

8 A. That's correct.

9

10 Q. You were aware yourself that the trucking fee had
11 increased from \$25 to nearly \$50, although you weren't
12 aware of the way in which it had increased - in other
13 words, you weren't aware of the 10 per cent loading; is
14 that right?

15 A. That's correct.

16

17 Q. When Mr Geary came to work in the position of group
18 general manager of trading, he had the same people
19 reporting to him from IS&M that you had reporting to you -
20 it changed over time?

21 A. At the change date, yes.

22

23 Q. I appreciate that it is difficult for you to state
24 positively what is in another person's mind, but is it your
25 understanding that the view held within your department was
26 that the trucking fee, its payment mechanism, and the fact
27 that it had been approved by the UN was general knowledge?

28

29 MR AGIUS: I object to that. There is no evidence that
30 the mechanism of the trucking fee had been approved by the
31 UN after October of 1999.

32

33 THE COMMISSIONER: I think that's right, Mr Forrest, isn't
34 it?

35

36 MR FORREST: I am sorry, Commissioner, I am not saying
37 whether or not that is factually correct, I am asking what
38 is the view that was held.

39

40 THE COMMISSIONER: You didn't ask that. You asked this
41 gentleman's understanding of three things, as I recall it,
42 one of which is factually incorrect.

43

44 MR FORREST: I wonder if you would just excuse me a moment
45 while we bring this up on the screen, Mr Commissioner.
46 Yes, I am sorry, I should have used the word "belief"
47 rather than "fact".

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Q. I will ask you the question again, Mr Goodacre.

A. Yes, please do.

Q. Is it your understanding that the view held within your department was that the trucking fee and its payment mechanism, firstly, were general knowledge?

A. Sorry, could you just?

Q. You have told us what your understanding was of the trucking fee and payment mechanism?

A. Yes.

Q. I suggest to you that that was a generally held belief within your department?

A. Well, I had no reason to think to the contrary, no.

Q. Okay. There was also, I suggest, a generally held belief that the trucking fee and its payment mechanism had been approved by the United Nations.

A. That's my understanding.

MR FORREST: Thank you, Mr Commissioner.

THE COMMISSIONER: Mr Lacava?

MR LACAVA: Yes, Mr Commissioner, I do have some questions.

<EXAMINATION BY MR LACAVA:

MR LACAVA: Q. Mr Goodacre, myself and Ms Judd here act on behalf of Mr Stott, and I want to ask you some questions, if I may, in part that relate to your work with him at the AWB. When Mr Stott came back to the AWB he commenced officially, did he not, on about 10 July of 2000?

A. That's probably close to the date, yes.

Q. And before he commenced he actually came in and had interviews with staff, did he not?

A. That's correct.

Q. He identified very early in the piece - that is, after he commenced to work - what he saw as problems or potential problems with Ronly, did he not?

A. Correct.

1 Q. And he also identified, or thought there may be
2 problems with a number of staff on probity issues?
3 A. I think he had questions about probity issues. I
4 can't - I don't think he was specific in terms of his view
5 on individual staff.
6
7 Q. If we can deal briefly with Ronly, the AWB had been
8 dealing with Ronly not only in relation to using it as a
9 vehicle for the payment of trucking fees, but the two had
10 other business interests, did they not?
11 A. I understand so, yes.
12
13 Q. One of those business interests almost resulted in a
14 joint venture company between Ronly and the AWB, didn't it?
15 A. That's correct.
16
17 Q. And that didn't proceed?
18 A. No.
19
20 Q. Mr Stott, in July of 2000, put an end, did he not, to
21 using Ronly as the conduit or vehicle for the payment of
22 trucking fees?
23 A. Yes.
24
25 Q. You were asked some questions by my learned friend
26 Mr Agius this morning about that, and I think by the
27 Commissioner himself. Notwithstanding that Ronly was no
28 longer used after I think late July of 2000 for the payment
29 of the trucking fees, nevertheless there were payments
30 continued to be made to Ronly by way of commission, weren't
31 there?
32 A. That's my understanding, yes.
33
34 Q. Now, is it correct that those payments were ongoing
35 because Ronly was threatening to enforce an agreement that
36 it said it had with the AWB to be used for the payment of
37 the trucking fees and to earn commission?
38 A. I recall there was a legal concern over an obligation.
39
40 Q. Yes. So was the decision taken to continue to pay
41 Ronly until its agreement or its contract had expired, in
42 order to avert legal action from Ronly?
43 A. That's my recollection.
44
45 Q. And was that the only reason?
46 A. That's the only one I recollect.
47

