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JOINT STANDING COMMITTEE ON TREATIES

**Reference: Timor Sea treaties**

WEDNESDAY, 2 OCTOBER 2002

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**JOINT COMMITTEE ON TREATIES**

**Wednesday, 2 October 2002**

**Members:** Ms Julie Bishop (*Chair*), Mr Wilkie (*Deputy Chair*), Senators Barnett, Bartlett, Kirk, Marshall, Mason, Stephens and Tchen and Mr Adams, Mr Bartlett, Mr Ciobo, Mr Martyn Evans, Mr Hunt, Mr King and Mr Bruce Scott

**Senators and members in attendance:** Senator Tchen and Ms Julie Bishop, Mr Ciobo, Mr King and Mr Wilkie

**Terms of reference for the inquiry:**

Timor Sea treaties

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**Committee met at 9.14 a.m.**

**CHAIR**—I declare open this public hearing of the Joint Standing Committee on Treaties. The Exchange of Notes Constituting an Agreement between the Government of Australia and the Government of the Democratic Republic of East Timor concerning Arrangements for Exploration and Exploitation of Petroleum in an Area of the Timor Sea Between East Timor and Australia, and the proposed Timor Sea Treaty between the Government of Australia and the Government of East Timor, were tabled and thereby referred to the Joint Standing Committee on Treaties on 25 June this year for review.

Preliminary evidence on the treaties was taken from representatives of the relevant Commonwealth departments at public hearings in Canberra on 12 July. It was clear, however, that the treaties would attract considerable public interest. The committee therefore called for submissions from interested parties by 31 July. To date, over 80 submissions have been received by the committee. A further hearing was held on 26 August in Canberra.

In properly reviewing the treaties, the committee considered it essential to take evidence in locations other than Canberra. The committee believes that it is important that a wide range of individuals and organisations have an opportunity to express their views on these treaties in the context of this review. Today is the first of four days of public hearings. After taking evidence in Perth, the committee will travel to Darwin and then to Melbourne, with further public hearings in Canberra next week. Today we will take evidence from representatives of oil companies with an interest in the Timor Sea, from the Australian Maritime Officers Union, as well as from other interested individuals.

[11.16 a.m.]

**GEORGE, Mr Bradley Miles, National Industrial Officer (Fremantle), Australian Maritime Officers Union**

**CHAIR**—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. Would you like to make some introductory remarks and then we can proceed to questions?

**Mr George**—The Australian Maritime Officers Union, by way of introduction, is the representative body of deck officers engaged in the Australian merchant navy. We have a growing area of interest in the oil and gas sector. We have been involved since day 1 in the Bass Strait development, the North West Shelf development and the Timor Sea developments. The areas of interest to our organisation in regard to the proposed treaty refer directly to articles 10, the marine environment; article 11, the employment area; article 12, health and safety; and article 7, petroleum industry vessel safety operational standards and crewing. We do not propose to make any statements about boundaries, taxation or fiscal matters.

The major concern for our organisation and, I suspect, for the other marine unions relates to how the current Bayu-Undan project, should there be a Sunrise project, is and will be developed. The platforms for the Bayu-Undan project are basically in the final stages of construction. We have seen evidence, from the vessels that we have had contact with, that the vessels involved in the construction have been non-Australian crewed. They have officers of European, New Zealand and UK nationalities and their crew are from the Philippines and Indonesia. The irony of Indonesian crew being on board vessels in the Timor Gap is not lost, I am sure.

The major issues that we will raise relate directly to the professionalism of Australian mariners. Firstly, I want to raise the issue of article 10, the marine environment. The treaty does not, on our reading, refer to any appropriate legislation on which standards should be based; for example, for drilling purposes. It does not refer to the Petroleum (Submerged Lands) Act for pollution at sea. It does not refer directly to the international convention, MARPOL, to which Australia is a signatory. While we currently operate in similar waters to the Timor Gap and we have some vessels on the drilling phase out in the Bayu-Undan, where Australian mariners and their companies operate to those standards throughout our waters and in waters which currently are in the gap—let us say it is a no-man's-land for those purposes—we maintain those same standards irrespective of where we are actually operating.

We do not believe that non-Australian mariners and perhaps their companies have the same understanding or consideration of these matters when they are in our backyard. As such, we believe that article 10 should clearly reference Australian legislation, including the Navigation Act, and international conventions, including MARPOL. Looking at the designated authority provisions, there does not appear to be any enforcement powers given to that designated authority to actually enforce any of the marine environment proposals in article 10. After

referring to the four articles I wish to refer to, I will hand up a copy of the *Australian offshore support vessel code of safe working practice*, which refers to all pieces of legislation under which we operate off the coast of Western Australia, in Bass Strait and currently in the Timor Sea.

In article 11, the treaty introduces the East Timorese employment preference clause. I expect everybody has read the previous treaty. Reference is made to preference to Australians and Indonesians. In effect, the default practice was that where the appropriate qualifications or standards could not be maintained by one party or the other then, in effect, the superior legislation and/or employment practices were to prevail. This meant that in the main, Australian seafarers were employed in the majority of positions. For example, when the exploration and seismic work was undertaken in the Bayu-Undan, it was undertaken out of Australia with Australian crewed vessels. Nearby, in those areas that fall out of the JPDA which were previously part of the treaty—the other zones—we have a situation where on the *Buffalo Venture*, for example, we have a mixed nationality crew. That mixed nationality crew includes Australians and Indonesians and other nationalities.

The situation in the Bayu-Undan as we read it, and potentially in the Sunrise fields when the developments happen there—assuming other developments happen—is that the entire area could actually be crude and worked by non-Australians on the basis that the East Timorese preference clause is the only employment preference which is provided. The occupational health and safety requirement of that clause can be used to effectively remove any ability for East Timorese to work in the JPDA, and thus we could see the situation where neither Australians nor East Timorese are employed in the JPDA. We note there have been some nominal attempts to get some training under way, but there are major language barriers causing problems for the safe training of personnel to work in those fields. Our submission states:

Under the previous Timor Gap Treaty the employment opportunities would have been transferred to Australian's when the Indonesians were unable to fulfil their quota. In the Bayu-Undan construction there are no Australians working on the vessels supporting the platform construction.

A barge has run fresh food supplies out to the construction barge, but the other vessels have been running out of Kupang—out of an Indonesian port, not even out of an East Timorese port. They have been supported out on the drilling rig on the same project. I think it was the *Charles Discovery*, which is now called the NSCO104. Employers put on the Australian work force and are supported by three Australian crewed support-supply vessels. The decision to employ Australians on this part of the project relates more to the need to access Australian supply bases and materials to support the drilling program. There is no legal obligation on that part of the program to have Australians employed.

The decision to avoid employing Australians on the construction section of the project is, we believe, a commercial decision and it would be heavily related to wages. We believe that the effect of that decision is a decreased skills transfer to Australia and East Timor, and a loss of income tax to both countries. With there being no recognisable third-party presence—and by that I mean the Australian union movement or an Australian government authority—there is a lack of worker support, and issues of health and safety conditions and environmental protection.

We believe that this article should clearly be drafted to give both Australians and East Timorese employment preference. We would have no difficulty in accepting, if the mentality of

the fiscal sharing were applied to the employment preference, the 90-10 model that would give Australia a chance to train up the East Timorese to the 90-10 position over a period of time. Obviously, they would not be able to assume that straight away because they are not a seafaring nation and they need the opportunity to train up. I expect that there would be no objection from our membership to assisting East Timor to gain some independence in that area.

I now take you to article 12, which relates to health and safety. I understand the previous treaty essentially deferred to the operation of Australian standards basically by applying the superior legislation principle. The question I have been a bit flippant in asking in our submission is: how can Australia subscribe to a treaty in which it agrees that a country without occupational health and safety legislation and an authority being the designated authority without significant resources should develop standards for the JPDA? If we apply one set of standards in the Bass Strait and on the North West Shelf it would be logical if those same standards applied for the Bayu-Undan and the Timor Gap. How could Australia agree to have standards in the Timor Gap that may be less stringent and definitely less enforceable than those that are operating in the Bass Strait? We believe that the article should be drafted in such a way to clearly state that the parties would adopt the superior legislation of the two countries. I will refer to that legislation later.

I now go to article 17, which relates to petroleum industry vessels. If I read the article correctly, it makes significant reference to vessels of the nationality of Australia or East Timor. To my knowledge East Timor does not have a flag state status and it does not flag vessels at this stage. I also understand that, whilst Australia is one of the better flag states for its enforcement abilities, none of the vessels operating currently in the Bayu-Undan, and the majority of the vessels operating in the deeper water operations of the oil and gas sector, retain a flag of Australia. The majority of vessels, as you would be aware through general knowledge, usually go to sectors that adopt the best tax benefits for companies that flag the vessels; hence you will see a number of Panamanian and Norwegian registered vessels.

All the vessels of Swire Pacific Offshore and the Pacific Manning Company—a couple of the major providers of vessels in the oil and gas sector—are flagged out of Singapore. Australian Offshore Services, a division of P&O Maritime Services, flag their vessels out of Norway. They are major operators. Tidewater Port Jackson Marine, another major supplier of vessels, flag their vessels out of various countries—none out of Australia. So in terms of the way article 17 reads we believe that, if vessels are running out of Indonesia into the Timor Gap and being serviced out of Kupang into the Timor Gap—or even out of Singapore—flag state control will not happen to the same level of ability and professionalism as happens in Australia at the moment when those vessels enter waters in Darwin where they are subject to port state control.

The AMOU believe that there is currently not a single vessel operating in the Bayu-Undan that is flagged in Australia or East Timor. Hence, East Timor and Australia cannot apply their provisions relating to nationality. Vessels with nationalities of other countries have to apply the law of Australia or East Timor, depending on which ports they operate from. I put it to you that the vessels in the construction phase are effectively operating out of Indonesia—they are not operating out of either East Timor or Australia—and hence would be subject to the safety and operating standards and the crewing regulations of the flag states from which they come. For regulatory port state control to take place, the articles of those flag states must be enforced by



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other IMO signatory countries. That cannot take place when those vessels do not enter a port with the resources and the ability to undertake port state control.

The practical situation is that those vessels crewed by Australians—the three vessels supporting the drilling program—comply with Australian maritime and industrial law because they run out of Darwin. The vessels crewed by foreign nationals—those involved in the construction phase and effectively, under this treaty, any vessel from this point onwards that wishes to come out of Kupang—are not subject to any enforcement process unless they enter an Australian port and are subject to Australian port state control. The vessels which have been involved in the construction of the Bayu-Undan have not entered an Australian port. We believe this could have major implications for health and safety and the marine environment, but we will probably never know. We contend that the Navigation Act—and again, I will refer to that in relation to the code of practice—should be given full force in the JPDA until such time as East Timor has the infrastructure and laws to take its share of responsibility to enforce maritime law.

The *Australian offshore support vessel code of safe working practice*—I am sure that your research officer will be able to obtain a copy from the Australian Maritime Safety Authority—was developed by industry and by the Australian Maritime Safety Authority as a way of ensuring the safe, environmentally friendly operation of offshore vessels and drilling programs in our petroleum development areas. Essentially, the way the code works is that, whilst it is not an enforceable provision, it makes direct reference to ships operating within Australian waters and it notes the relevant statutory provisions that apply when a vessel operates in Australian waters: the Navigation Act 1912 and the marine orders; the Occupational Health and Safety (Maritime Industry) Act and the Occupational Health and Safety (Maritime Industry) Regulations; the Seafarers Rehabilitation and Compensation Act; the relevant state acts and regulations relating to state waters; the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers—what we refer to as STCW78, as amended in 1995, which sets out what are internationally recognised as safe hours of work; the International Convention for the Safety of Life at Sea—SOLAS—which sets out the safety provisions required for vessels; the International Convention for the Prevention of Marine Pollution from Ships—MARPOL—which I referred to earlier; marine notices; and the Petroleum (Submerged Lands) Act 1967, with which rigs and platforms operating in Australian waters are required to comply.

There are a number of pieces of legislation which Australian seafarers and Australian operators are trained in and comply with whilst in Australian waters, and which we do not believe other operators may have the same interests or desire to comply with. The state and Commonwealth safety legislation applies to offshore vessels at all times. The occupation health and safety provisions in the Petroleum (Submerged Lands) Act apply to offshore installations, such as a platform, and to drilling vessels during everything from inspection, alteration, testing, repair, loading, maintenance, unloading, cleaning, fuelling, demolition, construction, dismantling, reconstruction and any diving operations. That applies regardless of the flag state of the vessel for which an activity is carried out—when the code is adopted.

