



COMMONWEALTH OF AUSTRALIA

SENATE

Hansard

MONDAY, 29 JULY 2019

CORRECTIONS

This is a **PROOF ISSUE**. Senators may suggest corrections to their own speeches within 15 non-sitting days by contacting the Hansard office

BY AUTHORITY OF THE SENATE

PROOF

Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019
Passenger Movement Charge Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019
Treasury Laws Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019

First Reading

Bills received from the House of Representatives.

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (12:16): I move:
That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Senator PAYNE: by leave—I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Treasury Laws Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019, allowing it to be considered during this period of sittings.

I table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated in *Hansard*.

Leave granted.

The statement read as follows—

Purpose of the Bill

The purpose of the bill is to amend Australia's tax laws to enable the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea, which was signed by Australia and Timor-Leste on 6 March 2018, to enter into force. The legislative amendments will provide that the taxation arrangements of existing oil and gas fields affected by the Treaty continue under conditions equivalent to current arrangements.

Reasons for Urgency

Introduction and passage of legislation in the same sitting is required to enable the Treaty to enter into force. If passage of legislation is delayed this could risk Australia's international reputation, particularly if the Timorese Government ratifies the Treaty and Australia has not done so. The commercial operators of the affected oil and gas fields may also criticise the Australian Government for the delay and uncertainty around the taxation arrangements.

Question agreed to.

Second Reading

Senator PAYNE (New South Wales—Minister for Foreign Affairs and Minister for Women) (12:18): I present the revised explanatory memoranda and I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in *Hansard*.

Leave granted.

The speeches read as follows—

TIMOR SEA MARITIME BOUNDARIES TREATY CONSEQUENTIAL AMENDMENTS BILL 2019

The Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019 gives effect to the majority of the 2018 *Treaty between Australia and the Democratic Republic of Timor-Leste Establishing Their Maritime Boundaries in the Timor Sea*. The Treaty is an historic achievement for Australia and Timor-Leste and its implementation is firmly in Australia's national interest. In introducing this bill, the Government recognises the significance of this year, 2019, to the Timorese people. This year marks the twentieth anniversary of the Popular Consultation that led to Timor-Leste's independence, and the beginning of our close security and development partnership.

The Treaty will replace the *Timor Sea Treaty between the Government of East Timor and the Government of Australia*, which established the Joint Petroleum Development Area, and the *Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste relating to the Unitisation of the Sunrise and Troubadour Fields*.

Through this Treaty, Australia and Timor-Leste have settled a long-running dispute over our maritime boundaries, agreed upon a pathway for the development of Greater Sunrise and laid the foundation for a new chapter in our bilateral relations. The Treaty also provides for transitional arrangements to deliver stability and certainty for companies with operations in the Timor Sea; the express purpose being to ensure these companies can continue operations under conditions or terms equivalent to existing arrangements. Although additional taxation legislation is required to give effect to the agreed transitional arrangements, the Australian Government wants to progress this Bill now to demonstrate Australia's commitment to implementing the Treaty. The remaining legislation will be introduced as soon as possible.

The Treaty is a landmark for international law and the rules based order. It is the result of the first ever compulsory conciliation under the 1982 United Nations Convention on the Law of the Sea.

Australia and Timor-Leste demonstrated goodwill and preparedness to compromise during negotiations. Both countries, and the independent conciliation commission, recognise the outcome was fair, balanced and consistent with international law.

The Bill proposes to give effect to the Treaty by repealing parts of the *Petroleum (Timor Sea Treaty) Act 2003* and transitioning the area of current joint administration known as the Joint Petroleum Development Area in recognition of Timor-Leste's sovereign jurisdiction. The *Seas and Submerged Lands Act 1973* is also amended to establish and define the Greater Sunrise Special Regime Area as an area over which Australia will exercise its rights as a coastal state jointly with Timor-Leste.

This Bill also implements the arrangements for the regulation of petroleum pipelines in areas of foreign continental shelf jurisdiction consistent with the terms of the Treaty by providing for two new 'international offshore areas' for the purposes of the Bayu-Undan pipeline corridor and a potential Greater Sunrise pipeline corridor. The Bill further provides for amendments to affected offshore petroleum titles as a consequence of the Treaty. Necessary consequential amendments to give effect to all of these elements are made to other legislation by this Bill.

This Bill repeals provisions that gave effect to the superseded Timor Sea Treaty and International Unitisation Agreement, and amends the scheduled areas for the offshore areas of Western Australia, the Northern Territory, and the Territory of Ashmore and Cartier Islands affected by the maritime boundary.

This Bill alters particular offshore petroleum permits and licences which adjoined the western side of the Joint Petroleum Development Area. The effect is to reflect that portions of Australia's continental shelf under titles held by certain Australian titleholders will transition to the continental shelf of Timor-Leste upon entry into force of the Treaty. A consequence of this transition has also seen elements of exploration permit work programs transferred to new Timor-Leste production sharing contracts as agreed in the parallel transitional arrangements negotiations.

This Bill gives effect to the Greater Sunrise Special Regime Area, established by Annex B of the Treaty. The purpose of the Greater Sunrise Special Regime is to facilitate the joint development, exploitation and management of petroleum activities in the Greater Sunrise gas fields.

This Bill establishes the legal infrastructure required for the regulation of Greater Sunrise to be transitioned to a Designated Authority that will act on behalf of Australia and Timor-Leste.

This Designated Authority will, subject to the approval of the Governance Board for the Greater Sunrise Special Regime, enter into the Greater Sunrise Production Sharing Contract with the Greater Sunrise Contractor. This will be done as soon as practicable following entry into force of the Treaty and under conditions equivalent to the relevant production sharing contracts, and to the legal rights held under the applicable retention leases currently in place in accordance with Article 22 of the Timor Sea Treaty and Article 27 of the International Unitisation Agreement.

This Bill also maintains and incorporates the Eastern Greater Sunrise Offshore Area into the Northern Territory offshore area, to ensure the Australian retention leases in the Eastern Greater Sunrise Offshore Area continue uninterrupted until such time as the Greater Sunrise Production Sharing Contract commences. The *Offshore Petroleum and Greenhouse Gas Storage Act 2006* will continue to apply to these retention leases during this period.

Overall, this Bill fundamentally demonstrates Australia's commitment to a robust, mutually beneficial bilateral relationship with Timor-Leste specifically, and to international law and the rules based order more generally. This Bill lays the foundation for a stronger relationship with Timor-Leste and creates a pathway for the development of Greater Sunrise, the economic benefits of which will be significant, particularly for Timor-Leste.

I commend this Bill to the Chamber.

PASSENGER MOVEMENT CHARGE AMENDMENT (TIMOR SEA MARITIME BOUNDARIES TREATY) BILL
2019

The Passenger Movement Charge Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019 complements the Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019.

This Bill amends the *Passenger Movement Charge Act 1978* by replicating the imposition of the passenger movement charge in relation to journeys to an installation in the Special Regime Area.

This package of Bills gives partial effect to the 2018 *Treaty Between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea*.

I commend this Bill to the Chamber.

TREASURY LAWS AMENDMENT (TIMOR SEA MARITIME BOUNDARIES TREATY) BILL 2019

This Bill gives effect to the tax arrangements required to support the entry into force of the *Treaty Between Australia and the Democratic Republic of Timor-Leste Establishing Their Maritime Boundaries in the Timor Sea* (the Treaty).

The Treaty was signed on 6 March 2018 and is a historic agreement for Australia and Timor-Leste. The Treaty establishes permanent maritime boundaries between our two countries and lays the foundation for a new chapter in our relationship with one of our closest neighbours.

The Treaty provides benefits for both countries. The Government recognises its significance for Timor-Leste and as Timor-Leste's leading economic partner we are committed to supporting Timor-Leste's economic development.

Under the Treaty, certain oil and gas fields in the Timor Sea will transition from joint Australian and Timor-Leste jurisdiction or exclusive Australian jurisdiction, to Timor-Leste's exclusive jurisdiction.

This Bill fulfils Australia's taxation-related obligations under the Treaty and provides certainty and security for those affected companies carrying out offshore petroleum operations in the Timor Sea.

This Bill ensures that taxation arrangements applying to these transitioned petroleum activities will continue in accordance with Annex D to the Treaty, which sets out the transitional arrangements for the Treaty coming into force.

This establishes a stable framework for resource development in the Timor Sea and provides Timor-Leste with new opportunities for income and continued resource development. It will also strengthen our bilateral relationship with Timor-Leste into the future.

The tax amendments contained in the Bill have been prepared with substantial consultation with Timor-Leste and the affected companies.

Full details of the amendments are contained in the Explanatory Memorandum.

Senator STERLE (Western Australia) (12:18): I rise to make my contribution to the Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019 and associated bills. Just for a bit of background, the Timor Sea Maritime Boundaries Treaty gives effect to a treaty between Australia and our very close neighbour Timor-Leste, recognising extended maritime boundaries for Timor-Leste and making new arrangements for petroleum development and revenues. This one supersedes arrangements made between Timor-Leste and Australia under the Timor Sea Treaty of 2013 and joint arrangements at Timor Gap for the purposes of petroleum development, which is called the JPDA—the joint petroleum development area.

In the new treaty, petroleum rights move from jointly Australia and Timor-Leste to exclusively Timor-Leste, except in the case of the special regime area. The treaty creates a special regime area across the gas fields known as Sunrise and Troubadour. This is with its own governance and regulatory authority that includes the protection of current Australian petroleum activities. The Greater Sunrise special regime area is a joint venture between Timor-Leste and Australia. Two international areas will be implemented for gas pipeline corridors, and the

passenger movement charge amendment bill establishes that there will be no changes to exemptions that apply to the movement of people between our two countries.

The government will also introduce legislation to amend the taxation arrangements for companies that operate projects covered by the treaty. As part of the 2018 treaty, Australia provided that no Australian company will be worse off because of the treaty and the legislation—that commercial operators will continue on conditions or terms equivalent, which is very important. This legislation has not yet been introduced, but the government has shared an exposure draft with us and has provided a departmental briefing. They have indicated that we will need to pass the bill in this sitting period to ratify the treaty, which we're doing now. Currently projects in the Joint Petroleum Development Area are subject to an Australian income tax on 10 per cent of the income and to Timorese tax on the remaining 90 per cent. The Buffalo oilfield project is entirely within Australia's tax jurisdiction. Under the 2018 treaty this income will be entirely within the Timorese jurisdiction, and I think that's good news for the Timorese.

Due to this transition, projects will cease to have Australian assessable income. As such, they may no longer be able to claim deductions for depreciating assets they had invested in. Equivalent deductions are not available under the Timorese income tax system. Similarly, they may not be able to make other deductions or carry forward tax losses. To meet the requirement that these companies would not be worse off, this bill will allow these projects to continue to claim deductions. Any future investments after the entry into force of the 2018 treaty will not be deductible in Australia.

