

Submission No. 6

SUBMISSION ON MINISTERIAL RESPONSIBILITY

By

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The issue of ministerial responsibility and the need for reform has been highlighted by the role of the federal Department of Foreign Affairs and Trade and its Minister in relation to the "Iraq Wheat Scandal."

A number of failures have been reported in the handling of the matter by members of the Department.<sup>1</sup> Such failures included:

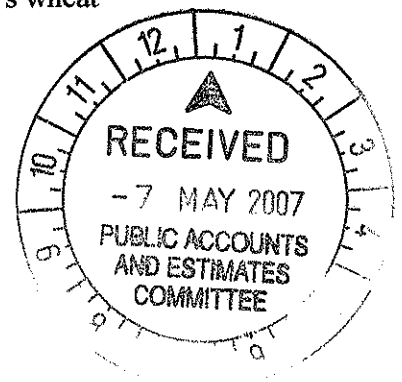
- The inadequate response to the request by UN Chief Customs Officer Felicity Johnston in 1999 for Australia to investigate allegations that AWB was paying kickbacks to Saddam Hussein
- The failure to notice the dramatic escalation in trucking fees being paid to Alia – from US \$12 per tonne in July 2000 to US\$44.50 per tonne in November 2000 and US\$55 per tonne in December 2002; this when petrol in Iraq was 10 cents per gallon and the real cost of inland transportation as estimated by expert Charles Duelfer was less than \$6
- The failure to be briefed about or follow up intelligence reports concerning kickbacks.
- The failure to comment on or investigate the front page of the New York Times on 7 March 2001, headed "Iraq is running pay-off racket, UN aides say", which specifically
- The failure of Australian diplomats in Middle East to pick up common knowledge about the use of Alia to circumvent UN sanctions.

The question is, faced failures of this magnitude and importance to the country, what degree of responsibility should the federal Minister, Alexander Downer have taken and what should have been the consequences of taking of responsibility.

The central public defence of the Minister was that "I did not know" and "no one in my Department knew or ought to have known". However, governmental ignorance on this scale is not excusable. We live in a constitutional system of ministerial responsibility. The idea that nobody is responsible for such a monumental disaster, so damaging to our international reputation, is unacceptable. On an issue of such profound significance, ignorance is no excuse. It begs the question as to whether the Minister and key members of his Department "should have known".

In contrast to a tradition of ministerial responsibility, there appears to have developed a culture of a denial of responsibility by attempting to pass the blame to others. In this case blame was ascribed by the Minister to the UN, the AWB and Australia's wheat competitors.

<sup>1</sup> See: ABC "Four Corners" Program 17 April 2006



A culture of protection of Departmental staff also appears to have developed. For example, the Cole Commission challenged the Minister over the failure of his staff to read crucial intelligence reports sent to his office in 2000 that warned that a trucking company facilitating Australian wheat sales in Iraq was an agent for Saddam Hussein's regime. The Minister was also challenged over his staff's failure to pass on a warning from a US army officer about kickbacks to the regime because they thought the officer was not of sufficiently high ranking. Yet the Minister continued to express full confidence in his staff, in the face of these facts. He said they had "done a good job" and had "faithfully implemented government policy", and he could not make "a single criticism of his department's handling of the affairs". "I think they fulfilled their duty. They are very professional people".

The result was that there was no disciplinary or corrective action and no criticism which emanated from the Minister. Rather, poor and damaging conduct was publicly sanctioned by the Minister. This position no doubt suited the political interests of the government. To have accepted responsibility and apportioned blame to departmental officers may well have resulted in political recrimination at the ballot box. To avoid these consequences, accountability was sacrificed.

I draw upon the example of the "Iraq Wheat Scandal" because of the scale and importance of the issue to the country as a whole, and because of the manifest failure of a senior Minister to do everything within his power and control to deny any responsibility for the matter, both personally and on behalf of his departmental officers.

The case serves to illustrate the virtual collapse of acceptable standards of Ministerial responsibility and public accountability in this country and the need for urgent reform.

The recommendations contained in the Australian Study of Parliament Group report of November 2006 make a significant contribution and are to be commended.

**Peter Vickery QC**