We strongly suggest and recommend that, if we are able to adopt one set of standards for Western Australia and operations on the North West Shelf—standards which were developed in the early days of the Bass Strait operations and which we have been using in the Timor Gap area and continue to use just outside the Timor Gap area on, say, the Jabiru and Challice Ventures—but do not adopt those same principles in the Joint Petroleum Development Area,

then, because the point we would make is that the ocean has no borders, anything that happens in those areas will have an impact on the areas in which we apply those standards. We believe it is in our interests to apply to crewing the appropriate standards which would be applied if the vessels were operating in what were designated as Australian waters.

I wish to raise one final point in regard to annex C, the Powers and Functions of the Designated Authority. A reply to this may be that the designated authority has the ability to request assistance ‘with pollution prevention measures, equipment and procedures from the appropriate Australian and East Timor authorities’ and has the ability for ‘establishment of safety zones and restricted zones, consistent with international law, to ensure the safety of navigation and petroleum operations’. A designated authority—an office of some kind operating perhaps out of Darwin—has lots of ability to put things on paper. But it does not have, unless it is resourced appropriately, the same regulatory abilities as the Australian Maritime Safety Authority. By not having Australians working on such vessels, it does not have the day-to-day knowledge of how best practice in oil and gas operations should be adhered to, especially with the use of offshore vessels. Hence, again the wording is fine; the practice would probably leave a lot to be desired without the appropriate resourcing.

**CHAIR**—I will start with article 17. First of all, are you saying that the vessels that are currently operating in relation to the construction of Bayu-Undan are subject to that code of practice you have referred us to?

**Mr George**—I am saying that they are not.

**CHAIR**—Work is currently going on in the JPDA around Bayu-Undan, and that code of practice is not being enforced?

**Mr George**—Quite funnily, it is being enforced by the vessels operating the rig which is drilling the wells, but it is not being enforced by the vessels actually constructing the platforms.

**CHAIR**—Are you aware of the code of practice that they are working to?

**Mr George**—We would assume that they are working to the requirements of the countries in which the vessels that they are operating are flagged, but we do not know.

**CHAIR**—What are the flag states of the vessels currently operating at Bayu-Undan?

**Mr George**—I have been investigating that matter. There is a mix of Panamanian, Vanuatuan and Norwegian flag vessels.

**CHAIR**—Do you know anything about the code of practice applied in those flag states?

**Mr George**—There is no direct code of practice which is the same as the one developed in the Australian situation. I am not aware of any ability of the Panamanian, Vanuatuan or such flag states to provide a regulatory framework such as the one which we have in this code of practice.

**CHAIR**—What do you mean by that? Do you mean that they do not have a code of practice or that they do?

**Mr George**—I am not aware that they have the same code of practice or a code of practice.

**CHAIR**—It does not matter if it is the same code of practice. Are you assuming that the Australian code of practice is superior?

**Mr George**—I would assume that the Australian code of practice for the offshore support vessel area is superior to that of most other states.

**CHAIR**—How can you make that judgment if you are not aware of the codes of practice that the flag states have?

**Mr George**—I make that judgment based on vessel inspections conducted on vessels which have come out of Asia and travelled to Australia for work in Australia.

**Mr WILKIE**—It may help the committee if Mr George quickly explained the concept of flags of convenience.

**CHAIR**—I understand it, but if you need it—

**Mr WILKIE**—We have touched on it but, judging by some of the questions that are listed here, I do not believe that the secretariat necessarily understand what ‘flags of convenience’ means, its impact on Australian waters and the potential for problems.

**CHAIR**—That is fine, if that is something that you would like to say, Mr George. But at this point I am asking questions on the evidence that Mr George has given. If I can finish off, then you, Kim, can ask him about the flags of convenience. In relation to the vessels that are currently operating there, what standards do you understand that they are operating to? Presumably they cannot avoid complying with international conventions.

**Mr George**—My understanding is that there is no regulatory body requiring that they comply with any standards, despite what may be written in forms of vessel procedures onboard those vessels. I can confirm that the vessels which are operating on the drilling program are complying with the code of practice.

**CHAIR**—You have also mentioned your concern that the vessels constructing Bayu-Undan have not entered an Australian port and that that has major implications for health and safety and the marine environment. What issues of concern, or what matters, have been brought to your attention in relation to implications for health, safety and the marine environment?

**Mr George**—I can give an anecdotal opinion from the barge which has been supplying fresh fruit and vegetables out to the construction program, which, as indicated—

**CHAIR**—Is this an Australian vessel with an Australian crew?

**Mr George**—It is an Australian vessel, with an Australian crew, which has run from Darwin to take fresh food out to the construction program. That vessel has given anecdotal evidence about issues with regard to communicating and dealing with the other vessels. Yet I do not have any international or formal reports which may have been made to either the International Transport Workers Federation or to the International Maritime Organisation.

**CHAIR**—There has not been a report made anywhere?

**Mr George**—Absolutely not; not to my knowledge.

**CHAIR**—On what do you base your concern that the vessels constructing Bayu-Undan will have a major implication for health and safety in the marine environment?

**Mr George**—The concept of vessels operating in an area without a regulatory regime or a professional interest in maintaining a particular environment and safety level, based on third-party intervention, is where the concern comes from. Third-party intervention would be a maritime safety authority presence in that location. Australia has a presence in Darwin; it does not have a presence in Kupang. Concern also comes from the fact that there is no maritime union presence on those vessels.

**CHAIR**—Are you saying that this is a problem that Australia will face every time it enters into a bilateral arrangement? You are talking about the Bass Strait. I understand that there is no bilateral partner there, so Australia can do as it likes. But this is a bilateral treaty. Are you saying that this will be an issue every time we enter into a bilateral treaty in relation to maritime arrangements, of which we have a number?

**Mr George**—The easiest way to look at that is to look at the previous treaty with Indonesia, where the parties adopted the superior legislation.

**CHAIR**—Whose legislation was that?

**Mr George**—That was Australia's legislation.

**CHAIR**—Who made that determination?

**Mr George**—I think the joint authority made that determination.

**CHAIR**—And in the case of East Timor?

**Mr George**—There is no occupational safety and health legislation in place. So it would have to be up to Australia with the designated authority to make that decision. Basically, we are talking about a very different situation here. With an infant country, we have to assume that we need to take a lead in order to protect the marine environment and the health and safety of workers in those areas.

**CHAIR**—Are you assuming that the designated authority will not do that?

**Mr George**—The designated authority may be influenced by multiple means and operations. It may be underresourced; it may be in a situation where it is not able to make such determinations; whereas a treaty can quite simply solve that problem by appropriate wording which refers to adopting the superior legislation of the countries who are parties.

**Mr WILKIE**—I thought that the previous treaty stated that.

**Mr George**—It did make that statement. The treaty with Indonesia already dealt with that issue.

**CHAIR**—On the basis that East Timor eventually embraces a framework of legislation and laws, you would want to leave the door open for consideration of whatever standards, procedures and legislation East Timor developed.

**Mr George**—Hence the wording ‘superior legislation’. That would be the way to do that—

**CHAIR**—At any given time.

**Mr George**—at any given time. It leaves it open. The Bayu-Undan has a 25-year field life. You would hope that by that stage East Timor was independent of international aid and the like, that it was receiving appropriate funding and resources, and that people were working in this environment and earning income tax for their own country. If we can get to that point, those standards and that skills transfer between the two countries will happen and there will be a natural acceptance that the appropriate safety standards will be applied.

**CHAIR**—I have one last question on this article, after which I will hand over to the deputy chair. What ports have the vessels that are currently operating in relation to Bayu-Undan entered?

**Mr George**—The vessels which are on the drilling program run in and out of Darwin. They do that in order to secure the appropriate materials required for the drilling program—mud, cement and water. They do not have to run in and out of Darwin. If they could secure those resources from another location, they could run out of another port. To our knowledge, the vessels which are supporting the construction phase—other than the vessel which has been taking out fresh fruit and vegetables, the barge—have been running out of Kupang, which is an Indonesian port.

**Mr WILKIE**—You touched briefly on the issue of the flags of convenience arrangements that take place with shipping. Could you quickly explain why the flags of convenience are so popular? You touched on the idea of taxation arrangements—that is, owners will often go to a certain country because of taxation arrangements—but I believe that these countries often do not have enforceable regulations to do with occupational health and safety and a whole raft of other things which makes it cheaper for a vessel to operate.

**Mr George**—I am not an expert on the issue of flags of convenience, but the general knowledge on the issue is that you flag a vessel in a state which provides you with the least amount of cost structures and the least amount of regulation which will impact on your commercial viability. So the taxation issue is a major factor. Even a country as advanced as

Norway is unlikely to organise a regulatory regime to operate in the Bayu-Undan or in Kupang to make sure that flag state requirements are being met on its second register vessels. It has two NIS registers. The Norwegian second register is the one that applies in the main to a lot of the offshore vessels, and that has a lower regulatory framework. Norway is a modern, advanced, well-resourced, rich country, but it is still not going to provide the regulatory regime.

**CHAIR**—Sorry; why do you say it wouldn't?

**Mr George**—Most of the seafaring countries are signatories to the maritime conventions and hence rely on each other to undertake in each port the state control functions on behalf of each flag. Hence, when a vessel enters Australian waters, surveyors on behalf of AMSA will undertake those inspections, irrespective of the flag of the vessel. It is not our view, in our personal opinion, that the flag of convenience is necessarily a bad thing, where the vessel is operating in an Australian situation with Australian seafarers on board—because Australian seafarers will make sure that the laws on which their marine certificates of competency are based are still upheld, as are the standards to which they are trained.

I pose the question that you can get a flag from Vanuatu—and Vanuatu is a great place for a holiday, I am sure—yet they do not have a seafaring regulatory authority which will go to Kupang to ensure that its own regulations are being enforced. Neither would New Zealand do so, if the vessel were flagged in New Zealand. And it is unlikely that, if a vessel were even flagged in East Timor itself, there would be a regulatory regime in place to ensure compliance with the flag state requirements, such as for crewing and surveys et cetera. Thus, we rely in the Australian shipping industry—despite the fact we are operating on vessels which are, for want of another name, operating with flags of convenience—on these vessels, when crewed by Australians, being operated to an Australian standard, that being the Australian offshore support vessel code of safe working practice, with the adoption of all of the appropriate legislation which applies to a vessel in Australian waters.

**Mr WILKIE**—Do you know if any inspections have taken place on the vessels that are entering Australian waters?

**Mr George**—I understand that when each of the vessels that were involved in the drilling program came into Australia for the first time they were subject to a port state control inspection. Now it comes down to a question of whether they are involved in intrastate or international voyages. I think it has been determined they are on intrastate voyages, which means it then defaults to the Northern Territory Department of Infrastructure, Planning and Environment, Marine Branch to regulate any issues. It is my understanding that the vessels on the construction program have not been subject to a port state control inspection.

**Mr WILKIE**—Obviously the treaty no longer has a requirement that Australian nationals be given preference with respect to employment, only East Timorese nationals. Why do you think that that provision was removed?

**Mr George**—I assume it is a commercial decision; or it may have been something which came—

**CHAIR**—A commercial decision on whose part?

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**Mr George**—It is a decision which allows for a wider use of commercial decisions when employing people, as opposed to one which regulated one way or the other. On the other hand, it may have been a well thought out process which determined that the way to make East Timor independent of international aid is to get the largest number of people employed in a particular industry that will generate an income. That being said, it can take up to 20 years for a novice to get the appropriate sea time in order to achieve Master Class 1 status on a vessel. East Timor is not able to supply those people. East Timor is going to have trouble in the initial stages with supplying people who can comply with some of the basic requirements of international marine law—one of which is the use of English as the international language.

So I think that, if the decision to put the weighting on East Timor was seen as a way of assisting East Timor, it is a noble thought. But it will not work, because the occupational safety and health ‘out’ clause, which is also contained in the employment preference, will lock them out of the key positions—the high-skilled positions—for a long period of time, unless a benevolent company or country is prepared to put those people through the appropriate training and get them into those positions. The regulatory requirement to have Australians in there would ensure there was a skills transfer and that the standards that East Timorese workers see working are the Australian standards when it comes to occupational safety and health and the marine environment. In the long term we would hopefully see their adoption and a positive move in that regard. If we were to move to a 90-10 model of employment preference, where we would be working under East Timorese masters and the like, it would be acknowledged that those people are going to enforce the rules to a standard that Australia sees as appropriate.

**Mr WILKIE**—The previous clause required preference to be given to both Australian and Indonesian workers. It is my understanding that, even though that clause existed, that did not necessarily happen in practice. What were your thoughts with regard to that?

**Mr George**—The practice was that, in the main, it was easier to crew the offshore support vessels with Australians because of the short-term way in which they came and went. Standards could be assured. Someone who had been working in the Bass Strait for the last four weeks and had just had some leave could then go and work in the Timor Sea for five weeks without any limitation. That was because they know how to operate the vessels, they have a background and there are no requirements for regulatory checks of any kind—quarantine matters; they know all the rules. I think that company has probably defaulted to that. On some of the fixed platform areas—I think I have mentioned the Buffalo venture, for example—there is a mix of Australians and Indonesians working. That is an acceptable practice; it works. The company is probably well assured of the skills base of the people they are employing, and they are working together with people who are enforcing rules to an Australian standard.