Labor warmly welcomed the signing of the historic treaty in March 2018 between Australia and Timor-Leste, establishing their maritime boundaries in the Timor Sea. The treaty brings to an end more than 40 years of uncertainty over our shared maritime border and vindicates the strong position taken by Labor to take decisive steps to settle our dispute with our neighbour, Timor-Leste. Labor believes that the maritime boundary dispute with Timor-Leste seriously strained our bilateral relations and that it was in the national interests of both Australia and our dear neighbour to resolve this dispute. We are therefore very pleased that this treaty is the first ever to be achieved by conciliation under the United Nations Convention on the Law of the Sea.

Australia and Timor-Leste have agreed that from the date the treaty enters into force—hopefully very soon—Timor-Leste will receive all future upstream revenue derived from petroleum activities from the Kitan oilfield and the Bayu-Undan gas field. Previously both Australia and Timor-Leste received benefits from the revenue derived from petroleum activities in the JPDA, including these two fields. As I said, in addition Australia and Timor-Leste have agreed that the Buffalo oilfield, which previously fell within the continental shelf of Australia, will now fall within the continental shelf of Timor-Leste and that Timor-Leste will receive all future revenue from that oilfield—very good news. The development of the Greater Sunrise fields is expected to yield significant revenue over the life of that project. The divergent revenue estimate of \$2 billion to \$8 billion is dependent on the terms of the development concept that is still to be agreed, and we're working our way through with Timor-Leste and the Greater Sunrise Joint Venture for the development of the Greater Sunrise fields. The exact financial benefit to Australia will depend upon a range of factors, including this concept as well as the economics of the project and prevailing market prices for oil and gas.

This treaty will give Timor enormous amounts of revenue—probably more than we ever give in foreign aid, and that's no mean statement. It will give them a new source of independence. It is very, very good news for Timor-Leste, and it's very good news for us, because what we are doing today is honouring what we say about our own approach to the international community—our approach to social justice and our approach to fairness and equality. It's exactly where Australia should be, and we can all collectively be proud of where we've landed with the consideration of these bills. The Senate should note that in the previous parliament these bills were referred to committee, and evidence was provided that the length of time required for a treaty, which recognised Timor-Leste's claims to be negotiated and signed, had, in some quarters, seriously undermined Australia's international standing.

It is important that Australia is recognised as a trusted partner with its closest neighbours. The Australian government has had six years to work on the treaty, and now there is timing pressure to pass the bill before the parliament to allow the treaty to come into effect by the 20th anniversary of the Timor-Leste Popular Consultation on 30 August 2019. The treaty enforcement marks 20 years since Popular Consultation, on 30 August 1990, that led to Timor-Leste's independence.

The government has also introduced a tax amendment to the treaty bill that ensures no Australian company will be worse off. That's because that's the best thing that needs to be done with this treaty. The treaty demonstrates Australia's commitment to international law and rules, Australia's intention to have robust bilateral relations with Timor-Leste and, seriously, to get the Greater Sunrise gas field developed.

I commend the legislation to the Senate. It really is a fantastic time for the prosperity of the Timor-Leste people and I wish them all the very best.

Senator DI NATALE (Victoria—Leader of the Australian Greens) (12:26): I rise to speak on the Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019 and related bills. The Greens want to see this bill passed as soon as possible. It is our view that the Timor Sea Maritime Boundaries Treaty must be ratified without further delay, and the passage of these bills is critical to that.

The people of Timor-Leste have been waiting long enough to finally settle with Australia the borders of their nation. They have been waiting long enough for justice. I'd like to think that the ratification of the Timor Sea Maritime Boundaries Treaty signals the beginning of a new and positive bilateral relationship between our two countries, but if that is to happen we must also reflect on, acknowledge and apologise for the wrongs of the past. Prior to the negotiation of this treaty, Australia's behaviour in its relationship with Timor-Leste has been a textbook lesson in how to squander the goodwill of a neighbour and good friend.

At the time of Timor-Leste's independence, despite a vexed history, Australia came to Timor's aid. We organised and led the International Force East Timor after their overwhelming vote for independence led to a spiral of violence and the death and displacement of countless Timorese. Ordinary Australians were appalled by the violence that occurred there after the referendum and many contributed financially to humanitarian efforts. Indeed, I was privileged to be able to witness this firsthand.

When thousands of East Timorese were evacuated to Darwin, I flew up to Darwin and helped with the assessment, triage and processing of these East Timorese refugees. I'll never forget the look on some of those people's faces, people who were malnourished, many of them hiding in the hills, scared for their lives, some of them sick, all of them deeply traumatised. They were men, women and children who had been through the most horrific period that that nation has endured.

That experience was just one of many thousands of examples of Australians helping their Timorese neighbours as Timor was born a nation. Sadly, that moment in Australia's history, that support we gave to Timor-Leste as their nation was born, is a bright spot in what has been a very dark and troubled history. We know that in the 1970s Gough Whitlam, then the Prime Minister, assented to Indonesian President Suharto's plan to occupy what was then Portuguese Timor. We failed to investigate and hold anyone to account as Australian journalists, the Balibo Five, were murdered by Indonesian security forces, in Timor, in 1975. Indeed, subsequent to the Whitlam prime ministership, according to author Clinton Fernandes, the governments of Malcolm Fraser, Bob Hawke and Paul Keating all cooperated with the Indonesian military and President Suharto to obscure details about conditions in Timor-Leste and to preserve Indonesian control of the region. It seems that, while we may have had some sympathy for the plight of the East Timorese, the relationship with Indonesia was something that would be maintained at all costs.

Now, if that wasn't bad enough, subsequent to Timor-Leste's independence Australia spent much of the next decade undermining our newest neighbour. For the first two decades of this century, successive Australian governments have behaved in reprehensible way in our maritime boundary dispute with Timor-Leste. These negotiations weren't conducted in good faith. They were more interested in Australia's self-interest than in securing a fair and just outcome. We withdrew recognition of international maritime boundaries, taking billions of dollars of resource revenue that we now agree is not ours and that was taken from Timor in contravention of international legal principles.

Perhaps most shockingly, we spied on East Timor during negotiations, under the guise of an AusAID project. That illegal and unethical spying operation was of course exposed by whistleblower Witness K, who, along with his lawyer, Bernard Collaery, is facing ongoing prosecution from the Australian government. Journalist Bernard Keane has referred to the Witness K prosecution as 'the biggest national security story in a generation'. It's hard to argue with that. In his words, it's 'the ongoing cover-up of a crime committed by the Howard government to help a major Australian company, exposed by two patriots with decades of service to Australia'. Just think about that: two brave individuals interested in decency, in supporting transparency and in ensuring that justice is done are now being prosecuted by the Australian government. And it was our foreign minister at the time, Alexander Downer, who ordered this illegal spying operation to the benefit of Australian companies, like the fossil fuel behemoth, Woodside. It should surprise no-one that Mr Downer went to work for Woodside as a consultant after leaving office.

The government's treatment of Witness K and his lawyer is yet another example of Australia inching towards a police state, something that's being enabled by what is a bipartisan consensus that, somehow, if something is called 'national security legislation' it doesn't deserve proper scrutiny. Well, that is failing us. It's failing us big time. We need more transparency. We need to open up national security legislation to all members of this

chamber, not to engage in closed inquiries where evidence is given under the cloak of darkness and where draconian laws are signed off on by both the Liberal Party and the Labor Party without any opportunity to question or scrutinise the evidence that has been provided.

When you live in a democracy that spends years prosecuting a whistleblower who exposed illegal spying activity on a much less powerful neighbour and friend during oil negotiations, you know that something is rotten. Once again the Greens urge and implore the government to drop its prosecution of Witness K and his lawyer, Bernard Collaery.

While we welcome the impending ratification of this treaty, we are disappointed that it includes restrictions that prevent Timor from seeking compensation for its loss of revenue—something that effectively amounts to theft. The Australian government could return this stolen money. As Timor-Leste civil society organisation La'o Hamutuk notes in its submission to the JSCOT inquiry, Australia should follow through on the principles and values that the treaty promotes and inspires, like cooperation and friendship, and give back the revenue that we took. Sadly, I'm not holding my breath.

Let me finish by making a heartfelt apology to the people of Timor-Leste for the behaviour of past and current Australian governments. We have ignored you when you needed us most. We have used our might against a small emerging nation to pressure you into accepting unfair deals, even when the revenue from those resources that are rightly yours would have helped you find your feet and lift you out of poverty. As the Uniting Church points out in its submission, this is funding that could have been used to provide schools, health clinics, age care and support for people with disabilities. Having visited East Timor and seen the urgent health needs in that country, the lack of infrastructure and the lack of basic transport infrastructure, that funding could have been used to help that nation develop much more quickly, to lift people out of poverty, to get access to decent health care and for young people to get access to an education. No, the Australian government came to the negotiating table many years too late, after many of the resources in the contested area—resources that rightly belong to you—had already been drained. So to the people of Timor-Leste: on behalf of the Australian Greens, I say sorry. May the ratification of this treaty open up a new chapter in both of our nations' histories. We can and must do better.

On that note, I move:

At the end of the motion, add:

", but the Senate, in welcoming the ratification of the Timor Sea Maritime Boundaries Treaty, calls upon the Government to apologise to the people of Timor-Leste for the unscrupulous behaviour of successive Australian governments including illegal and unethical spying operations."

Senator WONG (South Australia—Leader of the Opposition in the Senate) (12:37): I want to speak briefly on the Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019 and related bills, which I'm very pleased has made its way now to the Senate—not before time, but it is good that it has now been finalised.

In March 2018, when this treaty was signed, we warmly welcomed it. I made the point at the time that the treaty brought to an end some 40 years of uncertainty over the shared maritime border. I also wish to make the point today that it confirms the strong position taken by the Australian Labor Party to take decisive steps to settle our dispute with Timor-Leste. As has previously been said by Senator Sterle in this debate, but does reflect the public comments both I and Tanya Plibersek have made previously, this was a boundary dispute which strained our bilateral relationship. It was also a dispute which I think was handled in a way that, for some time by the coalition, was not consistent with Australia's principled position and interest based position of support for rules based international order. It was in our national interest to resolve this boundary dispute, just as it was in the interest of Timor-Leste.

I understand this is the first treaty to be achieved by conciliation under the UN Convention on the Law of the Sea, so that is an achievement. It is reassuring that, at a time where longstanding international norms are under pressure, Australia and one of our key regional partners have been able to achieve a treaty that both affirms and advances the rules based international system. If Australia wishes to advocate that other nations play by the rules then so too must we.

The date 30 August marks 20 years since the Popular Consultation that led to Timor-Leste's independence. The lead-up to that event, and Australia's involvement in it, is something which Australians are proud of. Many Australians feel a great affection for Timor-Leste and support its aspirations. I welcome the fact that the legislation will enable the ratification of the treaty. It is vital to the economic future of Timor-Leste. And I welcome the fact that we are doing so in time for the important 20-year anniversary. I know that the parliament of Timor-Leste recently passed the enabling legislation to enable that time frame to be met.