1 Q. And that was a matter discussed between you and
2 Mr Stott, wasn't it?
3 A. Yes, and I think other members of the executive,
4 I would imagine.
5
6 Q. Could I just clarify one matter that you have just
7 raised: Mr Stott did not join the executive leadership
8 group, did he, until about September of 2001?
9 A. That's correct.
10
11 Q. When he went out of being the general manager of IS&M
12 to take up another position?
13 A. Correct.
14
15 Q. It was as a result of Mr Stott's concerns about the
16 probity of some employees and about the Ronly transactions
17 and using Ronly to pay the trucking fees that Arthur
18 Andersen reported; is that right?
19
20 THE COMMISSIONER: That's not the evidence of the witness.
21
22 THE WITNESS: I think there were a number of issues. That
23 was one of them, but there were other issues as well.
24
25 MR LACAVA: Q. Other issues as well. All right. Arthur
26 Andersen was approached, was it not, in late August or
27 early September of 2000?
28 A. That's correct.
29
30 Q. Could we have brought up, please, WST.0002.0131,
31 exhibit 45. Mr Goodacre, this is a letter I think from
32 Arthur Andersen confirming the arrangements for Arthur
33 Andersen to do its work. Do you recall getting this
34 letter?
35 A. Yes, I do.
36
37 Q. Or seeing this letter?
38 A. Yes, I do.
39
40 Q. The initial meetings were between yourself and
41 Mr Stott on behalf of the AWB, with members of Arthur
42 Andersen?
43 A. That's correct.
44
45 Q. If we just go over, please, to the second page, do you
46 see there, after the completion of the dot points, the
47 second paragraph beginning "At the conclusion of this phase

1 we will provide you with an investigation matrix"? Then it
2 goes on in the next paragraph:

3

4 We will keep our written product to a
5 minimum with a view to spending the
6 greatest amount of time on site work,
7 interviews and contact with personnel.

8

9 Now, is that what was requested - that their written work
10 be kept to a minimum?

11 A. I thought that that was part of the nature of the
12 inquiry. It would have been something agreed between
13 Arthur Andersen and ourselves in terms of maximising their
14 time doing the investigation. That would be my comment.

15

16 Q. Then it goes on:

17

18 We will not prepare or otherwise issue a
19 written report unless requested by you to
20 do so.

21

22 A. Yes.

23

24 Q. Was that done at some stage?

25

26 A. Sorry?

27

28 Q. Was a written report requested?

29

30 A. Yes.

31

32 Q. The written report that you were shown this morning,
33 exhibit 69C - do you still have it there?

34

35 A. Yes, I do.

36

37 Q. That was forwarded, was it not, to the AWB's then
38 corporate counsel, Alifia Sachak.

39

40 A. That's correct.

41

42 Q. On 6 February 2001?

43

44 A. That's what the letter I saw indicated, yes.

45

46 Q. But the report actually has December 2000 on the front
47 cover, does it not?

48

49 A. Yes, it does.

50

51 Q. The report, the development of it, I suggest to you,
52 was an ongoing process from September through to February?
53 Would you agree with that?

54

1 A. I would agree with that.

2

3 Q. Could we bring up, please, exhibit 71C -
4 AWB.0159.0174. Have you seen that report before,
5 Mr Goodacre? It is a report that was prepared I think in a
6 PowerPoint presentation.

7

8 THE COMMISSIONER: Do we have a hard copy that the witness
9 could look at?

10

11 MR LACAVA: I'm not sure, sir. It is exhibit 71C.

12

13 MR AGIUS: This is an unedited version of the document,
14 Mr Commissioner, so we will need to be careful about the
15 way in which we refer to persons named.

16

17 MR LACAVA: Yes. I don't wish to go anywhere near that.

18

19 THE COMMISSIONER: Thank you.

20

21 MR LACAVA: Q. Could you just look at that, Mr Goodacre,
22 please.

23

24 A. Yes.

25

26 Q. Did you see that in 2000?
27 A. As I recall, and I think I referred to it in my
28 statement, I know they did provide - I'm sure they provided
29 some form of draft or ongoing brief. This may be that. I
30 can't recall whether specifically that is it.

31

32 Q. I'm just not sure of the page because I don't have the
33 copy of the exhibit with me, but could we just --

34

35 THE COMMISSIONER: Do you wish to have a look at the hard
36 copy?

37

38 MR LACAVA: Could I just indicate, Commissioner, I might
39 be 40 minutes or half an hour.

40

41 THE COMMISSIONER: I thought we might go on so that all
42 you people could go back to Melbourne.

43

44 MR LACAVA: That's an incentive, I'm sure my learned
45 friends at the Bar table would be very critical of me if
46 I don't hurry up.