**CHAIR**—Why are there no Australians employed in the construction phase of the Bayu-Undan?

**Mr George**—I was in a meeting with the Phillips Petroleum Co. a number of months ago. We asked that question, and I believe we were told something along the lines of, ‘That’s a decision of the contractor who is building the platforms.’

**CHAIR**—And that contractor is who?

**Mr George**—It is J.D. McDermott. McDermott's only requirement was that they complied with the law for whatever their employment practices were.

**CHAIR**—So they did not dictate the nationality of the workers; they just wanted people who complied with the law?

**Mr George**—They just required that McDermott comply with the law. I understand that Phillips required that McDermott complied with the law—the law being the East Timorese preference, subject to occupational safety and health.

**CHAIR**—So you have not asked McDermott why they do not employ Australian crews?

**Mr George**—No, we have not.

**Mr WILKIE**—Thank you. I have a few more questions, but I will let others ask some.

**Mr KING**—In relation to the proportion of the JPDA work force that you mentioned, prior to the new arrangements tentatively coming into force, where and on what rigs are they working?

**Mr George**—In the JPDA there is currently one drilling rig. Is that what you are referring to?

**Mr KING**—I was referring to work sites.

**Mr George**—With regard to work sites in the JPDA, the one that is currently being constructed is the Bayu-Undan. There is an Australian work force present in the drilling program of that. In relation to the actual construction program, there is no official Australian presence, to my knowledge.

**Mr KING**—If the new treaty comes into effect it will probably be reasonable to expect that the proportion of the Australian work force—if it is 50 per cent, as it was, according to you, under the former regime—will drop to 10 per cent.

**Mr George**—That is if the committee were to adopt the model of 90-10, subject to occupational health and safety and skills requirements over time. That would be the appropriate way in which to develop the industry over a period of time.

**Mr KING**—So you do not object to a 10 per cent Australian work force?

**Mr George**—We do not object to the 90-10 model. I am not speaking on behalf of the entire union movement; I am speaking on behalf of the membership of the AMOU. We do not object to a 90-10 employment model based on the skills transfer happening.

**CHAIR**—That is better than what we have now.

**Mr George**—At the moment we are running on a zero model. Depending on the location of the development of Sunrise and whatever happens there, if all the development is within the

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JPDA and there is no platform structure outside that, it is my belief that the entire Bayu-Undan could be staffed by people from Kazakhstan or Nigeria, for all we know. There is no enforceable requirement to make sure that East Timorese people are on those platforms and there is no enforceable requirement to have Australians on them.

**Mr KING**—On the first page of your written submission you mentioned that under the Timor Gap treaty there was a 50-50 ratio of Australians to Indonesians. Did that occur?

**Mr George**—On the fixed platforms the Timor Gap treaty also dealt with additional zones, so we have a mix of situations. Australia was the predominant supplier of labour in each of those situations. In the main, on the vessels that were there short term we supplied the majority if not 100 per cent of the crews. For those fixed structures, agreements with mixed crewing arrangements were entered into and the wages payable were equal to the wages payable in Australia. That is a key point to be made. I understand that the East Timorese union movement have made some sort of indication that they believe that that model should continue to apply. But the additional money in excess of the Australian-East Timorese ratio of standards of living would be put into training programs to speed up the training of East Timorese workers to allow them to enter into these work forces and earn an income for themselves and for their country.

**CHAIR**—Who would conduct the training programs?

**Mr George**—For mariners, I understand that the Australian Maritime College, for example, has a college at Port Moresby in Papua New Guinea and that three or four East Timorese have been put through a course there. I do not believe that they working, but I think they have been put through the basic elements of shipboard safety or occupational safety and health at sea training requirements there. This is a massive export earner for Australia. We already export education programs through the Challenger TAFE in Fremantle—there is a maritime program there. Two maritime colleges in New South Wales, a technical college in New South Wales and the maritime college in Tasmania all have the ability and currently conduct training for overseas students and they are very adept at it. So I would see no limitation in Australia being able to provide that type of training. But we need to hurry up and spend some time and money on assisting people with English-language training.

**Mr KING**—Are you suggesting that Australia should, as a cognate initiative with this treaty, assist a training program through the AMC?

**Mr George**—I would suspect that it would be a logical step, if you were to adopt the Australian standards—for example, the Australian offshore support vessel code of safe working practice—if you were to train people to those standards in a location that provided training based on those laws and standards.

**Mr KING**—But why does it depend upon the OH&S standards of Australia being adopted? Surely that would be a good initiative in any event, wouldn't it?

**Mr George**—I think it would be a good initiative; I do not disagree with you at all. But there is a logical link between the adoption of the superior legislation and the training and working alongside people who are using that legislation.

**Mr KING**—This is probably a more general question, but isn't it preferable for those sorts of standards to be accepted as the appropriate standards in the JPDA, simply because they achieve better results and better safety outcomes?

**Mr George**—I would think that the record of Australians operating in the Bass Strait and off the North West Shelf, and the accident-free nature of our LNG exports to Japan—which must have been a major impetus for the securing of the China deal—and our ongoing work in the Timor Sea areas where Australians are based would all show that what we do is best practice. Adoption of those standards would concur with that.

**Mr KING**—I wonder whether the real reason for the drastic impact on the employment of Australians that you refer to in your report may have more to do with the operators' concerns that they are getting themselves caught up in a significant amount of red tape and unrealistic standards, rather than—

**CHAIR**—Competitive standards.

**Mr KING**—Maybe.

**Mr WILKIE**—It has not been a problem in the North West Shelf or Bass Strait.

**Mr George**—I am unsure as to why there would be a view that a safety regime which has supplied the Australian domestic market with oil and gas and is a massive exporter would be seen as an impediment to development. It did not impede the development of the Bass Strait or of the North West Shelf. It did not impede the securing of \$25 billion of gas sales to China.

**Mr KING**—You are not talking about the operators of these rigs; you are talking about the construction companies, aren't you?

**Mr George**—The principle is the same for the entire JPDA. If those vessels did not need to come to Australia to pick up and guarantee the resources which they were securing for the operation that they are involved in, they would not come here. They would not need to do that and they could avoid the Australian regulatory regime.

**Mr KING**—Finally, regarding article 17, do you have a record of the vessels and the flag states operating in the JPDA that you refer to?

**Mr George**—Unfortunately, I have left that note at home. There are a number of vessels by the name of Britoil and a number of Tidewater vessels. I will secure that information and forward it to Mr Worthington, if that is appropriate.

**CHAIR**—Yes, thank you.

**Senator TCHEN**—I have two quick questions. Firstly, I would like to say that I think the AMOU's concerns about environments and work conditions are commendable. I am sure the committee will take those into account. In some of the issues that you raised, particularly concerning article 11, you suggest that the 'article should clearly give Australians and East

Timorese employment preference'. From your union's point of view, you in fact support a 90-10 employment ratio. This probably should not be a problem in Bayu-Undan, but the Greater Sunrise field is partly in the joint development area and partly in the area covered by the Timor Gap Treaty, which provides for 50-50. If we had that sort of provision in this Timor Sea Treaty—if one field had a 50-50 obligation imposed on it and the other had a 90-10 one—wouldn't that create a bit of a minefield?

**Mr George**—When you talk about Bayu-Undan and Greater Sunrise, you are talking about two fields which are ready to be developed. The Timor Gap takes a much larger area of that, and there are exploration zones and drilling programs for all over those areas. In the main, the 90-10 model would work. I think the Sunrise fiscal arrangement is something like 79-21. My understanding of the Sunrise arrangement is that, if it were possible for the people operating that field to do all the development in the JPDA and to not have any operation outside of the JPDA, they could adopt the zero Australian model in terms of employing Australians, at the moment. I think that is of a much greater concern. That may be totally impractical—and I have no knowledge of where you are going with that issue—but I expect that the Sunrise and the ability to move a few lines would probably be raised by the developers of those fields and by other parties in order to expedite any development in those areas. I do not see it as a major issue, but I understand that it could cause confusion. Again, the 90-10 model would be something which, in terms of employment, would take a period of time. It could not happen tomorrow, because the skills base is not there. We have not transferred the skills yet, and nobody else is transferring those skills.

**Senator TCHEN**—For article 12, your recommendation is that:

This article should clearly state that the parties would adopt the superior legislation of the two countries.

My mind boggles at the thought of two parties, in a diplomatic situation, sitting down and arguing about which has the superior legislation.

**Mr George**—One has no legislation and one has legislation which, if you look at the Navigation Act, is effectively 90 years old. I will say this again: the legislation is worth nothing unless it is enforced.

**Senator TCHEN**—That means your recommendation, calling a spade a spade, is that the parties should adopt the Australian legislation.

**Mr George**—If the parties were to adopt all the legislation referred to in the Australian Offshore Support Vessel Code of Safe Working Practice, it would in our view ensure that the standards employed off the coast of Victoria are the same standards which would be employed off the Timor Gap.

**Mr CIOBO**—Further to what we were speaking about previously about the inclusion of these sorts of requirements in bilateral treaties, you make reference to the Bass Strait, which is—as the chair pointed out—solely constrained. Can you point to any examples of bilateral or multilateral treaties that include the kinds of provisions that you would say are the sorts of benchmarks that we should be trying to hit?

**Mr George**—Turn the clock back six years, and the treaty between Australia and Indonesia contained the requirement for superior legislation.

**Mr CIOBO**—Is it the McDermott group that is doing the construction?

**Mr George**—Yes.

**Mr CIOBO**—I am interested in why, if we have the expertise that you are talking about, they would not choose to use Australian workers.

**Mr George**—You would need to ask the company that question. I could hint that perhaps the wages paid to workers from the Philippines and Indonesia would not be the same as wages paid to Australians, hence our living standard, our taxation system and the regime we operate under. I would also expect that there is an ability to pay such people under different arrangements which allow for different taxation regimes to apply, hence the probability that some of the Europeans working on the project would be paying variations on taxation. If you employed Australians, 48½c, or whatever the regime is, would be coming back into Australian coffers. I expect that a fair consideration of it has to do with the wages which are paid.

**Mr CIOBO**—The cost of labour.

**Mr George**—The cost of labour. That same cost of labour did not stop the development of the North West Shelf and Bass Strait. It does not stop the exploration programs right around Australia.

**Mr CIOBO**—Wouldn't it also be reasonable to say, though, that the cost of labour does not just incorporate costs that are paid directly through wages, salaries and those types of things; it also includes the penumbra of the cost of labour—such things as efficiency productivity and the down time associated with workers getting injured? Again—and it is obviously just your opinion that I am after—why wouldn't factors like that necessarily be incorporated in the decision that is made by an Australian construction company?

**Mr George**—It would not be an Australian construction company; it would be a US construction company.

**Mr CIOBO**—Any construction company operating as part of the—

**Mr George**—Any operator operating in an area where they can make a commercial decision to gain the highest possible skill level for the lowest possible cost required to do a job will probably make that decision.

**Mr CIOBO**—So it is a trade-off, you are saying?

**Mr George**—I am assuming that any company that bid to do the construction did so on the basis of a worst-case scenario and a best-case scenario. I would assume that the worst-case scenario was that they had to employ Australians, operate an Australian seafarers rehabilitation

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and compensation act and operate Australian standards for safety and regulation, and the best-case scenario may have been to operate in a system which in effect was a no-man's-land.

**Mr CIOBO**—Why would that be the worst-case scenario? Do you think we have priced ourselves out of the market?

**Mr George**—No. Australian seafarers are extremely skilled. Australian officers are extremely competitive and are sought worldwide for their skills base.

**Mr CIOBO**—They have a competitive advantage.

**Mr George**—We have a competitive advantage; we have the skills base. When you add up additional positions, a number of these vessels—and I will supply the crewing numbers—are crewed with a higher number of people than we would crew a vessel with.

**Mr CIOBO**—Why is having Australian workers the worst-case scenario?

**Mr George**—I do not know how this project was bid for, but I would assume that, if you were to bid on the project, you would say, 'If all the rules are applied it will cost me this and I will bid on that price; if I can get away with applying a different scenario, which is quite legal, my profit margin will increase.'

**Mr CIOBO**—Sure, but I am saying—and you have just stated it yourself—that we offer advantages in terms of the number of crew and so on and less down time and ancillary costs associated with mistakes. Again, I do not understand why we would need to mandate the employment of Australian crews if we are competitive in the marketplace and have not priced ourselves out of it. I do not understand why the market would not operate so that the advantages, skills and technologies that Australian workers employ would not be competitive in a global marketplace and why employees from, for example, Third World countries would seem to be a better alternative than Australian workers.

