

[8.15 p.m.]

O'KEEFE, Ms Annmaree, Deputy Director General, Pacific, Contracts and Corporate Policy, AusAID

TAPP, Mr Charles William Nicolas, Deputy Director General, PNG and Global Programs, AusAID

RABY, Dr Geoff, First Assistant Secretary, International Organisations and Legal Division, Department of Foreign Affairs and Trade

WISE, Mr James Joseph, First Assistant Secretary, South Pacific, Africa and Middle East Division, Department of Foreign Affairs and Trade

CHAIR—Welcome. I note that you have said that you do not have an opening statement. You are therefore open for questions.

Dr Raby—Yes.

Senator FAULKNER—I have indicated to the witnesses and to you, Mr Chair, that I will place a series of questions on notice for both the Department of Foreign Affairs and Trade and AusAID, if that is acceptable. It may save a considerable amount of time this evening. There are a few questions I would like to ask witnesses at the table. I wonder if I could try to fill in a few of the gaps in my own knowledge and information that have become a little clearer to me since we last canvassed some of these issues, albeit mercifully briefly, at the Senate estimates committee hearing some weeks ago. In the first instance, Dr Raby, I wonder if you might indicate to the committee the broad lines of communication on the asylum seeker issues in and out of the Department of Foreign Affairs and Trade—how it worked and who was involved. This is in terms of your departmental organisation.

Dr Raby—I am not sure if I can vouch for completeness, but I will do my best. As we canvassed in estimates, there was the *Tampa* task force that was created on, I think, 29 August against the background of that event. That was the principal group inside the department, although it involved other agencies who sat on that group, and we gave you the list of those agencies, I think.

Senator FAULKNER—Yes, you did.

Dr Raby—The purpose was coordinating information flows. The principal sources of information into that group, and through that group to the department, were a range of Defence regular intelligence reports, the Defence summaries; information channelled from other departments through me as the DFAT representative on the PM&C people-smuggling IDC; cable traffic internationally, in the normal course of events; information conveyed by other departmental representatives on the Tampa task force when they would come to those meetings; and, finally, media sources.

Senator FAULKNER—Of the senior executive of DFAT, was it mainly you who was involved?

Dr Raby—Yes. I am not a member of the senior executive, but I would keep the senior executive briefed on the issues as they arose in the *Tampa* task force or on relevant matters arising from the PM&C people-smuggling IDC.

Senator FAULKNER—So did you report directly to the secretary; is that how it worked?

Dr Raby—To the secretary and to the relevant deputy secretaries.

Senator FAULKNER—What about your public affairs operation in DFAT? What, if any, involvement was there with your public affairs organisation?

Dr Raby—The principal involvement was to provide summaries of international media comment. They would trawl through media comment that came in overnight and prepare a summary, which we would attach to the *Tampa* task force situation reps which were produced on a regular basis. They also helped prepare talking points for our embassies overseas to respond to questions.

Senator FAULKNER—Can you briefly outline again the process of compilation of the *Tampa* task force sit reps?

Dr Raby—Yes. They would be put together drawing on information from all the sources that I have outlined. The principal sources would be the Defence intelligence summary reports, the summary reports from Operation Relex and the cable traffic. We would also have a section on domestic media comment and then appended to that a section compiled, as I have just mentioned, on international media comment.

Senator FAULKNER—Where were they compiled? Who wrote them in the department?

Dr Raby—They were by departmental officers staffed from what was then the people-smuggling, refugees and transnational crime section in my division. They would be drafted on a rotating basis; it was a shift-work exercise. We would have present, during the period when we had the task force operating, representatives from the Department of Defence—at least one officer—who were basically the conduits through which we would get the Defence intelligence reports and summaries.

Senator FAULKNER—So after a sit rep was drafted was there a signing-off process?

Dr Raby—I or my branch head Rod Smith—who appeared in estimates but is overseas at present—would be the ones who would authorise the despatch of the sit rep.

Senator FAULKNER—Was there an approval process, so to speak?

Dr Raby—Either I or my designated representative Rod Smith would be the sole approver of the sit reps.

Senator FAULKNER—In relation specifically to sit rep 59, can you say who drafted it, who signed off on it and what was the source of information? I am just focusing here on the famous 59.

Dr Raby—Yes. I would like to take that on notice, if I could, and I will get back to you first thing tomorrow morning.

Senator FAULKNER—I am happy if you take it on notice. If I could be clear on it, I would like to know who drafted it, who signed it off and, in the case of sit rep 59, the source information.

Dr Raby—Yes.

Senator FAULKNER—While we are at it, we might add in sit rep 60, if that is okay.

Dr Raby—I am happy to do that. Just on the actual person who drafted it, can I just add a qualification that we may not have the rotation sheet still with us. We will try and do our best by asking.

Senator FAULKNER—As always, Dr Raby, best efforts are always appreciated.

Dr Raby—Thank you.

Senator FAULKNER—But thanks for mentioning that in advance; I appreciate it. Can I ask you specifically for a little more detail about sit rep 59. My recollection is that at the time of the Senate estimates committee we were told that the Prime Minister, Minister Downer, Minister Reith and Minister Ruddock received copies of sit rep 59 at or soon after 9 a.m. on Monday, 8 October 2001. I just want to be clear that that is the case.

Dr Raby—Yes.

Senator FAULKNER—Thank you. We were of course told that sit rep 59 did not make any reference to children being thrown overboard. Could you perhaps confirm whether or not that is the case?

Dr Raby—There was no reference to children overboard. The reference was to people in the water.

Senator FAULKNER—If children had been thrown overboard and if Defence had credibly reported that incident, surely we could have expected it to be reported in a DFAT sit rep, couldn't we?

Dr Raby—That aspect of the report—what is happening in an operational area—is based solely on what the defence department provided us.

Senator FAULKNER—This would be an incident of such significance that it would be included. Isn't that right?

Dr Raby—If it were in the Defence summaries that we were receiving.

Senator FAULKNER—Is it of more operational or non-operational significance to DFAT than it would be to Defence? Is that fair to say?

Dr Raby—I am not sure of the point of the question. It is not a particular DFAT role we were performing there. We were a conduit for information for a range of our—

Senator FAULKNER—We know it is of no operational significance to Defence. That has been made absolutely clear on umpteen occasions. The fact that children were thrown overboard—or not, as the case was—is not operationally significant in Defence. It is not unreasonable to think it may be a matter that is of more significance to the Department of Foreign Affairs and Trade than it is to Defence because it has no significance at all to Defence. But you tell me. I just want to know.

