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## Australia

### Grain and Feed

## Cole Inquiry Into AWB Conduct Under the Oil-For-Food Program

### 2006

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**Report Highlights:**

The November 27 release of the final report of the Cole inquiry into the conduct of the AWB under the UN Oil-for-Food Program has resulted in the Prime Minister saying the government will give urgent consideration to the future of marketing operations for the export of Australian wheat.

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Includes PSD Changes: No  
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[AS]

**Summary:** The November 27 release of the final report of the Cole inquiry into the conduct of the AWB under the UN Oil-for-Food Program has resulted in the Prime Minister saying the government will give urgent consideration to the future of marketing operations for the export of Australian wheat. In addition to recommending referral to appropriate authorities for consideration as to whether proceedings should be commenced for breach of the Crimes Act, the Criminal Code, and Banking law, Cole recommended that a joint Task Force be established comprised of the Australian Federal Police, Victoria Police, and the Australian Securities and Investments Commission to consider possible prosecutions in consultation with the Commonwealth Director of Public Prosecutions and the Victorian Director of Public Prosecutions. Further, Cole suggested a review of the power, functions and responsibilities of the body charged with controlling and monitoring any Australian monopoly wheat exporter (a position currently held by the Wheat Export Authority). The Cole inquiry has found that government officials, including the Prime Minister and the Ministers of Foreign Affairs, Trade and Agriculture were not aware of the AWB's activities in Iraq. End Summary.

On November 27, Australian Attorney-General Philip Ruddock tabled the Cole Inquiry's five-volume (over 2,000 page) report into the AWB bribery scandal in Federal Parliament. (The full report is available at:

<http://www.offi.gov.au/agd/WWW/unoilforfoodinquiry.nsf/Page/Report>)

In his ministerial statement Mr. Ruddock said the Government would "move speedily to consider Mr. Cole's recommendations".

In the Prologue to the Final Report of the Cole inquiry, Justice Young, of the Federal Court of Australia is quoted, "AWB knew that paying inland transportation fees to Alia was a means of making payments to the Iraqi government. This plan was concealed from the United Nations."

The Terms of Reference of the Cole Inquiry were to determine whether any Australian laws might have been broken and whether the question of criminal or other legal proceedings should be referred to relevant judicial agencies. Such circumstances were found to exist.

The report states that the consequences of AWB's actions have been immense and that AWB has 'cast a shadow over Australia's reputation in international trade.' The report identifies the AWB as having a 'closed culture of superiority and impregnability, of dominance and self-importance.' Further, "At AWB the Board and management failed to create, instill, or maintain a culture of ethical dealing."

The Prologue concludes with, "It is not my function to comment on the grant of monopoly power to part of the AWB group, and I do not do so... It is for others to determine whether, as a matter of public policy, it is appropriate for the law to require persons to deal with a group that behaved in the manner I describe."

**Findings:** The Cole inquiry found that breaches of law might have occurred under the Crimes Act, The Criminal Code, and the Banking (Foreign Exchange) Regulation. Twelve individuals were named; all but one were former AWB staff. Cole recommended that each of these matters be referred to the appropriate authority for consideration whether proceedings should be commenced for breach of law. Cole further recommended that a joint Task Force be established comprised of the Australian Federal Police, Victoria Police, and the Australian Securities and Investments Commission to consider possible prosecutions in consultation with the Commonwealth Director of Public Prosecutions and the Victorian Director of Public Prosecutions. Administrative Responsibility for the conduct of the Task Force should reside with the Commonwealth Attorney General.

**Recommendations of the Cole Inquiry:**

Recommendation 1: Customs (Prohibited Exports) regulation be amended to make it an offense to provide false or misleading information.

Recommendation 2: Modify the Commonwealth Criminal Code to include offenses for acting contrary to UN Sanctions that Australia has agreed to uphold.

Recommendation 3: Confer power on an appropriate body to obtain information of any suspected breaches or evasion of sanctions.

Recommendation 4: Amend the Royal Commissions Act to permit the Governor General in Council to determine that in matters related to the subject of the inquiry, legal professional privilege should not apply.

Recommendation 5: There be a review of the powers, functions and responsibilities of the body charged with controlling and monitoring any Australian monopoly wheat exporter. A strong and vigorous monitor is required to ensure that proper standards of commercial conduct are adhered to.