47

48 Q. Could you look at the page that I have opened, which

1 is headed "Overview". That really sets out the total
2 contents, if you like, of that very brief report, doesn't
3 it?
4 A. Yes, it does.
5
6 Q. If you go over another couple of pages it deals with
7 Ronly, does it not?
8 A. Yes.
9
10 Q. And one of the concerns with Ronly is inland trucking,
11 is it not?
12 A. Yes. Yes.
13
14 Q. When Arthur Andersen was retained, I suggest,
15 Mr Goodacre, that what Arthur Andersen were really being
16 asked to do was to look at the probity of certain
17 individuals and the probity of making the inland trucking
18 payments to Ronly, or through Ronly; would you agree with
19 that?
20 A. Yes, I would agree with that.
21
22 Q. Yes. So the whole focus was on the conduct of
23 individuals and the conduct of this company Ronly, wasn't
24 it?
25 A. Certainly on the conduct of the individuals, yes.
26
27 Q. The focus was not on, I suggest to you, the question
28 as to whether or not the inland trucking fees themselves
29 were or were not a breach of UN sanctions?
30 A. That's correct.
31
32 Q. Would you agree with that?
33 A. I would.
34
35 Q. That is how this whole Arthur Andersen investigation
36 proceeded, wasn't it - it was to look at individuals and
37 whether or not their conduct was being adverse to AWB?
38 A. And also to look at arrangements within the area which
39 needed to be addressed to prevent those sorts of issues
40 recurring, yes.
41
42 Q. If I can bring you forward, before I take you back
43 again, just to finish this point off, if you have
44 exhibit 69C in front of you, the report that was received
45 from Arthur Andersen in February 2001 but dated December
46 2000, you will recall my learned friend Mr Agius took you
47 this morning to page - I have it as 0017.

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THE COMMISSIONER: Pages 12 and 13, I think.

MR LACAVA: Q. Pages 12 and 13. It has the heading "Iraq Inland Trucking" at the top, doesn't it?

A. Yes.

Q. But if you go back three pages, that is really a subheading of a larger heading dealing with detailed findings/concerns in relation to AA1?

A. That's correct.

Q. Is that right?

A. That's correct.

Q. So what Arthur Andersen did in this part of the report was to focus on the conduct and activities of AA1, and, in that process, it looked at the payment of the inland trucking fee through Ronly and the part that AA1 had played in setting that up; do you agree with that?

A. Yes.

Q. But it missed the bigger target that was out there, namely, whether or not the payment of the trucking fees was a breach of UN sanctions and whether or not it had UN approval, didn't it?

A. It raised the issue, but it wasn't the focus.

Q. Yes. And they were not asked to look at that, were they?

A. No; that's correct.

Q. In fairness to them?

A. No; that's correct.

Q. And that's because, I suggest, AA1, having been removed from the scene in the first week of July 2000, and the payment of the trucking fees through Ronly having ceased, it was thought by yourself and Mr Stott that if there were a problem it had been cut out of AWB at that time; would you agree with that?

A. At that time and, as I indicated earlier, there was the issue raised more generally, which I have addressed, yes.

THE COMMISSIONER: Doesn't the report raise the quantum?

1 MR LACAVA: It does, Commissioner.

2

3 Q. Could we bring up AWB.0182.0118?

4

5 MR AGIUS: I wonder if we need actually to bring it up.
6 This is an unedited copy on the system. We have not
7 displayed it, but the witness does have a copy of it in
8 front of him and I can provide more copies if necessary.

9

10 MR LACAVA: Are you familiar with it, Mr Commissioner?

11

12 THE COMMISSIONER: I am, almost by heart.

13

14 MR LACAVA: Q. I will read you the paragraph so that we
15 all know what I'm talking about, Mr Goodacre:

16

17 The current management have removed this
18 payment process through Ronly.

19

20 That was correct?

21

22 A. Yes, it was.

23

24 Q. There has been a recent increase in the
25 trucking cost to US\$45 per metric tonne.
26 This appears to be high. There may be a
27 risk that this money is being diverted to
28 other purposes. There may be a risk to AWB
29 of excessive trucking fees.

30

31 Now, that paragraph did not hit the target that we're now
32 looking at, did it - namely, whether or not the payment of
33 the trucking fee by the AWB to Alia was in breach of UN
34 sanctions?

35

36 A. Correct.

37

38 Q. And Arthur Andersen were not asked to look at that?

39

40 A. That's correct.

41

42 Q. And, just to retrack, that was because you and
43 Mr Stott thought that you had cut the problem out?

44

45 A. At that time, yes; correct.

46

47 Q. Now I just want to go back to see how this developed.
You have said that there were some drafts. Have you been
shown any drafts of the report dated October 2000, "Draft
for discussion purposes only"?