Dr Raby—I am taking your statement on board—

Senator FAULKNER—As opposed to overboard.

Dr Raby—Yes. I cannot respond to that point about Defence. All I can say is that we based our sit reps on operational matters on what was provided to us from the Department of Defence.

Senator FAULKNER—Who in Defence did DFAT actually have contact with in both the early stage and the later stages of the *Tampa* task force? How was that organised and who was it organised with?

Dr Raby—The contact with Defence? Defence volunteered their officers. We did not have a selection process. Whoever came from Defence on rotation came. They sat with us and provided the conduit to Defence communications.

Senator FAULKNER—Which is fair enough. But you basically accepted whoever was provided by Defence for that role?

Dr Raby—Absolutely, as with any other department that participated on the task force.

Senator FAULKNER—Yes, I am not doubting that for a moment. Did you keep a record of who it was through that time period?

Dr Raby—I think we could provide you with that if that is what you wish.

Senator FAULKNER—If you could, that would be helpful.

Dr Raby—There may be gaps, given the nature of how this exercise was conducted, but we will check and provide what we can.

Senator FAULKNER—In the broad again, without going to individual specifics, what sort of information would DFAT be receiving from Defence? I am thinking of signals, intelligence

summaries and that sort of thing. How would you describe the categories of information or input you would be receiving from Defence?

Dr Raby—Defence intelligence summaries, as I have mentioned, and summaries of Operation Relex reports.

Senator FAULKNER—So signals?

Dr Raby—No, it came to us as documents, not as signals. That is all processed through Defence. We got what Defence had processed.

Senator FAULKNER—And is that all—just the intelligence summaries and the processed Defence reports?

Dr Raby—Sorry, I need to correct that; we occasionally received signals.

Senator FAULKNER—You did?

Dr Raby—Yes. But primarily we received a daily Operation Relex summary.

Senator FAULKNER—Was the daily Operation Relex summary developed by Defence for DFAT or was DFAT just one of the agencies to which this was provided?

Dr Raby—I believe that we were one of the addressees.

Senator FAULKNER—Yes. Would you describe the information that you received from Defence as regular information just received as a matter of course, or would it be more ad hoc in its nature?

Dr Raby—It was primarily regular programmed reporting. We would know roughly the time it would come.

Senator FAULKNER—On basically a daily basis?

Dr Raby—More than daily.

Senator FAULKNER—I thought you said daily before.

Dr Raby—When we were doing sit reps on a daily basis, they were reduced from many times a day to once a day. We would receive one of these at a time with the production of the sit rep in the morning, but we were able to get other reports like that if we requested at other times during the day if they were available.

Senator FAULKNER—Do you keep the sort of information that you received for the development of, say, sit reps 59 and 60?

Dr Raby—Do you mean the raw information that came in?

Senator FAULKNER—Yes. Let me not ask specifically about those. Generally, does DFAT keep the material that provides the basis for this reporting?

Dr Raby—Yes, it is filed.

Senator FAULKNER—You do?

Dr Raby—Yes. We would file it like other documents.

Senator FAULKNER—So it is all on file?

Dr Raby—Yes.

Senator FAULKNER—So the raw material that forms the basis of sit reps 59 and 60 would be on file?

Dr Raby—I would imagine so. When you say it is all on file, we would normally file it.

Senator FAULKNER—I am only asking about your procedures, Dr Raby. These are not trick questions or anything; I am just trying to understand.

Dr Raby—I am just trying to answer you accurately.

Senator FAULKNER—I understand and appreciate that.

Dr Raby—Could I just say that all this is communicated electronically. It is coming on to secure computers and it is coming into many different points in the building on to secure computers.

Senator FAULKNER—So you would be able to check for us, for example, if some of that could be made available for the benefit of the committee?

Dr Raby—Because the originator of it is the Department of Defence, you would have to ask them.

Senator FAULKNER—Not if you hold it.

Dr Raby—As I understand it, we cannot release information that is generated by another department.

Senator FAULKNER—But you have it on file and it has all originated from the Department of Defence?

Dr Raby—This particular information we are discussing, yes; the Department of Defence is the originator.

Senator FAULKNER—But there is no information that is an input to the preparation of these sit reps from outside the Department of Defence?

Dr Raby—As I mentioned at the outset, diplomatic reporting was also included when relevant.

Senator FAULKNER—So it is not all from the Department of Defence, is it?

Dr Raby—We were discussing the Operation Relex and intelligence summaries from Defence.

Senator FAULKNER—Yes, we are, as part of the raw material that forms the basis of the sit reps.

Dr Raby—If your question is wider than Operation Relex, as I said at the outset when I set out the source of information, there were multiple sources of information.

Senator FAULKNER—Now you have managed to completely confuse me, Dr Raby. I may be misunderstanding you. Let us be clear. In relation to Operation Relex, are you only using Defence sources?

Dr Raby—Only using Defence sources.

Senator FAULKNER—I did not understand that. I appreciate that clarification. Your other answer goes to the development of sit reps in the broad, outside the period of Operation Relex.

Dr Raby—The sit reps covered much more than just Defence operational matters.

Senator FAULKNER—Sure.

Dr Raby—They obviously reported on international reactions and other developments that were relevant to be reported to ministers.

Senator FAULKNER—I understand. Thank you for that. That is helpful. Did the Department of Foreign Affairs and Trade at any stage, including either the Tampa task force or any other part of your department, receive the photographs which I will just define as those that misrepresented children thrown overboard? You know the photographs to which I am referring.

Dr Raby—At estimates I said that, to the very best of my knowledge, we did not receive the photographs either electronically or in any other form. There has been no reason since then for me to revise that advice I gave to you at estimates.

Senator FAULKNER—So that is still the best advice you can provide this committee?

Dr Raby—Yes.

Senator FAULKNER—Fair enough. Could you indicate to the committee just in relation to the ‘children overboard’ claims in the broad what, if any, information the *Tampa* task force or other parts of the Department of Foreign Affairs and Trade may have received on those claims?