I do want to acknowledge everyone whose hard work has got us to this point. I want to acknowledge the many officials, including from the Department of Foreign Affairs and Trade, for their work on this. I want to

acknowledge the work of my predecessor in this portfolio, the member for Sydney, Tanya Plibersek. In February 2016 Ms Plibersek as shadow foreign minister committed Labor to working towards reaching a binding international resolution with Timor-Leste in relation to the maritime boundaries. We were the first party of government to do so. It was very disappointing at the time that that announcement and that position that Labor articulated were met with dismissiveness by some in the coalition, particularly Ms Bishop, and criticism. I'm pleased that that attitude did not continue and that the coalition eventually shifted its position to that which was articulated by the Labor Party.

I'd also make the point that, for Labor people in particular and for many other Australians, the relationship is one of great matter. Both Tanya Plibersek and I visited Timor-Leste over the last two terms in opposition—Ms Plibersek in 2015 and I in 2017. I do remember some very long conversations with Xanana Gusmao about this issue, and I'm pleased that Timor-Leste was able to come to a negotiated agreement on the boundaries. It was disappointing also—and I'm pleased that this has now been resolved—that, for half a decade, the coalition had no government minister visit Timor-Leste. I think Ms Bishop visited in 2018.

Having said all that, Timor-Leste is an important partner in the region. We have a particular relationship because of our role in supporting Timor-Leste through the Popular Consultation leading to independence. We do have a great many Australians who want to continue supporting Timor-Leste, as I do and as Australian Labor does, not only through these arrangements but also in its aspirations to greater economic strength and greater economic development, and we hope that the ratification of this treaty enables a key pathway to that economic independence.

Senator McCARTHY (Northern Territory—Deputy Opposition Whip in the Senate) (12:42): I rise to put on the record the importance of the relationship with East Timor and, in particular, the many East Timorese residents that we have across the Northern Territory. One of the first things I had to do with the East Timorese was when many families were evacuated because of the Dili massacre. It was an opportunity, I think, for the people of the Northern Territory—and I just want put this on the record for the Senate—because the relationship that we have in the north is enormously critical to the way we behave as a parliament in terms of our relationship with the East Timorese parliament. So it gives me great pleasure to speak on and support these Timor Sea maritime boundaries bills.

The Northern Territory has a longstanding and close relationship with East Timor. The Territory represents more than 30 per cent of the total Australian trade with Timor-Leste.

The city of Darwin has had an active sister city relationship with Dili since 2003. This is bolstered by strong sporting and cultural links between the Northern Territory and Timor-Leste, with the Northern Territory government consistently supporting mutually beneficial Timorese sporting initiatives.

Australia works with the government and the people of Timor-Leste to support their priorities and their programs. We assist in three strategic areas: the economy; people; and society. Across all programs, we prioritise improving nutrition, empowering women and girls, and supporting disability inclusive development.

The Northern Territory has recently signed a strategic partnership agreement with East Timor. Again, we do this because we acknowledge the wonderful relationship that we have with so many families who call the Northern Territory home.

The Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019 gives effect to a treaty between Australia and Timor-Leste, recognising extended maritime boundaries for Timor-Leste and making new arrangements for petroleum development and revenues.

I've been fortunate to go to Dili on quite a number of occasions to work with the Working Women's Centre Timor-Leste. That's another important relationship, again, highlighting how the growth and maturity of East Timor and the importance of their reserves and resources filter through the economy and the population to the people. I think it was in 2010 or 2011 when I was in Dili—I'll have to correct the record if I've got that date wrong—and I was actually with the then senator of the Northern Territory, Senator Trish Crossin. Part of that relationship in going to Timor-Leste was to ensure that the women of East Timor could have a voice, a very strong voice, about their relationship with their parliament, and with other parliaments around the world, about matters that impact the women of East Timor.

One of the big issues at that time was employment and the need for more resourcing for families, for businesses and for the future of a country that even then was still struggling with the infancy of its own governance and direction. So, I want to put on the record the importance of the bills at hand and the importance of East Timor to the relationship of not only the Northern Territory but Australia.

Senator McKIM (Tasmania) (12:48): The Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019 and related bills before the Senate today give effect to the Timor Sea Maritime Boundaries

Treaty which was signed on 26 March 2018, almost a year and five months ago. After an inexplicably and inexcusably long delay, these bills are now being rushed through parliament so the Prime Minister can visit Timor-Leste on 30 August to participate in the 20th anniversary commemorations of that nation's historic vote for self-determination.

In addition, the Leader of the Opposition indicated in the other place that he isn't asking for these bills to go through any committee process. In fact, he said he was looking forward to travelling to Timor-Leste with the Prime Minister—that is apparently what passes for parliamentary scrutiny from the opposition these days. Furthermore, when the Joint Standing Committee on Treaties held its public hearings on this matter, it devoted all of 45 minutes to the Timor treaty from 12.15 to 1.00 pm on 7 May last year.

I'll try and do in the short time available to me the job that should have been done by this parliament and the major parties and provide an analysis of this treaty and what it might mean for our country and for the people of Timor-Leste.

Firstly, it's worth pointing out that Australia delayed agreeing to a maritime boundary until it had gone pretty much all the way down the road to depleting nearly all of the known oil and gas fields, including Kitan, Buffalo, Elang-Kakatua and Laminaria-Coralina. Now that Australia has collected the revenues, we're willing to share near-empty fields with our impoverished neighbour. How absolutely generous we are as a country! Secondly, article 10 of the treaty says that Timor-Leste shall not 'have a claim for compensation' for money collected by Australia under prior treaties and agreements. The inexcusably long delay, since 6 March last year, amounts to, as I said, nearly 18 months. According to credible estimates by La'o Hamutuk, one of Timor-Leste's finest think tanks, Australia has siphoned off about US\$4 million, or about A\$5.7 million, per month in revenues from the Bayu-Undan fields and it will continue to do so until the treaty is ratified. This means Australia will take about \$100 million in revenues that actually should belong to Timor-Leste. Furthermore, according to the same analysis, under this treaty and its predecessors, the Australian government has collected about US\$5 billion from oil and gas fields which it now recognises are in Timor-Leste's territory. That's about twice as much as the 'aid' that the Australian government says it has spent on Timor-Leste. The question around aid is: how much of that aid is actually boomerang aid, spent on salaries and other items that ultimately come back to Australia? I'll have a little bit more to say about aid when I get to regaling the Senate, once again, with the story about how one of our intelligence agencies bugged the Timor-Leste Council of Ministers room to get an unfair bargaining advantage in treaty negotiations.

I want to also point out that the delay in ratification is reminiscent of Australia's conduct during the 2002 Timor Sea Treaty when the Howard government withheld ratification for 10 months until Timor-Leste signed an international unitisation agreement giving Australia 82 per cent of revenues from the Sunrise and Troubadour fields, known collectively as Greater Sunrise. There appears to be a particular pattern in the way Australia conducts relations with Timor-Leste and I don't believe it's overstating it to call Australia's tactics bullying. On that occasion, regarding conduct during the 2002 Timor Sea Treaty, my predecessor from Tasmania in the Senate, Dr Bob Brown, condemned then Prime Minister Howard's actions 'to coerce a poor and weak neighbour, through blackmail, into accepting the agreement'. It's a matter of record that another Tasmanian senator, still sitting in this place, Senator Eric Abetz, then alleged that Dr Brown was casting an aspersion on the Prime Minister and insisted he withdrew his statement. When Senator Brown rightly refused to withdraw that statement, Labor, Liberal and National Party senators voted to suspend him from the Senate for the day. As has happened so often during Bob's career, history has proved him absolutely right. If anything, he understated the point. The Howard government not only bullied its weaker neighbour but ordered the Australian Secret Intelligence Service to spy on the Timorese government.

We talk a lot about rules based international order, and this treaty is said to be about our commitment to a rules based international order. So the question needs to be put: how does the Australian government's conduct fit this description? In March 2002, three months before Timor-Leste was to gain formal independent statehood, the Howard government withdrew from the maritime boundary jurisdiction of the International Court of Justice and the International Tribunal for the Law of the Sea. Its internal analysis said that there had been no consultation outside the federal government about the decision to withdraw, because public knowledge could lead other countries to begin legal action against Australia in relation to sea boundary delimitation. In plain English, the Australian government knew it didn't have a leg to stand on and wanted to prevent Timor-Leste hauling it before an independent umpire. How is that for a rules based international order?

Fifth, this new Timor Sea treaty hasn't come about because of this government's newly discovered commitment to a rules based order but because Timor-Leste invoked a compulsory conciliation process under UN auspices. The Australian government mounted six objections to the jurisdiction of the conciliation, all of which were found to be completely groundless. That is why we are where we are today.

Sixth, neither the government nor the opposition appear in any rush to reverse the March 2002 decision to withdraw from the maritime boundary jurisdiction of the International Court of Justice and the International Tribunal for the Law of the Sea. That is unfortunate because that is, in fact, what we should do immediately. We should reverse the March 2002 decision to withdraw. That would show some commitment, however feeble, to a rules based international order. That would actually put our country's money where its mouth is.

I want to, again, remind the Senate of the fact that the Howard government ordered our external spy agency, ASIS, to obtain clandestine recordings of the Timor-Leste negotiating team's private discussions. The only reason that we know this is because of the bravery and patriotism of two people: Bernard Collaery and someone who is known as Witness K. Many describe Witness K as a whistleblower, but he is a very different kettle of fish to the people who are more commonly described as whistleblowers. Witness K made a protected disclosure to his lawyer, Bernard Collaery, with the approval of the Inspector-General of Intelligence and Security.

As we stand here today, both Mr Collaery and Witness K are being prosecuted. I don't intend to breach or intrude into the doctrine of the separation of powers. But, as it happens, their trial hasn't begun yet. It is a matter of public record that the Commonwealth Director of Public Prosecutions is relying on the National Security Information (Criminal and Civil Proceedings) Act 2004 to hold the trial almost entirely in secret. The use of national security to try these men beggars belief.

The National Security Information (Criminal and Civil Proceedings) Act 2004 was passed during the war on terror as part of the measures said to be needed to prosecute terrorists. At the time, then Attorney-General Philip Ruddock referred specifically to ASIO director-general and the protection of classified and security sensitive information as a critical issue in a terrorism trial. The Commonwealth DPP is handling the case through its organised crime and counterterrorism unit. Are we seriously expected to believe that Witness K and Bernard Collaery are potential terrorists? Give us a break.

However, there is a real national security aspect to this whole sordid affair. When the Howard government ordered ASIS to spy on Timor-Leste in order to defraud it and to steal its oil and natural gas, there was a war on terror going on, exacerbated by the illegal invasion of Iraq the previous year. At the same time as the espionage operation was underway in September 2004, the Australian Embassy in Jakarta was hit by a car bomb. That was on 9 September 2004. About a dozen people were killed, including an embassy security guard, four Indonesian policeman, a gardener and others. A terrorist group, called Jemaah Islamiyah, claimed responsibility.

At the time, the Howard government was assuring the public that it was doing everything it could to protect Australians from terrorism. Its white paper on terrorism, which was over 100 pages long, referred to extremist Muslim terrorism more than 50 times and pointed to the importance of Indonesia around 100 times. Yet, as we now know, the Howard government was diverting precious intelligence resources away from the so-called war on terror and tasking the Australian Secret Intelligence Service to spy on the East Timorese leadership in order to, as I said, defraud them and steal their natural resources.