1 A. I have not seen that report.

2

3 Q. Could I ask you to look at these two hard copies,
4 please, if they could be handed to the witness. I don't
5 want you to read it verbatim, Mr Goodacre.

6

7 THE COMMISSIONER: They are both the same.

8

9 MR LACAVA: Q. What I have handed to you, Mr Goodacre, is
10 two copies of the Arthur Andersen report, each
11 dated October in one part, and up the top I think it has a
12 date, does it not, in November, on the front page?

13 A. Yes, it does.

14

15 Q. And it is headed "Draft for discussion purposes only"?

16 A. Yes.

17

18 Q. Could you just look at those before I ask you the next
19 question, please.

20

21 THE COMMISSIONER: Just pardon me a minute. The two
22 documents I have been handed have the same front sheet.

23

24 MR AGIUS: The front sheet is the same, Mr Commissioner.
25 One is barcoded EAY.0001.0170, and the other is 0080. They
26 have the same front sheet --

27

28 THE COMMISSIONER: No, mine are both the same.

29

30 MR LACAVA: There are differences in them.

31

32 MR AGIUS: They have the same front sheet but what lies
33 behind the cover sheet is different. One is thicker than
34 the other.

35

36 THE COMMISSIONER: Yes. I have the two now, thank you.

37

38 MR LACAVA: Q. Those drafts that I have handed you,
39 Mr Goodacre, are unedited in any way, but you recall who
40 AA1 is, do you not --

41 A. Yes.

42

43 Q. -- from the final report. Could you just look at the
44 parts there in the draft relating to AA1 and tell me
45 whether or not the inland trucking fee has been dealt with
46 and whether it has been dealt with in the same way that it
47 finally turned out in the report?

1 A. Sorry, which one should I be looking at?
2
3 THE COMMISSIONER: The thin or the thick?
4
5 MR LACAVA: The thick one.
6
7 MR AGIUS: That's 0080.
8
9 THE COMMISSIONER: Yes. We won't bring it up, but it is
10 EAY. 0001. 0080.
11
12 THE WITNESS: I have given it an overview, yes.
13
14 MR LACAVA: Q. I am sorry?
15 A. I have given it an overview, yes.
16
17 THE COMMISSIONER: What is the question, Mr Lacava?
18
19 MR LACAVA: I wanted the witness to find the part where
20 AA1 was dealt with in the draft report.
21
22 Q. Have you found that?
23 A. Yes, I have.
24
25 THE COMMISSIONER: That's page 13.
26
27 MR LACAVA: I am sorry, sir, I handed my only copy to the
28 witness. I have now got one.
29
30 Q. Are you looking at a chart with page 13 on it?
31 A. Yes, I am - page 13, yes.
32
33 Q. Paragraph 2.1.3?
34 A. Yes.
35
36 Q. Is that where you are looking?
37 A. Yes.
38
39 Q. That dealt with the issue of AA1 making a deal with
40 Ronly to make the payments through a Lichtenstein
41 subsidiary company to the trucking company.
42
43 THE COMMISSIONER: What about the two dot points above?
44
45 MR LACAVA: Okay. We will go to that:
46
47 Canada asked a question in relation to the

1 deal for the trucking of grain into Iraq.
2 A transaction was requested to be made by
3 the ship owners to the trucking companies
4 and rejected.

5
6 Now, at that stage, in October, November, that was the
7 extent of it, was it not?

8 A. Yes.

9

10 MR AGIUS: The extent of what?

11

12 MR LACAVA: Q. That's how far Arthur Andersen's
13 investigations had proceeded on the question of the inland
14 trucking fee relating to AA1?

15 A. It would seem so.

16

17 Q. Yes. Now, could you look at the other document?

18

19 THE COMMISSIONER: The thin one. EAY.0001.0170.

20

21 MR LACAVA: Q. I think on page 5 this commences to deal
22 with AA1.

23 A. Yes.

24

25 Q. I just can't pick up where it deals with inland
26 trucking, if at all; do you see that?

27

28 MR AGIUS: Page 9.

29

30 MR LACAVA: Q. Oh, yes. Some of the same similar dot
31 points are raised at 2.1.3 again?

32 A. Yes.

33

34 Q. There was then produced, was there not, by Arthur
35 Andersen, a report dated December 2000 but endorsed with
36 the words "Draft for discussion purposes only". We will
37 have copies of those handed to you. Do you have two
38 versions dated December 2000, "Draft for Discussion
39 Purposes Only"?