Dr Raby—The only information, as I recall from our discussion on this in estimates, was information that I had picked up from the PM&C IDC. But it was never discussed as an agenda item or part of that formal discussion. Apart from what I had picked up from discussions on the margin at IDC, most came from the media on that particular issue.

Senator FAULKNER—I recall you indicating that to me on an earlier occasion. I just wondered if there is now any more clarity about whether in any part of DFAT any other information had been received at any time about the ‘children overboard’ claims.

Dr Raby—To the best of my knowledge, no. No-one has sought to correct my comment to you at estimates.

Senator FAULKNER—And that would go to either support for or refutation of the ‘children overboard’ claims, I assume.

Dr Raby—Yes.

Senator FAULKNER—Have you had a pretty thorough check of the material that goes to form the basis of the sit reps 59 and 60 that have received a little notoriety over the past few months? Have you satisfied yourself about the sorts of issues that I am raising with you now, some of which I have touched on on an earlier occasion?

Dr Raby—Yes, we had a look at that before estimates. We have not felt a need since estimates to go back and re-examine any of those issues in the light of the discussions at estimates.

Senator FAULKNER—So you did not feel it was necessary to check?

Dr Raby—We satisfied ourselves, I felt adequately, before estimates and there has been nothing that we have required to check since.

Senator FAULKNER—I know that I asked you a similar question to this one in the estimates hearing, but I wondered about the thoroughness of the checking process given the significance and notoriety of the incident that we are talking about.

Dr Raby—There is not a lot to check on this particular point, Senator. There is just the Operation Relex report.

Senator FAULKNER—Were the children overboard claims—I am now looking in the broad in terms of your department’s management of foreign relations—significant to the department in the sense of your broader role and responsibility?

Dr Raby—They could have been, but I do not recall at the time that they were.

Senator FAULKNER—They could have been, but you do not recall that they were. I mean—

Dr Raby—Let me rephrase that. We, as far as I know, had no need to address those issues in the normal course of our work representing Australia overseas.

Senator FAULKNER—Would you say that the Department of Foreign Affairs and Trade had any role or responsibility in relation to this whole question of whether or not children had been thrown overboard? I think you put it to me on a previous occasion that you considered yourself rather tangential; I do not want to put words into your mouth but I think that is a pretty fair way of describing what you thought was a reasonable assessment of the department's role.

Dr Raby—I think the word that we agreed on at estimates was 'peripheral'.

Senator FAULKNER—Is that what it was?

Dr Raby—Yes.

Senator FAULKNER—That goes to show that you have a better memory than me. I knew it was something like that. I will let 'tangential' be struck from the record and replaced with 'peripheral'—it means much the same thing I think, doesn't it? So there was no reason to reassess that at all?

Dr Raby—No, not at all.

Senator FAULKNER—You also indicated at the time of the estimates committee when you gave evidence, and you have mentioned again tonight, that attached to the sit reps is the summary of national and international media items—I think that is a standard part of the sit reps, isn't it?

Dr Raby—The national would be picked up and integrated into the body if there were specific things which were running that we felt should be included. The international was a separate annex; it was not called an annex but it was a separate part of the sit rep. I think that, as much as anything else, reflects the fact that the international part was prepared by our media liaison area.

Senator FAULKNER—What is that area called?

Dr Raby—That is our Parliamentary and Media Branch. It is now called the Images of Australia Branch.

Senator FAULKNER—That is terribly impressive.

CHAIR—Everyone immediately knows what it means!

Senator FAULKNER—So that we are clear: media summaries on the asylum seekers issues were attached to sit rep 59 on 7 October. That is right, isn't it?

Dr Raby—I have been reminded that the sit rep 59 came out on 8 October, not the 7th.

Senator FAULKNER—That may be right?

Dr Raby—Yes. Because there was extensive media discussion of the issue we had not included much from the domestic media on that subject. I believe it had not been picked up by the international media at that stage.

Senator FAULKNER—Okay, but let me come back to it: was there a media summary in sit rep 59 of 8 October 2001?

Dr Raby—Only of the international media. I should say that the way we picked up the international media was very ad hoc. What we really did systematically—and that is where we add value—was monitoring the international media and putting that together. We rarely would provide any sort of systematic or extensive cover of domestic media commentary, on the basis that the ministers already had it—unless there was something particular overnight that we thought should have been given a wider airing.

Senator FAULKNER—What about the reports that follow 59: numbers 60, 61, 62 and so forth? Did they have media reports attached?

Dr Raby—I think they all had international media summaries attached.

Senator FAULKNER—They all did?

Dr Raby—Until towards the end. The whole thing petered out, I think I explained at estimates—

Senator FAULKNER—Yes.

Dr Raby—and towards the end we did not bother with international media summaries, mainly because there was almost no international media comment to report.

Senator FAULKNER—Is that 60, 61, 62, or all of the subsequent ones?

Dr Raby—Nearly all of the subsequent ones would have had some international media comment attached, but we dropped off the international media as it started to peter out.

Senator FAULKNER—But what about national? No. 59 has got no national.

Dr Raby—How we covered the national was very ad hoc.

Senator FAULKNER—Yes. Okay.

Dr Raby—I would have to check. I am happy to have someone go through them and indicate where we had national—

Senator FAULKNER—By this stage—certainly by 9 October—this is a very major story, as you appreciate. You do know that background, don't you? Yes. What I am wondering is whether, in any of the subsequent situation reports, there is any national public affairs or media coverage of specifically the 'children overboard' incident. Can someone tell me that?

Dr Raby—To the best of my knowledge, no, because—for the reason you gave—it was such a big issue, and it was picked up by the separate media clippings that are a daily service the department provides to ministers and Parliament House. So it would just be duplication. The main thing with the domestic media comment was to try to only include it if it was something that would add value, or was particularly noteworthy but not running generally.

Senator FAULKNER—So even in the national and international media coverage in sit reps 59 and 60 there is no mention of children being thrown overboard?

Dr Raby—I would have to check the international coverage. What I recall is that, certainly in the early days, when we are looking at 8 and 9 October, it is most unlikely that there was international comment on that event.

Senator FAULKNER—You might check it just so that we get absolute clarity. There is no need to check it for all subsequent sit reps to 59, just check it for 59 and 60.

Dr Raby—I am very happy to do that.

Senator FAULKNER—They are the ones that, as you know, have received some focus.

Dr Raby—We can get back to you first thing tomorrow.