Now Witness K and Mr Collaery are being tried under national security laws. In fact, Mr Collaery and Witness K are national heroes. They are the real reason why the new Timor Sea Treaty had to be renegotiated in the first place. We should remember that, when we hear the Prime Minister and the Leader of the Opposition talk about how this new treaty has brought Australia and Timor-Leste together. It is not this treaty that has brought Australia and Timor-Leste together. It's Mr Collaery and Witness K who are more responsible for that than any others.

The espionage operation—the bugging of the Timor-Leste cabinet discussions—occurred under cover of an Australia aid program, thereby jeopardising the security of our aid projects everywhere. This whole episode, including who authorised what and who knew about what, should be the subject of an independent inquiry and, arguably, a royal commission. It's probably Australia's biggest intelligence scandal of the past 30 years. That won't happen, because there are people from both major parties still sitting in this place and the other place who will not allow the disinfectant of sunlight to be shone on this sordid affair.

I also want to draw the Senate's attention to the very reasonable points made, in a submission to the Joint Standing Committee on Treaties, by Professor Andrew Serdy of the Institute of Maritime Law at the University of Southampton in the UK. Professor Serdy is a former DFAT officer and member of the Australian team that negotiated the 2003 Timor Sea Treaty. He criticises what he calls the disingenuous of the national interest analysis that accompanied the treaty. He says it has, and I quote from his submission:

... a number of serious omissions, from which it can be surmised that significant information is being withheld from the document's readership ...

That would include the Joint Standing Committee on Treaties. He cautions that JSCOT:

... should treat with scepticism large parts of the NIA and insist on amendments to the latter that make good the identified omissions, and only then proceed to recommend binding treaty action.

As I said at the start of my remarks, JSCOT devoted a grand total of 45 minutes to its so-called scrutiny of this treaty. Professor Serdy concluded his submission with this prophetic observation:

... it would be a betrayal of the purpose of genuine parliamentary scrutiny of treaties that the Committee was created to serve in 1996 if it were content to leave these omissions unaddressed.

That is precisely what the major parties in this place have done.

I'll conclude by adding to the public record an observation. The compulsory conciliation and the resulting treaty have succeeded only in setting the maritime boundary but not the mode of development for Greater Sunrise. As is the case with Bernard Collaery and Witness K, I suspect we haven't heard the last of that matter either.

Senator MCMAHON (Northern Territory) (13:03): This is not my first speech. I would like to say how important Timor-Leste is to my home territory of the Northern Territory. It is our nearest neighbour; it is only a one-hour flight from Darwin. We have had strong cultural, sporting and economic links, going back decades—in fact, even further back than that, with trading with our Indigenous peoples. I've had the good fortune to travel there on a couple of occasions. It's a wonderful country. It's surrounded by magnificent coral reefs, warm azure waters, rainforests, mountains and fertile farmlands.

The people themselves are great people. They're amazingly resilient. But they've clearly been beaten time and time again by various foreign nations, including, ashamedly, our own. I've heard many accounts and, in fact, been shown around parts of Dili by people that still today carry bullets from the massacre that occurred there. Whilst they don't harbour resentment towards us, there's great suspicion. But they're willing to give us a chance. They're willing to give us a chance to step up and to do the right thing by them.

On 6 March, Australia and Timor-Leste signed an historic treaty, and this is what we are talking about today. It gives clarity on the ownership of maritime resources in the Timor Sea and is important for Timor-Leste's economic future. We need permanent maritime boundaries. It reflects Australia's commitment to their independent sovereignty and economic sustainability. We need to be magnanimous and generous in our dealings with our closest neighbour. Dili is, in fact, a sister city to my home capital of Darwin, and has been since 2003, and shares a special place in our hearts.

The economy of the country is basically subsistence. You will still see fields tilled by ploughs drawn by buffalo, families supported by a few chickens and a couple of goats and coastal communities fishing to feed themselves. There are very rudimentary farming practices. This is their opportunity to reap what's rightly theirs and grow and develop their economy, their lifestyle, their education and is the people's march out of poverty.

The amendments are technical and mostly designed to ensure that existing petroleum operations in the Timor Sea can continue under conditions equivalent, as required by the treaty. This government has consulted closely with the affected companies and with Timor-Leste in drafting the amendments. I commend this to the Senate.

Senator PATRICK (South Australia) (13:07): I'm glad Australia's finally going to ratify the Timor Sea Maritime Boundary Treaty. It has certainly been a long time coming—half a century, in fact. We will finally have a maritime border with one of our closest neighbours. It is not quite the closest; PNG is.

I was in Timor-Leste in October-November last year as part of a parliamentary delegation, the first such visit to Timor-Leste in 15 years. The people we met, both from the Timorese government and the NGO sector, urged us to ratify this treaty without delay. Seven months after our visit and 1½ years after the Timor treaty was signed in March 2018, we are finally going to ratify it. I shall say a few words about this delay shortly.

I took the opportunity whilst in Timor-Leste to meet independently with civil society organisations and others that were outside the scope of the planning of DFAT. For example, I met with members of the grassroots civil society group known as the Movement Against the Occupation of the Timor Sea, known by its Tetum acronym, MKOTT. MKOTT is an important player in the Timor-Leste vibrant civil society scene. Their biggest rallies attract as many as 50,000 people, and there is photographic evidence on social media of their strong grassroots support. They expressed their dismay to me about the prosecution of Australian lawyer Bernard Collaery and his client, the former Australian Secret Intelligence Service officer known as Witness K, for allegedly exposing the 2004 bugging of the Timor-Leste cabinet offices, which Senator McKim has talked about. They said that the new treaty has brought our two countries together, but, as Senator McKim suggested, they question why the two individuals, Bernard Collaery and Witness K, who did more than anyone to bring about this state of affairs, are being prosecuted. They called on the Australian government to drop the proceedings.

This bill, the Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019, and the related bills give effect to the new treaty, and include amendments to Australian tax laws to prevent Australian companies being disadvantaged by changes to the maritime boundaries. The amendments will allow Australian companies to deduct capital expenditure into the future, even though there will be no revenue sources from those areas of investment. The treaty gives recognition to Australian oil and gas company operations in the area. It provides for

the establishment of a Greater Sunrise special regime area to be administered jointly by Australia and Timor-Leste. Depending on commodity prices and the precise details of the special regime area, Australia is expected to gain between \$2 billion and \$8 billion over the life of the resource.

I want to flag, however, that the mode of development for Greater Sunrise remains unsettled. There remains the potential for tension and disagreement, and we should be alert to that eventuality. In that regard, it's a matter of concern to me that there has been such a long delay between the signing of the treaty and the ratifying of it. But what is of even greater concern is that the treaty and these bills which give effect to it have not been adequately scrutinised. As Senator McKim has said, the Joint Standing Committee on Treaties, JSCOT, spent less than an hour on this more than a year ago, and the taxation bill amending our Treasury laws has not been sent to a committee for scrutiny. Moreover, when this treaty was being discussed in the other place, there was very little acknowledgement of the submissions of people and organisations that had contributed to the JSCOT inquiry. That's not the right way to treat people who have taken the trouble to contribute to the legislative process.

A case in point is Professor Andrew Serdy—and we heard Senator McKim also acknowledge him—a former DFAT officer who is an internationally renowned expert on maritime law. He asked why the treaty's accompanying National Interest Analysis does not acknowledge that the decision of the Conciliation Commission in 2016 went against Australia, and to that extent must be regarded as a defeat for Australian policy. He asked why the National Interest Analysis says that:

... the settlement contained in this Treaty is based on a mutual accommodation between the Parties without prejudice to their respective legal positions.

He points out that Australia can no longer maintain its claim to an entitlement up to the continental shelf, just as Timor-Leste can no longer claim entitlements 'extending south of the new boundary in the area where it runs north of the median line equidistant from the nearest points of land territory for each party'. Indeed, he says, the treaty 'cannot avoid prejudicing these former positions; that is its entire purpose. To insist otherwise would contradict the permanent nature of the settlement, so the committee may wish to ask the government witnesses what the intent behind this phrase is.' I'm sorry to say that this matter was not pursued by JSCOT when it held its 45-minute long 'inquiry' into the treaty. It only called five witnesses: none from civil society, all from government departments—Jeremy Bruer, James Larsen, Lisa Schofield, Anne Sheehan and Justin Whyatt. Professor Serdy's point about the disingenuousness of the National Interest Analysis wasn't pursued.

I remind the Senate that, with these seven words, 'without prejudice to their respective legal positions', Australia has qualified its ratification of the treaty in terms that leave its options open on the lateral boundaries. The median line was always effectively mandated by international law anyway. We may not have heard the last about this matter. Why was it in there? That was not explored by the committee. Nor did JSCOT follow up on DFAT Chief Legal Officer Jane Larsen's statement that 'the treaty contemplates that Timor-Leste will receive future upstream revenues from fields that lie within its exclusive jurisdiction, including the Buffalo, Kitan and Bayu-Undan gas fields.' That's a snow job, everyone! The truth is that the Buffalo and Kitan fields are almost completely depleted and Bayu-Undan is on its last legs. The truth is that Timor-Leste's future upstream revenue from those fields is pretty weak tea—the cupboard is bare—but JSCOT simply let that comment, that assertion, pass.

The treaty also stipulates that there will be no compensation for past exploitation. That means Timor-Leste will never see revenues that rightfully belonged to it had we settled on the median line from the very start. The relevant background to this is that, back in 1969, the Australian government under Prime Minister Gordon issued five petroleum exploration permits over parts of the seabed that lay closer to what was then Portuguese Timor. Australia didn't have a maritime border with Portuguese Timor. We negotiated a border with Indonesia in 1971 but rebuffed Portugal's interest in these negotiations. We worked with the Indonesians but we shunned the Portuguese.

Prime Minister Gough Whitlam sealed East Timor's fate on 6 September 1974 when he met with Indonesian President Suharto in Yogyakarta. The Australian embassy's briefing advised Whitlam that Australia wanted East Timor to join Indonesia but emphasised this could only occur with the agreement of the Timorese people. The embassy briefing also placed the East Timor question halfway down the agenda for the meeting. Instead, Whitlam opened up the meeting by discussing it as the first order of business. In a grand gesture, he told Suharto that he believed that Indonesia should annex the territory but that it had to pay lip-service to self-determination. 'Obeisance has to be made to self-determination', as documents in the National Archives of Australia show. The interpreter for Whitlam was Australian diplomat Geoff Forrester, a fluent Indonesian speaker. When the meeting ended, Forrester was 'white in the face', according to Jan Arriens, first assistant secretary at the Australian embassy.

Indonesia then went on to invade the territory in 1975. During the Indonesian invasion and 24-year occupation, East Timor suffered perhaps the largest loss of life relative to the total population since the Holocaust—204,000 people dead out of a starting population of 648,000. That's 31 per cent of the population killed. Australia, who had encouraged them to invade, was the only Western country to recognise Indonesian sovereignty over East Timor—recognition that culminated in the Timor Gap Treaty. We traded our integrity because we wanted the oil.

