

# The Australian wheat board scandal



## **Introduction**

This essay will discuss the primary organisational structure and causes of the Australian Wheat Board scandal, hereafter referred to as AWB. This was a scandal of global magnitude, whereby AWB paid substantial monetary bribes to Iraq officials in blatant non-compliance of the regulations set out in the Oil-for-Food programme; which was established by the United Nations.

Moreover, this essay will discuss the evidence presented in the ‘Cole Royal Commission’, an enquiry established to investigate the conduct of several Australian companies in relation to the oil-for-food program; AWB a governmental organisation was the foremost organisation under scrutiny.

This essay will also examine the regulatory failures that facilitated corruption at the Governmental level to occur, and which remained predominantly unfettered for a protracted period. Incidences of governmental and corporate corruption and deviant behaviour, which often involve considerable numbers of active or passive participants, are seldom the result of opportunism alone, but are far more often insidious and methodical by nature. The AWB case is a clear illustration of governmental corporate culture and demonstrates a plethora of systemic regulatory and policy failures, all of which further influenced and defined the AWB’s decision-making process and unethical posture. Lastly, the aforementioned material will be discussed commencing with a brief summary and literature review, and a comprehensive case analysis in order to demonstrate the ubiquitous nature of this particular type of Governmental crime, which sits under the broad ambiguous umbrella of ‘white-collar’ crime.

## **Brief Summary**

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Contemporary society in a globalised world demonstrates an almost overwhelming abundance of criminal activity in particular pertaining to ‘white-collar crime’; however, numerous researches demonstrate that not all crimes and criminals are dealt with in the same manner (Chambliss, 1989). In fact, on closer examination, research has suggested that there is an innate tendency for specific crimes and criminals to be positively overlooked, typically these being crimes of the powerful, (Ditton, 1977; Box, 1983; Chambliss, 1989; Muncie, 1996) . primary example is that of the AWB scandal.

The questionable Utilitarian approach of ‘seeking the greatest good for the greatest number of people’ (Kay 1997) found to be assumed by the AWB and its Board, is analysed in the Cole Enquiry Report. The Cole Report stimulated awareness to the fundamental deficiencies in both corporate governance and culture, which play a significant function in permitting or precluding the occurrence of unethical conduct (Kay, 1997). Furthermore, the inaction demonstrated by the Australian Department of Foreign Affairs and Trade hereafter referred to as DFAT, and the Australian Federal Government in investigating claims against AWB further highlights the systemic failures that permitted AWB’s unethical behaviour to prevail (Gibson, 2000).

The key causes of, and major influences on unethical behaviour determined from the Cole report are:

-The AWB organisation’s strong profit driven demand to meet financial or business objectives, and the promotion of tolerance for illegal/criminal acts (white-collar crime) (Overington, 2006)

- A culture of 'getting the job done', where corrupt acts are justified under the proviso that the greatest good will be achieved for the company (Overington, 2006)
  
- A lack of control mechanisms and moral agents in both corporate and public sector governance (Overington, 2006)
  
- The implication of privatisation of Australian rural entities (Bartos, 2007)
  
- Policy and Regulatory design and the lack of adherence and implementation (Bartos, 2007)
  
- Governmental oversight of wheat growing monopoly, international monopolisation (Bartos, 2007)
  
- Conduct of foreign policy – misconduct United Nations Oil-for-Food-Program – International Trade Sanctions (Bartos, 2007)

One crucial aspect to be considered is that Australia is a signatory to both the United Nations Convention Against Corruption and the Organisation for Economic Cooperation and Development Convention on Combating Bribery of Foreign Officials in International Business Transactions. Australia's interpretation of the aforementioned United Nations Convention is 'The Criminal Code Amendment (Bribery of Foreign Public Officials) Act', referred to as the 'Bribery Act', which is the Australian Parliament's legislative implementation of the latter convention

## Literature Review

It is common knowledge that conventional criminals consider it normal to utilise any instrument or weapon to perpetuate a crime, therefore, it would also seem normal for organisations to utilise the organisation itself to acquire money from 'victims' by way of its deviant misbehaviour (Harris & Hartman, 2002). These 'victims' are varied and may be customers or the members of the organisation themselves (Harris & Hartman, 2002). This is a prime example of what is referred to as the organisational weapon – the organisation is for white-collar criminals as the gun or knife is for conventional criminals (Wheeler and Rothman, 1982, cited in Punch, 1996).