40 A. No.

41

42 THE COMMISSIONER: Nor do I.

43

44 MR LACAVA: Q. Can you recall seeing either of these
45 documents in about December of 2000, Mr Goodacre?

46

47 THE COMMISSIONER: These are not barcoded. We will need

1 to identify them in some fashion.
2
3 THE WITNESS: I can't say I can specifically recall seeing
4 them.
5
6 THE COMMISSIONER: One document has the words "to do" on
7 the front piece; the other has the words "use substitute
8 page".
9
10 MR LACAVA: Yes. Thank you.
11
12 MR AGIUS: One is 26 pages and the other is 29 pages.
13
14 THE COMMISSIONER: Yes.
15
16 MR AGIUS: I withdraw that.
17
18 THE COMMISSIONER: No, one is 29 pages and one is 42
19 pages.
20
21 MR LACAVA: Q. Mr Goodacre, you said you can't
22 specifically recall seeing them. Were there discussions
23 with I think Mr Andrew Touhy and Mr Paul McKeller from
24 Arthur Andersen that centred around draft reports, before
25 the final report was received in February?
26 A. Yes, as I said in my evidence, I certainly recall
27 I thought a draft report, maybe that was draft reports, and
28 there were ongoing discussions with those gentlemen.
29
30 Q. Was Mr Stott involved in those discussions?
31 A. Yes.
32
33 Q. We see in the last report - the one in exhibit 69C,
34 the February report - at the page where the heading "Iraq
35 Inland Trucking" appears, that by the time the final
36 version of the report came out there was a lot more detail
37 in it, wasn't there?
38 A. Yes, it would appear so.
39
40 Q. And as it related to the conduct of AA1; correct?
41 A. Yes.
42
43 Q. Do you recall Mr Stott travelling to Iraq in October
44 of 2000?
45 A. I saw it in his evidence, yes.
46
47 Q. Could I just try to refresh your memory about that.

1 A. I'm not doubting that he went, I'm just saying I saw
2 it in his evidence.

3

4 Q. Yes. It was shortly after that that the trucking fee
5 increased, did it not, to about \$45?

6 A. Yes.

7

8 Q. When Mr Stott came back from that October trip,
9 I suggest to you that he raised concerns about the payment
10 of the trucking fee in a way that suggested that further
11 inquiries should be made about it?

12

13 THE COMMISSIONER: I don't understand that. Are you
14 suggesting Mr Stott spoke to this witness?

15

16 MR LACAVA: Yes. I am sorry, Commissioner, I should have
17 been more precise.

18

19 THE WITNESS: No, I just don't recall it specifically,
20 I have to say.

21

22 MR LACAVA: Q. All right. Do you recall whether or not,
23 after he returned from the October trip, he wanted Arthur
24 Andersen to pay more attention to the question of the
25 payment of the inland trucking fee?

26 A. I just don't recall that, I'm sorry, sir.

27

28 Q. All right. We have in evidence an exchange of emails
29 between Mr Stott and Mr Watson between 24 and 26 October
30 2000 which he, we also have evidence, on-forwarded to
31 Mr Andrew Touhy at Arthur Andersen. The subject being
32 raised in those emails was that the Iraqis were complaining
33 that there was 10 per cent of a number of trucking fees
34 that still hadn't been paid. Now, did Mr Stott raise that
35 issue with you?

36 A. No, I just don't recall it. That's --

37

38 Q. He could have but you don't recall?

39 A. He could have - of course he could have, yes.

40

41 Q. You said that when you first met Mr Stott it was in
42 about 1988?

43 A. Correct.

44

45 Q. You travelled with him - was that to the Middle East?

46 A. Yes, and I went to Iraq with him for two weeks, and
47 other markets.

1
2 Q. You said that you regarded him a man of integrity?
3 A. Yes.
4
5 Q. Did you regard him as a man of integrity in June/July
6 2000?
7 A. Yes.
8
9 Q. Is that why you got him back to the AWB?
10 A. Yes.
11
12 Q. Do you still regard him as a man of integrity?
13 A. I have had nothing at this stage to change my view on
14 that.
15
16 Q. He was pretty determined, wasn't he, to try to get to
17 the bottom of Ronly and the conduct of a number of
18 individuals at the AWB?
19 A. Sorry, could you repeat that?
20
21 Q. He was pretty determined, when he came to the AWB
22 in July 2000, to get to the bottom of the Ronly payments in
23 relation to the trucking fees and the conduct of a number
24 of individuals?
25 A. That's correct.
26
27 Q. And because of that he stood on a lot of people's
28 toes, didn't he - he upset them?
29 A. Yes, I would agree with that.
30
31 Q. My learned friend Mr Agius took you to exhibit 77 -
32 I wonder if we could have that brought up. It is
33 AWB.0106.0109. This was a letter that Mr Stott sent to
34 DFAT on 30 October. Could you just look at that and tell
35 me when you have read it.
36 A. Yes.
37
38 Q. Did Mr Stott discuss the fact that he was going to
39 send that letter with you, do you know?
40 A. I don't recall, and I wouldn't have expected him to
41 unless it was something concerning me.
42
43 Q. It addresses, does it not, the issue of the loading or
44 the unloading in Umm Qasr, and whether or not it would be
45 permissible to deal with trucking companies with a view, as
46 it were, to giving them some incentive to increase the
47 number of trucks or increase the discharge rate?