This cynical sort of behaviour sat uncomfortably with the Australian public, however. For them, the outrage of old diggers who had had their lives saved by East Timorese in World War Two sounded more credible than the clink of champagne glasses in the flight above the Timor Gap. The deployment of Australian troops to East Timor on 20 September 1999 as part of the International Force East Timor, or INTERFET, was a great opportunity to reset the relationship. I'll say more about INTERFET closer to the 20th anniversary of the deployment in the September sitting period this year. In 1999, when Indonesia withdrew from East Timor, the Howard government took immediate steps to gain an advantage over the country's oil and gas resources. One day before INTERFET arrived, East Timor's leader, Xanana Gusmao, had been released from house arrest in Jakarta and flown to Darwin. In her book *Crossing the Line: Australia's Secret History in the Timor Sea*, Kim McGrath reports that Australian officials told Gusmao that it was unsafe to return to East Timor. He and the rest of the East Timorese leadership were first required to meet executives from the oil and gas firm ConocoPhillips. She wrote:

They were desperate to return to East Timor.

Under pressure they signed a statement about petroleum resource development in the Timor Sea—the first action of the Australian government. McGrath quotes Xanana Gusmao as follows: 'It was like I had been freed from prison to be a hostage. It was only after I signed that letter they said it was safe to go home.'

Early in 2002, East Timor had sound legal advice from three experts in international maritime law: Professor Vaughan Lowe of Oxford University, Commander Chris Carelton of the UK Hydrographic Office and Australian barrister Christopher Ward. This advice, arranged by the now deceased Australian activist and medical doctor Andrew MacNaughton, showed that Timor-Leste's maritime boundaries and therefore its oil and gas resources were significantly larger than Australia was alleging. Aware of this advice, what did the Australian government do? The Howard government withdrew from the maritime boundaries jurisdiction of the International Court of Justice and the International Tribunal for Law of the Sea in March 2002. We knew we would lose a legal challenge, so we withdrew from the jurisdiction of those courts to deal with us. When Timor-Leste became an independent state three months later it couldn't exercise its rights in international law. For example, it couldn't go to the International Court of Justice. We should remember that when we talk about a rules based international order. I should point out that this withdrawal has yet to be reversed, a fact that undermines our professed commitment to the rules based international order.

Our ruthless treatment of the newly independent state of Timor-Leste had a very serious consequence. It forced the Timorese government to devote enormous energy to securing its economic viability at a time when it had almost no revenue. That robbed it of its ability to focus attention on its myriad of other problems. The country came close to being a failed state in 2006.

As we heard from Senator McKim, the Howard government also ordered the bugging of Timor-Leste's council of minister's meeting room. We now know that that happened, thanks to two Australian heroes Bernard Collaery and a former officer of the Australian Secret Intelligence Service known only as witness K. I might just announce that I have asked that—in fact, I won't do that. They're now being prosecuted in a mostly secret trial. Why is this trial secret? As I argued in the chamber in September last year, some secrecy is needed because ASIS officer identities must be kept secret—I accept that—but witness K can give evidence whilst having his identity concealed. There's no suggestion that intelligence techniques or tactics need to be disclosed. There's ample precedence for such an arrangement, as I explained last September in this chamber.

The Attorney-General, Christian Porter, has issued certificates under the National Security Information Act 2004 over the brief of evidence. I wonder what the government is trying to hide. Is it the possible misuse of Australia's intelligence agencies during the war on terror, as Senator McKim alluded to? These questions cry out for answers.

Senator McKim talked about people who were still in this building or in and around the traps. That reminded me; I wrote some names down. Chris Moraitis was a negotiator during the bugged negotiations and he's now, of course, the Secretary of the Attorney-General's Department. Dave Sharma, now a new MP, was the PM's adviser at the time. The adviser to Downer at the time was one Mr Josh Frydenberg. One of the people involved in the intelligence agency operation was Nick Warner, now the Director-General of National Intelligence. It turns out, if you engage in these unconscionable activities, you kind of make it to the top.

The ACTING DEPUTY PRESIDENT (Senator Kitching): Senator Patrick, I am going to bring your attention to the standing orders about not imputing the reputation of current parliamentarians.

Senator PATRICK: I simply stated that Josh Frydenberg was the adviser—

The ACTING DEPUTY PRESIDENT: I'm just drawing your attention to the standing orders—

Senator PATRICK: of the foreign minister at the time. That was a statement of fact, Madam Acting Deputy Kitching.

The ACTING DEPUTY PRESIDENT: just in case you were going to go beyond unconscionable—

Senator PATRICK: I'll stop. I was talking about the unconscionable conduct of the Australian government. These observations notwithstanding, I think the treaty should be ratified quickly but we should avoid making one mistake that some in other places have already made. We must never say that the additional funds from Greater Sunrise in any way make up for the massive loss of life and human rights violations that the Timorese have suffered.

Some things fall under the category of what are known as sacred values. These things are immune to being traded, discounted or negotiated away as the anthropologist Scott Atran reminds us. The martyrdom and suffering of family members and ancestors cannot be made up for by increasing revenue streams or development plans for Greater Sunrise. To even imply that this is the case would be insulting to many East Timorese. Offering to buy your way around someone's sacred values can result in anger.

I'm concerned by the way we treated the East Timorese. They know what we did and they have been attracted to other countries' assistance more so than Australia's. It's been a national policy disaster. As Senator McKim said, we've got two people who more than anyone else brought this back together, Witness K and his lawyer Bernard Collaery. For their heroic efforts, they are now being prosecuted.

I'm glad to say that we're finally going to ratify the treaty—whilst I register caveats about DFAT's national interest analysis—but there is an ongoing moral debt between Australia and Timor-Leste, and the two Aussie heroes who are facing a secret trial. Thank you.

Senator STERLE (Western Australia) (13:27): Just briefly, with the indulgence of Senator Smith, I rise to speak on the second reading amendment on sheet 8722 moved by Senator Di Natale. This bill is to ratify an important treaty that will greatly benefit the people and the nation of Timor-Leste. The second reading amendment moved by Senator Di Natale makes assertions and allegations about national security matters that go to issues unrelated to the bill. Labor is not prepared, I must stress, to support this amendment on this basis and we look forward to the passage of this legislation to ensure that the treaty be ratified in time for the 20th anniversary of the popular consultation. Thank you.

Senator DEAN SMITH (Western Australia—Chief Government Whip in the Senate) (13:28): I was happy to indulge Senator Sterle so he could have the opportunity to put the position of the opposition on the record with regard to the second reading amendment that Senator Di Natale, on behalf of the Greens, will move later in the debate.

Much has been said about the importance of this treaty and, Senator Patrick, I did enjoy your contribution and being reminded of the chequered history with regard to Timor-Leste. I would like to, as part of some introductory remarks, reiterate just how important Australia's relationship with Timor-Leste is and to remind people that there are important trade and security investments but they are underpinned by a very, very strong and deep—I'm not quite sure what the word is, but it is a word like 'love' between Australians and the people of Timor-Leste. I think that, when you travel to places like Darwin and across the Kimberley region of Western Australia like I do regularly, you can really feel that sense of warmth and appreciation.

My association with Timor-Leste, or East Timor, as it was then, goes back to the early 1990s. I participated in an exchange program that was organised by what was then called the Australian young leaders program. Seven of us from around our country had the opportunity and the real privilege to travel to Indonesia at what was a very exciting time not just in Indonesia's democratic development but in our relationship with Indonesia. As part of that trip, we visited Jakarta, and I had the opportunity to meet and to listen very attentively to the Australian Ambassador to Indonesia at the time, Philip Flood. I'll never forget what Mr Flood said to me and the other delegates on this young political leaders program. He impressed upon us, in a soft voice, the imperative for Australia to pay close attention to Indonesia's need for a strong sense of national unity across that very extensive archipelago of islands.

In hindsight, that makes what has been achieved in Timor-Leste all the more remarkable. When you look at the development of Indonesia, and when you look at the political development of a country like Timor-Leste within that, you can't help but be surprised and impressed by how Indonesian thinking has changed and how Australian

thinking has changed. Although Timor-Leste is a tiny and fragile neighbour, I think the path to democracy in Timor-Leste is one that should be constantly supported and constantly encouraged. I often have cause to reflect on what Phillip Flood might say now, when we look at what has happened in Indonesia—its remarkable progress towards increased democratisation. I'd argue that democracy in Indonesia has brought great stability. For those of us who travel to Indonesia frequently, the maturing of Indonesian democracy has been a stand-out achievement in our region more generally. I'm someone who says that Australia should be constantly deepening its relationship with Timor-Leste, deepening those economic and security ties, and, most importantly and most fundamentally, supporting Timor-Leste's democratic development.

In this morning's contribution, I just want to reiterate the importance of Australia's bilateral relationship with Timor-Leste, and our security and defence cooperation, and reflect on our trade and investment. As would be well known to those people who have made a contribution on this debate already, Australia and Timor-Leste are close neighbours with a shared history and strong people-to-people links. The Australian people have a special affinity with Timor-Leste, as I reflected on earlier, stretching back decades. The maritime boundaries treaty marks a new chapter in our bilateral relationship. While it has been fraught with difficulties, it is a landmark agreement, one that deserves to be supported, and I think it will shape the nature of our relationship into the future. It will revitalise our strong friendship and drive cooperation in the years ahead.

Australia is, of course, fully committed to the independence, sovereignty and economic sustainability of our near neighbours, and that includes Timor-Leste. Australia remains Timor-Leste's largest development and security partner, with \$96.1 million in overseas development aid provided to Timor-Leste in 2017. Australia will continue to support its objective of economic diversification and private sector growth through our development, cooperation and labour mobility schemes. We look forward to partnering with Timor-Leste to develop the Greater Sunrise gas field, which will bring important benefits to both Australia and Timor-Leste.

Australia will continue to support Timor-Leste's armed forces and national police. We cooperate on regional security issues, including very real challenges around our maritime issues, border security and transnational crime. Australia supports Timor-Leste's ambition to join ASEAN to facilitate its closer economic engagement with South-East Asia.

This year, 2019, is a very important year for Timor-Leste. It is the 20th anniversary of Timor-Leste's independence referendum and the subsequent deployment of INTERFET to restore peace and stability. It's 20 years young, the modern democratic country of Timor-Leste. That's something that I think we should find time to celebrate and reflect on, but we should also put our minds to what we can do to ensure that the democratic experience in Timor-Leste is as robust as it can be. Australia looks forward to marking these events, together with our Timorese friends, over the course of the coming year.

In regard to security and defence cooperation, Australia has been at the front line in supporting Timor-Leste transition to independence and—as is well-known to this parliament—led the multinational INTERFET force, which restored security in Timor-Leste following the 1999 post-independence-ballot violence. Australia also led the 2006-2013 International Stabilisation Force, or the ISF, which was comprised of Australian and New Zealand defence forces. The ISF provided security back-up to the United Nations Integrated Mission in Timor-Leste and remained in Timor-Leste at the invitation of the Timorese government for some time after. Australia's defence and police engagement with Timor-Leste continues through the Australian Defence Cooperation Program and the Australian Federal Police's Timor-Leste Police Development Program.