Harris and Hartman (2002), state that an organisation's culture consists of the values, norms, and attitudes of the people who intrinsically make up the organisation. Moreover, the stated values demonstrate what is important; whereas norms reveal expected behaviour; attitudes expose the mind-set of individuals (Hall, 2006). Therefore, organisational culture informs people what is important in the organisation, expected behaviours, and how to observe things (Hall, 2006). Culture is a part of organisational life that influences the behaviour, attitudes, and overall effectiveness of all members of an organisation (Gibson et al, 2000).

Further to this, Daboub & Coulton (2002) stressed the importance of organisations selecting business partners who share a comparable commitment to both the social and environmental practices and ethical commitment of the company. They further stated that this would assist in ensuring that the organisation is not placed in compromising situations due to unethical acts perpetrated by those companies with whom they have

working associations (Daboub & Coulton, 2002). Robbins (2000) argued that today's global business environment can lead to such problematic associations, and stated the need for organisations to take a fervent proactive stance to further ensure that the 'codes of conduct' under which they operate are transparent, implicit and adhered to by their associates (Robbins, 2000; Daboub & Coulton, 2002).

Furthermore, the political influence on large governmental or privatised organisations and the desire not to over-regulate can also be very influential. Politicians are mindful of the detrimental effect that heavy regulation can have on businesses that are often generous economic contributors. The will of governments not to introduce laws that hinder corporate activity is evidenced by the lack of substantial powers and penalties (specifically prison terms) available to regulatory bodies, the lack of resources available to enforce those provisions already available and government's commitment to regularly review any legislation that may impact adversely on competition.

### **Case Analysis**

The United Nations Oil-for-Food program involved not only companies but also governments; however, various activities by the Howard Government were outside the provisions of reference of the Cole Enquiry, which was fundamentally sanctioned to examine the actions of the companies specifically mentioned in the 2004 United Nations report on the Oil-for-Food program. Furthermore, Cole was unable to examine the extent to which government policy during that period encouraged or discouraged bribes from the AWB, or equally as to whether Australian Government Ministers should have enquired further, especially considering that warnings were received

that something was inappropriate, or indeed how the government managed its relationship with the AWB throughout this protracted process.

To illustrate further, Henry Bosch former chairperson of Transparency International Australia and also one of Australia's most experienced business regulators, argued that somebody, somewhere must have known what was going on. Bosch stated to the Ethical Corporation that he suspected, that “the executives involved in winning contracts were a bit less careful than they should have been regarding the status of payments being demanded”. The AWB's justification for this deviant and criminal behaviour was to argue that it simply was not aware of the payments. Moreover, numerous critics pointed out that it was virtually impossible for government Ministers and various other officials to not have known, especially due to the fact that the fees paid to the contractors selected by Saddam Hussein's bureaucrats would have been noticeably and remarkably high, in fact, the AWB's responses plainly raised far more questions than answers.

Further to this, the Cole Enquiry argued that the AWB's structure was primarily to blame, for example; the company was responsible for the marketing and exporting of one of Australia's major export commodities. Moreover, all Australian wheat exports passed through the offices of the so-called 'single-desk' export authority, which was heavily vested in the AWB. The 'single-desk' export authority was established in 1915 to assist Australian wheat growers to get their produce to global export markets, therefore dealing with the AWB was a major factor for all businesses involved in Australia's powerful expansive wheat growing sector.

In addition to this, Iraq was a massive market and there was a need for the organisation to justify its often-criticised monopoly on Australia's global wheat exports, particularly in the face of strong competition from the United States and other suppliers. Numerous critics observed that, since the AWB was privatised in 1998, and consequently listed on the Australian Stock Exchange (ASX) in 2001 the AWB had noticeably become far more extreme than its former bureaucratic culture might have previously endorsed.