Senator FAULKNER—Your public affairs area is called Images of Australia—this will be read in the *Hansard* by the one person likely to read this in about 100 years time and they will wonder what on earth Images of Australia was. I am sure it is very popular and everyone else knew that except me. That would be right, wouldn't it, Dr Raby?

Dr Raby—I have no comment, Senator.

Senator FAULKNER—Do you know whether at any stage Images of Australia—in other words, DFAT public affairs—or the *Tampa* task force or any other area in your department, particularly the Images of Australia area, did any checking of media reports of children overboard against the information held and produced in sit rep 59?

Dr Raby—I could say almost categorically no, because it is not their function. They have got many functions, but on this particular aspect their function is to collect and collate the information. They would just do for us on international reporting a straight summary of the main issues running in the main international media.

Senator FAULKNER—So did the department provide any direct advice to Minister Downer on this issue of children being thrown overboard? Minister Downer got a copy of sit rep 59, didn't he?

Dr Raby—Yes.

Senator FAULKNER—That does not mention children being thrown overboard, does it?

Dr Raby—No.

Senator FAULKNER—Was there any advice going to Minister Downer that you are aware of, and I am now talking about departmental advice, again in the broad, on 8 or 9 October about children being thrown overboard—not about the accuracy of the claims but just about that issue in the broad?

Dr Raby—To the best of my knowledge not at all, but I want to qualify that with the possibility that I may have discussed this with Mike Smith, who was at the time the head of Mr Downer's office. By that I mean that, being the department's representative at the PM&C IDC, although, as you recall, I was not there for the 7 October meetings, in my debriefing of Mike Smith—which was not on a regular basis, it was on an as needed basis—I may have mentioned hearsay on that issue to him. But, in terms of formal advice to the minister, the answer is no.

Senator FAULKNER—But you may have had a conversation with Mike Smith?

Dr Raby—I may have. I think I explained at estimates last time that I would brief Mike on an as needed basis after attending these meetings. I would give him a ring if there was something of note coming out of the meetings that required ministerial action or DFAT action.

Senator FAULKNER—But you would have kept a record of that, wouldn't you?

Dr Raby—No.

Senator FAULKNER—You just rely on your memory?

Dr Raby—No. The issues that came out of the IDC that were the responsibility of the department to follow up or action were very well defined and they were very much related to specific advice to posts, dealing with boats or whatever. We were not involved with, or had an interest in, the wider set of operational issues that would be discussed, unless it dealt with a particular foreign policy aspect, which is my responsibility.

Senator FAULKNER—But you do not know whether you spoke to him or not?

Dr Raby—I spoke to him on many occasions.

Senator FAULKNER—But you do not know whether you spoke to him on this occasion and you certainly do not know whether you spoke about 'children overboard'.

Dr Raby—That is correct.

Senator JACINTA COLLINS—But you may have spoken about hearsay?

Dr Raby—I may have.

Senator JACINTA COLLINS—If that were the case, what do you understand to have been the hearsay that may have been in your mind?

Dr Raby—That there had been an event and that there were photos of that event.

Senator FAULKNER—How did you know about the photos?

Dr Raby—As I gave in evidence at estimates, there was discussion of photo evidence—I do not know the exact date, but it was fairly soon after it—in the margins of the PM&C IDC.

Senator FAULKNER—That is right. But the truth of the matter is that no-one picked up, and this is a DFAT responsibility, it seems to me, the discrepancy between these screaming headlines in the newspaper that you refer to—there was so much media activity, and it was not even in your own sit rep—and the actual factual contents contained in the sit rep which were based on the Defence reports. There is such a glaring discrepancy, isn't there? The factual reports do not mention children being thrown overboard. We all know what was in the newspapers. But you accept that there is a massive discrepancy, don't you?

Dr Raby—Not really.

Senator FAULKNER—What do you mean by 'not really'? It is not in your own—

Senator BRANDIS—Let him finish his answer, for heaven's sake. Just because you did not get the answer you wanted—let him finish his bloody answer.

Senator FAULKNER—I feel most chided! I think I have been interrupted.

Dr Raby—It was not essential business for us. Very soon after the headlines came out there was also knowledge that there were photos and photographic evidence and the thing moved on. It was not of interest to us to pursue.

Senator FAULKNER—But do you acknowledge that there is no mention in sit rep 59 of children being thrown overboard?

Dr Raby—That is correct.

Senator FAULKNER—So you do acknowledge that. Do you acknowledge that that is based on primary sources from Defence?

Dr Raby—That is correct.

Senator FAULKNER—Do you acknowledge that the sit rep is developed in the Department of Foreign Affairs and Trade?

Dr Raby—Yes.

Senator FAULKNER—So surely you acknowledge that there is a massive discrepancy between what is in that sit rep—based on factual information from Defence—and what I have described as the screaming headlines or what is happening in the media?

Dr Raby—The role of the sit rep was not to shadow the headline coverage; it was to disseminate what was coming to us from Defence reporting.

Senator FAULKNER—Exactly. What was not coming to you from Defence reporting that was in the press?

Dr Raby—We disseminated what we were receiving from the Department of Defence.

Senator FAULKNER—So the answer to my rhetorical question is: the false suggestion that children had been thrown overboard.

Senator FERGUSON—Perhaps you should answer all your questions yourself, Senator Faulkner. You are doing a good job of it. These guys could go home.

Senator FAULKNER—Not at all. I would not say that. Every now and again I can come up with a better answer than a witness.

Senator BRANDIS—Senator Faulkner has not worked out that it is the answers that are the evidence, not the questions.

Senator JACINTA COLLINS—Thank you, Senator Brandis, you are most helpful.

Senator FERGUSON—Well, you can let these guys go home if you are going to answer them all yourself.

Senator FAULKNER—Did Minister Downer have any departmental advice when he made his statements reported on the AAP wire at 11.34 a.m. on Tuesday, 9 October 2001?

Dr Raby—He would have had the sit rep from 8 October. I know that for sure.

Senator FAULKNER—Yes—sit rep 59, which does not mention children being thrown overboard.

Dr Raby—That is correct.

Senator FAULKNER—Is that all?

Dr Raby—That is all I can vouch for.

Senator FAULKNER—So can you explain to me how Minister Downer manages to say this at 11.34 a.m. that morning—

Senator FERGUSON—It is hardly a question to ask an officer: why a minister said something.