1 A. Correct.

2

3 Q. Do you recall whether or not Mr Stott discussed that
4 issue with you in October of 2000?

5 A. It was certainly a high-order issue, obviously the
6 demurrage issue in Iraq, very much so, very much front of
7 mind for the business.

8

9 Q. Mr Stott, you have said, had a good, and I think
10 ongoing, relationship with various people at DFAT?

11 A. Yes.

12

13 Q. He had a number of contacts there because of the work
14 he had been doing over a number of years with them; is that
15 right?

16 A. That's correct.

17

18 Q. Do you know a person at DFAT called Jane
19 Drake-Brockman?

20 A. I personally don't.

21

22 Q. Can you recall whether or not in late October of 2000
23 Mr Stott discussed with you a conversation which he said he
24 had had with Ms Jane Drake-Brockman?

25 A. No, no, I don't.

26

27 Q. Do you recall whether or not there was any discussion
28 between you and Mr Stott to the effect that he had spoken
29 to DFAT about Alia, and that DFAT knew of Alia and were
30 happy with them?

31 A. Well, as I indicated earlier, yes, that was part of a
32 follow-up, as I recall, to the AA report.

33

34 Q. You say it was a follow-up to the AA report. Now that
35 you have seen the drafts, could it have been that this
36 conversation actually took place as the AA report was
37 unfolding?

38 A. That's possible.

39

40 THE COMMISSIONER: How do the drafts have anything to do
41 with that?

42

43 MR LACAVA: Let me try and clarify that with the witness,
44 if I may. I'm not trying to duck the question, but can
45 I put it to the witness.

46

47 Q. The drafts were the subject of ongoing discussions

1 with AA, weren't they?

2 A. Yes; that's correct.

3

4 Q. You said in evidence to Mr Agius that you thought that
5 Mr Stott may have told you that DFAT were happy with Alia
6 after the receipt of the final Arthur Andersen report?

7 A. Correct.

8

9 Q. Could it be that in fact he said that to you when you
10 were meeting with Arthur Andersen for the purposes of
11 discussing the draft reports?

12 A. That's possible.

13

14 Q. Indeed, it is highly probable, isn't it, given that
15 the emphasis on the inland trucking issue seemed to have
16 been developing, or seemed to have developed, at least the
17 work that AA did on it seemed to have developed between
18 October and when the final report was concluded
19 in February.

20

21 THE COMMISSIONER: That's just not right, is it, as a
22 matter of fact? We have got four drafts, now - two of them
23 are in identical terms; I think the third one is as well -
24 in relation to this topic.

25

26 MR LACAVA: Is the Commissioner putting it that there is
27 a --

28

29 THE COMMISSIONER: What I would like you to do is to point
30 out to me where there is this development, because as far
31 as the first two drafts are concerned, the paragraphs we
32 went to initially at page 13 are repeated verbatim in the
33 next draft and I think in substance, if not verbatim, in
34 the third one.

35

36 MR LACAVA: I am sorry, Commissioner, which paragraph are
37 you speaking of? Are you speaking of the paragraph that
38 ended up in the final report "The current management have
39 removed this payment process"?

40

41 THE COMMISSIONER: No, go to the first draft we looked at,
42 page 13.

43

44 MR LACAVA: This is the --

45

46 THE COMMISSIONER: The thick document, EAY.0001.0080,
47 paragraph 2.13 on page 13. Go to the next draft --

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MR LACAVA: Yes.

THE COMMISSIONER: -- the thin one, EAY.0001.0170.
it is page 9, the same words appear.

MR LACAVA: Yes.

THE COMMISSIONER: Which is the next one in point of time,
do you know?

MR LACAVA: I don't know, Commissioner. Perhaps I could
cut this short, Commissioner, if I could address your
concern. What I am putting to the witness is that there
was a development of the investigation of the trucking fees
issue from October through to what ended up in the final
report in February, and that's clear because the final
report has one and a half pages devoted to the issue which
don't appear in the earlier drafts. I don't put it any
higher than that.

THE COMMISSIONER: Oh, very well, all right.

MR LACAVA: Have I answered your question?

THE COMMISSIONER: I understand what you are saying.

MR LACAVA: Thank you.