On the important issue of trade and investment, which goes to the core of this treaty agreement, in 2018 two-way merchandise trade between Australia and Timor-Leste was worth just \$21 million, so there's definitely room for marked improvement. Australia's exports to Timor-Leste totalled \$20 million, and the major export item was passenger motor vehicles. Imports from Timor-Leste totalled around \$1 million, made up primarily of coffee. There is, of course, room for growth in this two-way trade merchandise, and the Australian embassy in Dili has targeted initiatives in place to support Australian businesses to take advantage of investment opportunities in Timor-Leste. Australian businesses have found opportunities in construction, logistics, business and financial services, vocational training, consulting, tourism and security. Timor-Leste has had preferential duty-free access and quota-free access to the Australian market since July 2003. Australian development programs are supporting the non-oil private sector in Timor-Leste, including through investments in health and education, governance, and strengthening the business environment. Timor-Leste is the third-largest participant in Australia's Seasonal Worker Program, and remittances are an increasingly significant contribution to Timor-Leste's economy.

Before I go on to talk about the treaty, I've just been reminded—I'm glad that Senator Brockman is in the chamber with me, because I'm hoping that he'll endorse the comments I'm about to make. To those officials in the Department of Foreign Affairs and Trade who might be listening to this at the moment—indeed, to officials sitting to the right of me—there is one particular project in Timor-Leste that I would like us to give closer attention to,

and I'm not satisfied with the amount of work that has been done. Senator Brockman, can you guess what that project is? We were just talking about it on the weekend.

Senator Brockman interjecting—

Senator DEAN SMITH: There is this proposition to use Australian aid money to support the development of jetty facilities in the north of the island. Those jetty facilities would support the export of cement, if I recall the project correctly, but not exclusively so. By providing aid to support an infrastructure project like that one, what we do is support not only the development of this particular industry but the economic development of the northern part of Timor-Leste. All of Timor-Leste is in need of important development support, but the northern part of the island, particularly, is in need of support and encouragement in regard to economic development. I'm someone who believes that if we were to provide third-party access to an infrastructure project, like better jetty facilities, that would multiply, if you like, the economic benefit that comes to that particular part of Timor-Leste.

I've not had a chance to prosecute this proposition directly with officials from the Department of Foreign Affairs and Trade. If they're watching this afternoon, it's top of mind for Senator Smith; top of mind for Senator Brockman; top of mind, I suspect, for Senator Reynolds, who is the new defence minister; and top of mind, I suspect, for Melissa Price, the member for Durack, which covers the Kimberley part of our state and the far north-western part of Australia. This is a project that is worthy of attention and worthy of closer examination. If, for whatever reason, it doesn't fit the tight confines of our aid budget, let's explore what more we can be doing to think laterally about how we might be able to give some impetus to what I think is an important infrastructure initiative for Timor-Leste.

Moving back to the items before us, the Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019 and associated bills, I will say some key points in summation. In March of this year, Australia and Timor-Leste signed an historic treaty on permanent maritime boundaries. The treaty was the result of a conciliation process, a process that Senator Wong reflected on earlier in her brief contribution. Under the 1982 United Nations Convention on the Law of the Sea, it gives clarity on the ownership of maritime resources in the Timor Sea and is important for Timor-Leste's economic future. It reflects Australia's commitment to the independent sovereignty and economic stability of Timor-Leste and lays important foundations for a new chapter in our bilateral relations.

The majority of necessary legislative amendments to implement the treaty were induced in early July and the remaining amendments were introduced this week. The amendments are technical and mostly designed to ensure that existing petroleum operations in the Timor Sea can continue under equivalent conditions, as required by the treaty. The government has consulted closely with the affected companies and with Timor-Leste in drafting these amendments.

While the legislation establishes the Greater Sunrise Special Regime, the regulatory and governance framework for managing the development of the resource, a decision on the development of the Greater Sunrise resource itself is not required in advance of bringing this treaty into force. The treaty states that the resource may be processed in either country. Timor-Leste has publicly stated its preference to process the resource onshore in Timor-Leste.

The treaty consists of a number of inextricably linked elements, which are part of the overall agreement, including three key elements: permanent maritime boundaries between Australia and Timor-Leste in the Timor Sea, in recognition of both states' sovereign rights; the creation of Greater Sunrise Special Regime for the joint development, exploitation and management of the Greater Sunrise gas fields; and, finally, transitional arrangements to provide regulatory certainty and continuity for affected oil and gas projects in the Timor Sea. The treaty makes clear that the outcome represents a mutual accommodation, which is without prejudice to either side's legal position.

The bills contain various transitional arrangements, but I would just like to reflect on what are some of the revenue implications of the treaty. Firstly, Australia and Timor-Leste have agreed that, from the date the treaty enters into force, Timor-Leste will receive a future upstream revenue derived from the various petroleum leases in the existing Joint Petroleum Development Area. Previously, both Australia and Timor-Leste have received benefits from revenue derived from petroleum activities in this area. Ninety per cent of that benefit has been delivered to Timor-Leste and 10 per cent has been delivered to Australia. Australia and Timor-Leste have also agreed that the Buffalo oil field, which previously fell within the continental shelf of Australia, will fall within the continental shelf of Timor-Leste. Accordingly, Timor-Leste will receive all future revenue from the Buffalo oil field. The detailed financial impacts of this will not be published due to their confidential nature.

As all speakers have reflected, this is an important milestone in the development of our relationship with Timor-Leste. I hope it will be seen as perhaps a turning point for a more harmonious and a more future-driven

relationship between ourselves and our Timorese friends, remembering always that we have a very important shared history. Australia has been there at some of the most difficult times, when we think about the democratic development of Timor-Leste, underpinned always by this great affinity that Australians have with our Timorese friends. I'll leave my contributions to that.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (13:45): I seek leave to make a short statement.

Leave granted.

Senator WONG: I thank the Senate. I just would like to make this point: the government, including via a number of ministers, has made clear to the opposition the importance of speedy passage of this bill. We have facilitated speedy passage through the House of Representatives. We, today, have truncated our contributions on this debate to enable speedy passage, and the government is now adding speakers to the speakers list. With all due respect to Senator Smith, because he is a well-spoken man who can speak at short notice, it is quite clear that the government is seeking to delay passage of this bill prior to question time. The government owes the parliament, and certainly the opposition, an explanation as to why we were asked by ministers to facilitate passage of this legislation because it was so important and you're now filibustering it. I indicate I will give leave to the minister at the table to explain to the Senate and to the opposition why you're now delaying a bill that you sought urgent passage of.

Senator HUME (Victoria—Assistant Minister for Superannuation, Financial Services and Financial Technology) (13:46): There is no delay. The speakers that are on the list have something significant that they would like to say and have an affiliation and an association with Timor-Leste.

Senator WONG (South Australia—Leader of the Opposition in the Senate) (13:46): I seek leave to make a further statement.

Leave granted.

Senator WONG: You know that's not true. You know that's not true. We had a speakers list before. Senators Smith, Brockman, Bragg and Scarr were all added. With all due respect, none of you were particularly keen on talking about this previously. The ministers on the other side continue to tell the opposition: 'We want to make sure this is passed quickly.' Why are you delaying it? What's the problem? I simply don't think it's reasonable to seek the courtesy and the facilitation of the opposition for bills that are in the national interest, then realise you've got some scheduling issue and rock up and try to delay passage of it. Do Senator Payne or Senator Canavan want to come down and explain to the parliament why they've had a change of heart, why this is no longer urgent and why they're stacking in backbenchers to pad out the speakers list to two o'clock? I reckon that'd be a pretty courteous thing to do in the circumstances.

Senator DEAN SMITH (Western Australia—Chief Government Whip in the Senate) (13:47): I seek leave to make a statement.

Senator Wong: It would be preferable if it were a minister, with all due respect to Senator Smith. I have a great deal of respect for him, but he's not one of the various officers requesting the opposition to pass this bill.

Leave granted.

Senator DEAN SMITH: As the Chief Government Whip in the Senate, I can illuminate. This is a bill that Senator Wong, in her own admission, has said is in the national interest. That's the first point. As it's in the national interest, it is necessarily important for every senator to have the opportunity to make a contribution. Senator Smith is a senator for Western Australia. The great bulk of that shares maritime boundaries with Timor-Leste. That's the first point. The second point is: Senator Smith—and he mentioned this in his introductory remarks—travelled to Indonesia in the early 1990s and to—

Senator Sterle: On a point of order—I am absolutely confused. Senator Smith is referring to a 'Senator Smith'. Can you just direct him to clarify whom he is actually talking about—clarification for my good self?

The ACTING DEPUTY PRESIDENT: For clarification purposes—

Senator DEAN SMITH: Senator Smith made a contribution to this bill because he has an interest in this bill. Senator Brockman is about to make a contribution to this bill, because he has an interest in this bill as a senator for Western Australia—in the same way, Senator Sterle, that you also made a contribution to put the opposition's position on the record. And Senator Bragg, who is a member of a foreign affairs committee of this parliament, has a right to put his position regarding this bill on the public record.

There is no conspiracy here. It is in the government's interest to pass this legislation. We have an interest in passing this legislation. If there are other senators in this parliament that would like to add their names to the speakers list, they're welcome to. I have made a contribution and I am entitled to make a contribution. Senator

Brockman from Western Australia is allowed to make a contribution, and Senator Bragg also should be allowed to make a contribution. The length of their contribution is a matter for each senator. This is the normal business of things.

Senator Sterle: Talk to the hand. I don't believe you.

Senator BROCKMAN (Western Australia—Deputy Government Whip in the Senate) (13:51): I'll ignore the introduction from my fellow senator from Western Australia. This is a very important bill and it reflects a very important relationship in Australia's history. Senator Wong, who courteously listened to my first speech, would know that one of the key issues I wish to focus on in this place is the trade relationships that are so important to us.

Whilst this particular treaty is focused on more than just trade, it is a very significant relationship and one that reflects Timor-Leste's greatest economic asset—I'll restart that: their greatest economic asset is their people, of course. In the oil and gas reserves between our two great nations lies Timor-Leste's most important economic asset and the most important economic link between our two nations. That is fundamental to ensuring that what is a young democracy—a country that is a democracy that Australia played a very significant role in helping to achieve its democratic wish—has the financial resources to ensure that that nation can grow, develop and become, in the international realm, all it can be.

Those oil and gas reserves, particularly, represent the greatest asset of a close neighbour in a region where Australia is a significant economy but where its linkages to its near neighbours are vitally important, both to their future success and to Australia's future success in the region. Those of us on the backbench who do wish to speak on this bill recognise it as being a very important, very fundamental part of the future success of our nation.

Timor-Leste is a young nation. Timor-Leste is 20 years old, as my colleague from Western Australia pointed out. Australia played a fundamental role in ensuring that Timor-Leste could achieve its democratic wish. It achieved formal independence only on 20 May 2002. This is the blink of an eye in the history of democracies worldwide and certainly in this region. It represented a fundamental change for that nation. The first democratic legislative elections were held on 30 August 2001. Ninety-one per cent of Timor-Leste's eligible voters played a part in that election. That effectively elected a constituent assembly, provided for under the East Timor constitution.