Senator FAULKNER—I am sorry, but he is representing the Department of Foreign Affairs and Trade.

Senator FERGUSON—But he is not responsible for what the minister says.

Senator FAULKNER—I have not noticed a great propensity for ministers and ministerial staff to come before the committee, so we will just do our best with Dr Raby.

Senator FERGUSON—You may be able to answer it yourself.

Senator FAULKNER—He is going very well. There is an AAP report of 9 October 2001, in which Mr Downer is quoted as saying:

But I'll tell you where they're not coming - to the Australian mainland ... They will not come to the Australian mainland ... And I don't think any Australian wants people who would behave in such a way as to throw their children overboard to come to our country, and they're not welcome in our country.

Are you aware of that report? The only information from your department that goes to Mr Downer is sit rep 59, but he still makes that statement?

Dr Raby—You will have to direct that question to Mr Downer. I would just—

Senator FAULKNER—I will not be able to put it to him directly, Dr Raby. I can only ask you about the input to Mr Downer from the department.

Dr Raby—I have answered that question, Senator. But I will just make the observation that, between Sunday and Tuesday, from your AAP report, there was a lot of ministerial comment on the subject.

Senator JACINTA COLLINS—So he was relying on hearsay?

Dr Raby—You will have to ask Mr Downer.

Senator FAULKNER—We cannot ask Mr Downer. But I can ask you whether, as far as you are aware, sit rep 59, which does not mention children being thrown overboard, was the only information Mr Downer had when he also said, on Tuesday 9 October at 11.34 a.m:

These people have behaved abominably right from the start ... The disgraceful way they treat their own children. Any civilised person would never dream of treating their own children in that way.

But that was all he had: he only had the sit rep 59, which does not mention the issue at all?

Dr Raby—From the department?

Senator FAULKNER—From the department, yes.

Dr Raby—That is why you will have to check with him on other sources of information.

Senator FAULKNER—He may well have a solid base of support; Mr Reith might have told him—

Senator JACINTA COLLINS—Shown him his photos.

Senator FAULKNER—or Mr Hampton or Mr Scrafton—someone like that.

CHAIR—He may even have had the Liberal Party electoral lines for the day.

Senator FAULKNER—When did the department first become aware of doubts concerning children having been thrown overboard?

Dr Raby—Can I answer that in terms of when I became aware?

Senator FAULKNER—Sure; I appreciate that.

Dr Raby—I became aware with the media discussion of it.

Senator JACINTA COLLINS—Which one?

Dr Raby—I have no idea.

Senator JACINTA COLLINS—The November discussion or the October discussion?

Senator FAULKNER—Towards the end of November; 8 or 9 November?

Dr Raby—I am not sure when it first started coming out in the media that there were questions. Like everyone here, I follow the media fairly assiduously, but I cannot recall when the media started to report that there were doubts.

Senator FAULKNER—I take that at face value and I accept that this probably means around 8 November, which is towards the end of the election campaign. I think that is probably when you mean, but, if it is not, you might let us know. That is very likely to be the case, Dr Raby. Can you indicate to us what happens within the Department of Foreign Affairs and Trade when these doubts become known to you? Was there checking done by the *Tampa* task force, or other parts of DFAT, to clarify whether children had been thrown overboard?

Dr Raby—The *Tampa* task force was not a review or analytical body; it just dealt with the daily issues. So it was not an issue for the *Tampa* task force and there was no checking. Again, it was not something DFAT needed to, could or should have established an independent view on. I participated in the PM&C IDCs, and there was talk of a video and there was still talk of photos. On that basis, I advised those in the department who had an interest in the subject that there was talk of videos and talk of photos.

Senator FAULKNER—So what you are saying to us is that the Department of Foreign Affairs and Trade did nothing to check?

Dr Raby—We just relied on the advice that others were relying on.

Senator FAULKNER—Yes, so the Department of Foreign Affairs and Trade did nothing to check?

Dr Raby—We did not set in train any action to check—nor would we have or should we have.

Senator FAULKNER—To your knowledge did Defence communicate any doubt about the claims to the Department of Foreign Affairs and Trade?

Dr Raby—To my knowledge, no.

Senator FAULKNER—You would know if that was the case, though, wouldn't you? It is a serious question.

Dr Raby—I guess, at the outset of all of this, I come back to lines of communication. The communications into the department were through me as the representative on the PM&C IDC. This issue was not discussed or analysed or dealt with in the IDC.

Senator FAULKNER—But, anyway, you are saying Defence did not inform you about that?

Dr Raby—No.

Senator FAULKNER—Fair enough. I accept absolutely the evidence that you give us.

Senator FERGUSON—That surely goes without saying. The guy is giving evidence and you are saying 'I accept the evidence'—of course you do.

Senator FAULKNER—I am not letting it pass without saying it—I am just saying that I accept it. I do not always accept everything I am told by everyone, which is just as well.

Senator FERGUSON—I am sure you do not. I have known you for too long.

Senator FAULKNER—Dr Raby, to your knowledge did the Department of Foreign Affairs and Trade communicate, either orally or in writing, with any other departments or agencies over reports that children may or may not have been thrown overboard?

Dr Raby—That is very broad.

Senator FAULKNER—It is.

Dr Raby—To the best of my knowledge, no.

Senator FAULKNER—Can I ask you specifically about the photographs: when did the department become aware that the photographs—the two photographs of 8 October—did not actually stack up in terms of claims that they represented children in the water who had been thrown overboard? This is, if you like, a separate issue to the incident itself. I am asking specifically about the photos.

Dr Raby—I understand, I think, but I cannot give you a date. The timing would coincide with the general public discussion of the evidence.

Senator FAULKNER—Did you ever become aware that interviews had been conducted with asylum seekers from SIEV4?

Dr Raby—I am not sure. That may have been mentioned in passing somewhere. I really cannot be definitive.

Senator FAULKNER—If you would not mind taking that on notice for me I would appreciate it—and also whether the Department of Foreign Affairs and Trade received your report on those interviews.

Dr Raby—On the latter I could be categorical now. The answer would be no because, again, that would have come through me. But whether, at some point, someone had mentioned there were interviews that had been conducted I really cannot say. I will look into that for you. I honestly doubt that we will be able to give you a definitive answer on that.