Q. More importantly, do you understand what I'm saying,
Mr Goodacre?

A. You will need to explain it to me, please.

Q. I was, I think, putting to you that any conversation
between yourself and Mr Stott as to whether or not he had
spoken to the Department of Foreign Affairs and it had said
that it was happy with Alia possibly could have happened
during the months October, November, or even into December
of 2000, not necessarily after February?

A. That's possible.

MR LACAVA: Commissioner, I want, if you could, to have my
learned friend Mr Agius tender these draft documents.

THE COMMISSIONER: Mr Agius?

MR AGIUS: Yes. I have no difficulty with that. We have

1 two documents from Ernst & Young, one being the
2 thicker October 2000 draft or for discussion purposes only.

3
4 THE COMMISSIONER: EAY.0001.0080.

5
6 MR AGIUS: And a second one, being a thinner version, at
7 EAY.0001.0170.

8
9 THE COMMISSIONER: I will mark the first of those
10 confidential exhibit 139.

11
12 EXHIBIT #139C DRAFT DOCUMENT FOR DISCUSSION PURPOSES
13 (THICKER DOCUMENT) BARCODED EAY.0001.0080

14
15 EXHIBIT #140C DRAFT DOCUMENT FOR DISCUSSION PURPOSES
16 (THINNER DOCUMENT) BARCODED EAY.0001.0170

17
18 MR AGIUS: My friend has produced to us today two copies,
19 two different documents. They are each marked December
20 2000 and they are each marked "Draft for discussion
21 purposes only". One has a front sheet which has
22 handwritten on it "use substitute page".

23
24 THE COMMISSIONER: Which comprises 42 pages?

25
26 MR AGIUS: That is of 42 pages.

27
28 EXHIBIT #141C DRAFT DOCUMENT MARKED DECEMBER 2000, "DRAFT
29 FOR DISCUSSION PURPOSES ONLY" COMPRISING 42 PAGES

30
31 MR AGIUS: That's not a document we have seen before.

32
33 THE COMMISSIONER: No.

34
35 MR AGIUS: The second is marked in handwriting on the
36 front page "to do: company and" something. It looks like
37 "business searching".

38
39 THE COMMISSIONER: And it comprises 29 pages.

40
41 MR AGIUS: 29 pages.

42
43 EXHIBIT #142C DRAFT DOCUMENT MARKED DECEMBER 2000, "DRAFT
44 FOR DISCUSSION PURPOSES ONLY" COMPRISING 29 PAGES

45
46 MR AGIUS: That's another document that we haven't seen
47 until today.

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MR LACAVA: Could I just say something about that? My learned junior and I received them from ABL last Friday evening, and I understood that they had been made available to the Commission.

MR AGIUS: We have another version of the draft December document, which had been made available to us, but it is not the same as either of the two that you have produced to us.

MR LACAVA: I can't throw any light on that, I'm afraid. Everything that I have got, you have got, so there you go.

Q. Can I just ask you --

THE COMMISSIONER: Your half hour has just expired.

MR LACAVA: I promise I won't be any more than another couple of minutes.

Q. When Mr Stott came back after his October 2000 trip, there was a contract, was there not, for the sale of wheat of about a million tonnes put in place?

A. I understand so.

Q. And the trucking fee was increased to about \$45?

A. Correct.

Q. Could I ask, please, to have brought up AWB.0144.0221. It is an email from Mr Hogan. Do you see that email there, Mr Goodacre? Now, I don't think you are one of the parties to whom it is addressed, but it sets out the terms of the confirmation of sale. Have you seen that before?

A. I don't recall.

Q. Do you see down in the bottom line it refers to:

10% will be added to px and included into trucking fee - ie IGB will confirm... this has been approved by UN (as per IGB - I will get this in writing).

Do you see that?

A. Yes, I understand.

Q. Do you recall having any discussions with Mr Stott at

1 about this time, early November of 2000, to the effect that
2 Mr Stott had seen some evidence in writing in the form of a
3 contract that he had been shown from the IGB which had been
4 approved by the UN?

5 A. No, I - as I said this morning, I don't recall that
6 conversation.

7
8 MR LACAVA: Thank you, sir.

9
10 THE COMMISSIONER: Does anybody else wish to ask
11 Mr Goodacre any questions?

12
13 MR ALLEN: No, sir.

14
15 THE COMMISSIONER: Mr Braham, is there anything arising
16 out of that?

17
18 MR BRAHAM: No, thank you, Commissioner.

19
20 THE COMMISSIONER: Mr Agius?

21
22 MR AGIUS: Yes. Just excuse me for one moment,
23 Mr Commissioner.

24
25 <EXAMINATION BY MR AGIUS:

26
27 MR AGIUS: Q. Mr Goodacre, do we have your appointments
28 diary for November and December of 2000?