I wish to talk briefly about the role Australia played in that process, because it was very significant. In fact, we were the frontline of support for Timor-Leste's transition. It came through the UN-run process for the independence referendum. Australia, through the support of INTERFET, restored security to Timor-Leste at a time of great import to that young nation. It enabled the nation to stand itself up. It enabled the nation to put in place the institutions and organs of governance that were required. Nobody around the world would doubt—and none in this place would doubt—the difficulty of that transition to democracy. We have seen it fail in other places time and time again. The support of Australia through that INTERFET process and then the, perhaps a bit slower but no less important, negotiations over the maritime boundary and over the development of the Greater Sunrise field and the related oil and gas fields between our two nations were a key step in that nation having the financial resources to stand up, to become part of the international community and to take its place as an independent sovereign nation in the global environment.

The treaty is historic, and it is vitally important that it does pass through this place. It's a historic agreement for Australia; it's a historic agreement for Timor-Leste. It establishes that permanent maritime boundary between the two countries and a stable framework for resource development in those oil and gas fields between our two nations. Under the treaty, the oil and gas fields in question will transition from joint Australia-Timor-Leste or exclusive Australian jurisdiction to Timor-Leste's exclusive jurisdiction. The treaty provides that the existing petroleum activities will continue under conditions or terms equivalent to the arrangements already in place. Whilst it does not overturn or change those conditions that are in place, it gives a level of certainty and formality to the relationship and to the ongoing work both our nations and the private sector are doing between our two countries.

The bill also, importantly, gives effect to the tax arrangements required for the treaty to enter into force and fulfils Australia's obligations under that treaty. This matter was looked at by a Senate committee; it went to the Senate Economics Legislation Committee in February 2019. In short, the bill is an important reflection of Australian government policy—bipartisan policy—in this place that will see the treaty implement the boundaries between our two nations, and it also obviously puts in place the passenger movement charge amendment, as required under the treaty obligations.

Schedule 1 of the tax bill is important. It amends the tax law to fulfil Australia's taxation related obligations under the treaty and to provide conditions equivalent to participants in the transitioned petroleum activities in the

Timor Sea. Under the boundary transition, affected companies cease to generate Australian assembly income and instead generate Timorese income. This disadvantages companies that could no longer be entitled to offset Australian tax assets such as depreciation, deductions or accumulated tax losses against future Australian assessable income, but they will still pay tax on that income in Timor-Leste. The tax law changes will allow affected companies to preserve their tax positions in the Australian system to the extent they will not be recognised in the Timor-Leste system. Obviously this is a very important transition arrangement for the companies involved. Again, the companies involved have invested significant sums of money—billions of dollars—in developing those resources to the advantage of Timor-Leste and to the advantage of Australia. Ensuring the tax arrangements as we transition to the full treaty is vitally important. The affected companies will be no better off but, importantly, they will be no worse off in terms of the taxation arrangements. There are also consequential amendments that will need to flow through.

The PRESIDENT: It being 2 pm, the debate is interrupted in accordance with standing order 57. The debate may be resumed at a later hour and the senator will have leave to continue speaking when the debate is resumed.

BILLS**Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019**
Passenger Movement Charge Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019
Treasury Laws Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019**Second Reading**

Consideration resumed of the motion:

That this bill be now read a second time.

to which the following amendment was moved:

At the end of the motion, add:

", but the Senate, in welcoming the ratification of the Timor Sea Maritime Boundaries Treaty, calls upon the Government to apologise to the people of Timor-Leste for the unscrupulous behaviour of successive Australian governments including illegal and unethical spying operations."

Senator BRAGG (New South Wales) (17:12): I rise to speak about the Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019 and related bills. The coalition has a fantastic record when it comes to trade and foreign policy. In fact, I would argue that the last six years of coalition government, which have seen us complete very significant trade and investment agreements, is a golden age in trade and foreign policy in Australia.

When we came to government in 2013, Labor had been unable to resolve trade agreements with Japan and with China. We were able to deliver those two agreements, as well as one with Korea, and subsequently with Indonesia, Hong Kong and the list goes on. At the same time, we've been able to work with our foreign counterparts and deliver the Trans-Pacific Partnership. This occurred after many people, including the Labor leader at the time, said that we ought to give up on trying to conclude the Trans-Pacific Partnership, because the President of the United States had walked away from it. We've been able to land a good strong grouping of bilateral agreements in our own region as well as multilateral or, as they say in trade talk, plurilateral agreements, like the Trans-Pacific Partnership.

One of the outstanding issues has been how we resolve petroleum arrangements with East Timor. This agreement effectively gives us a roadmap for dealing with Timor-Leste, I should say.

Our record here on Timor-Leste, as a nation and with a bipartisan political approach, has been very strong. People would recall that the Governor-General, when he was a general in the Army, led the INTERFET troops into Timor-Leste in 1999, when Indonesia and Timor-Leste had had some disagreements. We now see an independent Timor-Leste, and this milestone is a very important one. The former foreign minister, Julie Bishop, was able to agree with Timor-Leste in March 2018 on a way forward for these important resources for East Timor.

Effectively, what these bills do is establish permanent boundaries between Australia and Timor-Leste, and these are important for providing legal certainty. Anyone who has ever spent a day working in private enterprise knows that you need to have legal certainty if you want to have any private investment. Private investment is the only way you actually create jobs, because it's private businesses that invest in people's ideas, if you like, and then that results in jobs. Legal certainty is very important. That's why—as a nation like Australia, which has relied upon foreign investment since the First Fleet—we obviously regard that as a very important outworking.

What this provides is tax and regulatory certainty for Australia, for Timor-Leste and for the private sector companies. I understand that those companies have been consulted with very heavily by the minister and his department in the development of this treaty. My understanding is that everyone is broadly happy, which is quite remarkable in these fields of foreign relations, trade and taxation. That's certainly a very good sign. These bills

have been considered by parliamentary committees, which have given the green light that they should proceed. I understand there is also bipartisan support for these measures, which is always good in the area of foreign affairs and trade. We always look to see bipartisanship, because we want to present a stable appearance of Australia to the outside world. We only hope that our opponents do better in the future in landing trade agreements.

Obviously, as a nation that is very exposed to the outside world, Australia relies upon a strong region for our prosperity and for our stability and security. It has often been said that a strong Timor-Leste is an integral part of a strong Australia and a strong Pacific. We would certainly regard landing this agreement as a very important ingredient in having some certainty within Timor-Leste, in terms of their economy and in terms of their social stability, that this has now been resolved after some years of consternation.

More broadly, we have sought to step up our efforts in the Pacific and in our region, because we know that it's critical to have strong states, strong partners and strong allies. We want to see all of our friends in the Pacific regarding Australia as a friend. In the case of Timor-Leste, we have certainly proven ourselves as a good friend both militarily over the long run but also now in terms of having resolved this very important issue for Timor-Leste, which has been a longstanding point of consternation in that nation. The government of Timor-Leste is the other important party here, alongside the Australian government and also the private sector. The representative of Timor-Leste has said that it's a good treaty and that it is 'equitable and forward-looking'. That's pretty good, I would have thought, as an endorsement from Timor-Leste.

As I said before, the government and the minister have been able to agree on a good framework here. This would be considered an important milestone for Timor-Leste and Australian relations. It does, as I said before assure the private sector that there is certainty. I think that bodes well, not only for existing investments but also for future investments. This bill should lay a framework that people feel they can invest in. In the long run it is really only the existence of private investment that will provide job creation and prosperity, not only here but in Timor-Leste.

Beyond just the bilateral groupings here—Australia and Timor-Leste—the United Nations has also indicated that this is a good framework. In fact, this historic treaty was signed at the United Nations, in the presence of the United Nations Secretary-General and the chair of their conciliation commission. You certainly couldn't ask for better than that as far as a treaty goes. Many have said that international law is not always effective. But certainly when both affected parties say that this is a good deal, and the private sector companies are also saying it is a good and a fair deal, and on top of that you get the trifecta of having the United Nations Secretary-General, no less, saying that this is a good thing, I think that's a pretty strong trifecta. So, if anyone was worried about the processes, hopefully they would be assured that all three groups were happy.

We have a growing economic relationship with Timor-Leste. In 2018, two-way merchandise trade between Australia and Timor-Leste was worth around \$21 million, and our exports were around \$20 million. Primarily we were exporting vehicles, and we have been importing mainly coffee from Timor-Leste. I assume that most of that goes down to Melbourne, where I'm told they have quite good coffee! As I said, this is certainly a good deal, and I think all the groups are very satisfied. So, I certainly commend this bill to the Senate.

Senator SCARR (Queensland) (17:22): This is not my first speech, and I'm delighted to have the opportunity, on the first occasion that I'm speaking to the chamber, to endorse this piece of legislation coming before the Senate. I'd like to make three preliminary points prior to talking about the specifics of this bill. Firstly, Australia has a great and rich relationship with Timor-Leste and also the people of Timor-Leste, and that relationship goes back decades. Senators may have heard of Sparrow Force. Sparrow Force was a force of commandos who went into Timor-Leste after Pearl Harbour was attacked at the outbreak of World War II, and with support from the people of Timor-Leste they fought valiantly over many months, fighting against the Japanese invaders. Famously, the commander of the Japanese forces said, in an address to these commandos, 'You alone are the ones who have not surrendered.' And they didn't surrender, until the last moment, when they had no options available and they sought evacuation from the island. Then, of course, was the fight for independence of East Timor and the great support this Australian country gave to the people of East Timor during their most difficult time. And now we have cemented that relationship through the passage of this treaty, and we're now considering the legislation before the Senate here today.

The second preliminary point I'd like to make is that I come from the resources industry. For the past 12 years I've been a senior executive in the mining industry, and I've worked in some of the poorest countries in the world, including Laos. I understand from firsthand experience the difference that the resources industry can make to some of the poorest people on the face of the earth. Natural gas provides an opportunity for the people of East Timor to generate the revenue streams they need to provide the schools, the hospitals, the defence force and all the other public services which we in this country take for granted. It's a great opportunity for the people of East

Timor to have the benefit of those revenue streams. It also provides an opportunity for their young people to participate in a great industry, the oil and gas industry.

I note that there's discussion at the moment as to whether or not the gas will be further processed in East Timor or in Australia. I think that's great. I think it would be a wonderful thing, a great thing, if the gas were processed further in East Timor and it provided job opportunities and economic activity for the people of East Timor. Ultimately, that is a question for the project proponents, which I note include a great Australian company, Woodside, and also the East Timorese oil and gas company. It's a question for those joint-venture participants as to whether or not they want to process that gas in East Timor or in Australia. But I dearly hope that there is an opportunity for young people in East Timor to develop skills, have the benefit of learning from some of the best in the industry in relation to the oil and gas industry and be able to take those skills forward for themselves and their families.

