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Please quote

Your reference

Date 22nd October 2003

Dear Mr Smith

RE: WRITTEN SUBMISSIONS ON BEHALF OF THE GOVERNMENT

I was just about to send you a letter enclosing a supplementary note following the evidence of Sir Kevin Tebbitt in Phase II when I received your letter of today's date enclosing the supplemental submissions on behalf of the Family. In that, you said that the only submissions the Inquiry had received were those of the Kelly Family

There have been two communications to you relating to Sir Kevin's evidence of which I am aware. First, there was a letter from Robert Aitken to you of the 20th of October (sent by e-mail on the 20th of October at 16:12) regarding Sir Kevin's amendments and corrections to the evidence submitted to the Inquiry on the 13th of October. Second, Robert Aitken sent an e-mail on the 21st of October at 16:04 attaching an annex to the Government's submissions in relation to Kevin Tebbitt.

The document which I was going to send (and which is attached) is a supplementary note following the evidence of Sir Kevin Tebbitt in Phase II which is intended to assist the Inquiry with references to Sir Kevin's evidence.

I would be grateful if you would acknowledge safe receipt.

Yours sincerely,

David Pearson

DAVID PEARSON

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THE GOVERNMENT'S CLOSING WRITTEN SUBMISSIONS

SUPPLEMENTARY NOTE FOLLOWING THE EVIDENCE OF SIR KEVIN TEBBIT IN PHASE II

The Government's closing written submissions were filed with the Inquiry before the evidence given by Sir Kevin Tebbit in Phase II. This Supplementary Note is intended to assist the Inquiry with references to Sir Kevin's evidence in Phase II on Day 25 which support the Government's closing written submissions. All references below to paragraph numbers are to the numbered paragraphs in the Government's closing written submissions. All references below to page numbers are to the transcript of Sir Kevin's evidence on Day 25.

Paragraph 88

Sir Kevin asked Mr Hatfield to conduct the interview with Dr Kelly on 4 July because Mr Hatfield (i) was the Personnel Director; (ii) had had nothing to do with the dispute between the Government and the BBC and was in a position to take a dispassionate view; and (iii) had previously been a member of the JIC for 5 years (p. 1).

Paragraph 99

On 4 July, Sir Kevin judged it necessary to inform the Cabinet Office and No 10, through Sir David Omand, that Dr Kelly had come forward. This was a hugely important issue bearing on the credibility of the Government and its intelligence institutions; it could not simply be regarded as an MoD matter (pp. 3 - 4).

Paragraph 114

Sir Kevin's minute (MOD/1/44) recorded that one of the key issues would be Dr Kelly's readiness to be associated with a public statement that named him and carried a clear and

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sustainable refutation of the core allegation on the 45 minute intelligence. Sir Kevin did not intend his minute to be a direct instruction to Mr Hatfield to raise this. He intended it as a general guideline (pp. 9 – 10, 110).

Paragraph 117

Following the interview on 7 July, Sir Kevin personally thought it very likely that Dr Kelly was Mr Gilligan's claimed single source (p. 11)

Paragraph 121

Footnote 5: add. Tebbit, Day 25, pp. 18 – 20.

Paragraph 123

CAB/1/70-71 is the draft statement which Sir Kevin took back to the MoD from No 10 (p. 20)

Footnote 1 add. Tebbit, Day 25 p. 22.

Paragraph 142(2)

The ISC was due to start taking evidence from officials, beginning with Mr Scarlett. on Wednesday, 9 July (pp. 14, 111).

Paragraph 142(3)

Any press statement issued needed to contain a certain amount of information about Dr Kelly (p. 13)

Paragraph 142(4)

An allegation based on a single anonymous source is best corrected for the public record by the original source personally clarifying the issue (p 7).

Paragraph 142(9)

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Sir Kevin believed that Dr Kelly had come forward recognising that he had contributed to a problem and was ready and willing to try to put it right (p. 46). In his view, Dr Kelly also had a personal interest in correcting the public record and thereby removing the implicit slurs against his conduct contained in Mr Gilligan's broadcasts (p. 8).

Paragraph 143(2)

The ISC was due to start taking evidence from officials, beginning with Mr Scarlett, on Wednesday, 9 July (pp. 14, 111).

The Government expected the issue to break in the press at any moment (pp. 4 – 5).

Paragraph 144(2)

Nothing could in practice be done to prevent Dr Kelly's name from coming into the public domain. But steps could be taken to prevent other officials (including one whose life had been threatened) from wrongly being named or being subject to media intrusion (pp. 26 – 28).

Dr Kelly cannot reasonably have supposed that the MoD press office would not confirm his name in response to a direct question from a journalist (p. 108).

The purpose of the Q&A used by the MoD's press office was to provide journalists with information that gave credibility to the press statement (p. 96).

Paragraph 153(1)

The MoD treated Dr Kelly with respect and consideration and accepted his account as truthful (pp. 51 – 52).

Paragraph 153(4)

Dr Kelly could not have returned to Iraq if his security clearance had been under threat. There was, so far as the MoD was concerned, no risk to his security clearance or his

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pension. On 17 July, Sir Kevin confirmed that Dr Kelly should be deployed to Iraq (Day
25 pp. 37 – 38)

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