Furthermore, a United Nations report on October 27, 2005 established that the Australian Wheat Board (AWB) had paid \$US221.7 million (\$AU300 million) in bribes to the Iraqi Government between 1999 and 2003 under the United Nations Oil-for-Food program (Whitton 2007). Through this mode of immoral and illegal behaviour, the AWB defrauded their shareholders out of their financial investments and profits as well as causing irreparable damage to Australia's trade reputation globally. Further to this, the United Nations report on the inquiry into corruption in the Oil-for-Food Program, led by Paul Volcker, revealed that 2200 companies participating in the program were misappropriating funds from the United Nations accounts to redistribute them to the Iraqi government but none of the magnitude of the AWB.

Moreover, the AWB was a company with a high profile and facing a serious legal problem, therefore the AWB was obviously likely to draw attention from both the Australian and worldwide public and media (Lukaszewski, 1997). Consequently, with the release of the report and mass media and public attention (Mackey, 2002), the AWB was obviously facing a dire crisis. Due to this in February 2006, the AWB managing director Andrew Lindberg resigned



after demonstrated outrage throughout the press and collective Australian wheat growers.

The AWB scandal has left an indelible black mark on the AWB's reputation throughout the world, and puts into question how reliable it was and how well suited it was to represent and market nearly all of Australia's wheat to the overseas marketplace. In addition, the AWB was sued for AU\$1 billion in compensation by collective wheat farmers in North America for alleged, bribery and other corrupt activities to corner the grain markets internationally (news. com. au, 2006). The effect of the scandal resulted in Iraq refusing to purchase wheat from the AWB and the consequential loss of a substantial overseas market for Australian wheat growers.

In an attempt to minimise damage to the Howard Government's reputation, Prime Minister Howard launched an official enquiry in November of 2006, into the payment of bribes by the AWB Ltd, formerly known as the Australian Wheat Board, to the Saddam Hussein regime, this enquiry essentially produced a whitewash report designed for several key purposes. Foremost, was the need to clear Prime Minister John Howard and his leading ministers of any political and/or criminal responsibility pertaining to the payment of bribes to Iraqi bureaucrats. Another critical concern was to fend off United States agricultural interests that were demanding the dismantling of the AWB's wheat export monopoly as part of a ruthless trade war.

To illustrate further, it was absolutely paramount for the Howard government to prevent any examination of the motives behind Canberra's participation in the U. S occupation of Iraq. Therefore, in an obvious act of

scape-goating, enquiry Commissioner Cole singled out 11 former AWB executives and one ex BHP executive for blame, and the possibility of criminal prosecutions. Sanctioned by the Howard government the mass media immediately did its best to assist this diversionary exercise by dubbing these 12 individuals the ‘dirty-dozen’ in newspaper headlines around the country, demonstrating the great measures that politicians will take to cover their corruption.

Howard’s use of Cole, a trusted lawyer who had previously conducted a witch-hunting enquiry against building workers on behalf of Prime Minister Howard wreaks of the unfettered abuse of governmental power. It was therefore not surprising that Cole attributed the payment of nearly \$AU300 million in bribes under the United Nations 1996-2003 so-called Oil-for-Food-Program solely to a handful of 12 individuals. Moreover, Cole stated that these 12 individuals deviant corrupt behaviour developed from a closed culture of superiority and impregnability within the organisation, which had been produced by the AWB’s 67-year monopoly and stronghold over all Australian wheat exports.

In addition to this, Cole stated that it was obvious that the AWB’s unethical policy in Iraq was “to do whatever is necessary” in order to retain the \$AU500 million in annual wheat sales, and further stated that was precisely what the Howard Government’s policy was at the time. The substantial and comprehensive documents tabled at the Cole enquiry confirm that the AWB, which was a government agency up until 1999 and then subsequently privatised continued to operate and receive Canberra’s protection, almost as

a virtual arm of the Howard Government throughout the lead-up to the March 2003 U. S. led invasion of Iraq

### **Conclusion**

The AWB scandal raises significant questions and concerns pertaining to the Australian policy-making processes and the attitudes of the government ministers involved.