The last point I would like to make on a preliminary basis is to give my thanks, as a senator from Queensland, to all of the officials who were involved in the negotiation of the treaty and the legislation. I note, based on my experience, that there's probably nothing more complicated in the professional world of the resources industry than cross-border tax issues. This legislation deals with those issues. It removes any doubt with respect to the tax consequences flowing from the treaty and the legislation, and it provides certainty to the proponents moving forward with respect to the tax basis upon which they can proceed with the development of this gas field.

I think it's fair to say that this issue has been something which has come between, at various times, the people of Australia and East Timor. It's been an issue which has caused great controversy with respect to our relationship and it really is a wonderful occasion that we've been able to solve this and that East Timor is going to get the benefit of some of those gas fields. I hope that the project proponents bring forward and develop the oil and gas fields as quickly as possible for the benefit of their shareholders, for the benefit of the government of East Timor and the government of Australia, and also for the people who may enjoy direct benefits from those projects in terms of employment and also their families. I hope that that can progress as quickly as possible.

I would also like to pay tribute to Australia's then Minister for Foreign Affairs, the Hon. Julie Bishop, who was intimately involved in the resolution of this issue. She was our Minister for Foreign Affairs when the treaty was actually signed and I think, once again, this chamber and the people of Australia should note the great contribution that the Hon. Julie Bishop has made to this country and its relationships with some of our closest countries. That includes not just Timor-Leste but also Papua New Guinea where I lived and worked for 2½ years. I know the Hon. Julie Bishop also had a great relationship with the people of Papua New Guinea as part of her remit as foreign affairs minister.

What is the treaty? The treaty achieves three basic things. Firstly, it resolves what was a difficult issue around where the maritime borders and boundaries were between Australia and Timor-Leste. Secondly, it recognises both state sovereign rights in the creation of the Greater Sunrise special regime for the joint development, exploitation and management of the Greater Sunrise gas fields. Thirdly, it provides for transitional arrangements to provide regulatory certainty and continuity for affected oil and gas projects in the Timor Sea. The treaty makes clear that the outcome represents a mutual accommodation which was without prejudice to either side's legal position. Now we find that the treaty is going to be legislated for in this place, and both parties will be able to move forward.

The revenue implications of the treaty are significant, significant for the people of East Timor. Australia and Timor-Leste have agreed that, from the date the treaty enters into force, Timor-Leste will receive all future upstream revenue derived from the Bayu-Undan and Kitan in the existing Joint Petroleum Development Area. Previously, both Australia and Timor-Leste received benefits from revenue derived from petroleum activities in this area—90 per cent to Timor-Leste and 10 per cent to Australia—but from the time of passage of this legislation 100 per cent of the benefit of that upstream revenue will now go to Timor-Leste. That is a very positive outcome.

Australia and Timor-Leste have also agreed that the Buffalo oilfield, which previously fell within the continental shelf of Australia, will fall within the continental shelf of Timor-Leste. Accordingly, Timor-Leste will also get the benefit of all revenue generated from that oilfield. Again, that's an extremely positive thing for the people of Timor-Leste.

In terms of implementing the legislation, this bill deals with a number of further matters that need to be dealt with on a consequential basis. That includes issues dealing with, for example, the section of the Bayu-Undan pipeline international offshore area and creating a new pipeline licence to enable Australia to exercise jurisdiction in an area of foreign continental shelf.

The purpose of the government amendment is to give effect to an understanding reached, between the governments of Australia and Timor-Leste, on the decommissioning of the section of the Bayu-Undan pipeline

that will sit on Timor-Leste's continental shelf. You can see that spirit of cooperation between the Australian government and the government of Timor-Leste in resolving this extremely complicated issue. That's a very positive thing, and I applaud it.

Timor-Leste, while recognising Australia's exclusive jurisdiction over the regulation of the entire Bayu-Undan pipeline, has expressed its preference for this section of the pipeline to be decommissioned by removal and, noting the removal of property from petroleum title areas is the base case in Australia, Australia has agreed to this approach. It was fit and proper that Australia do so. That amendment will ensure that this section of pipeline must be removed before the Australian licence for the pipeline, and therefore the responsibilities of the licensee, will end.

There are a number of other consequential matters that are dealt with in the bill, including in relation to a passenger movement charge. This will also assist with respect to persons departing from Australia for the purpose of travel to the Greater Sunrise Special Regime area in connection with petroleum activities. They shall be exempt from the passenger movement charge, as was previously the case with a person travelling to the Joint Petroleum Development Area.

Then there are some important issues dealt with in the Treasury Laws Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019. Schedule 1 of this bill amends the tax law to fulfil Australia's taxation related obligations under the treaty, to provide conditions equivalent to participants in 'transitioned petroleum activities' in the Timor Sea. That is extremely important. It is important that the project proponents are kept whole, with respect to their expectations regarding taxation treatments. It's an extremely complicated issue but a very important one for the project proponents, and they will be kept whole in the way they're treated by the respective revenue authorities in Australia and Timor-Leste. That is important for their commercial expectations being met. I applaud the government of Australia and the government of Timor-Leste for reaching that accommodation.

This is the sort of accommodation that promotes investments in countries. Coming from Queensland and having seen the experience of the Queensland government in dealing with the Adani mining project in Queensland, I wish it were accommodation provided to all mining and resource project proponents seeking to invest in this country and in this region. It's important to give investors the confidence that they can go ahead with investments. I applaud both the government of Timor-Leste and Australia in this regard.

Finally, I return to the opening comments I made about the special relationship—and it is a special relationship—between Australia and Timor-Leste. I have friends who actually served in the Australian Defence Force in East Timor during the troubles. They are extremely proud of the service they gave those people and extremely proud of the service they gave this country. I absolutely applaud the efforts of the Australian government and the efforts of the government of Timor-Leste in initially reaching the treaty and coming to an agreement on the treaty. Now, with this bill before the house, hopefully the projects which are encompassed by the treaty in this bill can be advanced for the good of the people of Australia and for the good of the people of Timor-Leste.

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia and Deputy Leader of The Nationals in the Senate) (17:36): I'd like to thank all the senators who have contributed to this very important debate on these very important bills. It's a historic occasion to mark our burgeoning relationship with Timor-Leste to see these bills pass through this place. They passed through the other place last week. These bills give effect to the treaty between Australia and the Democratic Republic of Timor-Leste, establishing their maritime boundaries in the Timor Sea. The treaty is a historic achievement for Australia and Timor-Leste and its implementation is firmly in Australia's national interest.

The Timor Sea Maritime Boundaries Treaty Consequential Amendments Bill 2019 implements the new maritime boundaries agreed under the treaty and transfers the Joint Petroleum Development Area and some adjacent areas to Timor-Leste's exclusive jurisdiction. This bill also makes amendments to the petroleum title areas affected by the boundary and provides for two new international offshore areas for the purposes of the Bayu-Undan pipeline corridor and a potential Greater Sunrise pipeline corridor. Further, this bill gives effect to the Greater Sunrise special regime area and the legal infrastructure to facilitate the joint development, exploitation and management of petroleum activities in the Greater Sunrise gas fields, creating a pathway for the development of the resources. The economic benefits will be significant, particularly for Timor-Leste. The Treasury Laws Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019 fulfils Australia's taxation related obligations under the treaty by ensuring that taxation arrangements applying to transition petroleum activities will continue in accordance with Annex D to the treaty. Finally, passage of these bills and the Passenger Movement Charge Amendment (Timor Sea Maritime Boundaries Treaty) Bill 2019 fundamentally farms Australia's commitment to a robust, mutually beneficial and stronger bilateral relationship with Timor-Leste and to international law and the rules based order more generally.

I too would like to express my thanks to the officials involved in negotiating this treaty and also formulating the resulting amendments to Australian law here. I thank Senator Scarr for his recognition of those officials, because they have worked tirelessly over a number of years to see this to fruition. As Senator Scarr commented, they can be particularly complex negotiations. It's fantastic to have seen them brought to fruition in March last year with the signing of the treaty—and today with the passage of these bills. I'd also like to thank and recognise, as Senator Scarr did as well, the efforts of the former foreign minister Julie Bishop, who played an integral role in the negotiations and in finalising the treaty itself, which has led us here today to make changes to our own petroleum laws.

Throughout this process, the Australian government has recognised and sought to work with the government of Timor-Leste to give it the power to progress its economic development aims and objectives. We have worked very closely with the Timor-Leste government on a number of different proposals and opportunities for that to occur. We fully recognise the desire of the Timor-Leste government to want to take charge—be master of its own destiny—and to seek to see the development of its resources in the way it sees fit for its national interests. The passage of these bills and the treaty itself do provide Timor-Leste with clear sovereignty over what was formerly the Joint Petroleum Development Area so that it can pursue those objectives and aims. The Australian government stands ready and able to ensure that Timor-Leste can develop a strong economic base for its people and the job opportunities that will flow from that.

Gas developments have already played an important role in the development of Timor-Leste. The Bayu-Undan field is already developed and has provided significant benefits to the Timor-Leste government. It's a fulcrum of the cooperation between our two governments, given that that gas and those resources are sent to Darwin in Australia for processing but provide the Timor-Leste government with substantial royalties and funding. I'm confident that future developments, particularly of the Greater Sunrise regime, will continue to see similar cooperation between our two governments. As I have said, we would like to work very closely with the Timor-Leste government to ensure its development aims and objectives are fulfilled. The finalisation of this treaty will give us an opportunity to do that.

We do have a shared interest too in making sure that demand continues to grow for high-quality natural gas, which we're lucky to have abundantly in both of our jurisdictions. Australia is obviously a very large developer and producer of gas and is indeed the largest LNG gas exporter now. While we have a number of competitors in our region to supply gas, including Timor, we have a shared interest to make sure that those markets do develop and that demand increases. We're working closely with the United States, Japan and other countries to ensure that clean natural gas is used more fulsomely in our region because it can cut pollution, particularly air pollution, if it replaces fuels that have a lot more particulates in them than gas does. It can also of course lower carbon emissions because natural gas has a lower carbon content than other alternative fuels, such as coal. We'll continue to work with the Timorese government and the wider region to ensure that those development goals occur, not only for the people of Timor-Leste but also to help development right through our region.

I'd also like to thank the opposition for their support on these bills. They have been extremely supportive throughout the process. I thank my counterparts—Mr Clare before the election and Mr Fitzgibbon now—for their support of these related changes in our petroleum laws. It is a unifying moment not just for our two countries but our country as well to see this legislation through. I'm confident that with this legislation passing we'll have a new chapter in our relationship. There is some symmetry that this legislation is passing on the 20th anniversary of the INTERFET deployment to Timor-Leste. Indeed, it was only the other day that the 20-year anniversary date marked the referendum in Timor-Leste that ultimately led to its independence. Now, hopefully, through the changes in this treaty, that independence will only grow stronger for the Timor-Leste people, and our relationship will do so as well.

Question negatived.

Original question agreed to.

Bills read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Griff) (17:44): No amendments to the bills have been circulated. Does any senator require a committee stage? If not, I call the minister to move the third reading.

Senator CANAVAN (Queensland—Minister for Resources and Northern Australia and Deputy Leader of The Nationals in the Senate) (17:44): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.