**Mr George**—I suppose the same question could be asked of Nike—why it make its shoes in Indonesia instead of on mainland America.

**Mr CIOBO**—Do you have a response to the proposition I am putting, though?

**Mr George**—My view is that, when you have done a total cost basis, when you have added to your costs the regulatory regimes and potential issues with regard to the Australian standard of living, you would probably find that, despite the skill base being higher, the average crew price would be higher as well. But that has a lot to do with everything from payroll tax to the transfer of paperwork that is required just to do a BAS. All those things would add to the costs that one of these companies would be operating under. For all I know, they could be operating under a Cayman Islands or Hong Kong account and paying workers in any way, shape or form. We would be proud to enforce an industrial agreement which set standard wages whether you were working in Bass Strait, in the Bayu-Undan or on the North West Shelf. We would be quite proud to do that—to know that we were supplying correctly skilled people and that we had the ability, hopefully, to train East Timorese to undertake some of that work.

**CHAIR**—Mr George, thank you very much for your appearance here this morning. Could you also pass on our thanks to the Australian Maritime Officers Union for their submission and for being involved in these proceedings.

**Mr George**—Thank you very much.

[10.22 a.m.]

**FRASER, Mr Alan John, President, Kimberly Professional Fishermen's Association**

**MASTERS, Mr Adam Robert, Vice-President, Kimberly Professional Fishermen's Association**

**FORBES, Dr Vivian Louis (Private capacity)**

**KELLY, Mrs Marlene, Research Officer for the Hon. John Fischer MLC, Western Australia**

**Dr Forbes**—While I am appearing in a private capacity, I am a researcher in maritime issues and lecturer at Curtin University and University of Western Australia.

**CHAIR**—I welcome the witnesses who, amongst other things, have expressed concerns about the impact of the Treaty Sea Treaty on fisheries management. Would one of you like to make some introductory remarks? I know different submissions have been lodged with the committee, so perhaps, Mr Masters or Mr Fraser, one of you would make some introductory comments on behalf of the Kimberly Fishermen's Association, then I will go to Mrs Kelly and Dr Forbes.

**Mr KING**—Might it be more convenient if we heard from Mr Fraser and Mr Masters first and the others were deferred?

**CHAIR**—I am happy to do that, if that suits the members of the committee.

**Mr KING**—It would seem to me that Dr Forbes and Mr Fraser might have—

**CHAIR**—Different issues. I am not quite sure why the arrangement has been made this way. Let us see how we go. Mr Masters, could you give us an outline of the main points of your submission. You can take it that the committee has read it. If there is something that you would like to add or highlight to us, please go ahead.

**Mr Masters**—First of all, I would like to thank you for the invitation to present the industry's concerns on the proposed Timor Gap oil treaty. We have never had the opportunity to express our interest or be properly represented in consultation with the processes of the AIMDT, the Perth treaty of 1997 or the Timor Gap oil treaty. Local fisherman fishing the northern areas of Australia's shelf edge have concerns about the management of the living resources in the area. There have been concerns raised by marine scientists over the probable collapse of fisheries between the PFSEL and Australian seabed boundaries.

Numerous groups, such as environmental and indigenous groups, are worried about the amount of debris washed up on the beaches up there, about lack of control of demersal gill nets catching marine life and the exclusion of northern demersal fishermen from fishing within the

gazetted boundary of our fishery for many years under treaties that have never been ratified or enforced. There seem to be a lot of differing government views on the issue. No-one really knows who has jurisdiction over it despite the introduction of the PFSEL, which was based on the equidistance principle, to stem the flow of illegal fishing in Australian waters. It was a line provisionally agreed; it was not supposed to become a permanent boundary.

We have quarantine issues and health risks. We had an outbreak of black stripe mussels in Darwin in 2000 in the \$400 million pearling industry up there. It would be devastating to see that industry overcome by the black stripe mussel. Also, we have safety issues for Australian fishermen. We have had boardings of boats by Indonesians in the past. A huge amount of surveillance is required for protecting our area of water at a huge cost to taxpayers. It is a national security issue because of illegal immigration and the fleet that exists between the PFSEL and the Australian seabed boundary. We are not very happy about that.

The OCS agreement of 1995 handed over to the states jurisdiction to control all waters out to the 200 nautical mile limit, which effectively gave WA control of the management of demersal fish stocks to the AFZ by trap and line. The AMOU was to enable the responsible departments to manage fish on an ecosystem basis rather than along political boundaries. Both WA and Northern Territory have admitted jurisdiction responsibility over the resources in the disputed areas, but no-one seems to be able to come to some arrangement as to the destiny of the fish or living resources in those areas of dispute.

The Kimberley trap and line fishery has undergone heavy reductions from 1995, which was the year that the interim management arrangement was formed. The minister approved elements to form the NDSMF interim managed fishery management plan in 1997, so we saw a fleet of possibly 26 boats reduced to 11 licences when the states took control of the waters to the AFZ.

**CHAIR**—I see that you have quite a lot of notes there. I do not want to stop you, but perhaps we might be able to short-circuit this if you can help me with an issue in the beginning, and then we can see if we need to go back to your notes. I understand the concerns that you have raised about illegal fishing, fishing rights, depletion of stocks and the like, and we have read the submission. The treaty that we are considering today is the Treaty Sea Treaty, which relates to the competing claims that Australia and East Timor have over resources in that seabed. What this treaty seeks to do is to enable Australia and East Timor to jointly develop the petroleum resources in the seabed. Could you perhaps identify where the terms of this treaty impact on your concerns? I appreciate that there are a number of treaties that you have concerns about, but can you tell me how the proposed Treaty Sea Treaty, which is dealing with Australia and East Timor's joint development of proven petroleum resources, will impact upon treaties that you are concerned with, particularly the Perth treaty that you are referring to? If you could do that I think it would confine our inquiry.

**Mr Masters**—I will show you a map that I am sure everyone is familiar with. It is a general map you are given when you approach fisheries departments.

**CHAIR**—Can you describe what you are showing us.

**Mr Masters**—It shows the Timor Gap. Basically, our fishery goes up to  $10^{\circ} 5' 126^{\circ} 47'$ , which is gazetted in our management plan. There has been no discussion whatsoever on the

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management of fish resources in that area. Even though the Commonwealth has overridden the states on the issue, the states still have not pushed enough to retain jurisdiction over the resources there.

**CHAIR**—Essentially, your concern with this particular treaty—the committee can only look at the impact of this particular treaty—is that fisheries associations such as yours have not been properly consulted in relation to its impact. Is that right?

**Mr Masters**—Yes, that is right.

**Mr WILKIE**—Or it does not consider that impact in any recommendations within the committee.

**Mr Masters**—No.

**Mr WILKIE**—You are arguing that it should actually contain some provision guaranteeing security for your organisation and your people?

**Mr Masters**—If it is signed away, then there should be provisions put in place to stop the depletion of fish stocks to the point of no return in an area of overlap. If I can show you this photograph, there is a picture of Australia's shelf edge—the area we are looking at. Because it is a shared continental shelf edge, all the fish live in one ecosystem. If we have a political boundary with uncontrolled fishing on one side and Australian fisheries authorities are trying to promote sustainability of those resources for future generations—and allocate equally to the users of those resources—and it is overfished on the other side, then we could see it collapse. Those issues were raised back in 1997 and we are still here today with nothing in place that deals with them.

**CHAIR**—For the purposes of *Hansard*, Mr Masters was indicating a photograph showing the northern coastline of Australia, the continental shelf, the seabed and East Timor.

**Mr Masters**—I will continue, because this will go a bit towards our argument. Vivian will probably touch on this. It is interesting to note that when we first negotiated these treaties it predated modern international law, which states that you claim out to 350 nautical miles in some cases; to the Hedberg line, which is a 2,500 metre isobath; or 60 miles from the foot of the shelf slope. So Australia has actually been, we believe, overgenerous in conceding its water column in the first place. With Australia being a continent and Timor a volcanic island, we have modern technology now that shows a different geomorphology of the rocks—sedimentary rock on Australia's shelf edge and the division of the two countries by the deep Timor trough. So, under that arrangement, Australia could also be unnecessarily signing off a lot of oil rights that it is entitled to under the legal framework of the United Nations Convention on the Law of the Sea, which it is a signatory to.

**CHAIR**—Are there any other matters that you wanted to raise with the committee before we go to questions?

**Mr Masters**—Yes. Since the introduction of the provisional fisheries line, there have been numerous apprehensions in the south in what are claimed as Australian waters or in the

proposed AFZ. Numerous scientists have been concerned about it. Six trawlers were apprehended up north, 90 miles off Cape Wessel. AFMA believes that they are part of a larger group of vessels which are still illegally fishing in the AFZ. We have ongoing issues with turtle slayings and demersal long-line net that is washing up at the Rowley Shoals and was found within our fishery only weeks ago. Basically, we want to see Australia retain management over the resources in that area because Indonesian fishing methods are not really based on the sustainability of a particular fishery, and history speaks for that—for example, the patagonian toothfish has been a pretty hot issue over the last couple of nights. If East Timor sells its fishing rights to the European Union, we could see large warehouse trawlers come in and wipe out the whole fishery within a few years. Basically, it would make a mockery of our government and our laws. We believe that those resources are Australian resources and that Australia should be seeking to protect them as Australia's living natural resources—as the least known and untapped. For that reason we should not be signing them off without management conditions—at the very least.

**CHAIR**—On the basis that all of the submissions were related in one way or another to fishing management issues, I propose that we hear from everyone and then we can have a more general discussion about it. I appreciate that Dr Forbes's goes further.

**Mr KING**—We have, of course, the benefit of the written points from each of these important contributions, so I am not sure that we need too much oral explication.

**CHAIR**—If we hear from everybody, all the issues to do with fisheries management will be on the table and then we can have general questions. Mrs Kelly, on the basis that we have read the submission, could you highlight any matters that you would like us to take into account?

**Mrs Kelly**—Mr Fischer would like to apologise for not being here today. At short notice, he asked me to attend in his place.

**Mr KING**—Where is he?

**Mrs Kelly**—He is tending to some electoral matters that he was unable to get out of today. However, I am fully aware of his position on this issue. Mr Fischer's main concern is the fact that Australia has the right to claim its continental shelf. This would take our claim beyond the Timor Gap area. Mr Fischer is concerned that we are giving away what was negotiated: a 50-50 right with Indonesia is now a 10 per cent right. Mr Fischer feels that the final stand that is taken by the federal government will have an effect on Indonesia's position regarding both the seabed and the water column rights between the coast of Western Australia and Indonesia. He believes that, if we are seen to give away 90 per cent of our seabed right, Indonesia could then seek to achieve the same status, given that they have not ratified the Indonesia-Australia Maritime Delimitation Treaty of 1974. This would mean that it would have an adverse effect not only on our oil resources but on our fishing stocks as well. As you have heard, this has caused a degree of angst within Mr Fischer's electorate for the Kimberley Professional Fishermen's Association, as has the fact that this boundary, being closer to the Australian coast, will allow illegal boat people to come in, perhaps from Timor.

Mr Fischer feels that the Australian government has a duty to determine the boundary of the Australian coastline. Under the United Nations Convention on the Law of the Sea Australia has

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the right to claim a maritime boundary on the basis of 200 nautical miles or by virtue of its continental shelf extension to a maximum of 350 nautical miles. Since 1940 coastal states have settled more than 130 maritime boundaries with more than 20 being settled by international courts. Despite this there is no normative principle which has been derived that could act as a mandate to determine the boundary that lies between Australia and its northern neighbours. Basically what that means is that to date there are no countries that have settled a dispute with the international court where they do not share a continental shelf—countries that have settled these disputes have shared a continental shelf. In the cases of Australia and Indonesia and Australia and East Timor, Australia has the continental shelf and East Timor is divided by the Timor Trough. The only other countries that have the same situation are China and Japan, and as yet they have not resolved this dispute. Australia has not taken this issue to the international courts and should probably do so before they sign away Australia's natural resources. These resources are worth in excess of \$A35 billion. Mr Fischer feels we are signing away our children's future revenue streams. That forms the basis of Mr Fischer's submission. I apologise for my hesitation, but I did not anticipate having to speak in this forum.

**CHAIR**—Yes, it makes it a little difficult for us to ask you questions about what Mr Fischer believes, but in your own right you can provide such evidence. Please make your opening statement, Dr Forbes.

**Dr Forbes**—Thank you, Madam Chair, for inviting me and for accepting my submission. My concerns are based on the delimitation of the boundaries. Concerns occurred back in 1997 as well, but I will leave that for the moment. I believe that in having rushed into signing this treaty in May 2002 we have not given much thought to the lateral boundaries of East Timor and Indonesia, and that could have implications for the Sunrise project in particular and perhaps for the western side. There are also the concerns about the fisheries. The treaty seems to be silent on the fishing resources or the so-called resources in the water column. I feel that we have a problem with that notwithstanding that the 1997 treaty suggests that there is no problem if one country has rights to the resources in the water column and another country has rights to the resources on and below the seabed. Those are the major issues from my side, particularly the concern of the lateral boundaries of the two countries, East Timor and Indonesia, and its impact on a possible boundary point with Australia and around A16 and A17 of a former seabed treaty.