Senator FAULKNER—If you could—and could you indicate those who might have been involved and the nature of the account? If it needs any follow-through we can look at that. I would appreciate you taking that on notice if you would not mind. I did want to ask something specifically of AusAID. But I just want to be clear: can you indicate to the committee whether the only briefs or advice that goes departmentally to Minister Downer on children overboard—or matters relating to SIEV4 and hence the children overboard claims—goes in the form of sit reps?

Dr Raby—To reiterate my previous comment, yes, in terms of formal written communication. Whether I had a discussion with Mike Smith or someone else in Mr Downer's office following one of the PM&C IDCs I really cannot say.

Senator FAULKNER—But what you can say, Dr Raby, is that the communication will be limited to that. Is that a fair way of putting it?

Dr Raby—Yes.

Senator FAULKNER—Are you aware whether the minister's office ever received the 'children overboard' photographs?

Dr Raby—I have no idea.

Senator FAULKNER—Are you aware whether there was any communication between the minister's office and the department on that issue of photographs?

Dr Raby—Not that I am aware of.

Senator FAULKNER—Would you be able to check that for me, too? If you are clear, categorical on each, there is no need to.

Dr Raby—If there were, it would probably be of the oral exchanges I had with Mike Smith or someone from the office. I cannot recall, sitting here, that there have been.

Senator FAULKNER—How do the sit reps go to Mr Downer's office—electronically?

Dr Raby—Electronically, through the secure system.

Senator FAULKNER—That is the standard operating procedure?

Dr Raby—Yes or, when he is in Adelaide, he has the secure fax. A hard copy would then go on secure fax.

Senator FAULKNER—Are you aware whether Mr Downer's office received signals reports from HMAS *Adelaide*, directly from Defence in this instance?

Dr Raby—It is technically possible, I am advised, and there is a probability, but I cannot say whether or not they received those.

Senator FAULKNER—Defence told us that. I am wondering whether you have any knowledge of it.

Dr Raby—No.

Senator FAULKNER—If that is the case, there are, effectively, no drop copies going to the department. They are going to the minister's office as opposed to the department.

Dr Raby—This is the—

Senator FAULKNER—I am talking about signals reports from HMAS *Adelaide* directly from Defence.

Dr Raby—I cannot answer that. I do not know. What has gone to the minister's office I have no idea. Our reports came to us via Strategic Command.

Senator FAULKNER—I assume some of the reports you get from Defence have common addressees—the department and the Minister for Foreign Affairs and Trade. Is that right?

Dr Raby—It may well be. It could be or it may not be; it can go either way, to a dedicated single address or to a group of addressees.

Senator FAULKNER—Can I ask you from the department and also the AusAID officer at the table whether you have any awareness at all whether any of this information was provided to Mrs Gallus.

Mr Tapp—She was not the parliamentary secretary at the time.

Dr Raby—I can't help you with that, Senator.

Senator FAULKNER—That means the answer is no, I assume.

Dr Raby—The answer is no; we have no knowledge of it.

Senator FAULKNER—If it did occur, it did not occur via DFAT or AusAID? That is all I am asking.

Dr Raby—The answer to that is yes; it did not occur via DFAT or AusAID.

Senator FAULKNER—Chair, the only other questions I have are to AusAID officers, unless something else arises. Shall I come back and ask those a little later? Other senators might have questions.

CHAIR—Are there any questions from other members of the committee? I have some questions for Dr Raby. Senator Faulkner read to you earlier a statement made by Minister Downer. Senator Faulkner, was that statement made on 8 October?

Senator FAULKNER—No, I believe it was the 9th. I will pass it to you.

CHAIR—No, I do not need to go over the terms of the statement. It mentions children overboard, which is the part of the statement that I want to refer to. I think it has been established—on my count about five times you have replied that the sit rep did not contain that piece of advice that children were thrown overboard. Did Mr Downer come back to you, in view of that non-item in the sit rep, and ask why you were not advising him of that?

Dr Raby—No.

CHAIR—Did he come back to you subsequently at any time to ask for more or better information about this alleged incident?

Dr Raby—No.

CHAIR—Is Minister Downer in the habit, if he thinks the information flow is inadequate, of going back to the department and asking why?

Dr Raby—He may have thought the information flow was adequate. He would know that we had a limited role in this. We had no opportunity to collect, or any role to establish a position on this.

CHAIR—He knows you are on the IDC?

Dr Raby—Yes.

CHAIR—He knows you are picking up the defence department information flow, and he knows that you would be privy to whatever is scuttling around in the upper reaches of the Australian Public Service at this level?

Dr Raby—Yes.

CHAIR—So it is reasonable, if he had this information and spoke about it publicly, for him to ask his department for more and better particulars, isn't it?

Dr Raby—And it may be that, in the conversations I have had with Mike Smith after the IDC meetings, I have referred to the existence of photographic evidence.

CHAIR—On 9 October you would have done that?

Dr Raby—No; whenever. I am just saying you have not put a timeframe on those questions.

Senator JACINTA COLLINS—What you described earlier as hearsay.

Dr Raby—Yes, that there was photographic evidence and that was enough.

Senator JACINTA COLLINS—There was hearsay about there being photographic evidence.

Dr Raby—Sorry?

Senator JACINTA COLLINS—I am trying to understand clearly what you are saying. You are saying that you may have discussed with Mr Smith that there was hearsay about there being photographic evidence.

Dr Raby—Yes. What I would have said was that people at the IDC are in the margins saying there is photographic evidence. Certainly, for myself, I took that as the end of the matter.

Senator JACINTA COLLINS—But you took it as hearsay, whereas you took what you were receiving from Defence as factual.

Dr Raby—Yes, because it was communicated through formal channels to us.

Senator JACINTA COLLINS—Yes, but you never identified that discrepancy, whereas within Defence, by 10 October, they had.

CHAIR—My point is that Mr Downer never came back to you, and you cannot specifically remember informing his office of anything in addition to what was in the sit rep about children overboard?

Dr Raby—That is correct.

CHAIR—Yet this was a banner headline on every newspaper in Australia. Did I understand you to say that you prepare talking points for foreign posts on matters associated with this issue?

Dr Raby—I will have to check whether it was with this issue. We were doing it with the *Tampa* issue. I will have to check whether we did anything. I cannot recall that we did anything specifically on this. My memory is—again, I would like to qualify it—that there was not a great deal of international interest that required a formal diplomatic response, whereas on the *Tampa*, we made representations.