**Government Not Involved in Wrongdoing:** The Cole report has found that there is no evidence that any relevant Department of Foreign Affairs officers had actual knowledge that AWB had inflated its contract prices to incorporate inland transportation fees or that AWB paid fees to Iraq indirectly via Alia. The Cole inquiry has also found that there is no evidence that government officials, including the Prime Minister and the Ministers of Foreign Affairs, Trade and Agriculture, were ever informed about relevant activities of AWB.

**Government Response:** In a statement released just after the report was tabled, Prime Minister Howard said it had clear implications for the operation of the single desk system for Australian wheat exports, "in particular the role of AWB Limited, AWB International and the Wheat Export Authority in relation to wheat marketing." The Prime Minister said the government would now give urgent consideration to the future of marketing operations for the export of Australian wheat. "It will announce its proposals for the way forward shortly," Howard said.

**AWB Response:** In a brief statement today, AWB Chairman Brendan Stewart said AWB would make a formal response to Mr. Cole's findings after he and his fellow board members read the report. "The board deeply regrets the way in which the company's wheat trade with Iraq under the United Nations Oil-for-Food program was conducted," he said. Mr. Stewart added that AWB "will not respond to allegations made against individuals at any stage". The company will hold a press conference in Melbourne on Wednesday to address issues raised in Mr. Cole's report.

**Background:** Prime Minister (PM) Howard called for the independent Royal Commission of inquiry in November 2005 following the report of an independent United Nations inquiry into the Oil-for-Food program (The 'Volcker report') that found that the approximately \$220 million the AWB allegedly paid for transport services in Iraq was actually funneled to the Iraqi government. AWB sold \$1.7 billion worth of wheat to Iraq under the U.N. Oil-For-Food Program.

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The reports listed below can all be downloaded from the FAS website at:  
<http://www.fas.usda.gov/scriptsw/AttacheRep/default.asp>.

Report Number	Title of Report	Date
AS6074	Citrus Annual	11/27/06
AS6073	Ag DownUnder Vol. 17	11/17/06
AS6072	Dairy Annual	11/17/06
AS6071	AWB Rejects Export Applications for 3 MMT, Sparks Controversy	11/09/06
AS6070	Australia Revises Import Conditions for California Table Grapes	11/06/06
AS6069	Ag DownUnder Vol. 16	11/03/06
AS6068	Australia Considers Grain Imports; Additional Drought Aid Announced	10/31/06
AS6067	Government Announces Changes to Import Risk Analysis Process	10/31/06
AS6066	Grain Quarterly Update	10/20/06
AS6065	Frost Affects Fruit Production in Goulburn Valley, Victoria and Tasmania	10/18/06
AS6064	A\$350m Additional Drought Aid	10/17/06
AS6063	Ag DownUnder Vol. 15	10/12/06
AS6062	Corish Report: Australian Government Response	10/04/06
AS6061	Sugar Semi-Annual	09/29/06
AS6060	Exporter Guide	09/29/06
AS6059	Export Certificate Report	09/27/06
AS6058	Ag DownUnder Vol. 14	09/26/06
AS6057	Livestock Annual	09/13/06
AS6056	Ag DownUnder Vol. 13	09/08/06
AS6054	Drought Update	09/05/06
AS6053	Cotton Quarterly Update	08/31/06
AS6052	Ag DownUnder Vol. 12	08/25/06
AS6051	Australia Launches Strategy to Gain Access to Southern Indian Food Market	08/10/06
AS6048	Food & Agriculture Import Regulations & Standards	08/03/06
AS6047	Grain Quarterly Update	08/01/06
AS6046	Ag DownUnder Vol. 11	07/21/06
AS6045	Citrus Update	07/17/06
AS6042	Australian FTA with Gulf States	06/30/06
AS6041	Poultry Meat IRA Released	06/28/06
AS6040	Worst Frost in 20 Years Affects Australian Citrus Production	06/27/06
AS6039	Agricultural Biotechnology Annual	06/28/06
AS6038	Ag DownUnder Vol. 10	06/23/06
AS6037	Sugar Smut Outbreak in Queensland	06/20/06
AS6036	Wine Annual	06/08/06
AS6035	Australia Actively Pursuing FTAs	06/07/06
AS6034	Ag Down Under Vol. 9	06/02/06
AS6033	Wheat Australia sells 350,000 MT to Iraq	05/31/06
AS6032	Dairy Semi Annual	05/30/06
AS6031	Ag Down Under Vol. 8	05/19/06
AS6030	Review of Permitted Seeds List for Australia	05/19/06