The other concern is that we appear to be giving East Timor a sharing regime of 90-10. I wonder what Indonesia will ask about once this treaty is ratified and in force, because Indonesia is not going to feel too happy that at one stage we only offered them 50-50. They might want to renegotiate the 1997 boundary treaty. If they do, I would suggest that Australia should not be too generous—it has been in the past and I can see good reasons for it being generous because it wants to get East Timor on its feet and wants to portray to the world that it is doing the right thing, which is admirable. I have just returned from Malaysia where I conducted a one-week series of lectures and gave this sort of scenario to the people in Malaysia. They could not understand why we were so generous in offering so much to our neighbours in the case of maritime boundary delimitation. Those are my main points and I think I will rest it at that.

**CHAIR**—Mr Fraser, you indicated that you have a couple of things you want to say.

**Mr Fraser**—Yes. Briefly, I just want to sum up the industry's position; that is, basically, that we do not agree with the boundaries that are proposed in the treaties.

**CHAIR**—JPDA—the Joint Petroleum Development Area?

**Mr Fraser**—Yes, and the precedents that may flow from that in terms of other treaties that we have with Indonesia. There is a great concern within industry and some areas of the government that fish resources have actually been traded in lieu of oil resources. As a fishing industry representative, we do not consider that to be a fair proposal.

**CHAIR**—Thank you. Perhaps I could put this to Dr Forbes and Mr Masters for comment. You have both read the proposed treaty. Are there any specific articles or aspects of the treaty to which you want to direct your concerns? Or is your objection more to omission rather than to provisions and articles in the terms of the treaty?

**Dr Forbes**—It is more the omissions than the articles.

**CHAIR**—Mr Masters?

**Mr Masters**—I am sorry. I have not even read it.

**CHAIR**—It makes a good read. Are your concerns about what it does not cover rather than what it covers?

**Mr Masters**—That is right; and the fact that it has possibly been negotiated under the wrong set of guidelines. Maybe we should be a little bit less generous—

**CHAIR**—Do you mean in relation to the 90-10 split of the royalties streams from the petroleum resources?

**Mr Masters**—Yes. We have got all the whiz-bang technology now, and geophysicists there have identified the two different rock types of the countries. Our association is not against stopping traditional fishing vessels, but we do not want to see the continued overfishing by larger motor vessels.

**CHAIR**—Dr Forbes, you have raised a concern about the 90-10 proposed split. If this is a bilateral treaty, what do you believe would have been a fair division of royalties and income?

**Dr Forbes**—It is very difficult to answer that. Having given Indonesia a 50-50 split in area A, I suppose 50-50 would be fair to continue on. My concerns are if Indonesia comes back to us and says, ‘We want a greater share of the seabed from the 1997 treaty.’ I have heard it said by the people from Indonesia—I do not have it in writing but this is from talking to those people—that they would want a greater share of the seabed—

**CHAIR**—So your concern is with the precedent.

**Dr Forbes**—Yes, that is right.

**Mr WILKIE**— With the 90-10, are you aware that 80 per cent of the Greater Sunrise field is located in Australian waters and only 20 per cent is in East Timorese waters, or in this Joint

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Petroleum Development Area? Therefore, you are only talking about a 90-10 split of 20 per cent of that field.

**Dr Forbes**—That is true. But part of that Greater Sunrise sits in the area that Indonesia has negotiated with Australia, where Indonesia has rights to the water column and we have the seabed rights. I hate to say this, but I can see Indonesia coming back to us and saying, ‘I think we should get a greater share of Sunrise.’ To add to that problem is the lateral boundary, which is still to be negotiated between Indonesia and East Timor.

**Mr WILKIE**—Given your submission that there are clearly continental shelf issues here and there is the trough between East Timor and Australia, it sounds like you would be arguing that that should be the Australian boundary. We have heard evidence that if we were to argue that in court, we would lose, and therefore we may lose the entire field to East Timor based on a split of an arrangement halfway between the two countries. What would be your argument that that would not be the case?

**Dr Forbes**—There is always the chance that if you go to court you will lose, depending on your case. I have been following the case of Malaysia and Indonesia at the moment. They are arguing over the sovereign rights of two islands. So, yes, we could lose it but, there again, I think we should stand firm. Natural prolongation is not dead by any means. On the one hand we are saying, ‘We are going to spend all this money to find out the extent of our continental shelf, the North West Shelf, Cape Naturaliste, the south-east coast of Australia.’ There is vast money spent on determining the limits of this continental shelf, and yet here we are so happy to give away the seabed rights or the water column rights to Indonesia and to East Timor. We found that in the case of Christmas Island we allowed Indonesia to peg us back to some 37 nautical miles off Christmas Island. The argument that we put forward was: there is nothing over there, so we do not have to worry about it. I think that is a bit of a lame excuse. There is nothing there today. What could be there in 20 years time? We said the same about the Timor Gap Treaty at one stage. I think a minister in Canberra said, ‘We’d be lucky to find fresh water in that area,’ and look what has happened now: we have the Bayu-Undan, Sunrise and a whole heap of other things. So, yes, I do think we should stick to the principle of natural prolongation and, if we have to be pegged back, so be it. I take your point that if we go to court we could lose it. There again, if we go to court we could win everything, depending how strong our case is.

**Mr WILKIE**—To follow on from that, both Mr Masters and I think Dr Forbes might have touched on the International Court of Justice. Australia has actually withdrawn from that court’s ability to decide maritime boundaries. Do you think it was a good move to do that, because that would have been the body that could have determined that the continental shelf was the boundary? We no longer accept their jurisdiction, though.

**Dr Forbes**—The International Tribunal for the Law of the Sea could also be an avenue that we could take, if we had to take it. We do not have to go to the ICJ. I do think we can sort this out between the two countries, or the third country, being Indonesia, as well. They would be happy to. I do not think the Indonesians or any South-East Asian state would like to go to an arbitrator. It is only recently that some states are going. Most South-East Asian states would not want that. They would rather a nice, friendly—

**Mr WILKIE**—East Timor specifically has said that they would be interested in taking court action. Had we not been able to reach an agreement, they have said that they would have liked to have the opportunity to take us to that court.

**Dr Forbes**—That is very true. I think East Timor really did not know what was happening, because they were being advised by people with a great self-interest in getting their arguments up and running. I have seen some opinion papers that have been written and I think those opinion papers are way off the mark. Researchers like myself have looked into this argument and I do feel that they are trying to pull the wool over our eyes. Yes, they will say, ‘We should go to the ICJ,’ hoping to get more. They would be happy to get 100 per cent and we would do all the work, like Saudi Arabia and Bahrain, but that is not the point. We feel that we should put our case forward and say, ‘This is what we wanted all along,’ just like Indonesia did to Australia over Christmas Island. They said, ‘We’ll give you 12 nautical miles north of Christmas Island,’ and what did the Australian government say? ‘Aren’t we lucky, we got 37.8, so we got more than what Indonesia was initially going to offer.’ That is the argument that is used in South-East Asian negotiations. When you go shopping, one starts high, one starts low, and you eventually get down, and you feel happy that you got a price and the other person feels happy that he or she got their price. I do feel we can negotiate it, but we should not give it away so easily.

**CHAIR**—Given the all or nothing outcome that can occur through court proceedings, is it your opinion that it is preferable for treaties of this nature to be negotiated between the parties rather than run the risk of court proceedings?

**Dr Forbes**—Yes, and the expense of court proceedings.

**Mr WILKIE**—By the same token, you are arguing that the boundaries should be the trough.

**CHAIR**—I am not arguing that.

**Dr Forbes**—No, I did not argue that the boundaries should be the trough, in a sense.

**Mr WILKIE**—It may have been Mr Masters.

**Dr Forbes**—That is our seabed boundary. We have rights to the seabed boundary at this stage, with the 1997 treaty. My argument is: what if Indonesia now wants to renegotiate the 1997 treaty based on what we have given East Timor, the 90-10? Chances are that Sunrise could fall outside our jurisdiction at some stage. East Timor has always argued that the 1972 seabed boundary was an illegal boundary, and that was based on natural prolongation. We were lucky, I suppose, to have the 1971 and 1972 treaties up and running—set in concrete, as it were. So, yes, I do believe such boundary negotiations should be between the countries themselves. You could perhaps go and put up a good compromise, but in this particular treaty, the Treaty Sea Treaty, there is nothing mentioned about fishing resources. That is the important point. Secondly, I think we may have rushed into it without negotiating the lateral boundaries between the two countries.

**Mr WILKIE**—How does that fit in with the fishing industry, Mr Masters and Mr Fraser, where you are saying that, if you had a line that was past the continental shelf where you

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allowed fishing, that would deplete the stocks on this side of the shelf, thus causing all sorts of problems for the industry. What would be your position then on boundaries?

**Mr Fraser**—Certainly our proposition is that the boundary should be beyond the natural continental shelf of Australia. Obviously, fish do not observe political boundaries, so to draw a line bisecting that shelf is actually causing a substantial pressure on fish stocks on the Australian side. It is like a huge vacuum cleaner that operates on the edge of that shelf and draws off very valuable resources from Australia. That affects the amount of fish that our fleet is allowed to catch. Obviously, the fishing pressure that is applied there has to be factored into the sustainable estimates for our annual harvest. From our reading of UNCLOS, it appears that Australia is entitled to that full continental shelf. If that line were pushed to the edge of the continental shelf it would resolve, or certainly minimise, so many problems that Australia has with Indonesia and all sorts of illegal fishing and immigration issues.

**Mr KING**—Mr Fraser, you made the comment that you are concerned that this may be some trade-off of fish for oil, but if you look at the treaty you will see that it relates exclusively to petroleum activities and says nothing at all about fishing. Why do you make that comment?

**Mr Fraser**—That is true, and probably one of the failings of the treaty is that there is no comment made about that. If you look back at the original AIMDT treaty, you will see that that considered both, and I would assume that what we are now looking at is an extension of that treaty. The original AIMDT treaty was negotiated back in the seventies, when fish resources were not even considered to be a valuable proposition. In fact, they were considered so poorly that during the eighties all the fish resources of the Kimberley were given to foreign interests, who used large pair trawlers and the like to fish it and it was actually illegal for a state fisherman to go in and fish that resource. Australia had a very low opinion of the value of fish stocks. Historically things change, and that opinion has now substantially changed and it is realised that fish resources are renewable and that one day the oil will not be there but fish will always be there if they are properly managed. It was an unfortunate omission from that treaty.

**Mr KING**—We have the Australian fishing zone, don't we?

**Mr Fraser**—We do, but that does not necessarily give Australian fishermen the right to fish it.

**Mr KING**—I know that. But there are various protocols and standards established in relation to parts of the zone, and I think you have mentioned the PFSEL. That is governed, or established, by the state of Western Australia, is it not?

**Mr Fraser**—No, I do not believe it was. It is a Commonwealth issue. The state runs away from it every time you mention it.

**Mr KING**—But aren't those various fishing zones—the PFSEL, the NDSMF and so on—and not this treaty, the relevant instruments which deal with the amount of fishing that goes on?

**Mr Masters**—Only up to the PFSEL; state laws do not enforce beyond that, and this is the problem. No-one wants to admit responsibility for the management of those resources. They are

being plundered now and they have been for years. All the problems were identified in 1997 and nothing is being done about it.

**Mr KING**—So your fishing association is really saying that you wish that this treaty had dealt with the issue of fisheries but it does not.

**Mr Fraser**—It should have, yes.

**Mr KING**—Would it not be a better course for you to advocate to the fisheries departments of WA and the Commonwealth that a treaty of the type you are proposing be put in place? It does not undermine the benefits of the treaty that we are considering, does it?

**Mr Fraser**—I suppose it comes back to the fundamentals of how the boundaries themselves were drawn. It is probably not for us to comment on the negotiations for oil itself; it is probably all the underpinning things that affect those negotiations that we are concerned about, like the boundaries.

**Mr KING**—If you are concerned about this issue, and it seems to me to be a discrete issue, you should be advocating that position to the appropriate authorities.

**Mr Masters**—We have tried that.

**Mr Fraser**—We have done that to pretty much everyone we can, and it has been handballed all round the state, all around the Commonwealth and back again. This is pretty much the first opportunity we have had to bring this matter to the attention of any sort of committee or any structured body. We have been pretty much kicked from pillar to post and nothing has happened.