CHAIR—We made representations from foreign posts to foreign capitals?

Dr Raby—Yes, to explain the circumstances with the *Tampa*, because it dealt with a ship from another flag state. There was considerable intergovernmental interest in the *Tampa*.

CHAIR—Have you prepared talking points for foreign posts after it became publicly known that the photographs were not true, that they were not of the event that, during the election campaign, they were alleged to be of?

Dr Raby—No, not that I am aware of. I will just check that now. No.

CHAIR—Has there been foreign reporting of that deceit?

Dr Raby—I think some of the issues have been covered in foreign media. I can check that for you.

CHAIR—If they have been covered in foreign media, would it be normal for you to prepare talking points in case posts are asked questions?

Dr Raby—No, not for media reports. It would just depend on the level of interest.

CHAIR—There is a fair level of interest in illegal immigration in the world at the moment, isn't there?

Dr Raby—Yes.

CHAIR—And there is a fair bit of international knowledge about the issues in Australia on this matter?

Dr Raby—The detention issue, yes.

CHAIR—But also about the border protection issues?

Dr Raby—The offshore processing, yes.

CHAIR—And the interception of suspected illegal entry vessels?

Dr Raby—Less so.

CHAIR—We are talking proportionately, but I am just wanting to establish that there is.

Dr Raby—As you correctly say, the illegal immigration issue is of interest, and not only Australia's involvement with it but many other countries are dealing with a similar issue.

CHAIR—Have you prepared any talking points on those issues for foreign posts?

Dr Raby—Not that I am aware of. I have just been reminded that we have a lot of information on this issue on the web site, particularly through our link into DIMIA's web site. That is basically what people, posts, will draw their information from—the web site.

CHAIR—This is publicly available?

Dr Raby—Yes. As I said, Senator, the main period, or the only period, really, when I can recall us doing talking points specifically for posts was in the context of *Tampa*. That reflected the intergovernmental aspect of that issue, and that therefore was an important role for the department to address.

CHAIR—You have mentioned your discussions with Mike Smith, the chief of staff—

Dr Raby—Former.

CHAIR—The former chief of staff. When you pass information to him do you assume that it gets passed to the minister?

Dr Raby—Yes.

CHAIR—That is interesting. Are you aware of what we have come to know today as SIEVX, the vessel that capsized with 350-odd people drowning?

Dr Raby—Yes.

CHAIR—There was publicity about this in Indonesia. Have any talking points been prepared about that item?

Dr Raby—No.

CHAIR—Has Mr Downer been briefed in any way by the department about that issue?

Dr Raby—I would have to take that on notice, I think. The sit rep seems to be the only brief that we provided on that.

CHAIR—It is argued that the concern about that loss of life on the Indonesian side gave rise to the Indonesians being willing to come to a conference in, I think, Denpasar, was it not?

Dr Raby—In Bali, yes. That is a big connection. We could talk about that—

CHAIR—I am saying it is argued.

Dr Raby—I just want to be clear on this. Because it was such a terrible and dramatic event, there was a lot of cable traffic. When you ask, ‘Was the minister briefed?’ he would have been receiving reports from Jakarta, and the embassy was very assiduous in following this up. There is a lot more on an issue like this than just the sit rep commenting on it—not commenting; reporting facts is the case with the sit rep.

CHAIR—What I am asking is: was there any briefing of other posts outside of Jakarta or Canberra on this issue?

Dr Raby—No formal briefings—

CHAIR—None at all?

Dr Raby—as far as I am aware, no.

CHAIR—They would read the cable traffic, of course.

Dr Raby—Yes.

CHAIR—Have there been any discussions about trying to tie down the actual circumstances of SIEVX: where it may have foundered; how many people were involved?

Dr Raby—The post in Jakarta has been very active in trying to establish all the facts and circumstances, and that is a big post with defence, police and others attached to it.

CHAIR—Are you aware of the advice the defence minister has given the Leader of the Opposition in a letter about that? The advice was tendered in evidence today.

Dr Raby—No, I am not.

CHAIR—No, okay. What I will do is see that you do get a copy of that. It is part of the record of this hearing, and I will put on notice now the question that follows from you seeing that advice as to whether or not that matches your understanding of the circumstances. There is some concern about where this vessel may have actually gone down. I have no further questions.

Senator FAULKNER—This is a very brief issue for AusAID. This is a matter that I certainly know very little about, so I quickly acknowledge my ignorance on this. I have just seen this press release from Pacific Petroleum—and I do not know whether you have seen it or not—headed ‘Australia’s refugee crisis creates financial hardship for Pacific company’. Have you had that press release drawn to your attention?

Ms O’Keeffe—Yes, I have, Senator.

Senator FAULKNER—I have literally only in the last half-hour had a very brief look at it. The gist of it appears to be, as I understand it, that Pacific Petroleum have announced that they have taken Nauru to court over \$US1 million of unpaid fuel bills. If I can just sum it up in a sentence, I think that is right, isn’t it, Ms O’Keeffe?

Ms O’Keeffe—It would seem that Pacific Petroleum is unhappy with the way in which Nauru has responded to its debts to the company, yes.

Senator FAULKNER—Do you have any more understanding of Pacific Petroleum’s argument that the government’s funding has undercut them?

Ms O’Keeffe—Senator, this is an issue that has been brought to our attention on a couple of occasions by Pacific Petroleum, and it goes back several months. Basically, Pacific Petroleum, we understand, has in past years provided Nauru’s petrol needs. Clearly, the commercial arrangements between Nauru and Pacific Petroleum are not things that we are privy to. When it was agreed—as a result of the agreement between Australia and Nauru under the first administrative arrangement—that we would support Nauru in its provisions of fuel, of course

we had to continue to abide by Australia's own procurement guidelines, which meant that we used the period offer that we currently have for this type of operation and got that company to actually go out in a public tender to seek the best value for the Commonwealth in the provision of fuel for Nauru. Pacific Petroleum has not been able to satisfy the conditions of those various tender offers.

Senator FAULKNER—Do you think there is some truth to the thrust of this, that Pacific Petroleum has been left with \$US1 million in unpaid bills?

