

Commissioner's Opening Remarks

1. As the Letters Patent which have recently been read make clear, the purpose and function of this Inquiry is to inquire into and report on whether any decision, action, conduct, payment or writing of any of the three Australian companies mentioned in the Final Report of the Independent Inquiry Committee into the United Nations Oil-for-Food Programme, or of any person associated with those companies, might have constituted a breach of any law of the Commonwealth, a State or Territory, and if so, to determine whether matters should be referred to the relevant Commonwealth, State or Territory agency.
2. The three Australian Companies mentioned in the Committee's Final Report are:
 - a. AWB Limited which from 1999 through multiple contracts sold wheat to the Iraqi Grain Board (IGB) with a face value in excess of US\$1.5 Billion;
 - b. Alkaloids of Australia Pty Limited which by one contract dated 19 July 2001 sold hyoscine-N-butyl bromide with a face value of US\$836 252.00; and
 - c. Rhine Ruhr Pty Ltd, referred to in the Final Report as Distall Rhine Ruhr Pty Ltd, which by one contract dated 25 October 2001 sold goods with a face value of US\$181 181.00.
3. By the Letters Patent, I am directed, to the extent possible, to avoid public disclosure of commercially sensitive or confidential material which might be provided to this Inquiry. It is my intention to hold the hearings in public, unless confidentiality considerations, or other exigencies, require otherwise.
4. Public hearings will commence on Monday 16 January 2006 at hearing rooms on the 5th Floor, 55 Market Street, Sydney. At those hearings, it will be the function of Counsel assisting the Commission to place before me material relevant to the terms of reference including the circumstances in which the contracts were made and payments made pursuant to those contracts.
5. For the purposes of this Inquiry it may be important to determine the status of United Nations resolutions and sanctions under Australian domestic law. An opinion has been sought from Dr James Renwick and Dr Christopher Ward, two respected international lawyers, upon the following matters:
 - a. What is the status of United Nations Security Council Resolutions under Australian domestic law?
 - b. Do United Nations Security Council Resolutions impose civil or criminal responsibilities upon Australian corporations or citizens under Australian domestic law?
 - c. Were Security Council Resolutions 661 and 986 incorporated into Australian domestic law? If so, by what mechanism;

- d. By what legal mechanisms did Australia enforce or support the United Nations Security Council sanctions prohibiting trade, except trade for humanitarian purposes, with Iraq?
6. The opinion will be made public. It will be Exhibit 3. Persons are invited to comment upon it. Those with a different view to that expressed in the opinion should advise the Inquiry of their reasons for that different view.
7. In addition, this Inquiry is at present undertaking a survey of Australian, state and territory law, including both statute and common law, with a view to identifying aspects of the law which might have application to the circumstances as they are presently understood. Of course, no question of the application of any aspect of the law can be determined until there has been a thorough examination of the factual circumstances, and findings of fact made.
8. Advertisements giving notice of this hearing invited persons who may have information relevant to the subject matter of this Inquiry to provide such information to officers of the Inquiry. I repeat that invitation. There have been statements reported as having been made in the Parliament, and statements made in the media, purportedly asserting knowledge of matters which may be relevant to this Inquiry. I invite those who believe they have relevant information or knowledge to contact the Solicitor or Counsel assisting the Inquiry so that such information and knowledge may be investigated and considered.
9. There have been statements in the Parliament and in the media declaring that this Inquiry is a judicial inquiry. That is not so. This Inquiry has the powers conferred by the *Royal Commissions Act 1902*. These powers are far wider than, and different in nature to, the powers conferred upon a judicial officer. This Inquiry is an exercise of the executive power of the Commonwealth of Australia, and is investigative in nature. As I am not exercising the judicial power of the Commonwealth, I can make no findings of guilt. What I can do, and am required to do by the terms of reference, is to determine whether any decision, action, conduct, payment or writing by any of the three companies mentioned, or persons associated with them, **might** have constituted a breach of any law of the Commonwealth, State or Territory. If I so find, I must then consider whether any such matter should be referred to the relevant Commonwealth, State or Territory agency for consideration of any further action.
10. Although this is an investigative Inquiry, persons who may be subject to adverse findings are entitled to natural justice. It will be afforded to them. As a former judge, I will exercise the wide powers conferred upon me with judicial objectivity and impartiality. In that respect only is this Inquiry of a judicial character.
11. I adjourn the hearings of the Inquiry to Monday 16 January 2006.