**Mr Masters**—We get letters back from AFMA and AFFA saying, essentially, that Indonesia has jurisdiction over that area and that we should have an Indonesian licence to fish there. But if you pull out our management plan, you will see that it is actually within the gazetted boundaries of our management plan. So it is a very political issue, and we get lots of different answers from different departments. When I speak to the Navy out at sea, they say, ‘Yes, you can fish there at your own risk.’ Basically, we do not know where to go anymore. No-one can help us.

**Mr KING**—I do not understand why you say there is a link between the Perth treaty and this proposed treaty.

**Mr Masters**—Because the early negotiations, which first started in 1971, did not take into consideration the United Nations law of the sea principles, which are around now and to which Australia and Indonesia are—I do not know whether East Timor is—signatories. They are the guidelines that are supposed to be used to delineate maritime boundaries. If you have not got a good chassis, you cannot build a good car on it, basically. So we are building a treaty here that has not really got a good footing, because we have all got different ways of interpreting it. If it is signed off, who is going to manage the sedentary species on the seabed? The state fisheries have actually got jurisdiction over the sedentary species. For those who do not know, they include beche-de-mer, trochus, urchins and so on. How are they going to be managed with a fleet of foreign fishing vessels over the top of them?

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**CHAIR**—Dr Forbes, did you want to add something to that?

**Dr Forbes**—Yes. Mr King just asked whether there was a link between those two treaties. I believe there is, because in the 1997 treaty we created what I term a ‘grey area’ on either side of the zone of cooperation. Even within zone A of the zone of cooperation, there is no mention about fishery resources operating there. There was the concern then: what if our fishermen go and fish in those waters within the zone area; who has rights to it? We agreed on a water column boundary on either side of the zone of cooperation but left that particular zone A area absolutely void. There is no mention of it, and I think this is where the concern of the fisheries people came in. I was surprised not to see any mention about fisheries in the Treaty Sea Treaty.

**Mr KING**—That was probably because the authorities and the negotiators of the treaty were concerned to deal exclusively with the topic of petroleum activities. I am trying to suggest to you that this is not a bad thing for you but possibly a good thing for you, that you should now try and ride of the back of this through your own association to seek an outcome that you think is more equitable in relation to both the fishing out of possibly depleted stocks and the ensuring of appropriate outcomes for the Australian fishing industry in the north-west.

**Mr Masters**—Could you suggest how we do that if we do not have the backing of state or Commonwealth fisheries departments?

**Mr KING**—That is something that you need to approach others about. We are here to deal with a specific treaty. I want to ask you just one other question. I was intrigued to know what the black stripe mussel is that you mentioned.

**Mr Masters**—They are pretty nasty little things. We do not want to get them in our waters. They clog up harbours and they grow very rapidly. Over a ton of chlorine had to be deposited in the Darwin fishermen’s lock system in 2000 to eradicate the black stripe mussel outbreak. It was quarantined for one year. No-one was allowed to go in or out.

**CHAIR**—Beware the black stripe mussel!

**Mr Fraser**—It is the barnacle from hell.

**Mr CIOBO**—Dr Forbes, I am interested in the point you raised with respect to, for lack of a better term, the longitudinal aspects of the joint petroleum development area. From your submission, I note that you say that East Timor is looking to extend the area of the JPDA. Based on your knowledge, what are the arguments you see for including or excluding Sunrise, for example, from the JPDA based on common mapping references?

**Dr Forbes**—My interpretation of the line would suggest that East Timor would probably get another 10 to 15 per cent of the Greater Sunrise field. My concern would be that Indonesia could argue that, by giving East Timor such a vast proportion of Greater Sunrise, they should also be entitled to any oil or gas found on the grey area that East Timor and we have. The boundary, as I said, is yet to be negotiated between those two countries, and there have been lots of arguments put up about the effect of the smaller islands that belong to Indonesia. The people that have been mainly putting up the argument for East Timor are already filling us with a lot of misinformation and very exaggerated claims. I do not believe I am the only one that has said

this; I believe last week there was a conference in Melbourne and people would have heard the same stories.

My concern is that, with the lateral boundary not being defined between East Timor and Indonesia, we have jumped the gun in signing this treaty without knowing where those lines are going to fall. If both countries, East Timor and Indonesia, accepted the previous seabed boundary line—that is, at point A16—that is fine, but I do not believe either of those two states want to accept that point. Indonesia has all along said that we have taken them to the cleaners, so they would want to renegotiate. I do not know if the issue has so far come up in the minister to minister situation. I would love to know, but I cannot get anything from Canberra as to what has taken place. I also believe that, as of last night, the 1997 treaty was still not ratified. To have an unratified treaty going for five to seven years really creates a lot of problems for implementing policy in those waters.

**Mr CIOBO**—Should we be looking at having the eastern boundary contracted?

**Dr Forbes**—Contracted to where?

**Mr CIOBO**—Contracted closer to the west.

**Dr Forbes**—Yes, absolutely; we should look to that. How the two other states would try to define it is another story because both sides are putting out different versions. The three states would need to sit down and talk about it before the Timor Sea Treaty is ratified. If we ratify it, I believe Indonesia will come in and try to create havoc with the treaty.

**Mr KING**—They may have a tough time doing that.

**Dr Forbes**—They may have a tough time.

**Mr KING**—We might just say no.

**Dr Forbes**—That is true. It is a tough time dealing with all these treaties; I understand that. You have to sit down and negotiate and negotiate. But those are just my concerns. There is a lot more writing for me to do each time something like this comes up.

**CHAIR**—Dr Forbes, you said earlier that this treaty seemed to have been entered into with undue haste. You are concerned about the 90-10 split—90 per cent to East Timor and 10 per cent to Australia. When East Timor separated from Indonesia, Australia entered into an agreement with UNTAET, then the Timor Sea Agreement, which had less than treaty status, and there is now the treaty, so this has been negotiated over a number of years, since 1999. We have now signed a treaty with East Timor with a 90-10 split on petroleum reserves: do you seriously suggest that Australia should now seek to renegotiate this treaty with East Timor?

**Dr Forbes**—I would suggest that we should renegotiate if Indonesia wants to renegotiate the 1997 treaty.

**CHAIR**—But once we have ratified?

**Dr Forbes**—Yes. Once we have ratified we have already put ourselves in it, much like we did with the Timor Gap Treaty. Once we ratified that it was up and running, but even then there were holes in it that we did not foresee. One of the biggest holes was fishing within the zone A area of the zone of cooperation. Many a person argued about this but still nothing was done. It is just fortunate that there has been no major incident where we have had Australian fishing boats being boarded by Indonesian authorities. I think both states did not know what was happening. We left the treaty because the oil and gas were up and running. That was fine and I could see that point of view.

**CHAIR**—The point of view that East Timor ought to be getting its share of revenues as a new nation?

**Dr Forbes**—Yes. I can see that and I fully accept it: we have to help them. But we did not look into all the other details such as the fisheries, for argument's sake. There may be other issues that have not cropped up as yet.

**CHAIR**—Thank you all for your time this morning. Mr Fraser and Mr Masters, I am glad you have had an opportunity to publicly air your concerns before a joint standing committee of the parliament. Mrs Kelly, thank you for attending; Dr Forbes, thank you also for your time this morning.

[11.22 a.m.]

**BRAND, Mrs Karen, Managing Counsel, Phillips Petroleum Co. Australia Pty Ltd**

**NAZROO, Mr Mike, Vice-President, Commercial, Phillips Petroleum Co. Australia Pty Ltd**

**CHAIR**—I welcome the witnesses from Phillips Petroleum. Before we start, I advise you that, although the committee does not require you to give evidence under oath, the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House of Representatives and the Senate. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. Do either of you wish to make some introductory remarks before we proceed to questions?

**Mr Nazroo**—Yes. I would like to take the opportunity to make an opening statement, and I thank the committee for allowing me to do so.

**CHAIR**—You can take it that we have read the submission that you have lodged with the secretariat.

**Mr Nazroo**—Having read the publicly available submissions to this committee, I was surprised by the view that this committee should not recommend ratification of the Timor Sea Treaty until the seabed boundaries between East Timor and Australia are settled. For me, this position is bewildering. The purpose of the treaty is to allow petroleum projects to proceed in an area while the boundary of dispute remains unresolved. Further, it flies in the face of its proponents' noble motives of wanting to ensure the economic viability of East Timor. As East Timor's Prime Minister Alkatiri said in the *Australian Financial Review* on 2 September, the reality is:

If the Australian Parliament does not approve the treaty, there will be nothing happening in the Timor Sea—just some competing claims under international law and a whole lot of uncertainty.

He continued:

In a fickle and oversupplied world gas market, that uncertainty might deter investment for decades to come, perhaps forever.

If investors are turned away from the Timor Sea ... tiny, poor East Timor will have lost perhaps its most promising chance to wean itself off donor assistance.

The East Timorese people desperately need the revenues that will flow soon after parliament approves the treaty. This treaty is not about delimitation of seabed boundaries, as the majority of the submissions would have us believe. Again, the entire purpose behind the treaty is to provide the certainty that petroleum developments need to proceed without prejudice to the seabed boundary negotiations. The treaty recognises this concept in article 2(b), which says:

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Nothing contained in this Arrangement and no acts taking place while this Arrangement is in force shall be interpreted as prejudicing or affecting East Timor's or Australia's position on rights relating to a seabed delimitation or their respective seabed entitlements.

Nothing could be clearer than this. The treaty before you, which will be in force until there is a permanent seabed delimitation between Australia and East Timor, is about enabling Australia and East Timor to jointly develop petroleum resources of one area of the seabed of the Timor Sea—the joint petroleum development area.

The Timor Sea is uniquely positioned to become a major regional energy province. The Bayu-Undan field, which my company and others are developing, will be the catalyst that makes this happen. Just over 30 years ago, ConocoPhillips and Ekofisk ventures helped turn the North Sea into one of the world's premier energy producing regions. We are now prepared to begin the same transformation in the Timor Sea. Bayu-Undan will be the region's first major gas development. It will be as significant to the future of the Timor Sea as ConocoPhillips's Ekofisk field was to the North Sea.

We discovered Ekofisk in 1969. Like Bayu-Undan, it was the first major discovery in a high potential, centrally located region. The Ekofisk discovery was a catalyst for ConocoPhillips to invest in a pioneering development program more than 200 miles off the coast of Norway. For other companies, it was the catalyst to step up exploration in the North Sea and, using our infrastructure, to develop new discoveries. The Ekofisk field established the North Sea as a major energy province and helped build a world-class service and supply industry. If we move together cooperatively, as developers and government, Bayu-Undan can do the same for the Timor Sea. Therefore, Australia has a very significant financial and strategic interest in seeing Bayu-Undan developed as soon as possible. It will help underwrite a secure and independent East Timor—a matter that Australia acknowledges to be of great strategic significance.

Additionally, Bayu-Undan will bring substantial benefits to Australia in its own right. It will generate some \$A2 billion in taxation and royalty revenue for the Australian government. It will see the development of a petrochemical complex in Darwin, and it also opens the possibility that gas from the Greater Sunrise field could be brought ashore. While this is an option that Phillips favours, this hearing is not the appropriate place to debate the merits of onshore gas versus FLNG. Bayu-Undan is fully commercialised and ready to go. The ratification of the treaty is essential to give us the legal framework and the certainty to confidently make the large capital investments necessary for the project to proceed. Our contractual obligations require us to begin construction within weeks to avoid substantial delay from the onset of the wet season in East Timor and the Northern Territory. There is no room for slippage if we are to have LNG produced in Darwin and ready to export to Tokyo in January 2006. If this opportunity is lost, the project and the revenues for Australia and East Timor are potentially also lost.

Timely ratification of the treaty is thus essential. Attempts by some submissions to delay ratification goes against what was agreed in the memorandum of understanding signed by Prime Minister Howard and Prime Minister Alkatiri concerning the international unitisation agreement for the Greater Sunrise field. That MOU states:

The conclusion of the Agreement is without prejudice to the early entry into force of the Treaty, and is without prejudice to the agreement recorded in paragraph 9 of the 20 May 2002 Exchange of Notes ... which states that the Treaty is suitable for immediate submission to their respective treaty approval processes and that the parties will work expeditiously and in good faith to satisfy their respective requirements for the entry into force of the Treaty.



Oxfam Community Aid Abroad No. 46 also raises the issue of East Timor's energy needs and says it would like to see the treaty guarantee East Timor inexpensive access to the Timor Sea gas. Phillips prides itself on being a responsible corporate citizen. I can reveal that, in an agreement struck with the government of East Timor, once the second phase of the project has been approved, LPG gas will be made available to replace imported diesel fuel for power generators. Phillips is committed to offering this at a concessional price, which we estimate will be worth some \$US20 million to East Timor over the next 20 years. Submissions of the Uniting Church in Australia Nos 34 and 34.1 say:

East Timorese non-governmental organizations (NGOs) have stated that revenues from oil and natural gas currently represent East Timor's greatest hope for meeting the East Timorese people's basic needs including economic development, health and education.