29 A. No, sir, because I had requested that copy from AWB,
30 but it hasn't been provided.

31
32 Q. You have requested it?

33 A. I have requested it.

34
35 Q. And it hasn't been provided to you?

36 A. No.

37
38 Q. Our searches indicate that we do not have it. Can
39 I ask whether or not there is any information about it?

40
41 MR CORBETT: I will have to make inquiries,
42 Mr Commissioner. It is not something that I'm immediately
43 aware of.

44
45 MR AGIUS: Q. You have annexed your diary of
46 appointments for January 2001 to your statement. My
47 learned friend Mr Lacava asked you some questions about the

1 draft Arthur Andersen reports which are marked October 2000
2 and report as at 15 November 2000, and there are two of
3 them. Do you have any recollection of receiving or seeing
4 either of them in the year 2000?

5 A. As I indicated in my statement, I recall a draft
6 report or perhaps draft reports, but, in terms of dates,
7 no, sir, I couldn't tell you whether there was a draft
8 report in any particular month, but I assumed it was before
9 the final report, that was the nature of how they did the
10 investigation.

11
12 Q. When you say you assumed, are you saying that you
13 assume you saw a draft report?

14 A. I believe I saw a draft report.

15
16 Q. Do you know when it was - whether it was in November
17 or December or in January of 2001?

18 A. No, I can't - I can't be sure on that, sir.

19
20 Q. And in your statement, when you refer to the
21 conversation with Mr Stott, at paragraph 7.18:

22
23 Some time later Stott informed me that he
24 had made inquiries with both the IGB and
25 DFAT as part of his investigations into the
26 issues relating to the trucking payments...

27
28 A. That's correct.

29
30 Q. You put that in your statement at a time which is not
31 only after the receipt of the December 2000 report but at a
32 time after your discussion of the contents of that report
33 with Mr Lindberg?

34 A. That's correct, sir. That's my best recollection.

35
36 Q. That's your best recollection?

37 A. That's my best recollection.

38
39 Q. Is that your best recollection as to the first time at
40 which Mr Stott had said anything to you about his inquiries
41 concerning the trucking company and it being legitimate?

42 A. Correct.

43
44 Q. At that time, did he tell you the name of the trucking
45 company?

46 A. He may have, sir.

47

1 Q. He may have, or he may not have, or what is your state
2 of recollection?

3 A. I think he would have said the name of the trucking
4 company, yes, sir.

5
6 Q. And said to you that it was legitimate?

7 A. Yes. That's my recollection.

8
9 Q. And that's all he said on the topic?

10 A. He said he had made inquiries, that the nature of the
11 trucking arrangement was legitimate, and he may have also
12 referred to the trucking company itself. I expect he did
13 so.

14
15 Q. What you said in your statement was:

16
17 ...he had made inquiries with both the IGB
18 and DFAT as part of his investigations into
19 the issues relating to the trucking
20 payments and was satisfied from those
21 inquiries that the level of trucking fees
22 was justified and that the trucking company
23 (Alia) was legitimate. He also said that
24 the increase in the payments to Alia had
25 been authorised by the UN.

26
27 A. Yes, that's my recollection, sir.

28
29 Q. Did he tell you whether any part of that information
30 came from either the IGB or DFAT, or did he simply say that
31 he had made inquiries with those two bodies and that this
32 was the result of the inquiries?

33 A. That's my understanding.

34
35 THE COMMISSIONER: Q. The latter?

36 A. The latter, sir.

37
38 MR AGIUS: Thank you.

39
40 THE COMMISSIONER: Yes.

41
42 MR AGIUS: Mr Commissioner, I know we have brought
43 Mr Goodacre from New Zealand, and ordinarily I would like
44 to excuse him at this point, but even as late as last night
45 we received volumes of further material, and I am not in
46 any position to offer any guarantee that we won't receive
47 more material before 31 March. So I would ask that he not

1 be excused from his summons, although we do offer our
2 gratitude to him for accepting service over the fax machine
3 and for attending today, but there is an unlikely event
4 that we may require him back, so I cannot ask that he be
5 excused from the summons.

6
7 THE COMMISSIONER: Mr Goodacre, I can't excuse you for the
8 reasons just given, but, if it is necessary for you to
9 return, that will be by arrangement with your solicitors.

10
11 THE WITNESS: Yes, thank you.

12
13 <THE WITNESS WITHDREW

14
15 THE COMMISSIONER: Thank you very much for attending.

16
17 THE WITNESS: Thank you.

18
19 THE COMMISSIONER: I will adjourn until 10am on Monday.

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21 AT 1.44PM THE COMMISSION WAS ADJOURNED
22 TO MONDAY, 27 FEBRUARY 2006 AT 10AM

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