Ms O'Keeffe—As I said, we cannot comment on the commercial arrangement between Nauru and Pacific Petroleum. That is not something we have been party to at all. It is very much in the realm of Nauru, as a sovereign country, to deal with its previous fuel arrangements. We currently, in accordance with the first administrative arrangement, provide a certain amount of Nauru's fuel requirements, and that is what we can comment on. Pacific Petroleum have not been able to satisfy the requirements of the Commonwealth's own procurement guidelines to enable us to purchase fuel through Pacific Petroleum.

Senator FAULKNER—Understanding that, perhaps you could comment on the issue raised in this press release about whether this situation is preventing fuel distribution to other smaller, poorer Pacific islands.

Ms O'Keeffe—That is very much an issue for Pacific Petroleum.

Senator FAULKNER—I thought this might actually be an issue more broadly for AusAID or DFAT?

Ms O'Keeffe—No, it is not; it is a commercial arrangement. How Pacific Petroleum has shaped itself in terms of its profitability et cetera is something that only Pacific Petroleum can comment on.

Senator FAULKNER—I understand then, from what you are saying, that there is no involvement of AusAID or the Australian government in this legal case?

Ms O'Keeffe—Pacific Petroleum may decide to pursue proceedings against Australia. However, that is something that is still to be determined.

Senator FAULKNER—Sure. But at this stage, to your knowledge, there is no involvement of Australia or AusAID in this legal case?

Ms O'Keeffe—At this stage we are still waiting to see what the situation may be as far as Pacific Petroleum's position is concerned.

Senator FAULKNER—Are you saying to us that you are not sure whether or not you will be drawn in? And that is fair enough. I am just trying to understand the situation.

Ms O'Keeffe—As I said, this company has had reason to question the Commonwealth's procurement guidelines on a number of occasions.

Senator FAULKNER—I am not sure if this is a question for AusAID or DFAT: as we speak, does this situation mean that Australia has had to take some responsibility beyond what ordinarily would be the case for some of these smaller Pacific islands mentioned in the press release and described—and I am not putting anything stronger than that; I do not pretend to be an expert, as I said—as having been left in the lurch because of this supply crisis? Could the appropriate officer at the table comment?

Ms O’Keeffe—As I said before, only Pacific Petroleum can comment on its particular operations and how it can or cannot provide fuel to other smaller countries. Other shipping lines operate in the Pacific, and it is not to say that they, too, can or cannot provide fuel.

Senator FAULKNER—We will hear more about it. As I had this drawn to my attention recently and you were at the table, I thought I would ask. It does have some bearing, as I am sure you appreciate, on the terms of reference of this committee. The link is drawn, at least, by Pacific Petroleum. Whether you do or do not acknowledge the validity of that is another issue. Thank you for your responses.

CHAIR—Have you put some questions on notice, Senator Faulkner?

Senator FAULKNER—I have, but not about this. I will leave it to others to address this particular issue.

CHAIR—I will look at your questions and, if I need to, I will put some additional questions about this issue on notice. Are there any further questions?

Senator JACINTA COLLINS—There is just one issue. Dr Raby, there was one matter I wanted to go back to. Ordinarily, in a committee of this nature, we would have a submission from you and would ask questions on that, but I have just been reminded that we have little information about what may have occurred in Indonesia post the SIEVX incident. You indicated to Senator Cook that our post in Indonesia had been active in seeking to investigate that matter. If you cannot do it now, could you take it on notice to provide the committee with up-to-date information about how matters have progressed post that incident in Indonesia? By that I mean the pursuit of the people smugglers, the two people—according to Tony Kevin’s evidence—that were picked up by Indonesian authorities and whatever else may have occurred in relation to that incident in Indonesia.

Dr Raby—I am happy to do so, Senator. You ask a very big question. There has been a tremendous amount of activity, so to compile all of that will take a little while, I should imagine.

Senator JACINTA COLLINS—I wonder also if you could provide us with any information on those asylum seekers who were returned to Indonesia and their fate upon return.

Dr Raby—I will take that on notice. That is, I think, a DIMIA responsibility, not ours.

Senator JACINTA COLLINS—So the ships that were towed or escorted back to the Indonesian coast remain a DIMIA responsibility, do they?

Dr Raby—Sorry. There were no ships returned to the Indonesian coast; they were returned to just outside the Indonesian contiguous zone.

Senator JACINTA COLLINS—No, there were four SIEVs returned to the Indonesian coast.

Dr Raby—Not into Indonesian territorial waters or the contiguous zone.

Senator FERGUSON—They were on their own after that.

Senator JACINTA COLLINS—Sorry?

Senator FERGUSON—They were only escorted so far, then they went on their own after that.

Dr Raby—Yes.

Senator JACINTA COLLINS—Well, it was the islands of Roti—

Dr Raby—No, we need to be clear: no Australian vessel entered Indonesian territorial waters.

Senator FERGUSON—They went on their own.

Senator JACINTA COLLINS—Okay then, they may well have been dropped.

Dr Raby—They went under their own steam into Indonesian territorial waters and arrived onshore.

Senator JACINTA COLLINS—Okay, let's get past the language issue. The intent of my question is the state of knowledge we have as to the fate of those people upon arriving in Indonesia. You indicated a moment ago that you thought that that was a DIMIA responsibility and I expressed surprise because I thought they had essentially been handed back to Indonesian authorities. I wonder whether, through our post in Indonesia or through other means, DFAT has information as to the fate of such people.

Dr Raby—I am happy to help; I will just have to check because the reports on that will come predominantly from IOM, the International Organization for Migration.

Senator JACINTA COLLINS—Okay.

Dr Raby—Let me see what we can do; we will be happy to do what we can.

Senator FERGUSON—In the absence of Senator Bartlett, who had requested that AusAID specifically be here, I want to ask two questions—I do not know whether they are for Mr Tapp or Ms O'Keeffe. One question is: did you have any involvement in the development of the so-called Pacific solution policy? Did AusAID itself have any involvement?

Mr Tapp—No.

Senator FERGUSON—The second question, which I think is more important, is: has there been or is there proposed to be a reduction in Australian financial assistance to other countries

or a reduction in the resourcing of aid programs as a result of any financial commitments under the Pacific solution?

Mr Tapp—No.

Senator FERGUSON—Thank you. They are the only two questions I have, Chair.

CHAIR—Thank you very much, Dr Raby, Mr Wise, Mr Tapp and Ms O’Keeffe, for appearing before us. We will conclude your evidence at this point. There will be some questions on notice, however.