Dr Mari Alkatiri expressed this hope:

East Timor is soon set to gain petroleum revenues that can deliver the country from a poverty unimaginable to most Australians.

He also said:

Yet it is the Australian Parliament that will choose whether East Timor will be given this responsibility—or whether East Timor will, yet again, have to wait for true independence.

I have no doubt that Australia, having supported East Timor's political independence, understands the importance of Bayu-Undan for the economic independence of East Timor.

Your committee faces an urgent decision that will have dramatic impacts on the financial independence of East Timor and on the speed of economic development in Northern Australia. I urge the committee to recommend as soon as possible the ratification of the Timor Sea Treaty so that Phillips and its coventurers can proceed with this critical project for the mutual benefit of both countries as well as the developers. We do not want to risk the economic viability of this project with further delays. Help us create the catalyst now for a new premier energy producing region. I would like to thank you for the opportunity of addressing you today.

**CHAIR**—Thank you. Mrs Brand, do you have anything to add?

**Mrs Brand**—No.

**CHAIR**—Mr Nazroo, I want to take you first to the time frame in which we are considering this treaty. You said in your submission, and again, that to meet this January 2006 deadline the construction of a LNG plant must begin by November this year and that construction cannot begin without ratification of the Timor Sea Treaty. Is that the case?

**Mr Nazroo**—That is the case.

**CHAIR**—Obviously Phillips have entered into a number of contracts—you have a number of contractual obligations in relation to those that are already in existence.

**Mr Nazroo**—Do you mean construction contracts?

**CHAIR**—Contracts generally.

**Mr Nazroo**—The project is being developed in two phases. Right now we have the gas recycle phase being developed and, in fact, being constructed offshore. During that phase, we will produce hydrocarbons from the reservoirs. We will ‘strip off’ the gas and reinject that gas into the reservoir. Therefore, we will be producing and selling, effectively, oil and liquid petroleum gas. The second phase of the project, for which we need ratification of the treaty, is the LNG sale to Tokyo Electric and to Tokyo Gas. Without ratification of the treaty, those investments cannot be made.

**CHAIR**—Perhaps you could just take me through that. The first phase that you have completed or is under way has been pursuant to the exchange of notes that currently exist rather than being pursuant to a treaty. So presumably the exchange of notes gave you sufficient legal and fiscal security to proceed with phase 1?

**Mr Nazroo**—What has happened subsequently is that the exchange of notes and the MOU et cetera have carried over the old treaty with the exception of the revenue sharing, which is going to move to 90-10, which means that the project that we have is subject 90 per cent to the new East Timorese tax regime and 10 per cent to the Australian. The outcome of that has been that further development has become uneconomic without additional negotiations between our company and the East Timorese, as outlined in our submission.

**CHAIR**—That has taken place?

**Mr Nazroo**—That has happened. The understandings are mentioned in our submission. Without ratification of the treaty, the understandings will not become effective; therefore we will not have an economic project.

**CHAIR**—In other words—help me—it goes this way: if the treaty is ratified then the understandings come into play; therefore the tax regime treatment under the understandings will be enforced.

**Mr Nazroo**—Correct. And in addition, elements—for example, annex G of the treaty, which covers double taxation—will not be effective until the treaty is ratified.

**CHAIR**—So we are not only talking about East Timor’s development as a nation as a reason for pushing the ratification of this treaty, but it is also commercially important for Phillips, is it not?

**Mr Nazroo**—It is commercially important for Phillips.

**CHAIR**—And the joint venturers?

**Mr Nazroo**—Correct, the co-venturers. I submit it is also commercially important, if that is the correct term, for Australia. The LNG development will bring a lot of jobs into Northern Australia and will also provide an additional \$2 billion, I think, of revenues flowing to Australia as a result of the combination of the current project and the LNG project.



**CHAIR**—The current status of the agreement between East Timor and Australia is less than treaty status, but it is an exchange of notes and MOU. It would be possible for you to go to the second stage of construction but for the impact of the East Timorese tax regime that would come into play pursuant to the understandings. It would be possible for you to begin construction except for the tax implications.

**Mr Nazroo**—I would say the second part of the project is uneconomic without the certainty that would be provided by the ratification of the treaty.

**CHAIR**—Are there any other legal or fiscal security issues other than the taxation regime that are not present under the exchange of notes that you are reliant upon under a ratified treaty?

**Mr Nazroo**—No. The exchange of notes continues the existing regime and we started operating in Bayu-Undan under the existing regime. The change has been the change in the fiscal balance, which has rendered any further investments uneconomic.

**CHAIR**—Because of the tax regime?

**Mr Nazroo**—Because of the change in sharing and the fact that then the East Timorese tax will apply. So, without the ratification of the treaty, which will bring into force annex G which covers taxation and also the understandings, the additional investments cannot proceed.

**CHAIR**—Right. What was the East Timorese tax regime that was to be put in place that the subsequent agreements have altered? What was it and what is it proposed to be under the ratified treaty?

**Mr Nazroo**—It was the old Indonesian regime. I am afraid the details escape me, but I am sure we can provide them.

**CHAIR**—It is obviously a much higher tax rate. Have you any idea of how much higher we are talking about? I assume we are talking about 30 per cent corporate tax rate in Australia.

**Mrs Brand**—We are not tax people, but I think it is 46 per cent. It was the old Indonesian general tax rate.

**CHAIR**—So there is a substantial differentiation between the Australian corporate tax regime and the East Timorese?

**Mr Nazroo**—Yes.

**Mr WILKIE**—If the agreement is in place, you are not actually selling the gas until 2006, so you talking about putting infrastructure in place.

**Mr Nazroo**—Correct.

**Mr WILKIE**—So you are not actually going to be paying tax until you start selling it or producing it, are you? Why then does ratification have to occur before you actually commence

the work? I would have thought it would be preferable, but it is going to happen and it might just take a little bit longer than we would all like.

**CHAIR**—Do not pre-empt the committee!

**Mr WILKIE**—I am saying ‘may’, not ‘would’. I am just trying to get a grasp of why ratification has to occur, because obviously it will, I would think.

**Mr Nazroo**—I am glad to hear that!

**Mr WILKIE**—Also, you have the other agreements in place now—

**CHAIR**—I do not know on whose behalf he is giving the undertaking, Mr Nazroo. Take it as on behalf of the opposition!

**Mr Nazroo**—The committee will recognise that operating in the Timor Gap has been difficult and somewhat risky for the companies involved there. The Bayu-Undan was in effect committed, a few years ago now, almost on the basis of a handshake between four men, Mr Mulva, I think Mr Alkatiri, Mr Gusmao and Mr Horta. This was after the vote in East Timor which eventually brought independence. There was really no legal fiscal regime at that time. It has been very difficult for our companies to operate under those circumstances, and I can say it is not normal. We are talking about very substantial amounts of money: the pipeline will cost half a billion US dollars and the investments in Darwin will be another \$US1 billion. That does not include the investment our customers, Tokyo Electric and Tokyo Gas, will have to make in ships et cetera. There is an awful lot of money at stake and, given the history, our management have decreed at this stage that we will need to see the treaty ratified before those investments can proceed.

**Mr WILKIE**—Is that a requirement of the joint venture partners?

**Mr Nazroo**—Yes.

**CHAIR**—In terms of there being an imperative for ratification before proceeding, if Phillips were prepared to commence this project on a handshake and have entered into contracts and undertaken a substantial amount of work in investment to date based on the exchange of notes, is it not just the prospect of being subjected to East Timor’s tax regime that is driving your requirement that the treaty be ratified before taking further steps?

**Mr Nazroo**—There was a regime in place at the time the commitment to the Bayu-Undan gas recycle project was made, and that was a 50-50 regime. The negotiations subsequently moved that to the 90-10 regime, despite assurances that the contractors believed they had received that they would not be any worse off fiscally. That has turned out not to be the case. We have already had to go through one significant series of negotiations to allow the next stage of the project to go forward. Those are recorded in the understandings. Maybe it would not surprise you, given that history, that it is a requirement of our companies that the next stage of investments would require the treaty itself to be ratified so that the fiscal and legal certainty that we need when we operate in the Timor Gap is provided.

**Mr WILKIE**—Following on from that, if it is so important that the treaty be ratified to give certainty to Phillips, what is Phillips' argument to others who say that the unitisation agreement needs to be agreed to at the same time, to ensure that they have certainty over their projects?

**Mr Nazroo**—We do not argue that all investments out there will need certainty over their projects. We do not necessarily see that the international unitisation agreement needs to be explicitly linked to ratification of the treaty. In fact, we understood from the MOU that ratification of the treaty could proceed independently of the international unitisation agreement. I also understand that East Timor and Australia have given undertakings to each other to expeditiously proceed with the unitisation negotiations and, in fact, there have already been several meetings and progress has been made.

**CHAIR**—Could you complete the picture on the understandings agreements. In the submission, it was stated that the understandings agreement between East Timor and the Bayu-Undan participants was finalised in December 2001 and documentation was to be completed by the end of August. Has the understandings agreement now been completed? What are some of the general principles or issues that are covered in the understandings agreement?

**Mr Nazroo**—One of the major areas that we have to deal with is the new production sharing contracts. The old production sharing contracts under which we currently operate, which were entered into with the joint authority at the time—which was made up of Australia and Indonesia—will no longer be effective after the treaty is ratified. We are negotiating with the East Timorese and also, I think, with Australia new PSC contracts, which cover our relationship with a designated authority covering all our operations in East Timor in the Joint Petroleum Development Area. In addition, we are discussing with them some of the fiscal matters that arose out of the understanding and completing that work.

**CHAIR**—And the documentation has been completed?

**Mr Nazroo**—The documentation is close to completion. We should be meeting with the East Timorese in a couple of weeks and, hopefully, also with Australia and be close to finalising those documents.

**Mr KING**—As I understand it, you are comfortable with article 2, which leaves for further discussion the seabed claims and unitisation arrangements. Is that right?

**Mr Nazroo**—That is against the background of the undertakings that the East Timorese and Australians have given to each other regarding the negotiation of the International Unitisation Agreement, which I think is covered in the MOU and the exchange of notes.

**Mr KING**—Does the fact that Shell have objected to that same approach in relation to the Greater Sunrise field mean that they are not quite as advanced as you or they are more nervous or what?

**Mr Nazroo**—I think that all that means is that we have a difference of opinion.

**Mr KING**—I commend you for the \$13 million in associated projects on infrastructure and training, amongst other things, and also your very clear statement at the outset. Does that bring up the Madang Maritime College project that you mentioned, for the East Timorese seamen?

**Mr Nazroo**—I believe that is separate. We have about \$2 million that is currently being invested in training East Timorese. In our tendering process for works with our contractors, we require that the treaty provisions be applied, which gives preference to East Timorese, and we encourage tenderers to provide training where possible and jobs for the East Timorese. Madang is training that is currently happening. There is an additional \$US5 million which will be provided over the next 10 years or so for additional training in East Timor, subject to the LNG project going ahead.

**Mr KING**—Mention was made by one of the earlier witnesses about the higher level of training in marine matters that is offered by the AMC in Launceston. What is happening at Madang? Are you training seamen or are you training officers? What are you training there?

**Mr Nazroo**—I have been told that these would be people who are training to obtain their seaman grade 2 qualification. I presume that is not officer—

**CHAIR**—It is below master.

**Mr KING**—So in due course, if appropriate or skilled enough, they might go on and do other things?

**Mr Nazroo**—That is correct.

**Mr KING**—You mentioned the understandings agreement in December 2001. Are you able to briefly, without revealing commercial-in-confidence matters, tell us what the substantive issues are that are dealt with by that understandings agreement?

**Mr Nazroo**—Essentially, it is providing incentives to the companies to enable them to make an economic investment in the LNG part of the project.

**Mr KING**—Finally, you mentioned the occupational health and safety issues as encompassed in a comprehensive regulatory framework. The treaty's article 11 does not appear to address that issue in respect of non-Australian concerns. By concerns, I mean businesses. What steps are being taken in relation to that issue?

**Mr Nazroo**—As I understand it, the treaty states that, for occupational health and safety standards, the standards applied in the JPDA should be no less effective than those standards and procedures that would apply to persons employed in similar structures in Australia and East Timor. We require companies to abide by the law. We also require them to abide by our own health and safety standards. We operate a safety case system in the Timor Sea which is similar to the one operated in the UK. All of those standards and safety cases are discussed with the appropriate Australian representatives as well as the designated authority, as it is now.

**Mr KING**—To follow that up, assume that, for example, an amendment or protocol was proposed to article 11, as was suggested by one witness, to the effect of adding the words

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‘whichever is the superior’. Are we talking about any significant cost imposts in relation to your project or not?

**Mr Nazroo**—I do not know.

**Mr WILKIE**—If I could follow on from there, some of the other players in the area have advised that the occupational health and safety standards are world standard, which is probably in excess of what Australia would require. They probably would not object to a requirement that, where East Timor does not have legislation to do with occ health and safety, the Australian legislation could be the applicable legislation. I would be interested if you could look into that and advise the committee as to whether that would be a problem for Phillips.

**Mr Nazroo**—My immediate statement would be that Phillips operates under a number of different regimes worldwide. We apply world-class occupational health, safety and environmental standards wherever we operate, so I should not imagine that, if that was agreed between East Timor and Australia, that would cause us a problem.

**Mr KING**—I do not know much about it—and I should, I suppose—but is Phillips an American company, Dutch or what are you?

**Mrs Brand**—The Dutch Philips has one ‘l’.

**Mr Nazroo**—It is an American company. Phillips was founded in Oklahoma and headquartered in Bartlesville, which is a very small town in Oklahoma.

**Mr KING**—I must go there one day.

**Mr Nazroo**—You would not necessarily miss much if you did not.

**CHAIR**—You are on record, you know.

**Mr WILKIE**—We will make sure that does not go back to your company.

**CHAIR**—Scratch that from the record!

**Mr Nazroo**—I am a Londoner; I am allowed to say things like that. We recently merged with Conoco, and the new company is called ConocoPhillips and will be headquartered in Houston. That makes us the sixth largest oil and gas company in the world.

**Senator TCHEN**—Mr Nazroo, you will probably find that some of my questions have a touch of familiarity about them, because both the deputy chair and Mr King touched on aspects of them. I will first ask you about the urgency of this ratification. You argue that early ratification will give certainty to the development of Bayu-Undan to continue. In your submission you comment that the change in revenue shares from 50-50 to 90-10 has a significant impact on the participants in Bayu-Undan, making the project potentially uneconomical because of the much greater exposure to a higher tax rate in East Timor. Can I take it as a criticism of the acceptance of the 90-10 division or have you resolved that problem?

**Mr Nazroo**—I do not think you should take that as a criticism of the settlement reached between Australia and East Timor. This is a result of that settlement.

**CHAIR**—That is a tax consequence.

**Mr Nazroo**—It is a consequence. We have discussed that consequence with the East Timorese, they have understood our position, and we have now reached agreement through the understanding of a revised fiscal structure which will allow continued investment in Bayu-Undan, subject to the treaty being ratified.

**Senator TCHEN**—In that case, this question is probably irrelevant, but I am still curious: why would the change in revenue shares between the two countries have an impact on the economic planning of your company? It comes out of revenue. When there is no revenue, then there can be no impact. Secondly, the revenue, regardless of the tax structure, still comes from the same cake. Whether the cake is divided 50-50 or 90-10 should have no impact on your development.

**Mr Nazroo**—When the decision was made to go ahead with the development, the cake was divided 50-50.

**Senator TCHEN**—Yes. It is the same cake.

**Mr Nazroo**—That means that 50 per cent of it was taxed at Australian rates, at approximately 30 per cent, and 50 per cent was taxed at Indonesian rates, which is approximately 45 per cent. Subsequent to the agreement going to 90-10, we now find ourselves with 90 per cent of the revenue being taxed at something like 45 per cent.

**Senator TCHEN**—I looked up the article, and I was assuming—

**CHAIR**—Which article are you going to read from?

**Senator TCHEN**—Article 4 says:

Australia and East Timor shall have title to all petroleum produced in the JPDA ... ninety (90) percent shall belong to East Timor and ten (10) percent shall belong to Australia.

So I assume that, when the treaty talks about revenue, it talks about royalty rather than tax. Is my assumption incorrect?

**Mr Nazroo**—The simple way to think of it is that Australia has taxation rights over 10 per cent and East Timor has taxation rights over the remaining 90 per cent.

**Senator TCHEN**—Okay. So it is not a case of royalty but taxation.

**Mr Nazroo**—It is royalty and taxation.

**Senator TCHEN**—I would probably need a PhD in Economics to understand all that. Coming back to the question asked by the deputy chair, Mr Wilkie, you do not start until 2006 and none of this will be an issue until 2006. So what is the great urgency?

**Mr Nazroo**—The issue for us is that we are facing an investment to go to the next phase of \$US1½ billion—close to \$A3 billion—additional investment, which does not include the investment to be made by the buyers of the LNG and shipping et cetera. Given the long and sometimes difficult history that the project has had, the shareholders in the project—the companies investing in the project—require fiscal and legal certainty before they are prepared to make the next investment. You must understand that the original investment was made on the basis of 50-50, with a certain economic outcome for those investors. With the change, that economic outcome has altered to the detriment of the investors. We appreciate that we have been able to negotiate the understandings with the East Timorese which have now placed the project back onto an economic basis; nevertheless, the investors now require that the treaty be ratified so that the fiscal and the legal certainty is there to enable the project to continue.

Karen has made a good point, which I should pass on to you, that the facilities to make that LNG will take us some three years to start constructing. So, even though we do not see any revenues until 2006, we actually have a net outflow of money, which is that \$US1½ billion. Before we are willing to start making those commitments, we would like to see the treaty ratified.

**CHAIR**—I think the issue is encapsulated in article 5(b), where it points out:

... Australia and East Timor may, in accordance with their respective laws and the taxation code, impose taxes on their share of the revenue from petroleum activities in the JPDA ...

So, when the change from 50-50 to 90-10 was agreed, that article kicked in to ensure that you would be paying East Timorese tax rates on 90 per cent of the petroleum activities.

**Mr Nazroo**—That is correct.

**Senator TCHEN**—I am very impressed with the generosity of Phillips in switching over from a 30 per cent tax rate to a 46 per cent tax rate. Mr Nazroo, I know that you diplomatically avoided answering Mr King's question, but is it fair to assume that your Greater Sunrise partners—the consortium involved—are not under the same time pressure in terms of further investment?

**Mr Nazroo**—It is correct that the Sunrise venturers have not yet taken a decision on how to develop Sunrise. However, I believe that we are fairly close to being able to take that decision. We do not disagree with the venturer's requirements for fiscal stability or the need for an international unitisation agreement. We completely support that position. If there is a point of disagreement between us, it is simply that we do not see that it is necessary to explicitly link ratification of the treaty with the international unitisation agreement. The reason we say that is the undertakings that have been given by Australia and East Timor to each other in the exchange of notes and the MOU.

**Senator TCHEN**—Madam Chair, do we have time for me to ask Mr Nazroo about the proposed LNG processing plant?

**CHAIR**—Just keep the question short because we do have a time constraint.

**Senator TCHEN**—Previously Mr Nazroo said that, in the interests of time, he was not going to go into that. If we do not have time, then I do not want to go into it.

**CHAIR**—You can raise the question, but just keep it short.

**Senator TCHEN**—Mr Nazroo, can you talk to us, in a few sentences, about this proposed LNG processing plant in Darwin. How developed is the plan for this?

**Mr Nazroo**—The design and engineering work for the LNG plant in Darwin for the Bayu-Undan project is well advanced. We would be hoping to get onto the site in Darwin, which is at Wickham Point, in November to start the groundwork for construction.

**Senator TCHEN**—Would the development of this plant provide any flow-on benefits for the future development of Greater Sunrise? I know that there is a debate about whether the processing plants for Greater Sunrise should be brought onshore or whether they should be floating processing plants. Do you have the capacity to actually extend your plant for this Bayu-Undan project to take on the overflow from Greater Sunrise?

**Mr Nazroo**—No, this plant has been designed specifically for the Bayu project. It is a three million tonne plant.

**Mr WILKIE**—I think the senator is talking about the pipeline. Would the pipeline be able to carry the gas onshore from Sunrise?

**Mr Nazroo**—The plant has been designed for Bayu-Undan and the pipeline itself has also been designed for Bayu-Undan. Should the Sunrise venturers ultimately decide to bring their gas to the beach, it is conceivable that the pipeline could be made bigger, but there is a very tight time line and I am not sure if that is practically possible.

**Senator TCHEN**—What is the likelihood of Bayu-Undan becoming an Australian market supplier?

**Mr Nazroo**—The reserves from Bayu-Undan have been committed 100 per cent to Tokyo Electric and Tokyo Gas. So the answer to that is that Bayu-Undan will not be supplying the Australian market.

**Mr CIOBO**—I have a couple of very quick points that I want to clarify. Leaving aside the certainty aspect for the moment, to the extent that we can separate the two, would it be fair to say that from Phillips' perspective 50-50 is a better economic outcome for the company than 90-10?

**Mr Nazroo**—Before or after our understandings?



**Mr CIOBO**—Well, (a) before; and (b) after.

**Mr Nazroo**—We now have an economic project and we would have had an economic project before. We now have an economic project, so I think the question does not arrive. It is not one that I have thought about.

**Mr CIOBO**—So, from your perspective, the only issue is certainty?

**Mr Nazroo**—Correct.

**Mr CIOBO**—That was going to lead to my second question, which was: from your perspective, if there was a renegotiation between the parties, that possibly would provide more upside for the people of Australia through a renegotiation of the 90-10 model, saying that was going to happen. I am interested in receiving your comments in respect of that gamble also being of benefit to Phillips, but I take it from your response that that is no longer an issue.

**Mr Nazroo**—I think the impact of a renegotiation of the treaty would inevitably be that we would lose the project, because of the certainty. I am quite sure that a renegotiation of the treaty would take some time.

**Mr CIOBO**—With respect to employment, was I correct in hearing you say there are 1,200 employees, direct and indirect?

**Mr Nazroo**—No, there are 1,200 employees in Darwin during the construction phase of the LNG project. There would be another 100 direct jobs during the operation phase, which would be permanent jobs for 20 years or more. I have seen multiplier effects of three to five. So, if we take those 100 jobs, there may be another 300 to 500 indirect jobs being created.

**CHAIR**—On that, the treaty contains an employment preference clause in favour of East Timorese. Does Phillips see any benefit in extending that clause to include Australian nationals—an employment preference for Australian nationals and East Timorese nationals?

**Mr Nazroo**—I think the best way for me to answer that is to give you some information about the practical consequences rather than comment as to whether or not that was a reasonable agreement.

**CHAIR**—I think that would be useful.

**Mr Nazroo**—On a practical basis, the drilling rig has maybe 70 or so people on it and 50 of those are Australians. There are three supply ships running out to keep the rig supplied. There is another ship or barge supplying the construction phase. During the operations phase, I would imagine that most of the operators would be—and we are—recruiting locally for all the offshore operations. There will be some expatriate labour, no doubt, but as far as possible we are recruiting locally. The design work is being done here in Perth. Two-and-a-half-million man-hours have been spent here in Perth during the design of work and during the construction phase. In other words, you cannot just count the people on a construction barge when you look at a project like this. Phillips will be headquartered here in Perth. Maybe the greater bulk of the employment opportunities from this project will be going to Australians.

**CHAIR**—You heard the evidence of the representative from the Australian Maritime Officers Union in relation to the work force. Could you comment on whether or not the employment preference clause of the previous Timor Gap treaty, which was a preference for Australians and Indonesians, encumbered development in any way?

**Mr Nazroo**—I do not believe it encumbered it. We have had a change and we operate according to the change. I would not want to see Australia and East Timor start to renegotiate elements of the treaty simply because of the impact on the treaty timing and therefore the impact on further investment and development in the Timor Sea, whether that be for Bayu-Undan or Sunrise.

**CHAIR**—You are saying for all practical purposes.

**Mr Nazroo**—As a practical matter, I think there has not really been any significant change in employment prospects for Australians.

**CHAIR**—So you are saying there are still significant employment prospects for Australian workers if you take the project as a whole.

**Mr Nazroo**—Correct.

**Mr WILKIE**—You mentioned Oklahoma. Now that you are going to be based in Perth, what do you think of that? It is okay; I am stirring.

**Mr Nazroo**—I come from London, and I like Perth. I would rather be in Perth than in Bartlesville.

**CHAIR**—That is a very good note on which to finish this morning's evidence. Mr Nazroo and Mrs Brand, thank you very much for the submission, which we appreciated receiving, and for taking the time to present today and give evidence to us. We appreciate that very much.

**Mr Nazroo**—Thank you, Chair and members of the committee, for giving me the opportunity to present to you.

Resolved (on motion by **Mr Wilkie**, seconded by **Mr Ciobo**):

That this committee receives one document from the Australian Maritime Officers Union, the *Australian offshore support vessel code of safe working practice*, and a photograph produced by the Kimberley Fishermen's Association.

Resolved (on motion by **Mr Wilkie**, seconded by **Mr Ciobo**):

That submissions as per the attached list be received as evidence and authorised for public release.

Resolved (on motion by **Mr Wilkie**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

**Committee adjourned at 12.18 p.m.**

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